

1 “(A) agricultural labor as defined in section
2 3121(g) of the Internal Revenue Code of 1986;

3 “(B) agriculture as defined in section 3(f) of
4 the Fair Labor Standards Act of 1938 (29 U.S.C.
5 203(f));

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

10 “(D) all activities required for the preparation,
11 processing or manufacturing of a product of agri-
12 culture (as such term is defined in such section
13 3(f)), or fish or shellfish, for further distribution;

14 “(E) forestry-related activities; and

15 “(F) aquaculture activities,

16 except that in regard to labor or services consisting of
17 meat or poultry processing, the term ‘agricultural labor
18 or services’ only includes the killing of animals and the
19 breakdown of their carcasses.”.

20 **SEC. 2103. ADMISSION OF TEMPORARY H-2C WORKERS.**

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

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

2 “(a) DEFINITIONS.—In this section and section
3 218B:

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

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

9 “(A) involve essentially the same respon-
10 sibilities;

11 “(B) are held by workers with substan-
12 tially equivalent qualifications and experience;
13 and

14 “(C) are located in the same place or
15 places of employment.

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

21 “(4) FORESTRY-RELATED ACTIVITIES.—The
22 term ‘forestry-related activities’ includes tree plant-
23 ing, timber harvesting, logging operations, brush
24 clearing, vegetation management, herbicide applica-
25 tion, the maintenance of rights-of-way (including for
26 roads, trails, and utilities), regardless of whether

1 such right-of-way is on forest land, and the har-
2 vesting of pine straw.

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

6 “(6) LAY OFF.—

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

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

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

1 “(B) CONSTRUCTION.—Nothing in this
2 paragraph is intended to limit an employee’s
3 rights under a collective bargaining agreement
4 or other employment contract.

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

7 “(A) a citizen or national of the United
8 States; or

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

13 “(8) SPECIAL PROCEDURES INDUSTRY.—The
14 term ‘special procedures industry’ includes sheep-
15 herding, goat herding, and the range production of
16 livestock, itinerant commercial beekeeping and polli-
17 nation, itinerant animal shearing, and custom com-
18 bining and harvesting.

19 “(b) PETITION.—An employer that seeks to employ
20 aliens as H–2C workers under this section shall file with
21 the Secretary of Homeland Security a petition attesting
22 to the following:

23 “(1) OFFER OF EMPLOYMENT.—The employer
24 will offer employment to the aliens on a contractual
25 basis as H–2C workers under this section for a spe-

1 cific period of time during which the aliens may not
2 work on an at-will basis (as provided for in section
3 218B), and such contract shall only be required to
4 include a description of each place of employment,
5 period of employment, wages and other benefits to
6 be provided, and the duties of the positions.

7 “(2) TEMPORARY LABOR OR SERVICES.—

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

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

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

24 “(4) NONDISPLACEMENT OF UNITED STATES
25 WORKERS.—The employer did not displace and will

1 not displace United States workers employed by the
2 employer during the period of employment of the H-
3 2C workers and during the 30-day period imme-
4 diately preceding such period of employment in the
5 job for which the employer seeks approval to employ
6 H-2C workers.

7 “(5) RECRUITMENT.—

8 “(A) IN GENERAL.—The employer—

9 “(i) conducted adequate recruitment
10 before filing the petition; and

11 “(ii) was unsuccessful in locating suf-
12 ficient numbers of willing and qualified
13 United States workers for the job for
14 which the H-2C workers are sought.

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

1 using the employment statistics system author-
2 ized under section 15 of the Wagner-Peyser Act
3 (29 U.S.C. 491–2). The Secretary of Labor
4 shall include links to the official Web sites of all
5 State workforce agencies on a single webpage of
6 the official Web site of the Department of
7 Labor.

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

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

17 “(A) apply;

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

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

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

24 “(7) PROVISION OF INSURANCE.—If the job for
25 which the H–2C workers are sought is not covered

1 by State workers' compensation law, the employer
2 will provide, at no cost to the workers unless State
3 law provides otherwise, insurance covering injury
4 and disease arising out of, and in the course of, the
5 workers' employment, which will provide benefits at
6 least equal to those provided under the State work-
7 ers compensation law for comparable employment.

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

12 “(c) LIST.—

13 “(1) IN GENERAL.—The Secretary of Homeland
14 Security shall maintain a list of the petitions filed
15 under this subsection, which shall—

16 “(A) be sorted by employer; and

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

21 “(2) AVAILABILITY.—The Secretary of Home-
22 land Security shall make the list available for public
23 examination.

