

106TH CONGRESS
2^D SESSION

H. R. 4548

To establish a pilot program creating a system of registries of temporary agricultural workers to provide for a sufficient supply of such workers, to amend the Immigration and Nationality Act to streamline procedures for the temporary admission and extension of stay of nonimmigrant agricultural workers under the pilot program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 25, 2000

Mr. POMBO (for himself, Mr. CHAMBLISS, Mr. HASTINGS of Washington, Mr. PITTS, Mr. CALVERT, Mr. WEXLER, Mr. MARTINEZ, Mr. RADANOVICH, Mr. NUSSLE, Mr. BOEHNER, Mr. MCCOLLUM, Mr. KINGSTON, Mr. DOOLITTLE, Mr. FOLEY, Mrs. CHENOWETH-HAGE, Mrs. BONO, and Mr. KOLBE) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To establish a pilot program creating a system of registries of temporary agricultural workers to provide for a sufficient supply of such workers, to amend the Immigration and Nationality Act to streamline procedures for the temporary admission and extension of stay of nonimmigrant agricultural workers under the pilot program, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
 5 “Agricultural Opportunities Act”.

6 (b) TABLE OF CONTENTS.—The table of contents of
 7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

TITLE I—AGRICULTURAL WORKER REGISTRIES

Sec. 101. Agricultural worker registries.

TITLE II—H-2C PROGRAM

Sec. 201. Employer applications and assurances.

Sec. 202. Search of registry.

Sec. 203. Issuance of visas and admission of aliens.

Sec. 204. Employment requirements.

Sec. 205. Program for the admission of temporary H-2C workers.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Enhanced worker protections and labor standards enforcement.

Sec. 302. Commission.

Sec. 303. Regulations.

Sec. 304. Determination and use of user fees.

Sec. 305. Funding for startup costs.

Sec. 306. Report to Congress.

Sec. 307. Effective date.

Sec. 308. Termination of program.

8 **SEC. 2. DEFINITIONS.**

9 In this Act:

10 (1) ADVERSE EFFECT WAGE RATE.—

11 (A) IN GENERAL.—Except as provided in
 12 subparagraph (B), the term “adverse effect
 13 wage rate” means the rate of pay for an agri-
 14 cultural occupation that is 5 percent above the

1 prevailing rate of pay for that agricultural occu-
2 pation in an area of intended employment, if
3 the prevailing rate of pay for the occupation is
4 less than the prior year's average hourly earn-
5 ings of field and livestock workers for the State
6 (or region that includes the State), as deter-
7 mined by the Secretary of Agriculture, provided
8 no adverse effect wage rate shall be more than
9 the prior year's average hourly earnings of field
10 and livestock workers for the State (or region
11 that includes the State), as determined by the
12 Secretary of Agriculture.

13 (B) EXCEPTION.—If the prevailing rate of
14 pay for an activity is a piece rate, task rate, or
15 group rate, and the average hourly earnings of
16 an employer's workers employed in that activ-
17 ity, taken as a group, are less than the prior
18 year's average hourly earnings of field and live-
19 stock workers in the State (or region that in-
20 cludes the State), as determined by the Sec-
21 retary of Agriculture, the term "adverse effect
22 wage rate" means the prevailing piece rate,
23 task rate, or group rate for the activity plus
24 such an amount as is necessary to increase the
25 average hourly earnings of the employer's work-

1 ers employed in the activity, taken as a group,
2 by 5 percent, or to the prior's years average
3 hourly earnings for field and livestock workers
4 for the State (or region that includes the State)
5 determined by the Secretary of Agriculture,
6 whichever is less.

7 (2) AGRICULTURAL EMPLOYMENT.—The term
8 “agricultural employment” means any service or ac-
9 tivity that is considered to be agriculture under sec-
10 tion 3(f) of the Fair Labor Standards Act of 1938
11 (29 U.S.C. 203(f)) or agricultural labor under sec-
12 tion 3121(g) of the Internal Revenue Code of 1986.
13 For purposes of this paragraph, agricultural employ-
14 ment in the United States includes, but is not lim-
15 ited to, employment under section
16 101(a)(15)(H)(ii)(c) of the Immigration and Nation-
17 ality Act (as added by this Act).

18 (3) ELIGIBLE.—The term “eligible” means,
19 with respect to employment, an individual who is not
20 an unauthorized alien (as defined in section
21 274A(h)(3) of the Immigration and Nationality Act
22 (8 U.S.C. 1324a(h)(3)) with respect to that employ-
23 ment.

24 (4) EMPLOYER.—The term “employer” means
25 any person or entity, including any farm labor con-

1 tractor and any agricultural association, that em-
2 ploys workers.

3 (5) H-2C EMPLOYER.—The term “H-2C em-
4 ployer” means an employer who seeks to hire one or
5 more nonimmigrant aliens described in section
6 101(a)(15)(H)(ii)(c) of the Immigration and Nation-
7 ality Act (as added by this Act).

8 (6) H-2C WORKER.—The term “H-2C worker”
9 means a nonimmigrant described in section
10 101(a)(15)(H)(ii)(c) of the Immigration and Nation-
11 ality Act (as added by this Act).

12 (7) JOB OPPORTUNITY.—The term “job oppor-
13 tunity” means a specific period of employment pro-
14 vided by an employer to a worker in one or more ag-
15 ricultural activities.

16 (8) PREVAILING WAGE.—The term “prevailing
17 wage” means with respect to an agricultural activity
18 in an area of intended employment, the rate of
19 wages that includes the 51st percentile of employees
20 in that agricultural activity in the area of intended
21 employment, expressed in terms of the prevailing
22 method of pay for the agricultural activity in the
23 area of intended employment.

1 (9) REGISTERED WORKER.—The term “reg-
2 istered worker” means an individual whose name ap-
3 pears in a registry.

4 (10) REGISTRY.—The term “registry” means
5 an agricultural worker registry established under
6 section 101(a).

7 (11) SECRETARY.—The term “Secretary”
8 means the Secretary of Labor.

9 (12) UNITED STATES WORKER.—The term
10 “United States worker” means any worker, whether
11 a United States citizen or national, a lawfully admit-
12 ted permanent resident alien, or any other alien who
13 is authorized to work in the job opportunity within
14 the United States other than an alien admitted pur-
15 suant to section 101(a)(15)(H)(ii)(c) or section
16 218A of the Immigration and Nationality Act, as in
17 effect on the effective date of this Act.

