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(Original Signature of Member)

115TH CONGRESS  
1ST SESSION

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

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

\_\_\_\_\_  
IN THE HOUSE OF REPRESENTATIVES

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

\_\_\_\_\_  
**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—

16 “(A) agricultural labor as defined in section  
17 3121(g) of the Internal Revenue Code of 1986;

18 “(B) agriculture as defined in section 3(f) of  
19 the Fair Labor Standards Act of 1938 (29 U.S.C.  
20 203(f));

21 “(C) the handling, planting, drying, packing,  
22 packaging, processing, freezing, or grading prior to  
23 delivery for storage of any agricultural or horti-  
24 cultural commodity in its unmanufactured state;

25 “(D) all activities required for the preparation,  
26 processing or manufacturing of a product of agri-

1 culture (as such term is defined in such section 3(f))  
2 for further distribution;  
3 “(E) forestry-related activities;  
4 “(F) aquaculture activities; and  
5 “(G) the primary processing of fish or shell-  
6 fish.”.

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

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

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

13 “(a) DEFINITIONS.—In this section and section  
14 218B:

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

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

20 “(A) involve essentially the same respon-  
21 sibilities;

22 “(B) are held by United States workers  
23 with substantially equivalent qualifications and  
24 experience; and

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

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

8           “(4) FORESTRY-RELATED ACTIVITIES.—The  
9           term ‘forestry-related activities’ includes tree plant-  
10          ing, timber harvesting, logging operations, brush  
11          clearing, vegetation management, herbicide applica-  
12          tion, the maintenance of rights-of-way (including for  
13          roads, trails, and utilities), regardless of whether  
14          such right-of-way is on forest land, and the har-  
15          vesting of pine straw.

16          “(5) H-2C WORKER.—The term ‘H-2C worker’  
17          means a nonimmigrant described in section  
18          101(a)(15)(H)(ii)(c).

19          “(6) LAY OFF.—

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

21                         “(i) means to cause a worker’s loss of  
22                         employment, other than through a dis-  
23                         charge for inadequate performance, viola-  
24                         tion of workplace rules, cause, voluntary  
25                         departure, voluntary retirement, or the ex-

1           piration of a grant or contract (other than  
2           a temporary employment contract entered  
3           into in order to evade a condition described  
4           in paragraph (4) of subsection (b)); and

5           “(ii) does not include any situation in  
6           which the worker is offered, as an alter-  
7           native to such loss of employment, a simi-  
8           lar position with the same employer at  
9           equivalent or higher wages and benefits  
10          than the position from which the employee  
11          was discharged, regardless of whether or  
12          not the employee accepts the offer.

13          “(B) CONSTRUCTION.—Nothing in this  
14          paragraph is intended to limit an employee’s  
15          rights under a collective bargaining agreement  
16          or other employment contract.

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

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

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

1           “(8) SPECIAL PROCEDURES INDUSTRY.—The  
2           term ‘special procedures industry’ includes sheep-  
3           herding, goat herding, and the range production of  
4           livestock, itinerant commercial beekeeping and polli-  
5           nation, itinerant animal shearing, and custom com-  
6           bining and harvesting.

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

11           “(1) OFFER OF EMPLOYMENT.—The employer  
12          will offer employment to the aliens on a contractual  
13          basis as H–2C workers under this section for a spe-  
14          cific period of time during which the aliens may not  
15          work on an at-will basis (as provided for in section  
16          218B), and such contract shall only be required to  
17          include a description of each place of employment,  
18          period of employment, wages and other benefits to  
19          be provided, and the duties of the positions.

20           “(2) TEMPORARY LABOR OR SERVICES.—

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

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

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

12           “(4) NONDISPLACEMENT OF UNITED STATES  
13 WORKERS.—The employer did not displace and will  
14 not displace United States workers employed by the  
15 employer during the period of employment of the H-  
16 2C workers and during the 30-day period imme-  
17 diately preceding such period of employment in the  
18 job for which the employer seeks approval to employ  
19 H-2C workers.

20           “(5) RECRUITMENT.—

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

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

24                   “(ii) was unsuccessful in locating suf-  
25 ficient numbers of willing and qualified

1 United States workers for the job for  
2 which the H-2C workers are sought.

3 “(B) OTHER REQUIREMENTS.—The re-  
4 cruitment requirement under subparagraph (A)  
5 is satisfied if the employer places a local job  
6 order with the State workforce agency serving  
7 each place of employment, except that nothing  
8 in this subparagraph shall require the employer  
9 to file an interstate job order under section 653  
10 of title 20, Code of Federal Regulations. The  
11 State workforce agency shall post the job order  
12 on its official agency website for a minimum of  
13 30 days and not later than 3 days after receipt  
14 using the employment statistics system author-  
15 ized under section 15 of the Wagner-Peyser Act  
16 (29 U.S.C. 491–2). The Secretary of Labor  
17 shall include links to the official Web sites of all  
18 State workforce agencies on a single webpage of  
19 the official Web site of the Department of  
20 Labor.

21 “(C) END OF RECRUITMENT REQUIRE-  
22 MENT.—The requirement to recruit United  
23 States workers for a job shall terminate on the  
24 first day that work begins for the H-2C work-  
25 ers.