24 “(d) PETITIONING FOR ADMISSION.—

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

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

7 “(B) within the appropriate time period
8 under subparagraph (C) or (D), the Secretary
9 of Homeland Security shall—

10 “(i) approve the petition;

11 “(ii) reject the petition; or

12 “(iii) determine that the petition is in-
13 complete or obviously inaccurate or that
14 the employer has not complied with the re-
15 quirements of subsection (b)(5)(A)(i)
16 (which the Secretary can ascertain by
17 verifying whether the employer has placed
18 a local job order as provided for in sub-
19 section (b)(5)(B));

20 “(C) if the Secretary determines that the
21 petition is incomplete or obviously inaccurate,
22 or that the employer has not complied with the
23 requirements of subsection (b)(5)(A)(i) (which
24 the Secretary can ascertain by verifying wheth-
25 er the employer has placed a local job order as

1 provided for in subsection (b)(5)(B)), the Sec-
2 retary shall—

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

7 “(ii) within 5 business days of receipt
8 of the corrected petition, approve or reject
9 the petition and provide the petitioner with
10 notice of such action by means ensuring
11 same or next day delivery; and

12 “(D) if the Secretary does not determine
13 that the petition is incomplete or obviously inac-
14 curate, the Secretary shall not later than 10
15 business days after the date on which such peti-
16 tion was filed, either approve or reject the peti-
17 tion and provide the petitioner with notice of
18 such action by means ensuring same or next
19 day delivery.

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

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

4 “(e) ROLES OF AGRICULTURAL ASSOCIATIONS.—

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

12 “(2) TREATMENT OF VIOLATIONS.—

13 “(A) INDIVIDUAL MEMBER.—If an indi-
14 vidual member of an association that is a joint
15 employer commits a violation described in para-
16 graph (2) or (3) of subsection (h) or subsection
17 (i)(1), the Secretary of Agriculture shall invoke
18 penalties pursuant to subsections (h) and (i)
19 against only that member of the association un-
20 less the Secretary of Agriculture determines
21 that the association participated in, had knowl-
22 edge of, or had reason to know of the violation.

23 “(B) ASSOCIATION OF AGRICULTURAL EM-
24 PLOYERS.—If an association that is a joint em-
25 ployer commits a violation described in sub-

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

7 “(f) EXPEDITED ADMINISTRATIVE APPEALS.—The
8 Secretary of Homeland Security shall promulgate regula-
9 tions to provide for an expedited procedure for the review
10 of a denial of a petition under this section by the Sec-
11 retary. At the petitioner’s request, the review shall include
12 a de novo administrative hearing at which new evidence
13 may be introduced.

14 “(g) FEES.—The Secretary of Homeland Security
15 shall require, as a condition of approving the petition, the
16 payment of a fee to recover the reasonable cost of proc-
17 essing the petition.

18 “(h) ENFORCEMENT.—

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

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

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

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

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

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

23 “(A) may impose such administrative rem-
24 edies (including civil money penalties in an
25 amount not to exceed \$5,000 per violation, or

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

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

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

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

1 “(i) 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 “(j) 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, ex-
5 cept that if an employer chooses to provide H-
6 2C workers with housing or a housing allow-
7 ance, the employer need not offer housing or a
8 housing allowance to such United States work-
9 ers. No job offer may impose on United States
10 workers any restrictions or obligations which
11 will not be imposed on H–2C workers.

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

19 “(i) the services of workers to their
20 employers and the employment opportuni-
21 ties afforded to workers by the employers,
22 including those employment opportunities
23 that require United States workers or H-
24 2C workers to travel or relocate in order to
25 accept or perform employment—

1 “(I) mutually benefit such work-
2 ers, as well as their families, and em-
3 ployers; and

4 “(II) principally benefit neither
5 employer nor employee; and

6 “(ii) employment opportunities within
7 the United States benefit the United
8 States economy.

9 “(2) REQUIRED WAGES.—

10 “(A) IN GENERAL.—Each employer peti-
11 tioning for H-2C workers under this subsection
12 (other than in the case of workers who will per-
13 form agricultural labor or services consisting of
14 meat or poultry processing) will offer the H-2C
15 workers, during the period of authorized em-
16 ployment as H-2C workers, wages that are at
17 least the greatest of—

18 “(i) the applicable State or local min-
19 imum wage;

20 “(ii) 115 percent of the Federal min-
21 imum wage; or

22 “(iii) the actual wage level paid by the
23 employer to all other individuals in the job.

24 “(B) SPECIAL RULES.—

1 “(II) 150 percent of the Federal
2 minimum wage;

3 “(III) the prevailing wage level
4 for the occupational classification in
5 the area of employment; or

6 “(IV) the actual wage level paid
7 by the employer to all other individ-
8 uals in the job.