18 **TITLE I—AGRICULTURAL** 19 **WORKER REGISTRIES**

20 **SEC. 101. AGRICULTURAL WORKER REGISTRIES.**

21 (a) ESTABLISHMENT OF REGISTRIES.—

22 (1) IN GENERAL.—The Secretary of Labor shall
23 establish and maintain a system of registries con-
24 taining a current database of eligible United States

1 workers who seek agricultural employment and the
2 employment status of such workers—

3 (A) to ensure that eligible United States
4 workers are informed about available agricul-
5 tural job opportunities and have the right of
6 first refusal for the agricultural jobs available
7 through the registry; and

8 (B) to provide timely referral of such
9 workers to agricultural job opportunities in the
10 United States.

11 (2) GEOGRAPHIC COVERAGE.—

12 (A) SINGLE STATE.—Each registry estab-
13 lished under paragraph (1) shall include the job
14 opportunities in a single State, except that, in
15 the case of New England States, two or more
16 such States may be represented by a single reg-
17 istry in lieu of multiple registries.

18 (B) REQUESTS FOR INCLUSION.—Each
19 State having any group of agricultural pro-
20 ducers seeking to utilize the registry shall be
21 represented by a registry, except that, in the
22 case of a New England State, the State shall be
23 represented by the registry covering the group
24 of States of which the State is a part.

1 (3) COMPUTER DATABASE.—The Secretary of
2 Labor may establish the registries as part of the
3 computer databases known as “America’s Job
4 Bank” and “America’s Talent Bank”.

5 (4) RELATION TO PROCESS FOR IMPORTING H-
6 2C WORKERS.—Notwithstanding section 218A of the
7 Immigration and Nationality Act (as added by this
8 Act), no petition to import an alien as an H-2C
9 worker may be approved by the Attorney General
10 unless the H-2C employer—

11 (A) has applied to the Secretary to conduct
12 a search of the registry of the State in which
13 the job opportunities for which H-2C workers
14 are sought are located; and

15 (B) has received a report or approved ap-
16 plication described in section 203(a)(1).

17 (b) REGISTRATION.—

18 (1) IN GENERAL.—An eligible individual who
19 seeks employment in agricultural work may apply to
20 be included in the registry for the State in which the
21 individual resides. Such application shall include—

22 (A) the name and address of the indi-
23 vidual;

24 (B) the period or periods of time (includ-
25 ing beginning and ending dates) during which

1 the individual will be available for agricultural
2 work;

3 (C) the registry or registries on which the
4 individual desires to be included;

5 (D) the specific qualifications and work ex-
6 perience possessed by the applicant;

7 (E) the type or types of agricultural work
8 the applicant is willing to perform;

9 (F) such other information as the appli-
10 cant wishes to be taken into account in refer-
11 ring the applicant to agricultural job opportuni-
12 ties; and

13 (G) such other information as may be re-
14 quired by the Secretary.

15 (2) VALIDATION OF EMPLOYMENT AUTHORIZA-
16 TION.—No person may be included on any registry
17 unless the Secretary of Labor has requested and ob-
18 tained from the Attorney General a certification that
19 the person is authorized to be employed in the
20 United States.

21 (3) EMPLOYMENT VERIFICATION SYSTEM.—The
22 Attorney General shall establish a reliable automated
23 employment eligibility verification system to ensure
24 that an employer who hires an H-2C worker does
25 not hire for employment in the United States an un-

1 authorized alien (as defined in section 274A(h)(3) of
2 the Immigration and Nationality Act).

3 (4) UNITED STATES WORKERS.—United States
4 workers shall have preference in referral by the reg-
5 istry, and may be referred to any job opportunity
6 nationwide for which they are qualified and make a
7 commitment to be available at the time and place
8 needed.

9 (5) USE OF REGISTRY.—Any United States ag-
10 ricultural employer may use the registry.

11 (6) DISCRETIONARY USE FOR NEW HIRES.—An
12 agricultural employer may require prospective em-
13 ployees to register with a registry as a means of as-
14 suring that its workers are eligible to be employed
15 in the United States.

16 (7) WORKERS REFERRED TO JOB OPPORTUNI-
17 TIES.—The name of each registered worker who is
18 referred and accepts employment with an employer
19 shall be classified as inactive on each registry on
20 which the worker is included during the period of
21 employment involved in the job to which the worker
22 was referred, unless the worker reports to the Sec-
23 retary that the worker is no longer employed and is
24 available for referral to another job opportunity. A

1 registered worker classified as inactive shall not be
2 referred.

3 (8) REMOVAL OF NAMES FROM A REGISTRY.—

4 The Secretary shall remove from the appropriate
5 registry the name of any registered worker who, on
6 3 separate occasions within a 3-month period, is re-
7 ferred to a job opportunity pursuant to this section,
8 and who declines such referral or fails to report to
9 work in a timely manner.

10 (9) VOLUNTARY REMOVAL.—A registered work-
11 er may request that the worker's name be removed
12 from a registry.

13 (10) REMOVAL BY EXPIRATION.—The applica-
14 tion of a registered worker shall expire, and the Sec-
15 retary shall remove the name of such worker from
16 the appropriate registry if the worker has not ac-
17 cepted a job opportunity pursuant to this section
18 within the preceding 12-month period.

19 (11) REINSTATEMENT.—A worker whose name
20 is removed from a registry pursuant to paragraph
21 (8), (9), or (10) may apply to the Secretary for rein-
22 statement to such registry at any time.

23 (c) CONFIDENTIALITY OF REGISTRIES.—The Sec-
24 retary shall maintain the confidentiality of the registries
25 established pursuant to this section, and the information

1 in such registries shall not be used for any purposes other
2 than those authorized in this Act.

3 (d) ADVERTISING OF REGISTRIES.—The Secretary
4 shall widely disseminate, through advertising and other
5 means, the existence of the registries for the purpose of
6 encouraging eligible United States workers seeking agri-
7 cultural job opportunities to register. The Secretary of
8 Labor shall ensure that the information about the registry
9 is made available to eligible workers through all appro-
10 priate means, including appropriate State agencies, groups
11 representing farm workers, and nongovernmental organi-
12 zations, and shall ensure that the registry is accessible to
13 growers and farm workers.