1           “(6) OFFERS TO UNITED STATES WORKERS.—

2           The employer has offered or will offer the job for  
3           which the H–2C workers are sought to any eligible  
4           United States workers who—

5                   “(A) apply;

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

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

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

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

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

1       “(c) PUBLIC EXAMINATION.—Not later than 1 work-  
2 ing day after the date on which a petition under this sec-  
3 tion is filed, the employer shall make the petition available  
4 for public examination, at the employer’s principal place  
5 of employment.

6       “(d) LIST.—

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

10               “(A) be sorted by employer; and

11               “(B) include the number of H-2C workers  
12 sought, the wage rate, the period of employ-  
13 ment, each place of employment, and the date  
14 of need for each alien.

15           “(2) AVAILABILITY.—The Secretary of Agri-  
16 culture shall make the list available for public exam-  
17 ination.

18       “(e) PETITIONING FOR ADMISSION.—

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

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

1           “(B) unless the Secretary of Agriculture  
2 determines that the petition is incomplete or ob-  
3 viously inaccurate, the Secretary, not later than  
4 10 business days after the date on which such  
5 petition was filed, shall either approve or reject  
6 the petition and provide the petitioner with no-  
7 tice of such action by means ensuring same or  
8 next day delivery; and

9           “(C) if the Secretary determines that the  
10 petition is incomplete or obviously inaccurate,  
11 the Secretary shall—

12           “(i) within 5 business days of receipt  
13 of the petition, notify the petitioner of the  
14 deficiencies to be corrected by means en-  
15 suring same or next day delivery; and

16           “(ii) within 5 business days of receipt  
17 of the corrected petition, approve or deny  
18 the petition and provide the petitioner with  
19 notice of such action by means ensuring  
20 same or next day delivery.

21           “(2) ACCESS.—By filing an H-2C petition, the  
22 petitioner and each employer (if the petitioner is an  
23 association that is a joint employer of workers who  
24 perform agricultural labor or services) consent to  
25 allow access to each place of employment to the De-

1       partment of Agriculture and the Department of  
2       Homeland Security for the purpose of investigations  
3       and audits to determine compliance with the immi-  
4       gration laws (as defined in section 101(a)(17)).

5       “(f) ROLES OF AGRICULTURAL ASSOCIATIONS.—

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

13              “(2) TREATMENT OF VIOLATIONS.—

14              “(A) INDIVIDUAL MEMBER.—If an indi-  
15      vidual member of an association that is a joint  
16      employer commits a violation described in sub-  
17      sections (i)(2) and (3) or (j)(1), the Secretary  
18      of Agriculture shall invoke penalties pursuant  
19      to subsections (i) and (j) against only that  
20      member of the association unless the Secretary  
21      of Agriculture determines that the association  
22      participated in, had knowledge of, or had rea-  
23      son to know of the violation.

24              “(B) ASSOCIATION OF AGRICULTURAL EM-  
25      PLOYERS.—If an association that is a joint em-

1           ployer commits a violation described in sub-  
2           sections (i)(2) and (3) or (j)(1), the Secretary  
3           of Agriculture shall invoke penalties pursuant  
4           to subsections (i) and (j) against only the asso-  
5           ciation and not any individual members of the  
6           association, unless the Secretary determines  
7           that the member participated in the violation.

8           “(g) EXPEDITED ADMINISTRATIVE APPEALS.—The  
9           Secretary of Agriculture shall promulgate regulations to  
10          provide for an expedited procedure for the review of a de-  
11          nial of a petition under this section by the Secretary. At  
12          the petitioner’s request, the review shall include a de novo  
13          administrative hearing at which new evidence may be in-  
14          troduced.

15          “(h) FEES.—The Secretary of Agriculture shall re-  
16          quire, as a condition of approving the petition, the pay-  
17          ment of a fee to recover the reasonable cost of processing  
18          the petition.

19          “(i) ENFORCEMENT.—

20                 “(1) INVESTIGATIONS AND AUDITS.—The Sec-  
21          retary of Agriculture shall be responsible for con-  
22          ducting investigations and audits, including random  
23          audits, of employers to ensure compliance with the  
24          requirements of the H-2C program. All monetary  
25          fines levied against employers shall be paid to the

1 Department of Agriculture and used to enhance the  
2 Department of Agriculture’s investigative and audit-  
3 ing abilities to ensure compliance by employers with  
4 their obligations under this section.

5 “(2) VIOLATIONS.—If the Secretary of Agri-  
6 culture finds, after notice and opportunity for a  
7 hearing, a failure to fulfill an attestation required by  
8 this subsection, or a material misrepresentation of a  
9 material fact in a petition under this subsection, the  
10 Secretary—

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

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

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

24 “(A) may impose such administrative rem-  
25 edies (including civil money penalties in an

1 amount not to exceed \$5,000 per violation, or  
2 not to exceed \$15,000 per violation if in the  
3 course of such failure or misrepresentation the  
4 employer displaced one or more United States  
5 workers employed by the employer during the  
6 period of employment of H-2C workers or dur-  
7 ing the 30-day period immediately preceding  
8 such period of employment) in the job the H-  
9 2C workers are performing as the Secretary de-  
10 termines to be appropriate;

11 “(B) may disqualify the employer from the  
12 employment of H-2C workers for a period of 2  
13 years;

14 “(C) may, for a subsequent failure to fulfill  
15 an attestation required by this subsection, or a  
16 misrepresentation of a material fact in a peti-  
17 tion under this subsection, disqualify the em-  
18 ployer from the employment of H-2C workers  
19 for a period of 5 years; and

20 “(D) may, for a subsequent willful failure  
21 to fulfill an attestation required by this sub-  
22 section, or a willful misrepresentation of a ma-  
23 terial fact in a petition under this subsection,  
24 permanently disqualify the employer from the  
25 employment of H-2C workers.

