

[DISCUSSION DRAFT]

115TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

To create a nonimmigrant H–2C work visa program for agricultural workers,  
and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

Mr. GOODLATTE introduced the following bill; which was referred to the  
Committee on \_\_\_\_\_

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**A BILL**

To create a nonimmigrant H–2C work visa program for  
agricultural workers, 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—

5               (1) the “Agricultural Guestworker Act”; or

6               (2) the “AG Act”.

1   **SEC. 2. H-2C TEMPORARY AGRICULTURAL WORK VISA PRO-**  
2                                   **GRAM.**

3           (a) IN GENERAL.—Section 101(a)(15)(H) of the Im-  
4 migration and Nationality Act (8 U.S.C. 1101(a)(15)(H))  
5 is amended by striking “; or (iii)” and inserting “, or (c)  
6 having a residence in a foreign country which he has no  
7 intention of abandoning who is coming temporarily to the  
8 United States to perform agricultural labor or services; or  
9 (iii)”.

10          (b) DEFINITION.—Section 101(a) of such Act (8  
11 U.S.C. 1101(a)) is amended by adding at the end the fol-  
12 lowing:

13           “(53) The term ‘agricultural labor or services’ has  
14 the meaning given such term by the Secretary of Agri-  
15 culture in regulations and includes agricultural labor as  
16 defined in section 3121(g) of the Internal Revenue Code  
17 of 1986, agriculture as defined in section 3(f) of the Fair  
18 Labor Standards Act of 1938 (29 U.S.C. 203(f)), the han-  
19 dling, planting, drying, packing, packaging, processing,  
20 freezing, or grading prior to delivery for storage of any  
21 agricultural or horticultural commodity in its unmanufac-  
22 tured state, all activities required for the preparation,  
23 processing or manufacturing of a product of agriculture  
24 (as such term is defined in such section 3(f)) for further  
25 distribution, and activities similar to all the foregoing as  
26 they relate to fish or shellfish facilities.”.

1 **SEC. 3. ADMISSION OF TEMPORARY H-2C WORKERS.**

2 (a) PROCEDURE FOR ADMISSION.—Chapter 2 of title  
3 II of the Immigration and Nationality Act (8 U.S.C. 1181  
4 et seq.) is amended by inserting after section 218 the fol-  
5 lowing:

6 **“SEC. 218A. ADMISSION OF TEMPORARY H-2C WORKERS.**

7 “(a) DEFINITIONS.—In this section and section  
8 218B:

9 “(1) DISPLACE.—The term ‘displace’ means to  
10 lay off a worker from the job for which H-2C work-  
11 ers are sought.

12 “(2) JOB.—The term ‘job’ refers to all posi-  
13 tions with an employer that—

14 “(A) involve essentially the same respon-  
15 sibilities;

16 “(B) are held by workers with substan-  
17 tially equivalent qualifications and experience;  
18 and

19 “(C) are located in the same place of em-  
20 ployment.

21 “(3) EMPLOYER.—The term ‘employer’ means  
22 an employer, or an association acting as a joint em-  
23 ployer for its members, who hires workers to per-  
24 form agricultural labor or services.

1           “(4) H-2C WORKER.—The term ‘H-2C worker’  
2       means a nonimmigrant described in section  
3       101(a)(15)(H)(ii)(c).

4           “(5) LAY OFF.—

5               “(A) IN GENERAL.—The term ‘lay off’—

6                   “(i) means to cause a worker’s loss of  
7                   employment, other than through a dis-  
8                   charge for inadequate performance, viola-  
9                   tion of workplace rules, cause, voluntary  
10                  departure, voluntary retirement, or the ex-  
11                  piration of a grant or contract (other than  
12                  a temporary employment contract entered  
13                  into in order to evade a condition described  
14                  in paragraph (4) of subsection (b)); and

15                  “(ii) does not include any situation in  
16                  which the worker is offered, as an alter-  
17                  native to such loss of employment, a simi-  
18                  lar position with the same employer at  
19                  equivalent or higher wages and benefits  
20                  than the position from which the employee  
21                  was discharged, regardless of whether or  
22                  not the employee accepts the offer.

23               “(B) CONSTRUCTION.—Nothing in this  
24       paragraph is intended to limit an employee’s

1 rights under a collective bargaining agreement  
2 or other employment contract.

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

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

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

11 “(7) SPECIAL PROCEDURES INDUSTRY.—The  
12 term ‘special procedures industry’ includes sheep-  
13 herding and goat herding, itinerant commercial bee-  
14 keeping and pollination, the open range production  
15 of livestock, itinerant animal shearing, and custom  
16 combining and harvesting.

17 “(b) PETITION.—An employer that seeks to employ  
18 aliens as H–2C workers under this section shall file with  
19 the Secretary of Agriculture a petition attesting to the fol-  
20 lowing:

21 “(1) OFFER OF EMPLOYMENT.—The employer  
22 will offer employment to the aliens on a contractual  
23 basis as H–2C workers under this section for a spe-  
24 cific period of time during which the aliens may not  
25 work on an at-will basis (as provided for in section

1       218B), and such contract shall only be required to  
2       include a description of the place of employment, pe-  
3       riod of employment, wages and other benefits to be  
4       provided, and the duties of the positions.

5           “(2) TEMPORARY WORK OR SERVICES.—

6               “(A) IN GENERAL.—The employer is seek-  
7       ing to employ a specific number of H-2C work-  
8       ers on a temporary basis and will provide com-  
9       pensation to such workers at a wage rate no  
10      less than that set forth in subsection (k)(2).

11           “(B) DEFINITION.—For purposes of this  
12      paragraph, a worker is employed on a tem-  
13      porary basis if the employer intends to employ  
14      the worker for no longer than the time period  
15      set forth in subsection (n)(1) (subject to the ex-  
16      ceptions in subsection (n)(3)).

17           “(3) BENEFITS, WAGES, AND WORKING CONDI-  
18      TIONS.—The employer will provide, at a minimum,  
19      the benefits, wages, and working conditions required  
20      by subsection (k) to all workers employed in the job  
21      for which the H-2C workers are sought.

22           “(4) NONDISPLACEMENT OF UNITED STATES  
23      WORKERS.—The employer did not displace and will  
24      not displace United States workers employed by the  
25      employer during the period of employment of the H-

1        2C workers and during the 30-day period imme-  
2        diately preceding such period of employment in the  
3        job for which the employer seeks approval to employ  
4        H-2C workers.