9 “(3) EMPLOYMENT GUARANTEE.—

10 “(A) IN GENERAL.—

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

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

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

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

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

19 “(D) TERMINATION OF EMPLOYMENT.—

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

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

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

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

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

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

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

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

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

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

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

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

20 “(3) EXCEPTIONS.—

21 “(A) The Secretary of Homeland Security
22 shall deduct absences from the United States
23 that take place during an H–2C worker’s period
24 of authorized status from the period that the
25 alien is required to remain outside the United

1 States under paragraph (2), if the alien or the
2 alien's employer requests such a deduction, and
3 provides clear and convincing proof that the
4 alien qualifies for such a deduction. Such proof
5 shall consist of evidence such as arrival and de-
6 parture records, copies of tax returns, and
7 records of employment abroad.

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

16 “(n) PERIOD OF ADMISSION.—

17 “(1) IN GENERAL.—In addition to the max-
18 imum continuous period of authorized status, work-
19 ers' authorized period of admission shall include—

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

24 “(B) a period of not more than 14 days
25 after the conclusion of their authorized employ-

1 ment for the purpose of departure from the
2 United States or a period of not more than 30
3 days following the employment for the purpose
4 of seeking a subsequent offer of employment by
5 an employer pursuant to a petition under this
6 section (or pursuant to at-will employment
7 under section 218B during such times as that
8 section is in effect) if they have not reached
9 their maximum continuous period of authorized
10 employment under subsection (m) (subject to
11 the exceptions in subsection (m)(3)) unless they
12 accept subsequent offers of employment as H-
13 2C workers or are otherwise lawfully present.

14 “(2) FAILURE TO DEPART.—H-2C workers
15 who do not depart the United States within the peri-
16 ods referred to in paragraph (1) or, as applicable,
17 paragraph (3), will be considered to have failed to
18 maintain nonimmigrant status as H-2C workers and
19 shall be subject to removal under section
20 237(a)(1)(C)(i). Such aliens shall be considered to
21 be inadmissible pursuant to section 212(a)(9)(B)(i)
22 for having been unlawfully present, with the aliens
23 considered to have been unlawfully present for 181
24 days as of the 15th day following their period of em-
25 ployment for the purpose of departure or as of the

1 31st day following their period of employment for
2 the purpose of seeking subsequent offers of employ-
3 ment.

4 “(3) APPLICATION FOR MAXIMUM PERIOD.—
5 Notwithstanding the duration of the work requested
6 by the employer petitioning for the admission of an
7 H-2C worker, if the alien is granted a visa, at the
8 request of the alien, the term of the visa shall be for
9 the maximum period described in subsection (m)(1),
10 except that if such an alien is unable to secure sub-
11 sequent employment 30 days after the conclusion of
12 their authorized employment, the alien shall be re-
13 quired to depart the United States as described in
14 paragraph (1)(B).

15 “(o) ABANDONMENT OF EMPLOYMENT.—

16 “(1) REPORT BY EMPLOYER.—Not later than
17 72 hours after an employer learns of the abandon-
18 ment of employment by H-2C workers before the
19 conclusion of their work contracts, the employer
20 shall notify the Secretary of Agriculture and the
21 Secretary of Homeland Security of such abandon-
22 ment.

23 “(2) REPLACEMENT OF ALIENS.—An employer
24 may designate eligible aliens to replace H-2C work-

1 ers who abandon employment notwithstanding the
2 numerical limitation found in section 214(g)(1)(C).

3 “(p) CHANGE TO H-2C STATUS.—

4 “(1) WAIVER.—In the case of an alien de-
5 scribed in paragraph (2), the Secretary of Homeland
6 Security shall waive the grounds of inadmissibility
7 under paragraphs (5)(A), (6)(A), (6)(C), (7), (9)(B),
8 and (9)(C) of section 212(a), and the grounds of de-
9 portability under paragraphs (1)(A) (with respect to
10 the grounds of inadmissibility waived under this
11 paragraph), (1)(B), (1)(C), (3)(A), and (3)(C) of
12 section 237(a), with respect to conduct that occurred
13 prior to the alien first receiving status as an H-2C
14 worker, solely in order to provide the alien with such
15 status.

16 “(2) ALIEN DESCRIBED.—An alien described in
17 this paragraph is an alien who—

18 “(A) was unlawfully present in the United
19 States on October 23, 2017; and

20 “(B) performed agricultural labor or serv-
21 ices in the United States for at least 5.75 hours
22 during each of at least 180 days during the 2-
23 year period ending on October 23, 2017.