14 **TITLE II—H-2C PROGRAM**

15 **SEC. 201. EMPLOYER APPLICATIONS AND ASSURANCES.**

16 (a) APPLICATIONS TO THE SECRETARY.—

17 (1) IN GENERAL.—Not later than 28 days prior
18 to the date on which an H-2C employer desires to
19 employ an H-2C worker in a temporary or seasonal
20 agricultural job opportunity, the employer shall, be-
21 fore petitioning for the admission of such a worker,
22 apply to the Secretary for the referral of a United
23 States worker or nonimmigrant agricultural worker
24 through a search of the appropriate registry, in ac-
25 cordance with section 202. Such application shall—

1 (A) describe the nature and location of the
2 work to be performed;

3 (B) list the anticipated period (expected
4 beginning and ending dates) for which workers
5 will be needed;

6 (C) indicate the number of job opportuni-
7 ties in which the employer seeks to employ
8 workers from the registry;

9 (D) describe the bona fide occupational
10 qualifications that must be possessed by a
11 worker to be employed in the job opportunity in
12 question;

13 (E) describe the wages and other terms
14 and conditions of employment the employer will
15 offer, which shall not be less (and are not re-
16 quired to be more) than those required by this
17 section;

18 (F) contain the assurances required by
19 subsection (c);

20 (G) specify the foreign country or region
21 thereof from which alien workers should be ad-
22 mitted in the case of a failure to refer United
23 States workers under this Act; and

24 (H) be accompanied by the payment of a
25 registry user fee determined under section

1 304(b)(1)(A) for each job opportunity indicated
2 under subparagraph (C).

3 (2) APPLICATIONS BY ASSOCIATIONS ON BE-
4 HALF OF EMPLOYER MEMBERS.—

5 (A) IN GENERAL.—An agricultural associa-
6 tion may file an application under paragraph
7 (1) for registered workers on behalf of its em-
8 ployer members.

9 (B) EMPLOYERS.—An application under
10 subparagraph (A) shall cover those employer
11 members of the association that the association
12 certifies in its application have agreed in writ-
13 ing to comply with the requirements of this Act.

14 (b) AMENDMENT OF APPLICATIONS.—Prior to receiv-
15 ing a referral of workers from a registry, an employer may
16 amend an application under this subsection if the employ-
17 er's need for workers changes. If an employer makes a
18 material amendment to an application on a date which is
19 later than 28 days prior to the date on which the workers
20 on the amended application are sought to be employed,
21 the Secretary may delay issuance of the report described
22 in section 202(b) by the number of days by which the fil-
23 ing of the amended application is later than 28 days before
24 the date on which the employer desires to employ workers.

1 (c) ASSURANCES.—The assurances referred to in
2 subsection (a)(1)(F) are the following:

3 (1) ASSURANCE THAT THE JOB OPPORTUNITY
4 IS NOT A RESULT OF A LABOR DISPUTE.—The em-
5 ployer shall assure that the job opportunity for
6 which the employer requests a registered worker is
7 not vacant because a worker is involved in a strike,
8 lockout, or work stoppage in the course of a labor
9 dispute involving the job opportunity at the place of
10 employment.

11 (2) ASSURANCE THAT THE JOB OPPORTUNITY
12 IS TEMPORARY OR SEASONAL.—

13 (A) REQUIRED ASSURANCE.—The em-
14 ployer shall assure that the job opportunity for
15 which the employer requests a registered worker
16 is temporary or seasonal.

17 (B) SEASONAL BASIS.—For purposes of
18 this Act, labor is performed on a seasonal basis
19 where, ordinarily, the employment pertains to
20 or is of the kind exclusively performed at cer-
21 tain seasons or periods of the year and which,
22 from its nature, may not be continuous or car-
23 ried on throughout the year.

24 (C) TEMPORARY BASIS.—For purposes of
25 this Act, a worker is employed on a temporary

1 basis where the employment is intended not to
2 exceed 10 months.

3 (3) ASSURANCE OF PROVISION OF REQUIRED
4 WAGES AND BENEFITS.—The employer shall assure
5 that the employer will provide the wages and bene-
6 fits required by subsections (a), (b), and (c) of sec-
7 tion 204 to all workers employed in job opportunities
8 for which the employer has applied under subsection
9 (a) and to all other workers in the same occupation
10 at the place of employment, and in no case less than
11 the greater of the hourly wage prescribed under sec-
12 tion 6(a)(1) of the Fair Labor Standards Act of
13 1938 (29 U.S.C. 206(a)(1)), or the applicable State
14 minimum wage.

15 (4) ASSURANCE OF EMPLOYMENT.—The em-
16 ployer shall assure that the employer will not refuse
17 to employ qualified individuals referred under sec-
18 tion 202, and will terminate qualified individuals
19 employed pursuant to this Act only for lawful job-
20 related reasons, including lack of work.

21 (5) ASSURANCE OF COMPLIANCE WITH LABOR
22 LAWS.—

23 (A) IN GENERAL.—An employer who re-
24 quests registered workers shall assure that, ex-
25 cept as otherwise provided in this Act, the em-

1 ployer will comply with all applicable Federal,
2 State, and local labor laws, including laws af-
3 fecting migrant and seasonal agricultural work-
4 ers, with respect to all United States workers
5 and alien workers employed by the employer.

6 (B) LIMITATIONS.—The disclosure re-
7 quired under section 201(a) of the Migrant and
8 Seasonal Agricultural Worker Protection Act
9 (29 U.S.C. 1821(a)) may be made at any time
10 prior to the time the alien is issued a visa per-
11 mitting entry into the United States.

12 (6) ASSURANCE OF ADVERTISING OF THE REG-
13 ISTRY.—The employer shall assure that, from the
14 day an application for workers is submitted under
15 subsection (a), and continuing throughout the period
16 of employment of any job opportunity for which the
17 employer has applied for a worker from the registry,
18 post in a conspicuous place a poster to be provided
19 by the Secretary advertising the availability of the
20 registry.