1 “(j) FAILURE TO PAY WAGES OR REQUIRED BENE-  
2 FITS.—

3 “(1) IN GENERAL.—If the Secretary of Agri-  
4 culture finds, after notice and opportunity for a  
5 hearing, that the employer has failed to provide the  
6 benefits, wages, and working conditions that the em-  
7 ployer has attested that it would provide under this  
8 subsection, the Secretary shall require payment of  
9 back wages, or such other required benefits, due any  
10 United States workers or H-2C workers employed  
11 by the employer.

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

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

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

20 “(k) MINIMUM WAGES, BENEFITS, AND WORKING  
21 CONDITIONS.—

22 “(1) PREFERENTIAL TREATMENT OF H-2C  
23 WORKERS PROHIBITED.—

24 “(A) IN GENERAL.—Each employer seek-  
25 ing to hire United States workers for the job



1 the H-2C workers will perform shall offer such  
2 United States workers not less than the same  
3 benefits, wages, and working conditions that the  
4 employer will provide to the H-2C workers. No  
5 job offer may impose on United States workers  
6 any restrictions or obligations which will not be  
7 imposed on H-2C workers.

8 “(B) INTERPRETATION.—Every interpreta-  
9 tion and determination made under this section  
10 or under any other law, regulation, or interpre-  
11 tative provision regarding the nature, scope,  
12 and timing of the provision of these and any  
13 other benefits, wages, and other terms and con-  
14 ditions of employment shall be made so that—

15 “(i) the services of workers to their  
16 employers and the employment opportuni-  
17 ties afforded to workers by the employers,  
18 including those employment opportunities  
19 that require United States workers or H-  
20 2C workers to travel or relocate in order to  
21 accept or perform employment—

22 “(I) mutually benefit such work-  
23 ers, as well as their families, and em-  
24 ployers; and

1                   “(II) principally benefit neither  
2                   employer nor employee; and

3                   “(ii) employment opportunities within  
4                   the United States benefit the United  
5                   States economy.

6                   “(2) REQUIRED WAGES.—

7                   “(A) IN GENERAL.—Each employer peti-  
8                   tioning for H-2C workers under this subsection  
9                   shall pay them a wage not less than the State  
10                  or local minimum wage, or 115 percent of the  
11                  applicable Federal minimum wage, whichever is  
12                  greatest.

13                  “(B) SPECIAL RULE.—An employer can  
14                  utilize a piece rate or other alternative wage  
15                  payment system so long as the employer guar-  
16                  antees each worker a wage rate that equals or  
17                  exceeds the amount required under subpara-  
18                  graph (A) for the total hours worked in each  
19                  pay period. Compensation from a piece rate or  
20                  other alternative wage payment system shall in-  
21                  clude time spent during rest breaks, moving  
22                  from job to job, clean up, or any other non-  
23                  productive time, provided that such time does  
24                  not exceed 20 percent of the total hours in the  
25                  work day.

1           “(3) EMPLOYMENT GUARANTEE.—

2                   “(A) IN GENERAL.—

3                           “(i) REQUIREMENT.—Each employer  
4                           petitioning for workers under this sub-  
5                           section shall guarantee to offer the H-2C  
6                           workers and United States workers per-  
7                           forming the same job employment for the  
8                           hourly equivalent of not less than 50 per-  
9                           cent of the work hours set forth in the  
10                          work contract.

11                          “(ii) FAILURE TO MEET GUAR-  
12                          ANTEE.—If an employer affords the  
13                          United States workers or the H-2C work-  
14                          ers less employment than that required  
15                          under this subparagraph, the employer  
16                          shall pay such workers the amount which  
17                          the workers would have earned if the work-  
18                          ers had worked for the guaranteed number  
19                          of hours.

20                          “(B) CALCULATION OF HOURS.—Any  
21                          hours which workers fail to work, up to a max-  
22                          imum of the number of hours specified in the  
23                          work contract for a work day, when the workers  
24                          have been offered an opportunity to do so, and  
25                          all hours of work actually performed (including

1 voluntary work in excess of the number of  
2 hours specified in the work contract in a work  
3 day) may be counted by the employer in calcu-  
4 lating whether the period of guaranteed employ-  
5 ment has been met.

6 “(C) LIMITATION.—If the workers aban-  
7 don employment before the end of the work  
8 contract period, or are terminated for cause,  
9 the workers are not entitled to the 50 percent  
10 guarantee described in subparagraph (A).