24 “(3) SPECIAL APPROVAL PROCEDURES.—Before
25 an alien described in paragraph (2) can be provided

1 with nonimmigrant status under section
2 101(a)(15)(H)(ii)(C), the alien must depart the
3 United States for a period during the interval be-
4 tween the date of issuance of final rules carrying out
5 the AG Act and the date that is 12 months after
6 such issuance. If such an alien is the beneficiary of
7 an approved H-2C petition, for the purpose of meet-
8 ing such requirement to depart the United States
9 before being provided with nonimmigrant status
10 under section 101(a)(15)(H)(ii)(C), the Secretary
11 shall authorize parole for the alien to travel to the
12 United States without a visa and shall issue an ap-
13 propriate document authorizing such travel. Prior to
14 authorizing parole for the alien, the Secretary shall
15 conduct an in person interview, as appropriate, and
16 a background check to determine that the alien is
17 not inadmissible to the United States under section
18 212(a) or deportable under section 237(a), except
19 with regard to the grounds of inadmissibility and
20 grounds of deportability waived under paragraph
21 (1).

22 “(q) TRUST FUND TO ASSURE WORKER RETURN.—

23 “(1) ESTABLISHMENT.—There is established in
24 the Treasury of the United States a trust fund (in
25 this section referred to as the ‘Trust Fund’) for the

1 purpose of providing a monetary incentive for H-2C
2 workers to return to their country of origin upon ex-
3 piration of their visas.

4 “(2) WITHHOLDING OF WAGES; PAYMENT INTO
5 THE TRUST FUND.—

6 “(A) IN GENERAL.—Notwithstanding the
7 Fair Labor Standards Act of 1938 (29 U.S.C.
8 201 et seq.) and State and local wage laws, all
9 employers of H-2C workers shall withhold from
10 the wages of all H-2C workers other than those
11 employed as sheepherders, goatherders, in the
12 range production of livestock, or who return to
13 the their permanent residence outside the
14 United States each day, an amount equivalent
15 to 10 percent of the gross wages of each worker
16 in each pay period and, on behalf of each work-
17 er, transfer such withheld amount to the Trust
18 Fund.

19 “(B) JOBS THAT ARE NOT OF A TEM-
20 PORARY OR SEASONAL NATURE.—Employers of
21 H-2C workers employed in jobs that are not of
22 a temporary or seasonal nature, other than
23 those employed as a sheepherder, goatherder, or
24 in the range production of livestock, shall also
25 pay into the Trust Fund an amount equivalent

1 to the Federal tax on the wages paid to H-2C
2 workers that the employer would be obligated to
3 pay under chapters 21 and 23 of the Internal
4 Revenue Code of 1986 had the H-2C workers
5 been subject to such chapters.

6 “(3) DISTRIBUTION OF FUNDS.—Amounts paid
7 into the Trust Fund on behalf of an H-2C worker,
8 and held pursuant to paragraph (2)(A) and interest
9 earned thereon, shall be transferred from the Trust
10 Fund to the Secretary of Homeland Security, who
11 shall distribute them to the worker if the worker—

12 “(A) applies to the Secretary of Homeland
13 Security (or the designee of the Secretary) for
14 payment within 120 days of the expiration of
15 the alien’s last authorized stay in the United
16 States as an H-2C worker, for which they seek
17 amounts from the Trust Fund;

18 “(B) establishes to the satisfaction of the
19 Secretary of Homeland Security that they have
20 complied with the terms and conditions of the
21 H-2C program;

22 “(C) once approved by the Secretary of
23 Homeland Security for payment, physically ap-
24 pears at a United States embassy or consulate
25 in the worker’s home country; and

1 “(D) establishes their identity to the satis-
2 faction of the Secretary of Homeland Security.

3 “(4) ADMINISTRATIVE EXPENSES.—The
4 amounts paid into the Trust Fund and held pursu-
5 ant to paragraph (2)(B), and interest earned there-
6 on, shall be distributed annually to the Secretary of
7 Agriculture and the Secretary of Homeland Security
8 in amounts proportionate to the expenses incurred
9 by such officials in the administration and enforce-
10 ment of the terms of the H-2C program.

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

21 “(6) INVESTMENT OF TRUST FUND.—

22 “(A) IN GENERAL.—It shall be the duty of
23 the Secretary of the Treasury to invest such
24 portion of the Trust Fund as is not, in the Sec-
25 retary’s judgment, required to meet current

1 withdrawals. Such investments may be made
2 only in interest-bearing obligations of the
3 United States or in obligations guaranteed as to
4 both principal and interest by the United
5 States.