21 (7) ASSURANCE OF ADVERTISING OF JOB OP-
22 PORTUNITIES.—The employer shall assure that not
23 later than 14 days after submitting an application to
24 a registry for workers under subsection (a) the em-
25 ployer will advertise the availability of the job oppor-

1 tunities for which the employer is seeking workers
2 from the registry in a publication in the local labor
3 market that is likely to be patronized by potential
4 farmworkers, if any, and refer interested workers to
5 register with the registry.

6 (8) ASSURANCE OF CONTACTING FORMER
7 WORKERS.—The employer shall assure that the em-
8 ployer has made reasonable efforts through the
9 sending of a letter by United States Postal Service
10 mail, or otherwise, to contact any eligible worker the
11 employer employed during the previous season in the
12 occupation at the place of intended employment for
13 which the employer is applying for registered work-
14 ers, and has made the availability of the employer’s
15 job opportunities in the occupation at the place of
16 intended employment known to such previous work-
17 er, unless the worker was terminated from employ-
18 ment by the employer for a lawful job-related reason
19 or abandoned the job before the worker completed
20 the period of employment of the job opportunity for
21 which the worker was hired.

22 (9) ASSURANCE OF PROVISION OF WORKERS
23 COMPENSATION.—The employer shall assure that if
24 the job opportunity is not covered by the State work-
25 ers’ compensation law, that the employer will pro-

1 vide, at no cost to the worker, insurance covering in-
2 jury and disease arising out of and in the course of
3 the worker's employment which will provide benefits
4 at least equal to those provided under the State
5 workers' compensation law for comparable employ-
6 ment.

7 (10) ASSURANCE OF PAYMENT OF ALIEN EM-
8 PLOYMENT USER FEE.—The employer shall assure
9 that if the employer receives a notice of insufficient
10 workers under section 202(c), such employer shall
11 promptly pay the alien employment user fee deter-
12 mined under section 304(b)(1)(B) for each job op-
13 portunity to be filled by an eligible alien as required
14 under such section.

15 (d) WITHDRAWAL OF APPLICATIONS.—

16 (1) IN GENERAL.—An employer may withdraw
17 an application under subsection (a), except that, if
18 the employer is an agricultural association, the asso-
19 ciation may withdraw an application under sub-
20 section (a) with respect to one or more of its mem-
21 bers. To withdraw an application, the employer shall
22 notify the Secretary in writing, and the Secretary
23 shall acknowledge in writing the receipt of such
24 withdrawal notice. An employer who withdraws an
25 application under subsection (a), or on whose behalf

1 an application is withdrawn, is relieved of the obliga-
2 tions undertaken in the application.

3 (2) LIMITATION.—An application may not be
4 withdrawn while any alien provided status under this
5 Act pursuant to such application is employed by the
6 employer.

7 (3) OBLIGATIONS UNDER OTHER STATUTES.—
8 Any obligation incurred by an employer under any
9 other law or regulation as a result of recruitment of
10 United States workers under an offer of terms and
11 conditions of employment required as a result of
12 making an application under subsection (a) is unaf-
13 fected by withdrawal of such application.

14 (e) REVIEW OF APPLICATION.—

15 (1) IN GENERAL.—Promptly upon receipt of an
16 application by an employer under subsection (a), the
17 Secretary shall review the application for compliance
18 with the requirements of such subsection.

19 (2) APPROVAL OF APPLICATIONS.—If the Sec-
20 retary determines that an application meets the re-
21 quirements of subsection (a), and the employer is
22 not ineligible to apply under paragraph (2), (3), or
23 (4) of section 301(b), the Secretary shall, not later
24 than 7 days after the receipt of such application, ap-
25 prove the application and so notify the employer.

1 (3) REJECTION OF APPLICATIONS.—If the Sec-
2 retary determines that an application fails to meet
3 1 or more of the requirements of subsection (a), the
4 Secretary, as expeditiously as possible, but in no
5 case later than 7 days after the receipt of such ap-
6 plication, shall—

7 (A) notify the employer of the rejection of
8 the application and the reasons for such rejec-
9 tion, and provide the opportunity for the
10 prompt resubmission of an amended applica-
11 tion; and

12 (B) offer the applicant an opportunity to
13 request an expedited administrative review or a
14 de novo administrative hearing before an ad-
15 ministrative law judge of the rejection of the
16 application.

17 (4) REJECTION FOR PROGRAM VIOLATIONS.—
18 The Secretary shall reject the application of an em-
19 ployer under this section if—

20 (A) the employer has been determined to
21 be ineligible to employ workers under section
22 301(b); or

23 (B) the employer during the previous two-
24 year period employed H-2C workers or reg-
25 istered workers and the Secretary of Labor has

1 determined, after notice and opportunity for a
2 hearing, that the employer at any time during
3 that period substantially violated a material
4 term or condition of the assurances made with
5 respect to the employment of United States
6 workers or nonimmigrant workers.

7 No employer may have applications under this sec-
8 tion rejected for more than 3 years for any violation
9 described in this paragraph.

10 **SEC. 202. SEARCH OF REGISTRY.**

11 (a) SEARCH PROCESS AND REFERRAL TO THE EM-
12 PLOYER.—Upon the approval of an application under sec-
13 tion 201(e), the Secretary shall promptly begin a search
14 of the registry of the State (or States) in which the work
15 is to be performed to identify registered United States
16 workers with the qualifications requested by the employer.
17 The Secretary shall contact such qualified registered work-
18 ers and determine, in each instance, whether the worker
19 is ready, willing, and able to accept the employer’s job op-
20 portunity and will make the affirmative commitment to
21 work for the employer at the time and place needed. The
22 Secretary shall provide to each worker who commits to
23 work for the employer the employer’s name, address, tele-
24 phone number, the location where the employer has re-
25 quested that employees report for employment, and a

1 statement disclosing the terms and conditions of employ-
2 ment.

3 (b) DEADLINE FOR COMPLETING SEARCH PROCESS;
4 REFERRAL OF WORKERS.—As expeditiously as possible,
5 but not later than 7 days before the date on which an
6 employer desires work to begin, the Secretary shall com-
7 plete the search under subsection (a) and shall transmit
8 to the employer a report containing the name, address,
9 and social security account number of each registered
10 worker who has made the affirmative commitment de-
11 scribed in subsection (a) to work for the employer on the
12 date needed, together with sufficient information to enable
13 the employer to establish contact with the worker. The
14 identification of such registered workers in a report shall
15 constitute a referral of workers under this section.