11 “(D) TERMINATION OF EMPLOYMENT.—

12 “(i) IN GENERAL.—If, before the expi-  
13 ration of the period of employment speci-  
14 fied in the work contract, the services of  
15 the workers are no longer required due to  
16 any form of natural disaster, including  
17 flood, hurricane, freeze, earthquake, fire,  
18 drought, plant or animal disease, pest in-  
19 festation, regulatory action, or any other  
20 reason beyond the control of the employer  
21 before the employment guarantee in sub-  
22 paragraph (A) is fulfilled, the employer  
23 may terminate the workers’ employment.

1                   “(ii) REQUIREMENTS.—If a worker’s  
2                   employment is terminated under clause (i),  
3                   the employer shall—

4                               “(I) fulfill the employment guar-  
5                               antee in subparagraph (A) for the  
6                               work days that have elapsed during  
7                               the period beginning on the first work  
8                               day and ending on the date on which  
9                               such employment is terminated;

10                              “(II) make efforts to transfer the  
11                              worker to other comparable employ-  
12                              ment acceptable to the worker; and

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

18           “(l) NONDELEGATION.—The Department of Agri-  
19           culture and the Department of Homeland Security shall  
20           not delegate their investigatory, enforcement, or adminis-  
21           trative functions relating to this section or section 218B  
22           to other agencies or departments of the Federal govern-  
23           ment.

24           “(m) COMPLIANCE WITH BIO-SECURITY PROTO-  
25           COLS.—Except in the case of an imminent threat to health

1 or safety, any personnel from a Federal agency or Federal  
2 grantee seeking to determine the compliance of an em-  
3 ployer with the requirements of this section or section  
4 218B shall, when visiting such employer's place of employ-  
5 ment, make their presence known to the employer and  
6 sign-in in accordance with reasonable bio-security proto-  
7 cols before proceeding to any other area of the place of  
8 employment.

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

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

20 “(2) REQUIREMENT TO REMAIN OUTSIDE THE  
21 UNITED STATES.—In the case of H-2C workers who  
22 were employed in a job of a temporary or seasonal  
23 nature whose maximum continuous period of author-  
24 ized status as H-2C workers (including any exten-  
25 sions) have expired, the aliens may not again be eli-

1       gible to be H-2C workers until they remain outside  
2       the United States for a continuous period equal to  
3       at least  $\frac{1}{12}$ th of the duration of their previous period  
4       of authorized status as H-2C workers. For H-2C  
5       workers who were employed in a job not of a tem-  
6       porary or seasonal nature whose maximum contin-  
7       uous period of authorized status as H-2C workers  
8       (including any extensions) have expired, the aliens  
9       may not again be eligible to be H-2C workers until  
10      they remain outside the United States for a contin-  
11      uous period equal to at least the lesser of  $\frac{1}{12}$ th of  
12      the duration of their previous period of authorized  
13      status as H-2C workers or 45 days.

14               “(3) EXCEPTIONS.—

15                       “(A) The Secretary of Homeland Security  
16                       shall deduct absences from the United States  
17                       that take place during an H-2C worker’s period  
18                       of authorized status from the period that the  
19                       alien is required to remain outside the United  
20                       States under paragraph (2), if the alien or the  
21                       alien’s employer requests such a deduction, and  
22                       provides clear and convincing proof that the  
23                       alien qualifies for such a deduction. Such proof  
24                       shall consist of evidence such as arrival and de-

1 parture records, copies of tax returns, and  
2 records of employment abroad.

3 “(B) There is no maximum continuous pe-  
4 riod of authorized status as set forth in para-  
5 graph (1) or a requirement to remain outside  
6 the United States as set forth in paragraph (2)  
7 for H-2C workers employed as a shepherd,  
8 goatherder, in the range production of livestock,  
9 or who return to the workers’ permanent resi-  
10 dence outside the United States each day.

11 “(o) PERIOD OF ADMISSION.—

12 “(1) IN GENERAL.—In addition to the max-  
13 imum continuous period of authorized status, work-  
14 ers’ authorized period of admission shall include—

15 “(A) a period of not more than 7 days  
16 prior to the beginning of authorized employ-  
17 ment as H-2C workers for the purpose of travel  
18 to the place of employment; and

19 “(B) a period of not more than 14 days  
20 after the conclusion of their authorized employ-  
21 ment for the purpose of departure from the  
22 United States or a period of not more than 30  
23 days following the employment for the purpose  
24 of seeking a subsequent offer of employment by  
25 an employer pursuant to a petition under this



1 section (or pursuant to at-will employment  
2 under section 218B during such times as that  
3 section is in effect) if they have not reached  
4 their maximum continuous period of authorized  
5 employment under subsection (n) (subject to  
6 the exceptions in subsection (n)(3)) unless they  
7 accept subsequent offers of employment as H-  
8 2C workers or are otherwise lawfully present.

9 “(2) FAILURE TO DEPART.—H-2C workers  
10 who do not depart the United States within the peri-  
11 ods referred to in paragraph (1) will be considered  
12 to have failed to maintain nonimmigrant status as  
13 H-2C workers and shall be subject to removal under  
14 section 237(a)(1)(C)(i). Such aliens shall be consid-  
15 ered to be inadmissible pursuant to section  
16 212(a)(9)(B)(i) for having been unlawfully present,  
17 with the aliens considered to have been unlawfully  
18 present for 181 days as of the 15th day following  
19 their period of employment for the purpose of depar-  
20 ture or as of the 31st day following their period of  
21 employment for the purpose of seeking subsequent  
22 offers of employment.