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

11 “(C) REPORT TO CONGRESS.—It shall be
12 the duty of the Secretary of the Treasury to
13 hold the Trust Fund, and (after consultation
14 with the Secretary of Homeland Security) to re-
15 port to the Congress each year on the financial
16 condition and the results of the operations of
17 the Trust Fund during the preceding fiscal year
18 and on its expected condition and operations
19 during the next fiscal year. Such report shall be
20 printed as both a House and a Senate docu-
21 ment of the session of the Congress in which
22 the report is made.

23 “(r) PROCEDURES FOR SPECIAL PROCEDURES IN-
24 DUSTRIES.—

1 “(1) WORK LOCATIONS.—The Secretary of
2 Homeland Security shall permit an employer in a
3 special procedures industry or that engages in a for-
4 estry-related activity that does not operate at a sin-
5 gle fixed place of employment to provide, as part of
6 its petition, a list of places of employment, which—

7 “(A) may include an itinerary; and

8 “(B) may be subsequently amended at any
9 time by the employer, after notice to the Sec-
10 retary.

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

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

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

3 “(s) FLEXIBILITY WITH RESPECT TO START
4 DATES.—Upon approval of a petition with regard to jobs
5 that are of a temporary or seasonal nature, the employer
6 may begin the employment of petitioned-for H–2C workers
7 up to ten months after the first date the employer requires
8 the labor or services of H–2C workers.

9 “(t) ADJUSTMENT OF STATUS.—In applying section
10 245 to an alien who is an H–2C worker who was the bene-
11 ficiary of a waiver under subsection (p)(1)—

12 “(1) such alien shall be deemed to have been in-
13 spected and admitted into the United States; and

14 “(2) in determining the alien’s admissibility as
15 an immigrant, paragraphs (5)(A), (6)(A), (6)(C),
16 (7), (9)(B), and (9)(C)(i)(I) of section 212(a) shall
17 not apply with respect to conduct that occurred prior
18 to the alien first receiving status as an H-2C work-
19 er.”.

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

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

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

24 “(b) PERIOD OF STAY.—H-2C workers performing
25 at-will labor or services for a registered agricultural em-
26 ployer are subject to the period of admission, limitation

1 of stay in status, and requirement to remain outside the
2 United States contained in subsections (m) and (n) of sec-
3 tion 218A, except that subsection (m)(3)(A) does not
4 apply.

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

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

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

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

23 “(4) agrees to, if employing H-2C workers pur-
24 suant to this section, fulfill the attestations con-
25 tained in section 218A(b) as if it had submitted a

1 petition making those attestations (excluding sub-
2 section (j)(3) of such section) and not to employ H-
3 2C workers who have reached their maximum con-
4 tinuous period of authorized status under section
5 218A(m) (subject to the exceptions contained in sec-
6 tion 218A(m)(3)) or if the workers have complied
7 with the terms of section 218A(m)(2); and

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

14 “(d) LENGTH OF DESIGNATION.—An employer’s des-
15 ignation as a registered agricultural employer shall be
16 valid for 3 years, and the Secretary may extend such des-
17 ignation for additional 3-year terms upon the reapplication
18 of the employer. The Secretary shall revoke a designation
19 before the expiration of its 3-year term if the employer
20 is subject to disqualification from the employment of H-
21 2C workers subsequent to being designated as a registered
22 agricultural employer.

23 “(e) ENFORCEMENT.—The Secretary of Agriculture
24 shall be responsible for conducting investigations and au-
25 dits, including random audits, of employers to ensure com-

1 pliance with the requirements of this section. All monetary
2 fines levied against employers shall be paid to the Depart-
3 ment of Agriculture and used to enhance the Department
4 of Agriculture’s investigatory and audit abilities to ensure
5 compliance by employers with their obligations under this
6 section and section 218A. The Secretary of Agriculture’s
7 enforcement powers and an employer’s liability described
8 in subsections (h) through (i) of section 218A are applica-
9 ble to employers employing H–2C workers pursuant to
10 this section.”.

11 (c) PROHIBITION ON FAMILY MEMBERS.—Section
12 101(a)(15)(H) of the Immigration and Nationality Act (8
13 U.S.C. 1101(a)(15)(H)) is amended by striking “him;” at
14 the end and inserting “him, except that no spouse or child
15 may be admitted under clause (ii)(c);”.