5            “(5) RECRUITMENT.—

6            “(A) IN GENERAL.—The employer—

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

9            “(ii) was unsuccessful in locating will-  
10          ing and qualified United States workers  
11          for the job for which the H-2C workers  
12          are sought.

13          “(B) OTHER REQUIREMENTS.—The re-  
14          cruitment requirement under subparagraph (A)  
15          is satisfied if the employer places a local job  
16          order with the State workforce agency serving  
17          the place of employment, except that nothing in  
18          this subparagraph shall require the employer to  
19          file an interstate job order under section 653 of  
20          title 20, Code of Federal Regulations. The  
21          State workforce agency shall post the job order  
22          on its official agency website for a minimum of  
23          30 days and not later than 3 days after receipt  
24          using the employment statistics system author-  
25          ized under section 15 of the Wagner-Peyser Act

1           (29 U.S.C. 491–2). The Secretary of Labor  
2           shall include links to the official Web sites of all  
3           State workforce agencies on a single webpage of  
4           the official Web site of the Department of  
5           Labor.

6           “(C) END OF RECRUITMENT REQUIRE-  
7           MENT.—The requirement to recruit United  
8           States workers for a job shall terminate on the  
9           first day that work begins for the H–2C work-  
10          ers.

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

15               “(A) apply;

16               “(B) are qualified for the job; and

17               “(C) will be available at the time and place  
18          of need.

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

22          “(7) PROVISION OF INSURANCE.—If the job for  
23          which the H–2C workers are sought is not covered  
24          by State workers’ compensation law, the employer  
25          will provide, at no cost to the workers unless State



1 law provides otherwise, insurance covering injury  
2 and disease arising out of, and in the course of, the  
3 workers' employment, which will provide benefits at  
4 least equal to those provided under the State work-  
5 ers compensation law for comparable employment.

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

10 “(c) PUBLIC EXAMINATION.—Not later than 1 work-  
11 ing day after the date on which a petition under this sec-  
12 tion is filed, the employer shall make the petition available  
13 for public examination, at the employer's principal place  
14 of employment.

15 “(d) LIST.—

16 “(1) IN GENERAL.—The Secretary of Agri-  
17 culture shall maintain a list of the petitions filed  
18 under this subsection, which shall—

19 “(A) be sorted by employer; and

20 “(B) include the number of H-2C workers  
21 sought, the wage rate, the period of employ-  
22 ment, and the date of need for each alien.

23 “(2) AVAILABILITY.—The Secretary of Agri-  
24 culture shall make the list available for public exam-  
25 ination.

1 “(e) PETITIONING FOR ADMISSION.—

2 “(1) CONSIDERATION OF PETITIONS.—For peti-  
3 tions filed and considered under this subsection—

4 “(A) the Secretary of Agriculture may not  
5 require such petition to be filed more than 28  
6 days before the first date the employer requires  
7 the labor or services of H-2C workers;

8 “(B) unless the Secretary of Agriculture  
9 determines that the petition is incomplete or ob-  
10 viously inaccurate, the Secretary, not later than  
11 10 business days after the date on which such  
12 petition was filed, shall either approve or reject  
13 the petition and provide the petitioner with no-  
14 tice of such action by means ensuring same or  
15 next day delivery; and

16 “(C) if the Secretary determines that the  
17 petition is incomplete or obviously inaccurate,  
18 the Secretary shall—

19 “(i) within 5 business days of receipt  
20 of the petition, notify the petitioner of the  
21 deficiencies to be corrected by means en-  
22 suring same or next day delivery; and

23 “(ii) within 10 business days of re-  
24 ceipt of the corrected petition, approve or  
25 deny the petition and provide the petitioner

1 with notice of such action by means ensur-  
2 ing same or next day delivery.

3 “(2) ACCESS.—By filing an H-2C petition, the  
4 petitioner and each employer (if the petitioner is an  
5 association that is a joint employer of workers who  
6 perform agricultural labor or services) consent to  
7 allow access to the place of employment to the De-  
8 partment of Agriculture and the Department of  
9 Homeland Security for the purpose of investigations  
10 and audits to determine compliance with the immi-  
11 gration laws (as defined in section 101(a)(17)).

12 “(f) ROLES OF AGRICULTURAL ASSOCIATIONS.—

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

20 “(2) TREATMENT OF VIOLATIONS.—

21 “(A) INDIVIDUAL MEMBER.—If an indi-  
22 vidual member of an association that is a joint  
23 employer commits a violation described in sub-  
24 sections (i)(2) and (3) or (j)(1), the Secretary  
25 of Agriculture shall invoke penalties pursuant

1 to subsections (i) and (j) against only that  
2 member of the association unless the Secretary  
3 of Agriculture determines that the association  
4 participated in, had knowledge of, or had rea-  
5 son to know of the violation.

6 “(B) ASSOCIATION OF AGRICULTURAL EM-  
7 PLOYERS.—If an association that is a joint em-  
8 ployer commits a violation described in sub-  
9 sections (i)(2) and (3) or (j)(1), the Secretary  
10 of Agriculture shall invoke penalties pursuant  
11 to subsections (i) and (j) against only the asso-  
12 ciation and not any individual members of the  
13 association, unless the Secretary determines  
14 that the member participated in the violation.

15 “(g) EXPEDITED ADMINISTRATIVE APPEALS.—The  
16 Secretary of Agriculture shall promulgate regulations to  
17 provide for an expedited procedure for the review of a de-  
18 nial of a petition under this section by the Secretary. At  
19 the petitioner’s request, the review shall include a de novo  
20 administrative hearing at which new evidence may be in-  
21 troduced.

22 “(h) FEES.—The Secretary of Agriculture shall re-  
23 quire, as a condition of approving the petition, the pay-  
24 ment of a fee to recover the reasonable cost of processing  
25 the petition.