23 “(p) ABANDONMENT OF EMPLOYMENT.—

24 “(1) REPORT BY EMPLOYER.—Not later than  
25 72 hours after an employer learns of the abandon-

1       ment of employment by H–2C workers before the  
2       conclusion of their work contracts, the employer  
3       shall notify the Secretary of Agriculture of such  
4       abandonment.

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

9           “(q) ADJUSTMENT OF STATUS.—Aliens who are un-  
10      lawfully present in the United States on October 2, 2017,  
11      are eligible to adjust status to that of H–2C workers de-  
12      spite their unlawful presence.

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

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

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

22           “(A) IN GENERAL.—Notwithstanding the  
23      Fair Labor Standards Act of 1938 (29 U.S.C.  
24      201 et seq.) and State and local wage laws, all  
25      employers of H–2C workers shall withhold from

1 the wages of all H-2C workers other than those  
2 employed as shepherders, goatherders, in the  
3 range production of livestock, or who return to  
4 the their permanent residence outside the  
5 United States each day, an amount equivalent  
6 to 10 percent of the gross wages of each worker  
7 in each pay period and, on behalf of each work-  
8 er, transfer such withheld amount to the Trust  
9 Fund.

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

22 “(3) DISTRIBUTION OF FUNDS.—Amounts paid  
23 into the Trust Fund on behalf of an H-2C worker,  
24 and held pursuant to paragraph (2)(A) and interest  
25 earned thereon, shall be transferred from the Trust

1 Fund to the Secretary of Agriculture, who shall dis-  
2 tribute them to the worker if the worker—

3 “(A) applies to the Secretary of Agri-  
4 culture (or the designee of the Secretary) for  
5 payment within 120 days of the expiration of  
6 the alien’s last authorized stay in the United  
7 States as an H–2C worker, for which they seek  
8 amounts from the Trust Fund;

9 “(B) establishes to the satisfaction of the  
10 Secretary of Agriculture that they have com-  
11 plied with the terms and conditions of the H–  
12 2C program;

13 “(C) once approved by the Secretary of  
14 Agriculture for payment, physically appears at  
15 a United States embassy or consulate in the  
16 worker’s home country; and

17 “(D) establishes their identity to the satis-  
18 faction of the Secretary of Agriculture.

19 “(4) ADMINISTRATIVE EXPENSES.—The  
20 amounts paid into the Trust Fund and held pursu-  
21 ant to paragraph (2)(B), and interest earned there-  
22 on, shall be distributed annually to the Secretary of  
23 State, the Secretary of Agriculture, and the Sec-  
24 retary of Homeland Security in amounts propor-  
25 tionate to the expenses incurred by such officials in

1 the administration and enforcement of the terms of  
2 the H-2C program.

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

13 “(6) INVESTMENT OF TRUST FUND.—

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

23 “(B) CREDITS TO TRUST FUND.—The in-  
24 terest on, and the proceeds from the sale or re-  
25 demption of, any obligations held in the Trust

1 Fund shall be credited to and form a part of  
2 the Trust Fund.

3 “(C) REPORT TO CONGRESS.—It shall be  
4 the duty of the Secretary of the Treasury to  
5 hold the Trust Fund, and (after consultation  
6 with the Secretary of Agriculture) to report to  
7 the Congress each year on the financial condi-  
8 tion and the results of the operations of the  
9 Trust Fund during the preceding fiscal year  
10 and on its expected condition and operations  
11 during the next fiscal year. Such report shall be  
12 printed as both a House and a Senate docu-  
13 ment of the session of the Congress in which  
14 the report is made.

15 “(s) PROCEDURES FOR SPECIAL PROCEDURES IN-  
16 DUSTRIES.—

17 “(1) WORK LOCATIONS.—The Secretary of Ag-  
18 riculture shall permit an employer in a Special Pro-  
19 cedures Industry that does not operate at a single  
20 fixed place of employment to provide, as part of its  
21 petition, a list of places of employment, which—

22 “(A) may include an itinerary; and

23 “(B) may be subsequently amended at any  
24 time by the employer, after notice to the Sec-  
25 retary.



1 an H-2C worker may only perform labor or services pur-  
2 suant to this section if the worker is already lawfully  
3 present in the United States as an H-2C worker, having  
4 been admitted or otherwise provided nonimmigrant status  
5 pursuant to section 218A, and has completed the period  
6 of employment specified in the job offer the worker accept-  
7 ed pursuant to section 218A or the employer has termi-  
8 nated the worker's employment pursuant to section  
9 218A(k)(3)(D)(i). An H-2C worker who abandons the em-  
10 ployment which was the basis for admission or status pur-  
11 suant to section 218A may not perform labor or services  
12 pursuant to this section until the worker has returned to  
13 their home country, been readmitted as an H-2C worker  
14 pursuant to section 218A and has completed the period  
15 of employment specified in the job offer the worker accept-  
16 ed pursuant to section 218A or the employer has termi-  
17 nated the worker's employment pursuant to section  
18 218A(k)(3)(D)(i).

