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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, a
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 sheepherders, 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 sheepherder, 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.

“(2) WAGES.—Notwithstanding subsection (k)(2), the Secretary of Agriculture may establish monthly, weekly, or biweekly wage rates for occupations in a Special Procedures Industry for a State or other geographic area. For an employer in a Special Procedures Industry that typically pays a monthly wage, the Secretary shall require that H-2C workers be paid not less frequently than monthly and at a rate no less than the legally required monthly cash wage in an amount as re-determined annually by the Secretary.

“(3) ALLERGY LIMITATION.—An employer engaged in the commercial beekeeping or pollination services industry may require that job applicants be free from bee-related allergies, including allergies to pollen and bee venom.”.

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

21 "SEC. 218B. AT-WILL EMPLOYMENT OF TEMPORARY H-2C
22 WORKERS.

23 “(a) IN GENERAL.—An employer that is designated
24 as a ‘registered agricultural employer’ pursuant to sub-
25 section (d) may employ aliens as H-2C workers. However,

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)(c) 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.