16 (c) ACCEPTANCE OF REFERRALS.—H-2C employers
17 shall accept all qualified United States worker referrals
18 who make a commitment to report to work at the time
19 and place needed and to complete the full period of em-
20 ployment offered, on the registry of the State in which
21 the intended employment is located, and the immediately
22 contiguous States. An employer shall not be required to
23 accept more referrals than the number of job opportunities
24 for which the employer applied to the registry.

1 (d) NOTICE OF INSUFFICIENT WORKERS.—If the re-
2 port provided to the employer under subsection (b) does
3 not include referral of a sufficient number of registered
4 workers to fill all of the employer’s job opportunities in
5 the occupation for which the employer applied under sec-
6 tion 201(a), the Secretary shall indicate in the report the
7 number of job opportunities for which registered workers
8 could not be referred, and shall promptly transmit a copy
9 of the report to the Attorney General and the Secretary
10 of State, by electronic or other means ensuring next day
11 delivery.

12 (e) USER FEE FOR CERTIFICATION TO EMPLOY
13 ALIEN WORKERS.—With respect to each job opportunity
14 for which a notice of insufficient workers is made, the Sec-
15 retary shall require the payment of an alien employment
16 user fee determined under section 304(b)(1)(B).

17 **SEC. 203. ISSUANCE OF VISAS AND ADMISSION OF ALIENS.**

18 (a) IN GENERAL.—

19 (1) NUMBER OF ADMISSIONS.—Subject to para-
20 graph (2), the Secretary of State shall promptly
21 issue visas to, and the Attorney General shall admit,
22 as nonimmigrant aliens described in section
23 101(a)(15)(H)(ii)(c) of the Immigration and Nation-
24 ality Act a sufficient number of eligible aliens des-

1 ignated by the employer to fill the job opportunities
2 of the employer—

3 (A) upon receipt of a copy of the report
4 described in section 202(b);

5 (B) upon approval of an application (or
6 copy of an application under subsection (b));

7 (C) upon receipt of the report required by
8 subsection (c)(1)(B); or

9 (D) upon receipt of a report under sub-
10 section (d).

11 (2) PROCEDURES.—The admission of aliens
12 under paragraph (1) shall be subject to the proce-
13 dures of section 218A of the Immigration and Na-
14 tionality Act, as added by this Act.

15 (b) DIRECT APPLICATION UPON FAILURE TO ACT.—

16 (1) APPLICATION TO THE SECRETARY OF
17 STATE.—If the employer has not received a referral
18 of sufficient workers pursuant to section 202(b) or
19 a report of insufficient workers pursuant to section
20 202(d), by the date that is 7 days before the date
21 on which the work is anticipated to begin, the em-
22 ployer may submit an application for alien workers
23 directly to the Secretary of State, with a copy of the
24 application provided to the Attorney General, seek-
25 ing the issuance of visas to and the admission of

1 aliens for employment in the job opportunities for
2 which the employer has not received referral of reg-
3 istered workers. Such an application shall include a
4 copy of the employer's application under section
5 201(a), together with evidence of its timely submis-
6 sion. The Secretary of State may consult with the
7 Secretary of Labor in carrying out this paragraph.

8 (2) EXPEDITED CONSIDERATION BY SECRETARY
9 OF STATE.—The Secretary of State shall, as expedi-
10 tiously as possible, but not later than 5 days after
11 the employer files an application under paragraph
12 (1), issue visas to, and the Attorney General shall
13 admit, a sufficient number of eligible aliens des-
14 ignated by the employer to fill the job opportunities
15 for which the employer has applied under that para-
16 graph, if the employer has met the requirements of
17 sections 201 and 202. The employer shall be subject
18 to the alien employment user fee determined under
19 section 304(b)(1)(B) with respect to each job oppor-
20 tunity for which the Secretary of State authorizes
21 the issuance of a visa pursuant to paragraph (2).

22 (c) REDETERMINATION OF NEED.—

23 (1) REQUESTS FOR REDETERMINATION.—

24 (A) IN GENERAL.—An employer may file a
25 request for a redetermination by the Secretary

1 of the employer's need for workers if a worker
2 referred from the registry—

3 (i) is not at the place of employment
4 on the date of need shown on the applica-
5 tion, or the date the work for which the
6 worker is needed has begun, whichever is
7 later;

8 (ii) is not ready, willing, able, or
9 qualified to perform the work required; or

10 (iii) abandons the employment or is
11 terminated for a lawful job-related reason.

12 (B) ADDITIONAL AUTHORIZATION OF AD-
13 MISSIONS.—The Secretary shall expeditiously,
14 but in no case later than 72 hours after a rede-
15 termination is requested under subparagraph
16 (A), submit a report to the Secretary of State
17 and the Attorney General providing notice of a
18 need for workers under this subsection, if the
19 employer has met the requirements of sections
20 201 and 202 and the conditions described in
21 subparagraph (A).

22 (2) JOB-RELATED REQUIREMENTS.—An em-
23 ployer shall not be required to initially employ a
24 worker who fails to meet lawful job-related employ-
25 ment criteria, nor to continue the employment of a

1 worker who fails to meet lawful, job-related stand-
2 ards of conduct and performance, including failure
3 to meet minimum production standards after a 3-
4 day break-in period.

5 (d) EMERGENCY APPLICATIONS.—Notwithstanding
6 subsections (b) and (c), the Secretary may promptly trans-
7 mit a report to the Attorney General and Secretary of
8 State providing notice of a need for workers under this
9 subsection for an employer—

10 (1) who has not employed aliens under this Act
11 in the occupation in question in the prior year’s ag-
12 ricultural season;

13 (2) who faces an unforeseen need for workers
14 (as determined by the Secretary); and

15 (3) with respect to whom the Secretary cannot
16 refer able, willing, and qualified workers from the
17 registry who will commit to be at the employer’s
18 place of employment and ready for work within 72
19 hours or on the date the work for which the worker
20 is needed has begun, whichever is later.

21 The employer shall be subject to the alien employment
22 user fee determined under section 304(b)(1)(B) with re-
23 spect to each job opportunity for which a notice of insuffi-
24 cient workers is made pursuant to this subsection.