1 “(i) ENFORCEMENT.—

2 “(1) INVESTIGATIONS AND AUDITS.—The Sec-  
3 retary of Agriculture shall be responsible for con-  
4 ducting investigations and audits, including random  
5 audits, of employers to ensure compliance with the  
6 requirements of the H-2C program. All monetary  
7 fines levied against employers shall be paid to the  
8 Department of Agriculture and used to enhance the  
9 Department of Agriculture’s investigative and audit-  
10 ing abilities to ensure compliance by employers with  
11 their obligations under this section

12 “(2) VIOLATIONS.—If the Secretary of Agri-  
13 culture finds, after notice and opportunity for a  
14 hearing, a failure to fulfill an attestation required by  
15 this subsection, or a material misrepresentation of a  
16 material fact in a petition under this subsection, the  
17 Secretary—

18 “(A) may impose such administrative rem-  
19 edies (including civil money penalties in an  
20 amount not to exceed \$1,000 per violation) as  
21 the Secretary determines to be appropriate; and

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

1           “(3) WILLFUL VIOLATIONS.—If the Secretary  
2           of Agriculture finds, after notice and opportunity for  
3           a hearing, a willful failure to fulfill an attestation re-  
4           quired by this subsection, or a willful misrepresenta-  
5           tion of a material fact in a petition under this sub-  
6           section, the Secretary—

7                   “(A) may impose such administrative rem-  
8                   edies (including civil money penalties in an  
9                   amount not to exceed \$5,000 per violation, or  
10                  not to exceed \$15,000 per violation if in the  
11                  course of such failure or misrepresentation the  
12                  employer displaced one or more United States  
13                  workers employed by the employer during the  
14                  period of employment of H-2C workers or dur-  
15                  ing the 30-day period immediately preceding  
16                  such period of employment) in the job the H-  
17                  2C workers are performing as the Secretary de-  
18                  termines to be appropriate;

19                   “(B) may disqualify the employer from the  
20                  employment of H-2C workers for a period of 2  
21                  years;

22                   “(C) may, for a subsequent failure to fulfill  
23                  an attestation required by this subsection, or a  
24                  misrepresentation of a material fact in a peti-  
25                  tion under this subsection, disqualify the em-

1           ployer from the employment of H-2C workers  
2           for a period of 5 years; and

3                 “(D) may, for a subsequent willful failure  
4           to fulfill an attestation required by this sub-  
5           section, or a willful misrepresentation of a ma-  
6           terial fact in a petition under this subsection,  
7           permanently disqualify the employer from the  
8           employment of H-2C workers.

9           “(j) FAILURE TO PAY WAGES OR REQUIRED BENE-  
10   FITS.—

11                 “(1) IN GENERAL.—If the Secretary of Agri-  
12   culture finds, after notice and opportunity for a  
13   hearing, that the employer has failed to provide the  
14   benefits, wages, and working conditions that the em-  
15   ployer has attested that it would provide under this  
16   subsection, the Secretary shall require payment of  
17   back wages, or such other required benefits, due any  
18   United States workers or H-2C workers employed  
19   by the employer.

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

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

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

3           “(k) MINIMUM WAGES, BENEFITS, AND WORKING  
4 CONDITIONS.—

5           “(1) PREFERENTIAL TREATMENT OF H-2C  
6 WORKERS PROHIBITED.—

7                   “(A) IN GENERAL.—Each employer seek-  
8                   ing to hire United States workers for the job  
9                   the H-2C workers will perform shall offer such  
10                  United States workers not less than the same  
11                  benefits, wages, and working conditions that the  
12                  employer will provide to the H-2C workers. No  
13                  job offer may impose on United States workers  
14                  any restrictions or obligations which will not be  
15                  imposed on H-2C workers.

16                  “(B) INTERPRETATION.—Every interpreta-  
17                  tion and determination made under this section  
18                  or under any other law, regulation, or interpre-  
19                  tative provision regarding the nature, scope,  
20                  and timing of the provision of these and any  
21                  other benefits, wages, and other terms and con-  
22                  ditions of employment shall be made so that—

23                         “(i) the services of workers to their  
24                         employers and the employment opportuni-  
25                         ties afforded to workers by the employers,



1 including those employment opportunities  
2 that require United States workers or H-  
3 2C workers to travel or relocate in order to  
4 accept or perform employment—

5 “(I) mutually benefit such work-  
6 ers, as well as their families, and em-  
7 ployers; and

8 “(II) principally benefit neither  
9 employer nor employee; and

10 “(ii) employment opportunities within  
11 the United States benefit the United  
12 States economy.

13 “(2) REQUIRED WAGES.—

14 “(A) IN GENERAL.—Each employer peti-  
15 tioning for H-2C workers under this subsection  
16 shall pay them a wage not less than 115 per-  
17 cent of the applicable Federal minimum wage,  
18 or the State or local minimum wage, whichever  
19 is greatest.

20 “(B) SPECIAL RULE.—An employer can  
21 utilize a piece rate or other alternative wage  
22 payment system so long as the employer guar-  
23 antees each worker a wage rate that equals or  
24 exceeds the amount required under subpara-  
25 graph (A) for the total hours worked in each

1 pay period. Compensation from a piece rate or  
2 other alternative wage payment system shall in-  
3 clude time spent during rest breaks, moving  
4 from job to job, clean up, or any other non-  
5 productive time, provided that such time does  
6 not exceed 20 percent of the total hours in the  
7 work day.

8 “(3) EMPLOYMENT GUARANTEE.—

9 “(A) IN GENERAL.—

10 “(i) REQUIREMENT.—Each employer  
11 petitioning for workers under this sub-  
12 section shall guarantee to offer the H-2C  
13 workers and United States workers per-  
14 forming the same job employment for the  
15 hourly equivalent of not less than 50 per-  
16 cent of the work hours set forth in the  
17 work contract.

18 “(ii) FAILURE TO MEET GUAR-  
19 ANTEE.—If an employer affords the  
20 United States workers or the H-2C work-  
21 ers less employment than that required  
22 under this subparagraph, the employer  
23 shall pay such workers the amount which  
24 the workers would have earned if the work-

1           ers had worked for the guaranteed number  
2           of hours.

3           “(B) CALCULATION OF HOURS.—Any  
4           hours which workers fail to work, up to a max-  
5           imum of the number of hours specified in the  
6           work contract for a work day, when the workers  
7           have been offered an opportunity to do so, and  
8           all hours of work actually performed (including  
9           voluntary work in excess of the number of  
10          hours specified in the work contract in a work  
11          day) may be counted by the employer in calcu-  
12          lating whether the period of guaranteed employ-  
13          ment has been met.

14          “(C) LIMITATION.—If the workers aban-  
15          don employment before the end of the work  
16          contract period, or are terminated for cause,  
17          the workers are not entitled to the 50 percent  
18          guarantee described in subparagraph (A).