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

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

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

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

24 “(C) under section 101(a)(15)(H)(ii)(c)—

1 “(i) may not exceed 40,000 for aliens
2 issued visas or otherwise provided non-
3 immigrant status under such section for the
4 purpose of performing agricultural labor or
5 services consisting of meat or poultry proc-
6 essing;

7 “(ii) except as otherwise provided under
8 this subparagraph, may not exceed 410,000 for
9 aliens issued visas or otherwise provided non-
10 immigrant status under such section for the
11 purpose of performing agricultural labor or
12 services other than agricultural labor or services
13 consisting of meat or poultry processing;

14 “(iii) if the base allocation under clause (ii)
15 is exhausted during any fiscal year, the base al-
16 location for that and subsequent fiscal years
17 shall be increased by the lesser of 10 percent or
18 a percentage representing the number of peti-
19 tioned-for aliens (as a percentage of the base al-
20 location) who would be eligible to be issued
21 visas or otherwise provided nonimmigrant sta-
22 tus described in that clause during that fiscal
23 year but for the base allocation being ex-
24 hausted, and if the increased base allocation is
25 itself exhausted during a subsequent fiscal year,

1 the base allocation for that and subsequent fis-
2 cal years shall be further increased by the lesser
3 of 10 percent or a percentage representing the
4 number of petitioned-for aliens (as a percentage
5 of the increased base allocation) who would be
6 eligible to be issued visas or otherwise provided
7 nonimmigrant status described in that clause
8 during that fiscal year but for the increased
9 base allocation being exhausted (subject to
10 clause (iv));

11 “(iv) if the base allocation under clause (ii)
12 is not exhausted during any fiscal year, the
13 base allocation under such clause for subse-
14 quent fiscal years shall be decreased by the
15 greater of 5 percent or a percentage rep-
16 resenting the unutilized portion of the base allo-
17 cation (as a percentage of the base allocation)
18 during that fiscal year, and if in a subsequent
19 fiscal year the decreased base allocation is itself
20 not exhausted, the base allocation for fiscal
21 years subsequent to that fiscal year shall be
22 further decreased by the greater of 5 percent or
23 a percentage representing the unutilized portion
24 of the decreased base allocation (as a percent-
25 age of the decreased base allocation) during

1 that fiscal year (subject to clause (iii) and ex-
2 cept that the base allocation shall not fall below
3 410,000); and

4 “(v) for purposes of clause (ii), the numer-
5 ical limitations shall not apply to any alien—

6 “(I) who—

7 “(aa) was physically present in
8 the United States on October 23,
9 2017; and

10 “(bb) performed agricultural
11 labor or services in the United States
12 for at least 5.75 hours during each of
13 at least 180 days during the 2-year
14 period ending on October 23, 2017; or

15 “(II) who has previously been issued a
16 visa or otherwise provided nonimmigrant
17 status pursuant to subclause (a) or (b) of
18 section 101(a)(15)(H)(ii), but only to the
19 extent that the alien is being petitioned for
20 by an employer pursuant to section
21 218A(b) who previously employed the alien
22 pursuant to subclause (a) or (b) of section
23 101(a)(15)(H)(ii) beginning no later than
24 October 23, 2017.”.

1 (e) INTENT.—Section 214(b) of the Immigration and
2 Nationality Act (8 U.S.C. 1184(b)) is amended by striking
3 “section 101(a)(15)(H)(i) except subclause (b1) of such
4 section” and inserting “clause (i), except subclause (b1),
5 or (ii)(c) of section 101(a)(15)(H)”.

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

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

10 **SEC. 2104. MEDIATION.**

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

1 **SEC. 2105. MIGRANT AND SEASONAL AGRICULTURAL**
2 **WORKER PROTECTION.**

3 Section 3(8)(B)(ii) of the Migrant and Seasonal Agri-
4 cultural Worker Protection Act (29 U.S.C.
5 1802(8)(B)(ii)) is amended by striking “under sections
6 101(a)(15)(H)(ii)(a) and 214(c) of the Immigration and
7 Nationality Act.” and inserting “under subclauses (a) and
8 (c) of section 101(a)(15)(H)(ii), and section 214(c), of the
9 Immigration and Nationality Act.”.

10 **SEC. 2106. BINDING ARBITRATION.**

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

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

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

23 (1) The term “condition of employment” means
24 a term, condition, obligation, or requirement that is
25 part of the job offer, such as the term of employ-
26 ment, job responsibilities, employee conduct stand-

1 ards, and the grievance resolution process, and to
2 which applicants or prospective H-2C workers must
3 consent or accept in order to be hired for the posi-
4 tion.

5 (2) The term “H-2C worker” means a non-
6 immigrant described in section 218A(a)(5) of the
7 Immigration and Nationality Act, as added by this
8 title.