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



1           “(c) REGISTERED AGRICULTURAL EMPLOYERS.—  
2 The Secretary of Agriculture shall establish a process to  
3 accept and adjudicate applications by employers to be des-  
4 ignated as registered agricultural employers. The Sec-  
5 retary shall require, as a condition of approving the appli-  
6 cation, the payment of a fee to recover the reasonable cost  
7 of processing the application. The Secretary shall des-  
8 ignate an employer as a registered agricultural employer  
9 if the Secretary determines that the employer—

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

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

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

19           “(4) agrees to, if employing H-2C workers pur-  
20 suant to this section, fulfill the attestations con-  
21 tained in section 218A(b) as if it had submitted a  
22 petition making those attestations (excluding sub-  
23 section (k)(3) of such section) and not to employ H-  
24 2C workers who have reached their maximum con-  
25 tinuous period of authorized status under section

1 218A(n) (subject to the exceptions contained in sec-  
2 tion 218A(n)(3)) or if the workers have complied  
3 with the terms of section 218A(n)(2); and

4 “(5) agrees to notify the Secretary of Agri-  
5 culture and the Secretary of Homeland Security  
6 each time it employs H-2C workers pursuant to this  
7 section within 72 hours of the commencement of em-  
8 ployment and within 72 hours of the cessation of  
9 employment.

10 “(d) LENGTH OF DESIGNATION.—An employer’s des-  
11 ignation as a registered agricultural employer shall be  
12 valid for 3 years, and the designation can be extended  
13 upon reapplication for additional 3-year terms. The Sec-  
14 retary shall revoke a designation before the expiration of  
15 its 3-year term if the employer is subject to disqualifica-  
16 tion from the employment of H-2C workers subsequent  
17 to being designated as a registered agricultural employer.

18 “(e) ENFORCEMENT.—The Secretary of Agriculture  
19 shall be responsible for conducting investigations and au-  
20 dits, including random audits, of employers to ensure com-  
21 pliance with the requirements of this section. All monetary  
22 fines levied against employers shall be paid to the Depart-  
23 ment of Agriculture and used to enhance the Department  
24 of Agriculture’s investigatory and audit abilities to ensure  
25 compliance by employers with their obligations under this

1 section and section 218A. The Secretary of Agriculture’s  
2 enforcement powers and an employer’s liability described  
3 in subsections (i) through (j) of section 218A are applica-  
4 ble to employers employing H-2C workers pursuant to  
5 this section.”.

6 (c) PROHIBITION ON FAMILY MEMBERS.—Section  
7 101(a)(15)(H) of the Immigration and Nationality Act (8  
8 U.S.C. 1101(a)(15)(H)) is amended by striking “him;” at  
9 the end and inserting “him, except that no spouse or child  
10 may be admitted under clause (ii)(c);”.

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

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

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

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

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

21 “(i) if the base allocation is exhausted dur-  
22 ing any fiscal year, the base allocation for that  
23 and subsequent fiscal years shall be increased  
24 by the lesser of 10 percent or a percentage rep-  
25 resenting the number of petitioned-for aliens

1 (as a percentage of the base allocation) who  
2 would be eligible to be issued visas or otherwise  
3 provided nonimmigrant status as H-2C workers  
4 during that fiscal year but for the base alloca-  
5 tion being exhausted, and if the increased base  
6 allocation is itself exhausted during a subse-  
7 quent fiscal year, the base allocation for that  
8 and subsequent fiscal years shall be further in-  
9 creased by the lesser of 10 percent or a percent-  
10 age representing the number of petitioned-for  
11 aliens (as a percentage of the increased base al-  
12 location) who would be eligible to be issued  
13 visas or otherwise provided nonimmigrant sta-  
14 tus as H-2C workers during that fiscal year  
15 but for the increased base allocation being ex-  
16 hausted (subject to clause (ii));

17 “(ii) if the base allocation is not exhausted  
18 during any fiscal year, the base allocation for  
19 subsequent fiscal years shall be decreased by  
20 the greater of 5 percent or a percentage rep-  
21 resenting the unutilized portion of the base allo-  
22 cation (as a percentage of the base allocation)  
23 during that fiscal year, and if in a subsequent  
24 fiscal year the decreased base allocation is itself  
25 not exhausted, the base allocation for fiscal

1 years subsequent to that fiscal year shall be  
2 further decreased by the greater of 5 percent or  
3 a percentage representing the unutilized portion  
4 of the decreased base allocation (as a percent-  
5 age of the decreased base allocation) during  
6 that fiscal year (subject to clause (i) and except  
7 that the base allocation shall not fall below  
8 500,000); and

9 “(iii) this numerical limitation shall not  
10 apply to any alien—

11 “(I) who performed agricultural labor  
12 or services in the United States for at least  
13 5.75 hours during each of at least 180  
14 days, pursuant to section 7 of the AG Act,  
15 during the 2-year period beginning on the  
16 date of the enactment of such Act; or

17 “(II) who has previously been issued a  
18 visa or otherwise provided nonimmigrant  
19 status pursuant to subclause (a) or (b) of  
20 section 101(a)(15)(H)(ii), but only to the  
21 extent that the alien is being petitioned for  
22 by an employer pursuant to section  
23 218A(b) who previously employed the alien  
24 pursuant to subclause (a) or (b) of section

1                   101(a)(15)(H)(ii) beginning no later than  
2                   October 2, 2017.”.