19          “(D) TERMINATION OF EMPLOYMENT.—

20                 “(i) IN GENERAL.—If, before the expi-  
21                 ration of the period of employment speci-  
22                 fied in the work contract, the services of  
23                 the workers are no longer required due to  
24                 any form of natural disaster, including  
25                 flood, hurricane, freeze, earthquake, fire,

1 drought, plant or animal disease, pest in-  
2 festation, regulatory action, or any other  
3 reason beyond the control of the employer  
4 before the employment guarantee in sub-  
5 paragraph (A) is fulfilled, the employer  
6 may terminate the workers' employment.

7 “(ii) REQUIREMENTS.—If a worker's  
8 employment is terminated under clause (i),  
9 the employer shall—

10 “(I) fulfill the employment guar-  
11 antee in subparagraph (A) for the  
12 work days that have elapsed during  
13 the period beginning on the first work  
14 day and ending on the date on which  
15 such employment is terminated;

16 “(II) make efforts to transfer the  
17 worker to other comparable employ-  
18 ment acceptable to the worker; and

19 “(III) not later than 72 hours  
20 after termination, notify the Secretary  
21 of Homeland Security of such termi-  
22 nation and stating the nature of the  
23 contract impossibility.

24 “(l) NONDELEGATION.—The Department of Agri-  
25 culture and the Department of Homeland Security shall

1 not delegate their investigatory, enforcement, or adminis-  
2 trative functions relating to this section or section 218B  
3 to other agencies or departments of the Federal govern-  
4 ment.

5 “(m) COMPLIANCE WITH BIO-SECURITY PROTO-  
6 COLS.—Except in the case of an imminent threat to health  
7 or safety, any personnel from a Federal agency or Federal  
8 grantee seeking to determine the compliance of an em-  
9 ployer with the requirements of this section or section  
10 218B shall, when visiting such employer’s place of employ-  
11 ment, make their presence known to the employer and  
12 sign-in in accordance with reasonable bio-security proto-  
13 cols before proceeding to any other area of the place of  
14 employment.

15 “(n) LIMITATION ON H-2C WORKERS’ STAY IN STA-  
16 TUS.—

17 “(1) MAXIMUM PERIOD.—The maximum con-  
18 tinuous period of authorized status as an H-2C  
19 worker (including any extensions) is 18 months for  
20 workers employed in a job that is of a temporary or  
21 seasonal nature. For H-2C workers employed in a  
22 job that is not of a temporary or seasonal nature,  
23 the initial maximum continuous period of authorized  
24 status is 36 months and subsequent maximum con-  
25 tinuous periods of authorized status are 18 months.

1           “(2) REQUIREMENT TO REMAIN OUTSIDE THE  
2           UNITED STATES.—In the case of H–2C workers who  
3           were employed in a job of a temporary or seasonal  
4           nature whose maximum continuous period of author-  
5           ized status as H–2C workers (including any exten-  
6           sions) have expired, the aliens may not again be eli-  
7           gible to be H–2C workers until they remain outside  
8           the United States for a continuous period equal to  
9           at least  $\frac{1}{12}$ th of the duration of their previous period  
10          of authorized status an H–2C workers. For H–2C  
11          workers who were employed in a job not of a tem-  
12          porary or seasonal nature whose maximum contin-  
13          uous period of authorized status as H–2C workers  
14          (including any extensions) have expired, the aliens  
15          may not again be eligible to be H–2C workers until  
16          they remain outside the United States for a contin-  
17          uous period equal to at least the lesser of  $\frac{1}{12}$ th of  
18          the duration of their previous period of authorized  
19          status as H–2C workers or 45 days.

20           “(3) EXCEPTIONS.—

21           “(A) Absences from the United States can  
22           interrupt the accrual of time spent as an H–2C  
23           worker against the maximum continuous period  
24           of authorized status set forth in paragraph (1).  
25           Absences are interruptive if they last for a cu-

1 mulative period of at least 45 days. To qualify  
2 for this exception, the petitioner or the alien  
3 must provide clear and convincing proof that  
4 the alien qualifies for such an exception. Such  
5 proof shall consist of evidence such as arrival  
6 and departure records, copies of tax returns,  
7 and records of employment abroad.

8 “(B) There is no maximum continuous pe-  
9 riod of authorized status as set forth in para-  
10 graph (1) or a requirement to remain outside  
11 the United States as set forth in paragraph (2)  
12 for H-2C workers employed as a sheepherder  
13 or goatherder or who return to the workers’  
14 permanent residence outside the United States  
15 each day.

16 “(o) PERIOD OF ADMISSION.—In addition to the  
17 maximum continuous period of authorized status, workers’  
18 authorized period of admission shall include—

19 “(1) a period of not more than 7 days prior to  
20 the beginning of authorized employment as H-2C  
21 workers for the purpose of travel to the place of em-  
22 ployment; and

23 “(2) a period of not more than 14 days after  
24 the conclusion of their authorized employment for  
25 the purpose of departure from the United States or

1 a period of not more than 30 days following the em-  
2 ployment for the purpose of seeking a subsequent  
3 offer of employment by an employer pursuant to a  
4 petition under this section (or pursuant to at-will  
5 employment under section 218B during such times  
6 as that section is in effect) if they have not reached  
7 their maximum continuous period of authorized em-  
8 ployment under subsection (n) (subject to the excep-  
9 tions in subsection (n)(3)) unless they accept subse-  
10 quent offers of employment as H-2C workers or are  
11 otherwise lawfully present. H-2C workers who do  
12 not depart the United States within these periods  
13 will be considered to have failed to maintain non-  
14 immigrant status as H-2C workers and shall be sub-  
15 ject to removal under section 237(a)(1)(C)(i). Such  
16 aliens shall be considered to be inadmissible pursu-  
17 ant to section 212(a)(9)(B)(i) for having been un-  
18 lawfully present, with the aliens considered to have  
19 been unlawfully present for 180 days as of the 15th  
20 day following their period of employment for the  
21 purpose of departure or as of the 31st day following  
22 their period of employment for the purpose of seek-  
23 ing subsequent offers of employment.

24 “(p) ABANDONMENT OF EMPLOYMENT.—



1           “(1) REPORT BY EMPLOYER.—Not later than  
2           72 hours after an employer learns of the abandon-  
3           ment of employment by H–2C workers before the  
4           conclusion of their work contracts, the employer  
5           shall notify the Secretary of Homeland Security of  
6           such abandonment.