9 **SEC. 2107. ELIGIBILITY FOR HEALTH CARE SUBSIDIES AND**
10 **REFUNDABLE TAX CREDITS; REQUIRED**
11 **HEALTH INSURANCE COVERAGE.**

12 (a) HEALTH CARE SUBSIDIES.—H-2C workers (as
13 defined in section 218A(a)(5) of the Immigration and Na-
14 tionality Act, as added by this title)—

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

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

1 (b) REFUNDABLE TAX CREDITS.—H–2C workers (as
2 defined in section 218A(a)(5) of the Immigration and Na-
3 tionality Act, as added by this title), shall not be allowed
4 any credit under sections 24 and 32 of the Internal Rev-
5 enue Code of 1986. In the case of a joint return, no credit
6 shall be allowed under either such section if both spouses
7 are such workers or aliens.

8 (c) REQUIREMENT REGARDING HEALTH INSURANCE
9 COVERAGE.—Notwithstanding the Fair Labor Standards
10 Act of 1938 (29 U.S.C. 201 et seq.) and State and local
11 wage laws, not later than 21 days after being issued a
12 visa or otherwise provided nonimmigrant status under sec-
13 tion 101(a)(15)(H)(ii)(c) of the Immigration and Nation-
14 ality Act (8 U.S.C. 1101(a)(15)(H)(ii)(c)), an alien must
15 obtain health insurance coverage accepted in their State
16 or States of employment and residence for the period of
17 employment specified in section 218A(b)(1) of the Immi-
18 gration and Nationality Act. H–2C workers under sections
19 218A or 218B of the Immigration and Nationality Act
20 who do not obtain and maintain the required insurance
21 coverage will be considered to have failed to maintain non-
22 immigrant status under section 101(a)(15)(H)(ii)(c) of
23 the Immigration and Nationality Act and shall be subject
24 to removal under section 237(a)(1)(C)(i) of the Immigra-
25 tion and Nationality Act (8 U.S.C. 1227(a)(1)(C)(i)).

1 **SEC. 2108. STUDY OF ESTABLISHMENT OF AN AGRICUL-**
2 **TURAL WORKER EMPLOYMENT POOL.**

3 (a) **STUDY.**—The Secretary of Agriculture shall con-
4 duct a study on the feasibility of establishing an agricul-
5 tural worker employment pool and an electronic Internet-
6 based portal to assist H–2C workers (as such term is de-
7 fined in section 218A of the Immigration and Nationality
8 Act), prospective H–2C workers, and employers to identify
9 job opportunities in the H–2C program and willing, able
10 and available workers for the program, respectively.

11 (b) **CONTENTS.**—The study required under sub-
12 section (a) shall include an analysis of—

13 (1) the cost of creating such a pool and portal;

14 (2) potential funding sources or mechanisms to
15 support the creation and maintenance of the pool
16 and portal;

17 (3) with respect to H–2C workers and prospec-
18 tive H–2C workers in the pool, the data that would
19 be relevant for employers;

20 (4) the merits of assisting H–2C workers and
21 employers in identifying job opportunities and will-
22 ing, able, and available workers, respectively; and

23 (5) other beneficial uses for such a pool and
24 portal.

25 (c) **REPORT.**—Not later than 1 year after the date
26 of the enactment of this Act, the Secretary of Agriculture

1 shall submit to the Committees on the Judiciary of the
2 House of Representatives and the Senate a report con-
3 taining the results of the study required under subsection
4 (a).

5 **SEC. 2109. PREVAILING WAGE.**

6 Section 212(p) of the Immigration and Nationality
7 Act (8 U.S.C. 1182(p)) is amended—

8 (1) in paragraph (1), by inserting after “sub-
9 sections (a)(5)(A), (n)(1)(A)(i)(II), and
10 (t)(1)(A)(i)(II)” the following: “of this section and
11 section 218A(j)(2)(B)(ii)”;

12 (2) in paragraph (3), by inserting after “sub-
13 sections (a)(5)(A), (n)(1)(A)(i)(II), and
14 (t)(1)(A)(i)(II)” the following: “of this section and
15 section 218A(j)(2)(B)(ii)”.

16 **SEC. 2110. PORTABILITY OF H-2C STATUS.**

17 Section 214(n)(1) of the Immigration and Nationality
18 Act (8 U.S.C. 1184(n)(1)) is amended by inserting after
19 “section 101(a)(15)(H)(i)(b)” the following: “or
20 101(a)(15)(H)(ii)(c)”.