3           (e) WAIVER OF BARS TO ADMISSIBILITY.—Section  
4 212(a)(9)(B)(v) of the Immigration and Nationality Act  
5 (8 U.S.C. 1182(a)(9)(B)(v)) is amended—

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

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

10           (2) by striking “Attorney General” each place  
11           it appears and inserting “Secretary of Homeland Se-  
12           curity”; and

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

14                               “(II) H-2C WORKERS.—The Sec-  
15                               retary of Homeland Security shall  
16                               waive clause (i) solely as necessary to  
17                               allow aliens to perform agricultural  
18                               labor or services as provided in section  
19                               101(a)(15)(H)(ii)(c), except to the ex-  
20                               tent that the aliens’ unlawful presence  
21                               was subsequent to their receiving the  
22                               status of nonimmigrants under such  
23                               section. If the Secretary waives clause  
24                               (i) pursuant to this subclause with re-  
25                               spect to an alien, the alien must

1           thereafter remain outside the United  
2           States for a period by not later than  
3           6 months after being issued a visa or  
4           otherwise being provided with status  
5           as an H-2C worker. Aliens who do  
6           not remain outside the United States  
7           as required by the previous sentence  
8           are considered to be unlawfully  
9           present as of the date 6 months after  
10          being issued a visa or otherwise being  
11          provided with status as an H-2C  
12          worker, have failed to maintain non-  
13          immigrant status as an H-2C worker,  
14          and shall be subject to removal under  
15          section 237(a)(1)(C)(i).”.

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

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

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

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

1 **SEC. 4. MEDIATION.**

2 Nonimmigrants having status under section  
3 101(a)(15)(H)(ii)(c) of the Immigration and Nationality  
4 Act (8 U.S.C. 1101(a)(15)(H)(ii)(c)) may not bring civil  
5 actions for damages against their employers, nor may any  
6 other attorneys or individuals bring civil actions for dam-  
7 ages on behalf of such nonimmigrants against the non-  
8 immigrants' employers, unless at least 90 days prior to  
9 bringing an action a request has been made to the Federal  
10 Mediation and Conciliation Service to assist the parties  
11 in reaching a satisfactory resolution of all issues involving  
12 all parties to the dispute and mediation has been at-  
13 tempted.

14 **SEC. 5. MIGRANT AND SEASONAL AGRICULTURAL WORKER**  
15 **PROTECTION.**

16 Section 3(8)(B)(ii) of the Migrant and Seasonal Agri-  
17 cultural Worker Protection Act (29 U.S.C.  
18 1802(8)(B)(ii)) is amended by striking “under sections  
19 101(a)(15)(H)(ii)(a) and 214(c) of the Immigration and  
20 Nationality Act.” and inserting “under subclauses (a) and  
21 (c) of section 101(a)(15)(H)(ii), and section 214(c), of the  
22 Immigration and Nationality Act.”.

23 **SEC. 6. BINDING ARBITRATION.**

24 (a) APPLICABILITY.—H-2C workers may, as a condi-  
25 tion of employment with an employer, be subject to man-  
26 datory binding arbitration and mediation of any grievance



1 relating to the employment relationship. An employer shall  
2 provide any such workers with notice of such condition of  
3 employment at the time it makes job offers.

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

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

10 (1) The term “condition of employment” means  
11 a term, condition, obligation, or requirement that is  
12 part of the job offer, such as the term of employ-  
13 ment, job responsibilities, employee conduct stand-  
14 ards, and the grievance resolution process, and to  
15 which applicants or prospective H–2C workers must  
16 consent or accept in order to be hired for the posi-  
17 tion.

18 (2) The term “H–2C worker” means a non-  
19 immigrant described in section 218A(a)(4) of the  
20 Immigration and Nationality Act (8 U.S.C.  
21 1188A(a)(4)), as added by section 3(a) of this Act.

1 **SEC. 7. THE PERFORMANCE OF AGRICULTURAL LABOR OR**  
2 **SERVICES BY ALIENS WHO ARE UNLAWFULLY**  
3 **PRESENT.**

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

20 (b) ALIENS DESCRIBED.—Aliens described in this  
21 subsection are aliens who—

22 (1) were physically present in the United States  
23 on October 2, 2017; and

24 (2) performed agricultural labor or services in  
25 the United States for at least 5.75 hours during

1 each of at least 180 days, during the 2-year period  
2 ending on the date of the enactment of this Act.

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

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

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

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

20 (b) REFUNDABLE TAX CREDITS.—H-2C workers (as  
21 defined in section 218A(a)(4) of the Immigration and Na-  
22 tionality Act (8 U.S.C. 1188A(a)(4)), as added by section  
23 3(a) of this Act, and aliens performing agricultural labor  
24 or services pursuant to section 7 of this Act shall not be  
25 allowed any credit under sections 24 and 32 of the Inter-

1 nal Revenue Code of 1986. In the case of a joint return,  
2 no credit shall be allowed under either such section if both  
3 spouses are such workers or aliens.

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

5 (a) Amend the heading of paragraph (3) of section  
6 203(b) of the Immigration and Nationality Act (8 U.S.C.  
7 1153(b)(3)) to read as follows: “SKILLED WORKERS, PRO-  
8 FESSIONALS, AND AGRICULTURAL WORKERS.—”.