7           “(2) REPLACEMENT OF ALIENS.—An employer  
8           may designate eligible aliens to replace H–2C work-  
9           ers who abandon employment notwithstanding the  
10          numerical limitation found in section 214(g)(1)(C).

11          “(q) ADJUSTMENT OF STATUS.—Aliens who are un-  
12         lawfully present in the United States on July [\_\_\_\_],  
13         2017, are eligible to adjust status to that of H–2C workers  
14         despite their unlawful presence.

15          “(r) TRUST FUND TO ASSURE WORKER RETURN.—

16                 “(1) ESTABLISHMENT.—There is established in  
17         the Treasury of the United States a trust fund (in  
18         this section referred to as the ‘Trust Fund’) for the  
19         purpose of providing a monetary incentive for H–2C  
20         workers to return to their country of origin upon ex-  
21         piration of their visas.

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

24                 “(A) IN GENERAL.—Notwithstanding the  
25         Fair Labor Standards Act of 1938 (29 U.S.C.

1           201 et seq.) and State and local wage laws, all  
2           employers of H-2C workers shall withhold from  
3           the wages of the workers an amount equivalent  
4           to 10 percent of the gross wages of each worker  
5           in each pay period and pay such withheld  
6           amount into the Trust Fund.

7           “(B) JOBS THAT ARE NOT OF A TEM-  
8           PORARY OR SEASONAL NATURE.—Employers of  
9           H-2C workers employed in jobs that are not of  
10          a temporary or seasonal nature shall also pay  
11          into the Trust Fund an amount equivalent to  
12          the Federal tax on the wages paid to H-2C  
13          workers that the employer would be obligated to  
14          pay under chapters 21 and 23 of the Internal  
15          Revenue Code of 1986 had the H-2C workers  
16          been subject to such chapters.

17          “(3) DISTRIBUTION OF FUNDS.—Amounts paid  
18          into the Trust Fund on behalf of an H-2C worker,  
19          and held pursuant to paragraph (2)(A) and interest  
20          earned thereon, shall be paid by the Secretary of  
21          State to the worker if the worker—

22                 “(A) applies to the Secretary of State (or  
23                 the designee of such Secretary) for payment  
24                 within 120 days of the expiration of the alien’s  
25                 last authorized stay in the United States as an

1 H-2C worker at a United States embassy or  
2 consulate in the worker's home country;

3 “(B) establishes that they have complied  
4 with the terms and conditions of the H-2C pro-  
5 gram; and

6 “(C) confirms their identity.

7 “(4) ADMINISTRATIVE EXPENSES.—The  
8 amounts paid into the Trust Fund and held pursu-  
9 ant to paragraph (2)(A), and interest earned there-  
10 on, shall be paid to the Secretary of State, the Sec-  
11 retary of Agriculture, and the Secretary of Home-  
12 land Security in amounts equivalent to the expenses  
13 incurred by such officials in the administration and  
14 enforcement of the terms of the H-2C program.

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

25 “(6) INVESTMENT OF TRUST FUND.—

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

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

15           “(C) REPORT TO CONGRESS.—It shall be  
16           the duty of the Secretary of the Treasury to  
17           hold the Trust Fund, and (after consultation  
18           with the Secretary of Agriculture) to report to  
19           the Congress each year on the financial condi-  
20           tion and the results of the operations of the  
21           Trust Fund during the preceding fiscal year  
22           and on its expected condition and operations  
23           during the next fiscal year. Such report shall be  
24           printed as both a House and a Senate docu-

1           ment of the session of the Congress in which  
2           the report is made.

3           “(s) PROCEDURES FOR SPECIAL PROCEDURES IN-  
4 DUSTRIES.—

5           “(1) WORK LOCATIONS.—The Secretary shall  
6           permit an employer in a Special Procedures Industry  
7           that does not operate at a single fixed place of em-  
8           ployment to provide, as part of its petition, a list of  
9           places of employment, which—

10                   “(A) may include an itinerary; and

11                   “(B) may be subsequently amended by the  
12           employer, after notice to the Secretary.

13           “(2) WAGES.—Notwithstanding subsection  
14           (k)(2), the Secretary may establish monthly, weekly,  
15           or biweekly wage rates for occupations in a Special  
16           Procedures Industry for a State or other geographic  
17           area. For an employer in a Special Procedures In-  
18           dustry that typically pays a monthly wage, the Sec-  
19           retary shall require that H-2C workers be paid not  
20           less frequently than monthly and at a rate no less  
21           than the legally required monthly cash wage in an  
22           amount as re-determined annually by the Secretary.

23           “(3) ALLERGY LIMITATION.—An employer en-  
24           gaged in the commercial beekeeping or pollination  
25           services industry may require that job applicants be

1 free from bee-related allergies, including allergies to  
2 pollen and bee venom.”.

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

7 **“SEC. 218B. AT-WILL EMPLOYMENT OF TEMPORARY H-2C**  
8 **WORKERS.**

9 “(a) IN GENERAL.—An employer that is designated  
10 as a ‘registered agricultural employer’ pursuant to sub-  
11 section (d) may employ aliens as H-2C workers. However,  
12 an H-2C worker may only perform labor or services pur-  
13 suant to this section if the worker is already lawfully  
14 present in the United States as an H-2C worker, having  
15 been admitted or otherwise provided nonimmigrant status  
16 pursuant to section 218A, and has completed the period  
17 of employment specified in the job offer the worker accept-  
18 ed pursuant to section 218A or the employer has termi-  
19 nated the worker’s employment pursuant to section  
20 218A(k)(3)(D)(i). An H-2C worker who abandons the em-  
21 ployment which was the basis for admission or status pur-  
22 suant to section 218A may not perform labor or services  
23 pursuant to this section until the worker has returned to  
24 their home country, been readmitted as an H-2C worker  
25 pursuant to section 218A and has completed the period

1 of employment specified in the job offer the worker accept-  
2 ed pursuant to section 218A or the employer has termi-  
3 nated the worker's employment pursuant to section  
4 218A(k)(3)(D)(i).

5 “(b) PERIOD OF STAY.—H-2C workers performing  
6 at-will labor or services for a registered agricultural em-  
7 ployer are subject to the period of admission, limitation  
8 of stay in status, and requirement to remain outside the  
9 United States contained in subsections (o) and (n) of sec-  
10 tion 218A, except that subsection (n)(3)(A) does not  
11 apply.