1 (e) REGULATIONS.—The Secretary of State shall pre-
2 scribe regulations to provide for the designation of aliens
3 under this section.

4 **SEC. 204. EMPLOYMENT REQUIREMENTS.**

5 (a) REQUIRED WAGES.—

6 (1) IN GENERAL.—An employer applying under
7 section 201(a) for workers shall offer to pay, and
8 shall pay, all workers in the occupation or occupa-
9 tions for which the employer has applied for workers
10 from the registry, not less (and is not required to
11 pay more) than the greater of the prevailing wage in
12 the occupation in the area of intended employment
13 or the adverse effect wage rate. No worker shall be
14 paid less than the greater of the hourly wage pre-
15 scribed under section 6(a)(1) of the Fair Labor
16 Standards Act of 1938 (29 U.S.C. 206(a)(1)), or the
17 applicable State minimum wage.

18 (2) PAYMENT OF PREVAILING WAGE DETER-
19 MINED BY A STATE EMPLOYMENT SECURITY AGENCY
20 SUFFICIENT.—In complying with paragraph (1), an
21 employer may request and obtain a prevailing wage
22 determination from the State employment security
23 agency. If the employer requests such a determina-
24 tion, and pays the wage required by paragraph (1)
25 based upon such a determination, such payment

1 shall be considered sufficient to meet the require-
2 ment of paragraph (1).

3 (3) RELIANCE ON WAGE SURVEY.—In lieu of
4 the procedure of paragraph (2), an employer may
5 rely on other information, such as an employer-gen-
6 erated prevailing wage survey that the Secretary de-
7 termines meets criteria specified by the Secretary in
8 regulations.

9 (4) ALTERNATIVE METHODS OF PAYMENT PER-
10 MITTED.—

11 (A) IN GENERAL.—A prevailing wage may
12 be expressed as an hourly wage, a piece rate, a
13 task rate, or other incentive payment method,
14 including a group rate. The requirement to pay
15 at least the prevailing wage in the occupation
16 and area of intended employment does not re-
17 quire an employer to pay by the method of pay
18 in which the prevailing rate is expressed, except
19 that, if the employer adopts a method of pay
20 other than the prevailing rate, the burden of
21 proof is on the employer to demonstrate that
22 the employer's method of pay is designed to
23 produce earnings equivalent to the earnings
24 that would result from payment of the pre-
25 vailing rate.

1 (B) COMPLIANCE WHEN PAYING AN IN-
2 CENTIVE RATE.—In the case of an employer
3 that pays a piece rate or task rate or uses any
4 other incentive payment method, including a
5 group rate, the employer shall be considered to
6 be in compliance with any applicable hourly
7 wage requirement if the average of the hourly
8 earnings of the workers, taken as a group, in
9 the activity for which a piece rate, task rate, or
10 other incentive payment, including a group rate,
11 is paid, for the pay period, is at least equal to
12 the required hourly wage, except that no worker
13 shall be paid less than the hourly wage pre-
14 scribed under section 6(a)(1) of the Fair Labor
15 Standards Act of 1938 (29 U.S.C. 206(a)(1))
16 or the applicable State minimum wage.

17 (C) TASK RATE.—For purposes of this
18 paragraph, the term “task rate” means an in-
19 centive payment method based on a unit of
20 work performed such that the incentive rate
21 varies with the level of effort required to per-
22 form individual units of work.

23 (D) GROUP RATE.—For purposes of this
24 paragraph, the term “group rate” means an in-
25 centive payment method in which the payment

1 is shared among a group of workers working to-
2 gether to perform the task.

3 (b) REQUIREMENT TO PROVIDE HOUSING.—

4 (1) IN GENERAL.—

5 (A) REQUIREMENT.—An employer apply-
6 ing under section 201(a) for registered workers
7 shall offer to provide housing at no cost (except
8 for charges permitted by paragraph (5)) to all
9 workers employed in job opportunities to which
10 the employer has applied under that section,
11 and to all other workers in the same occupation
12 at the place of employment, whose place of resi-
13 dence is beyond normal commuting distance.

14 (B) LIABILITY.—An employer not com-
15 plying with subparagraph (A) shall be liable to
16 a registered worker for the costs of housing
17 equivalent to the type of housing required to be
18 provided under that subparagraph and shall not
19 be liable for any employment-related obligation
20 solely by reason of such noncompliance.

21 (2) TYPE OF HOUSING.—In complying with
22 paragraph (1), an employer may, at the employer's
23 election, provide housing that meets applicable Fed-
24 eral standards for temporary labor camps or secure
25 housing that meets applicable local standards for

1 rental or public accommodation housing or other
2 substantially similar class of habitation, or, in the
3 absence of applicable local standards, State stand-
4 ards for rental or public accommodation housing or
5 other substantially similar class of habitation.

6 (3) WORKERS ENGAGED IN THE RANGE PRO-
7 Duction OF LIVESTOCK.—The Secretary shall issue
8 regulations that address the specific requirements
9 for the provision of housing to workers engaged in
10 the range production of livestock.

11 (4) LIMITATION.—Nothing in this subsection
12 shall be construed to require an employer to provide
13 or secure housing for persons who were not entitled
14 to such housing under the temporary labor certifi-
15 cation regulations in effect on June 1, 1986.

16 (5) CHARGES FOR HOUSING.—

17 (A) UTILITIES AND MAINTENANCE.—An
18 employer who provides housing to a worker pur-
19 suant to paragraph (1) may charge an amount
20 equal to the fair market value (but not greater
21 than the employer's actual cost) for mainte-
22 nance and utilities, or such lesser amount as
23 permitted by law.

24 (B) SECURITY DEPOSIT.—An employer
25 who provides housing to workers pursuant to

1 paragraph (1) may require, as a condition for
2 providing such housing, a deposit not to exceed
3 \$50 from workers occupying such housing to
4 protect against gross negligence or willful de-
5 struction of property.

6 (C) DAMAGES.—An employer who provides
7 housing to workers pursuant to paragraph (1)
8 may require a worker found to have been re-
9 sponsible for damage to such housing which is
10 not the result of normal wear and tear related
11 to habitation to reimburse the employer for the
12 reasonable cost of repair of such damage.