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

12 “(iii) AGRICULTURAL WORKERS.—

13 “(I) Qualified immigrants who  
14 have performed agricultural labor or  
15 services (as defined in section  
16 101(a)(53)) for at least 5.75 hours  
17 during each of at least 90 days, dur-  
18 ing each of the preceding four fiscal  
19 years and who are capable, at the  
20 time of petitioning for classification  
21 under this paragraph, of performing  
22 such labor or services.

23 “(II) The Secretary of Homeland  
24 Security shall waive the grounds of in-  
25 admissibility contained in paragraphs

1 (5), (6), (7), and (9)(B) of section  
2 212(a) and the grounds of deport-  
3 ability contained in subparagraphs (A)  
4 through (D) of paragraph (1), and  
5 paragraph (3), of section 237(a), sole-  
6 ly as may be necessary in order to  
7 allow an alien to receive a visa or oth-  
8 erwise be provided with status pursu-  
9 ant to subclause (I).”.

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

11 (a) EFFECTIVE DATES.—

12 (1) IN GENERAL.—Sections 2 and 4 through 6  
13 of this Act, subsections (a) and (c) through (f) of  
14 section 3 of this Act, and the amendments made by  
15 the sections, shall take effect on the date that is 2  
16 years after the date of the enactment of this Act,  
17 and the Secretary of Agriculture shall accept peti-  
18 tions pursuant to section 218A of the Immigration  
19 and Nationality Act, as inserted by this Act, begin-  
20 ning 28 days earlier. Section 8 of this Act shall take  
21 effect on the date of enactment of the Act. Section  
22 9 of this Act, and the amendments made by that  
23 section, shall take effect on the date of enactment of  
24 the Act.

1           (2) AT-WILL EMPLOYMENT.—Section 3(b) of  
2           this Act and the amendments made by that sub-  
3           section shall take effect on the date that it becomes  
4           unlawful for all persons or other entities to hire, or  
5           to recruit or refer for a fee, for employment in the  
6           United States an individual (as provided in section  
7           274A(a)(1) of the Immigration and Nationality Act)  
8           (8 U.S.C. 1324a(a)(1)) without participating in the  
9           E-Verify Program described in section 403(a) of the  
10          Illegal Immigration Reform and Immigrant Respon-  
11          sibility Act of 1996 (8 U.S.C. 1324a note) or an em-  
12          ployment eligibility verification system patterned on  
13          such program’s verification system, and only if at  
14          that time the E-Verify Program (or another pro-  
15          gram patterned after the E-Verify Program) re-  
16          sponds to inquiries made by such persons or entities  
17          by providing confirmation, tentative nonconfirma-  
18          tion, and final nonconfirmation of an individual’s  
19          identity and employment eligibility in such a way  
20          that indicates whether the individual is eligible to be  
21          employed in all occupations or only to perform agri-  
22          cultural labor or services under sections 218A and  
23          219B of the Immigration and Nationality Act (8  
24          U.S.C. 1188A; 8 U.S.C. 1188B) (as added by sec-  
25          tion 3 of this Act), and if the latter, whether the

1 nonimmigrant would be in compliance with their  
2 maximum continuous period of authorized status  
3 and requirement to remain outside the United States  
4 under section 218A(n) of such Act (8 U.S.C.  
5 1188A(n)), as added by section 3(a) of this Act, and  
6 on what date the alien would cease to be in compli-  
7 ance with their maximum continuous period of au-  
8 thorized status.

9 (3) AGRICULTURAL LABOR OR SERVICES BY  
10 ALIENS UNLAWFULLY PRESENT.—Section 7 of this  
11 Act shall take effect on the date of the enactment  
12 of this Act and shall cease to be in effect on the date  
13 that is 2 years after such date, except that such sec-  
14 tion shall remain in effect in the case of an alien for  
15 as long as the alien is the beneficiary of a petition  
16 under 218(A) of the Immigration and Nationality  
17 Act that has not yet been adjudicated.

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, except that  
3 the following, as in effect on the date of enactment  
4 of this Act, shall remain in effect, and, to the extent  
5 that any rule published at 73 Federal Register  
6 77110 et seq. is in conflict, such rule shall have no  
7 force and effect:

8 (A) Paragraph (a) and subparagraphs (1)  
9 and (3) of paragraph (b) of section 655.200 of  
10 title 20, Code of Federal Regulations.

11 (B) Section 655.201 of title 20, Code of  
12 Federal Regulations, except the paragraphs en-  
13 titled “Production of Livestock” and “Range”.

14 (C) Paragraphs (c), (d) and (e) of section  
15 655.210 of title 20, Code of Federal Regula-  
16 tions.

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

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

21 (F) The Special Procedures Labor Certifi-  
22 cation Process for Employers in the Itinerant  
23 Animal Shearing Industry under the H-2A  
24 Program in effect under the Training and Em-  
25 ployment Guidance Letter No. 17-06, Change



1           1, Attachment B, Section II, with an effective  
2           date of October 1, 2011.

3           (2) ADJUSTMENT OF STATUS.—Aliens who were  
4           unlawfully present in the United States on October  
5           2, 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.