12 “(c) REGISTERED AGRICULTURAL EMPLOYERS.—  
13 The Secretary of Agriculture shall establish a process to  
14 accept and adjudicate applications by employers to be des-  
15 ignated as registered agricultural employers. The Sec-  
16 retary shall require, as a condition of approving the appli-  
17 cation, the payment of a fee to recover the reasonable cost  
18 of processing the application. The Secretary shall des-  
19 ignate an employer as a registered agricultural employer  
20 if the Secretary determines that the employer—

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

23 “(2) has not been subject to debarment from  
24 receiving temporary agricultural labor certifications

1       pursuant to section 101(a)(15)(H)(ii)(a) within the  
2       last five years;

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

6           “(4) agrees to, if employing H–2C workers pur-  
7       suant to this section, fulfill the attestations con-  
8       tained in section 218A(b) as if it had submitted a  
9       petition making those attestations (excluding sub-  
10      section (k)(3) of such section) and not to employ H–  
11      2C workers who have reached their maximum con-  
12      tinuous period of authorized status under section  
13      218A(n) (subject to the exceptions contained in sec-  
14      tion 218A(n)(3)) or if the workers have complied  
15      with the terms of section 218A(n)(2); and

16          “(5) agrees to notify the Secretary of Agri-  
17      culture and the Secretary of Homeland Security  
18      each time it employs H–2C workers pursuant to this  
19      section within 72 hours of the commencement of em-  
20      ployment and within 72 hours of the cessation of  
21      employment.

22          “(d) LENGTH OF DESIGNATION.—An employer’s des-  
23      ignation as a registered agricultural employer shall be  
24      valid for 3 years, and the designation can be extended  
25      upon reapplication for additional 3-year terms. The Sec-



1   retary shall revoke a designation before the expiration of  
2   its 3-year term if the employer is subject to disqualifica-  
3   tion from the employment of H-2C workers subsequent  
4   to being designated as a registered agricultural employer.

5       “(e) ENFORCEMENT.—The Secretary of Agriculture  
6   shall be responsible for conducting investigations and au-  
7   dits, including random audits, of employers to ensure com-  
8   pliance with the requirements of this section. All monetary  
9   fines levied against employers shall be paid to the Depart-  
10   ment of Agriculture and used to enhance the Department  
11   of Agriculture’s investigatory and audit abilities to ensure  
12   compliance by employers with their obligations under this  
13   section and section 218A. The Secretary of Agriculture’s  
14   enforcement powers and an employer’s liability described  
15   in subsections (i) through (j) of section 218A are applica-  
16   ble to employers employing H-2C workers pursuant to  
17   this section.”.

18       (c) PROHIBITION ON FAMILY MEMBERS.—Section  
19   101(a)(15)(H) of the Immigration and Nationality Act (8  
20   U.S.C. 1101(a)(15)(H)) is amended by striking “him;” at  
21   the end and inserting “him, except that no spouse or child  
22   may be admitted under clause (ii)(c);”.

23       (d) NUMERICAL CAP.—Section 214(g)(1) of the Im-  
24   migration and Nationality Act (8 U.S.C. 1184(g)(1)) is  
25   amended—

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

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

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

6           “(C) under section 101(a)(15)(H)(ii)(c) may  
7     not exceed 500,000, except that—

8           “(i) if the base allocation is exhausted dur-  
9     ing any fiscal year, the base allocation for that  
10    and subsequent fiscal years shall be increased  
11    by the lesser of 10 percent or a percentage rep-  
12    resenting the number of petitioned-for aliens  
13    (as a percentage of the base allocation) who  
14    would be eligible to be issued visas or otherwise  
15    provided nonimmigrant status as H-2C workers  
16    during that fiscal year but for the base alloca-  
17    tion being exhausted, and if the increased base  
18    allocation is itself exhausted during a subse-  
19    quent fiscal year, the base allocation for that  
20    and subsequent fiscal years shall be further in-  
21    creased by the lesser of 10 percent or a percent-  
22    age representing the number of petitioned-for  
23    aliens (as a percentage of the increased base al-  
24    location) who would be eligible to be issued  
25    visas or otherwise provided nonimmigrant sta-

1           tus as H-2C workers during that fiscal year  
2           but for the increased base allocation being ex-  
3           hausted (subject to clause (ii));

4           “(ii) if the base allocation is not exhausted  
5           during any fiscal year, the base allocation for  
6           subsequent fiscal years shall be decreased by  
7           the greater of 5 percent or a percentage rep-  
8           resenting the unutilized portion of the base allo-  
9           cation (as a percentage of the base allocation)  
10          during that fiscal year, and if in a subsequent  
11          fiscal year the decreased base allocation is itself  
12          not exhausted, the base allocation for fiscal  
13          years subsequent to that fiscal year shall be  
14          further decreased by the greater of 5 percent or  
15          a percentage representing the unutilized portion  
16          of the decreased base allocation (as a percent-  
17          age of the decreased base allocation) during  
18          that fiscal year (subject to clause (i) and except  
19          that the base allocation shall not fall below  
20          500,000); and

21          “(iii) this numerical limitation shall not  
22          apply to any alien—

23                 “(I) who performed agricultural labor  
24                 or services in the United States for not  
25                 fewer than 575 hours pursuant to section

1           7 of the AG Act during the 2-year period  
2           beginning on the date of the enactment of  
3           such Act; or

4                   “(II) who has previously been issued a  
5           visa or otherwise provided nonimmigrant  
6           status pursuant to section  
7           101(a)(15)(H)(ii)(a), but only to the ex-  
8           tent that the alien is being petitioned for  
9           by an employer pursuant to section  
10          218A(b) who previously employed the alien  
11          pursuant to section 101(a)(15)(H)(ii)(a)  
12          beginning no later than July **【\_\_\_\_】**,  
13          2017.”.

14          (e) WAIVER OF BARS TO ADMISSIBILITY.—Section  
15   212(a)(9)(B)(v) of the Immigration and Nationality Act  
16   (8 U.S.C. 1182(a)(9)(B)(v)) is amended—

17               (1) by striking “The Attorney General” and in-  
18          serting the following:

19                       “(I) IN GENERAL.—The Sec-  
20                       retary of Homeland Security”.