21 **SEC. 2111. EFFECTIVE DATES; SUNSET; REGULATIONS.**

22 (a) **EFFECTIVE DATES; REGULATIONS.—**

23 (1) **IN GENERAL.—**Sections 2102 and 2104
24 through 2106 of this title, subsections (a) and (c)
25 through (f) of section 2103 of this title, and the

1 amendments made by the sections, shall take effect
2 on the date on which the Secretary issues the rules
3 under paragraph (3), and the Secretary of Home-
4 land Security shall accept petitions pursuant to sec-
5 tion 218A of the Immigration and Nationality Act,
6 as inserted by this Act, beginning no later than that
7 date. Sections 2107 and 2109 of this title shall take
8 effect on the date of the enactment of this Act.

9 (2) AT-WILL EMPLOYMENT.—Section 2103(b)
10 of this title and the amendments made by that sub-
11 section shall take effect when—

12 (A) it becomes unlawful for all persons or
13 other entities to hire, or to recruit or refer for
14 a fee, for employment in the United States an
15 individual (as provided in section 274A(a)(1) of
16 the Immigration and Nationality Act (8 U.S.C.
17 1324a(a)(1))) without using the verification
18 system set forth in section 274A(d) of such Act,
19 as amended by section 1103 of title I of division
20 B of this Act, to seek verification of the employ-
21 ment eligibility of an individual; and

22 (B) such verification system, in providing
23 confirmation of an individual's employment eli-
24 gibility, indicates whether an individual is eligi-
25 ble to be employed in all occupations or only to

1 perform agricultural labor or services as a non-
2 immigrant who has been issued a visa or other-
3 wise provided nonimmigrant status under sec-
4 tion 101(a)(15)(H)(ii)(C) of the Immigration
5 and Nationality Act.

6 (3) REGULATIONS.—Notwithstanding any other
7 provision of law, not later than the first day of the
8 seventh month that begins after the date of the en-
9 actment of this Act, the Secretary of Homeland Se-
10 curity shall issue final rules, on an interim or other
11 basis, to carry out this title.

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

14 (1) APPLICATION OF EXISTING REGULA-
15 TIONS.—The Department of Labor H-2A program
16 regulations published at 73 Federal Register 77110
17 et seq. (2008) shall be in force for all petitions ap-
18 proved under sections 101(a)(15)(H)(ii)(a) and 218
19 of the Immigration and Nationality Act (8 U.S.C.
20 1101(a)(15)(h)(ii)(a); 8 U.S.C. 1188) beginning on
21 the date of the enactment of this Act, except that
22 the following, as in effect on such date, shall remain
23 in effect, and, to the extent that any rule published
24 at 73 Federal Register 77110 et seq. is in conflict,
25 such rule shall have no force and effect:

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

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

7 (C) Paragraphs (c), (d) and (e) of section
8 655.210 of title 20, Code of Federal Regula-
9 tions.

10 (D) Section 655.230 of title 20, Code of
11 Federal Regulations.

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

14 (F) The Special Procedures Labor Certifi-
15 cation Process for Employers in the Itinerant
16 Animal Shearing Industry under the H-2A
17 Program in effect under the Training and Em-
18 ployment Guidance Letter No. 17-06, Change
19 1, Attachment B, Section II, with an effective
20 date of October 1, 2011.

21 (2) SUNSET.—Beginning on the date on which
22 employers can file petitions pursuant to section
23 218A of the Immigration and Nationality Act, as
24 added by section 2103(a) of this title, no new peti-
25 tions under sections 101(a)(15)(H)(ii)(a) and 218 of

1 the Immigration and Nationality Act (8 U.S.C.
2 1101(a)(15)(H)(ii)(a); 8 U.S.C. 1188) shall be ac-
3 cepted.

4 **SEC. 2112. REPORT ON COMPLIANCE AND VIOLATIONS.**

5 (a) IN GENERAL.—Not later than 1 year after the
6 first day on which employers can file petitions pursuant
7 to section 218A of the Immigration and Nationality Act,
8 as added by section 2103(a) of this title, the Secretary
9 of Homeland Security, in consultation with the Secretary
10 of Agriculture, shall submit to the Committees on the Ju-
11 diciary of the House of Representatives and the Senate
12 a report on compliance by H–2C workers with the require-
13 ments of this title and the Immigration and Nationality
14 Act, as amended by this title. In the case of a violation
15 of a term or condition of the temporary agricultural work
16 visa program established by this title, the report shall
17 identify the provision or provisions of law violated.

18 (b) DEFINITION.—As used in this section, the term
19 “H–2C worker” means a nonimmigrant described in sec-
20 tion 218A(a)(4) of the Immigration and Nationality Act,
21 as added by section 2103(a) of this title.

Page 102, line 10, strike “18” and insert “24”.

Page 108, line 3, strike “18” and insert “24”.

Page 295, strike lines 16 through 17.