13 (6) HOUSING ALLOWANCE AS ALTERNATIVE.—

14 (A) IN GENERAL.—In lieu of offering
15 housing pursuant to paragraph (1), the em-
16 ployer may provide a reasonable housing allow-
17 ance during the 3-year period beginning on the
18 effective date of this Act. After the expiration
19 of that period such allowance may be provided
20 only if the requirement of subparagraph (B) is
21 satisfied or, in the case of a certification under
22 subparagraph (B) that is expired, the require-
23 ment of subparagraph (C) is satisfied. Upon the
24 request of a worker seeking assistance in locat-
25 ing housing, the employer shall make a good

1 faith effort to assist the worker in identifying
2 and locating housing in the area of intended
3 employment. An employer who offers a housing
4 allowance to a worker, or assists a worker in lo-
5 cating housing which the worker occupies pur-
6 suant to this subparagraph, shall not be deemed
7 to be a housing provider under section 203 of
8 the Migrant and Seasonal Agricultural Worker
9 Protection Act (29 U.S.C. 1823) solely by vir-
10 tue of providing such housing allowance.

11 (B) CERTIFICATION.—The requirement of
12 this subparagraph is satisfied if the Governor of
13 the State certifies to the Secretary that there is
14 adequate housing available in an area of in-
15 tended employment for migrant farm workers,
16 and nonimmigrant aliens described in section
17 101(a)(15)(H)(ii)(c) of the Immigration and
18 Nationality Act, who are seeking temporary
19 housing while employed at farm work. Such cer-
20 tification shall expire after 3 years unless re-
21 newed by the Governor of the State.

22 (C) EFFECT OF CERTIFICATION.—Not-
23 withstanding the expiration of a certification
24 under subparagraph (B) with respect to an area
25 of intended employment, a housing allowance

1 described in subparagraph (A) may be offered
2 for up to one year after the date of expiration.

3 (D) AMOUNT OF ALLOWANCE.—The
4 amount of a housing allowance under this para-
5 graph shall be equal to the statewide average
6 fair market rental for existing housing for non-
7 metropolitan counties for the State in which the
8 employment occurs, as established by the Sec-
9 retary of Housing and Urban Development pur-
10 suant to section 8(c) of the United States
11 Housing Act of 1937 (42 U.S.C. 1437f(c)),
12 based on a 2-bedroom dwelling unit and an as-
13 sumption of 2 persons per bedroom.

14 (c) REIMBURSEMENT OF TRANSPORTATION.—

15 (1) TO PLACE OF EMPLOYMENT.—A worker
16 who is referred to a job opportunity under section
17 202(a), or an alien employed pursuant to this Act,
18 who completes 50 percent of the period of employ-
19 ment of the job opportunity for which the worker
20 was hired, shall be reimbursed by the employer for
21 the cost of the worker's transportation and subsist-
22 ence from the worker's permanent place of residence
23 (or place of last employment, if the worker traveled
24 from such place) to the place of employment to
25 which the worker was referred under section 202(a).

1 (2) FROM PLACE OF EMPLOYMENT.—A worker
2 who is referred to a job opportunity under section
3 202(a), or an alien employed pursuant to this Act,
4 who completes the period of employment for the job
5 opportunity involved, shall be reimbursed by the em-
6 ployer for the cost of the worker’s transportation
7 and subsistence from the place of employment to the
8 worker’s place of residence, or to the place of next
9 employment, if the worker has contracted with a
10 subsequent employer who has not agreed to provide
11 or pay for the worker’s transportation and subsist-
12 ence to such subsequent employer’s place of employ-
13 ment.

14 (3) LIMITATION.—

15 (A) AMOUNT OF REIMBURSEMENT.—Ex-
16 cept as provided in subparagraph (B), the
17 amount of reimbursement provided under para-
18 graph (1) or (2) to a worker or alien shall not
19 exceed the lesser of—

20 (i) the actual cost to the worker or
21 alien of the transportation and subsistence
22 involved; or

23 (ii) the most economical and reason-
24 able common carrier transportation

1 charges and subsistence costs for the dis-
2 tance involved.

3 (B) DISTANCE TRAVELED.—No reimburse-
4 ment under paragraph (1) or (2) shall be re-
5 quired if the distance traveled is 100 miles or
6 less, or the worker is not residing in employer-
7 provided housing or housing secured through a
8 housing allowance as provided in subsection
9 (b)(6).

10 (C) PLACE OF RECRUITMENT.—For the
11 purpose of the reimbursement required under
12 paragraph (1) or (2) to aliens admitted pursu-
13 ant to this Act, the alien’s place of residence
14 shall be deemed to be the place where the alien
15 was issued the visa authorizing admission to the
16 United States or, if no visa was required, the
17 place from which the alien departed the foreign
18 country to travel to the United States.

19 (d) CONTINUING OBLIGATION TO EMPLOY UNITED
20 STATES WORKERS.—

21 (1) IN GENERAL.—An employer that applies for
22 registered workers under section 201(a) shall, as a
23 condition for the approval of such application, con-
24 tinue to offer employment to qualified, eligible
25 United States workers who are referred under sec-

1 tion 202(b) after the employer receives the report
2 described in section 202(b).

3 (2) LIMITATION.—An employer shall not be ob-
4 ligated to comply with paragraph (1)—

5 (A) after 50 percent of the anticipated pe-
6 riod of employment shown on the employer’s
7 application under section 201(a) has elapsed; or

8 (B) during any period in which the em-
9 ployer is employing no H-2C workers in the oc-
10 cupation for which the United States worker
11 was referred; or

12 (C) during any period when the Secretary
13 is conducting a search of a registry for workers
14 in the occupation and area of intended employ-
15 ment to which the worker has been referred, or
16 in other occupations in the area of intended em-
17 ployment for which the worker that has been
18 referred is qualified and that offer substantially
19 similar terms and conditions of employment.

20 (3) LIMITATION ON REQUIREMENT TO PROVIDE
21 HOUSING.—Notwithstanding any other provision of
22 this Act, an employer to whom a registered worker
23 is referred pursuant to paragraph (1) may provide
24 a reasonable housing allowance to such referred
25 worker in lieu of providing housing if the employer

1 does not have sufficient housing to accommodate the
2 referred worker and all other workers for whom the
3 employer is providing housing or has committed to
4 provide housing.