21               (2) by striking “Attorney General” each place  
22          it appears and inserting “Secretary of Homeland Se-  
23          curity”; and

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

1                   “(II) H-2C WORKERS.—The Sec-  
2                   retary of Homeland Security shall  
3                   waive clause (i) solely as necessary to  
4                   allow aliens to perform agricultural  
5                   labor or services as provided in section  
6                   101(a)(15)(H)(ii)(c), except to the ex-  
7                   tent that the aliens’ unlawful presence  
8                   was subsequent to their receiving the  
9                   status of nonimmigrants under such  
10                  section. If the Secretary waives clause  
11                  (i) pursuant to this subclause with re-  
12                  spect to an alien, the alien must  
13                  thereafter remain outside the United  
14                  States for a period by not later than  
15                  6 months after being issued a visa or  
16                  otherwise being provided with status  
17                  as an H-2C worker. Aliens who do  
18                  not remain outside the United States  
19                  as required by the previous sentence  
20                  are considered to be unlawfully  
21                  present as of the date 6 months after  
22                  being issued a visa or otherwise being  
23                  provided with status as an H-2C  
24                  worker, have failed to maintain non-  
25                  immigrant status as an H-2C worker,

1 and shall be subject to removal under  
2 section 237(a)(1)(C)(i).”.

3 (f) CLERICAL AMENDMENT.—The table of contents  
4 for the Immigration and Nationality Act (8 U.S.C. 1101  
5 et seq.) is amended by inserting after the item relating  
6 to section 218 the following:

“Sec. 218A. Admission of temporary H–2C workers.

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

7 **SEC. 4. MEDIATION.**

8 Nonimmigrants having status under section  
9 101(a)(15)(H)(ii)(c) of the Immigration and Nationality  
10 Act (8 U.S.C. 1101(a)(15)(H)(ii)(c)) may not bring civil  
11 actions for damages against their employers, nor may any  
12 other attorneys or individuals bring civil actions for dam-  
13 ages on behalf of such nonimmigrants against the non-  
14 immigrants’ employers, unless at least 90 days prior to  
15 bringing an action a request has been made to the Federal  
16 Mediation and Conciliation Service to assist the parties  
17 in reaching a satisfactory resolution of all issues involving  
18 all parties to the dispute and mediation has been at-  
19 tempted.

20 **SEC. 5. MIGRANT AND SEASONAL AGRICULTURAL WORKER**  
21 **PROTECTION.**

22 Section 3(8)(B)(ii) of the Migrant and Seasonal Agri-  
23 cultural Worker Protection Act (29 U.S.C.  
24 1802(8)(B)(ii)) is amended by striking “under sections

1 101(a)(15)(H)(ii)(a) and 214(c) of the Immigration and  
2 Nationality Act.” and inserting “under subclauses (a) and  
3 (c) of section 101(a)(15)(H)(ii), and section 214(c), of the  
4 Immigration and Nationality Act.”.

5 **SEC. 6. BINDING ARBITRATION.**

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

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

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

18 (1) The term “condition of employment” means  
19 a term, condition, obligation, or requirement that is  
20 part of the job offer, such as the term of employ-  
21 ment, job responsibilities, employee conduct stand-  
22 ards, and the grievance resolution process, and to  
23 which applicants or prospective H–2C workers must  
24 consent or accept in order to be hired for the posi-  
25 tion.

1           (2) The term “H-2C worker” means a non-  
2       immigrant described in section 218A(a)(4) of the  
3       Immigration and Nationality Act (8 U.S.C.  
4       1188A(a)(4)), as added by section 3(a) of this Act.

5 **SEC. 7. THE PERFORMANCE OF AGRICULTURAL LABOR OR**  
6 **SERVICES BY ALIENS WHO ARE UNLAWFULLY**  
7 **PRESENT.**

8       (a) IN GENERAL.—The Secretary of Homeland Secu-  
9       rity shall waive the grounds of inadmissibility contained  
10      in paragraphs (5), (6), (7), and (9)(B) of section 212(a),  
11      and the grounds of deportability contained in subpara-  
12      graphs (A) through (D) of paragraph (1), and paragraph  
13      (3), of section 237(a), of the Immigration and Nationality  
14      Act (8 U.S.C. 1101 et seq.) in the case of aliens described  
15      in subsection (b) solely as may be necessary in order to  
16      allow the aliens to perform agricultural labor or services.  
17      Such aliens shall not be considered unauthorized aliens for  
18      purposes of section 274A(h)(3) of the Immigration and  
19      Nationality Act (8 U.S.C. 1324a(h)(3)) or to be unlaw-  
20      fully present as long as the aliens perform such labor or  
21      services. They shall be provided documents indicating  
22      their authorization to work only in agricultural labor or  
23      services.

24      (b) ALIENS DESCRIBED.—Aliens described in this  
25      subsection are aliens who—



1 (1) were physically present in the United States  
2 on July [\_\_\_\_], 2017; and

3 (2) performed agricultural labor or services in  
4 the United States for not fewer than 575 hours dur-  
5 ing the 2-year period ending on the date of the en-  
6 actment of this Act.

7 **SEC. 8. ELIGIBILITY FOR HEALTH CARE SUBSIDIES AND**  
8 **REFUNDABLE TAX CREDITS.**

9 (a) HEALTH CARE SUBSIDIES.—H-2C workers (as  
10 defined in section 218A(a)(4) of the Immigration and Na-  
11 tionality Act (8 U.S.C. 1188A(a)(4)), as added by section  
12 3(a) of this Act, and aliens performing agricultural labor  
13 or services pursuant to section 7 of this Act—

14 (1) are not entitled to the premium assistance  
15 tax credit authorized under section 36B of the Inter-  
16 nal Revenue Code of 1986 and shall be subject to  
17 the rules applicable to individuals who are not law-  
18 fully present set forth in subsection (e) of such sec-  
19 tion; and

20 (2) shall be subject to the rules applicable to in-  
21 dividuals who are not lawfully present set forth in  
22 section 1402(e) of the Patient Protection and Af-  
23 fordable Care Act (42 U.S.C. 18071(e)).

24 (b) REFUNDABLE TAX CREDITS.—H-2C workers (as  
25 defined in section 218A(a)(4) of the Immigration and Na-

1 tionality Act (8 U.S.C. 1188A(a)(4)), as added by section  
2 3(a) of this Act, and aliens performing agricultural labor  
3 or services pursuant to section 7 of this Act shall not be  
4 allowed any credit under sections 24 and 32 of the Inter-  
5 nal Revenue Code of 1986. In the case of a joint return,  
6 no credit shall be allowed under either such section if both  
7 spouses are such workers or aliens.

8 **SEC. 9. IMMIGRANT VISAS FOR AGRICULTURAL WORKERS.**

9 (a) Amend the heading of paragraph (3) of section  
10 203(b) of the Immigration and Nationality Act (8 U.S.C.  
11 1153(b)(3)) to read as follows: “SKILLED WORKERS, PRO-  
12 FESSIONALS, AND AGRICULTURAL WORKERS.—”.

13 (b) Amend section 203(b)(3)(A)(iii) of the Immigra-  
14 tion and Nationality Act (8 U.S.C. 1153(b)(3)(A)(iii)) to  
15 read as follows:

16 “(iii) AGRICULTURAL WORKERS.—

17 “(I) Qualified immigrants who  
18 have performed agricultural labor or  
19 services (as defined in section  
20 101(a)(53)) for at least 500 days in  
21 which the alien was employed 5.75 or  
22 more hours during the preceding 10  
23 year period and who are capable, at  
24 the time of petitioning for classifica-

1                   tion under this paragraph, of per-  
2                   forming such labor or services.

3                   “(II) The Secretary of Homeland  
4                   Security shall waive the grounds of in-  
5                   admissibility contained in paragraphs  
6                   (5), (6), (7), and (9)(B) of section  
7                   212(a) and the grounds of deport-  
8                   ability contained in subparagraphs (A)  
9                   through (D) of paragraph (1), and  
10                  paragraph (3), of section 237(a), sole-  
11                  ly as may be necessary in order to  
12                  allow an alien to receive a visa or oth-  
13                  erwise be provided with status pursu-  
14                  ant to subclause (I).”.

15 **SEC. 10. EFFECTIVE DATES; SUNSET; REGULATIONS.**

16       (a) EFFECTIVE DATES.—

17           (1) IN GENERAL.—Sections 2 and 4 through 6  
18       of this Act, subsections (a) and (c) through (f) of  
19       section 3 of this Act, and the amendments made by  
20       the sections, shall take effect on the date that is 2  
21       years after the date of the enactment of this Act,  
22       and the Secretary of Agriculture shall accept peti-  
23       tions pursuant to section 218A of the Immigration  
24       and Nationality Act, as inserted by this Act, begin-  
25       ning 28 days earlier. Section 8 of this Act shall take

1 effect on the date of enactment of the Act. Section  
2 9 of this Act, and the amendments made by that  
3 section, shall take effect on the date of enactment of  
4 the Act.

5 (2) AT-WILL EMPLOYMENT.—Section 3(b) of  
6 this Act and the amendments made by that sub-  
7 section shall take effect on the date that it becomes  
8 unlawful for any person or other entity to hire, or  
9 to recruit or refer for a fee, for employment in the  
10 United States an individual (as provided in section  
11 274A(a)(1) of the Immigration and Nationality Act)  
12 (8 U.S.C. 1324a(a)(1)) without participating in the  
13 E-Verify Program described in section 403(a) of the  
14 Illegal Immigration Reform and Immigrant Respon-  
15 sibility Act of 1996 (8 U.S.C. 1324a note) or an em-  
16 ployment eligibility verification system patterned on  
17 such program’s verification system, and only if at  
18 that time the E-Verify Program (or another pro-  
19 gram patterned after the E-Verify Program) re-  
20 sponds to inquiries made by such persons or entities  
21 by providing confirmation, tentative nonconfirma-  
22 tion, and final nonconfirmation of an individual’s  
23 identity and employment eligibility in such a way  
24 that indicates whether the individual is eligible to be  
25 employed in all occupations or only to perform agri-

1 cultural labor or services under sections 218A and  
2 219B of the Immigration and Nationality Act (8  
3 U.S.C. 1188A; 8 U.S.C. 1188B) (as added by sec-  
4 tion 3 of this Act), and if the latter, whether the  
5 nonimmigrant would be in compliance with their  
6 maximum continuous period of authorized status  
7 and requirement to remain outside the United States  
8 under section 218A(n) of such Act (8 U.S.C.  
9 1188A(n)), as added by section 3(a) of this Act, and  
10 on what date the alien would cease to be in compli-  
11 ance with their maximum continuous period of au-  
12 thorized status.

13 (3) AGRICULTURAL LABOR OR SERVICES BY  
14 ALIENS UNLAWFULLY PRESENT.—Section 7 of this  
15 Act shall take effect on the date of the enactment  
16 of this Act and shall cease to be in effect on the date  
17 that is 2 years after such date.

18 (b) OPERATION AND SUNSET OF THE H-2A PRO-  
19 GRAM.—

20 (1) APPLICATION OF EXISTING REGULA-  
21 TIONS.—The Department of Labor H-2A program  
22 regulations published at 73 Federal Register 77110  
23 et seq. (2008) shall be in force for all petitions ap-  
24 proved under sections 101(a)(15)(H)(ii)(a) and 218  
25 of the Immigration and Nationality Act (8 U.S.C.

1       1101(a)(15)(h)(ii)(a); 8 U.S.C. 1188) beginning on  
2       the date of the enactment of this Act.

3           (2) ADJUSTMENT OF STATUS.—Aliens who were  
4       unlawfully present in the United States on July  
5       【\_\_】，2017, shall be eligible for status as aliens de-  
6       scribed in section 101(a)(15)(H)(ii)(a) of the Immi-  
7       gration and Nationality Act (8 U.S.C.  
8       1101(a)(15)(H)(ii)(a)) despite their unlawful pres-  
9       ence beginning on the date of the enactment of this  
10      Act and ending on the date that is 2 years after the  
11      date of enactment of this Act.

12          (3) SUNSET.—Beginning on the date on which  
13      employers can file petitions pursuant to section  
14      218A of the Immigration and Nationality Act (8  
15      U.S.C. 1188A) as added by section 3(a) of this Act,  
16      no new petitions under sections 101(a)(15)(H)(ii)(a)  
17      and 218 of the Immigration and Nationality Act (8  
18      U.S.C. 1101(a)(15)(H)(ii)(a); 8 U.S.C. 1188) shall  
19      be accepted.

20          (c) REGULATIONS.—Not later than 18 months after  
21      the date of the enactment of this Act, the Secretary of  
22      Agriculture shall promulgate regulations, in accordance  
23      with the notice and comment provisions of section 553 of  
24      title 5, United States Code, to implement the Secretary’s  
25      duties under this Act.