5 (4) REFERRAL OF WORKERS DURING 50-PER-
6 CENT PERIOD.—The Secretary shall make all rea-
7 sonable efforts to place a registered worker in an
8 open job acceptable to the worker, including avail-
9 able jobs not listed on the registry, before referring
10 such worker to an employer for a job opportunity al-
11 ready filled by, or committed to, an alien admitted
12 pursuant to this Act.

13 **SEC. 205. PROGRAM FOR THE ADMISSION OF TEMPORARY**
14 **H-2C WORKERS.**

15 (a) ESTABLISHMENT OF NEW NONIMMIGRANT CAT-
16 EGORY FOR PILOT PROGRAM AGRICULTURAL WORK-
17 ERS.—Section 101(a)(15)(H)(ii) of the Immigration and
18 Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)) is
19 amended—

20 (1) by striking “or (b)” and inserting “(b)”;
21 and

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

23 “ or (c) having a residence in a foreign country
24 which he has no intention of abandoning who is
25 coming temporarily to the United States pursuant to

1 section 218A to perform such agricultural labor or
2 services of a temporary or seasonal nature;”.

3 (b) NO FAMILY MEMBERS PERMITTED.—Section
4 101(a)(15)(H) of the Immigration and Nationality Act (8
5 U.S.C. 1101(a)(15)(H)) is amended by striking “specified
6 in this paragraph” and inserting “specified in this sub-
7 paragraph (other than in clause (ii)(c))”.

8 (c) ALTERNATIVE AGRICULTURAL TEMPORARY
9 WORKER PROGRAM.—

10 (1) IN GENERAL.—The Immigration and Na-
11 tionality Act is amended by inserting after section
12 218 the following:

13 “ALTERNATIVE AGRICULTURAL TEMPORARY WORKER
14 PROGRAM

15 “SEC. 218A. (a) PROCEDURE FOR ADMISSION OF
16 ALIENS WHO ARE OUTSIDE THE UNITED STATES.—

17 “(1) CRITERIA FOR ADMISSIBILITY.—

18 “(A) IN GENERAL.—An alien described in
19 section 101(a)(15)(H)(ii)(c) of the Immigration
20 and Nationality Act shall be admissible under
21 this section if the alien is designated pursuant
22 to section 203 of the Agricultural Opportunities
23 Act, otherwise admissible under this Act, and
24 the alien is not ineligible under subparagraph
25 (B) or (C).

1 “(B) DISQUALIFICATION.—An alien shall
2 be ineligible for admission to the United States
3 or being provided status under this section if
4 the alien has, at any time during the past 5
5 years—

6 “(i) violated a material provision of
7 this section, including the requirement to
8 promptly depart the United States when
9 the alien’s authorized period of admission
10 under this section has expired; or

11 “(ii) otherwise violated a term or con-
12 dition of admission to the United States as
13 a nonimmigrant, including overstaying the
14 period of authorized admission as such a
15 nonimmigrant.

16 “(C) FOREIGN RESIDENCE REQUIRE-
17 MENT.—No person admitted under section
18 101(a)(15)(H)(ii)(c) or acquiring such status
19 after admission shall be eligible to apply for an-
20 other nonimmigrant visa under such section
21 until it is established that such person has re-
22 sided and been physically present in the country
23 of his nationality or his last residence for an
24 aggregate of a least 2 months following depar-
25 ture from the United States.

1 “(D) BURDEN OF PROOF ON UNLAWFUL
2 PRESENCE.—Notwithstanding section 291, in
3 the case of an alien who has not previously been
4 admitted to the United States under this sec-
5 tion, is not ineligible under subparagraph (B)
6 or (C), is described in subparagraph (A), and is
7 seeking admission under this section, the alien
8 shall not be considered inadmissible under sec-
9 tion 212(a)(9)(B) unless the alien’s inadmis-
10 sibility is established by a preponderance of the
11 evidence.

12 “(2) PERIOD OF ADMISSION.—The alien shall
13 be admitted for the period requested by the employer
14 not to exceed 10 months, or the ending date of the
15 anticipated period of employment on the employer’s
16 application for registered workers, whichever is less.

17 “(3) ABANDONMENT OF EMPLOYMENT.—

18 “(A) IN GENERAL.—An alien admitted or
19 provided status under this section who aban-
20 dons the employment which was the basis for
21 such admission or status shall be considered to
22 have failed to maintain nonimmigrant status as
23 an alien described in section
24 101(a)(15)(H)(ii)(c) and shall depart the

1 United States or be subject to removal under
2 section 237(a)(1)(C)(i).

3 “(B) REPORT BY EMPLOYER.—The em-
4 ployer (or association acting as agent for the
5 employer) shall notify the Attorney General
6 within 7 days of an alien admitted or provided
7 status under this Act pursuant to an applica-
8 tion to the Secretary of Labor under section
9 201 of the Agricultural Opportunities Act who
10 prematurely abandons the alien’s employment.

11 “(C) REMOVAL BY THE ATTORNEY GEN-
12 ERAL.—The Attorney General shall promptly
13 remove from the United States aliens admitted
14 pursuant to section 101(a)(15)(H)(ii)(c) who
15 have failed to maintain nonimmigrant status or
16 who have otherwise violated the terms of a visa
17 issued under this title.

18 “(D) VOLUNTARY TERMINATION.—Not-
19 withstanding the provisions of subparagraph
20 (A), an alien may voluntarily terminate his or
21 her employment if the alien promptly departs
22 the United States upon termination of such em-
23 ployment.

24 “(E) REPLACEMENT OF ALIEN.—Upon
25 presentation of the notice to the attorney Gen-

1 eral required by subparagraph (B), the Sec-
2 retary of State shall promptly issue a visa to,
3 and the Attorney General shall admit, an eligi-
4 ble alien designated by the employer to replace
5 an alien who abandons or prematurely termi-
6 nates employment.

7 “(4) IDENTIFICATION DOCUMENT AND IDENTI-
8 FICATION SYSTEM.—

9 “(A) IN GENERAL.—Each alien admitted
10 under this section shall, upon receipt of a visa,
11 be given an identification and employment eligi-
12 bility document to verify eligibility for employ-
13 ment in the United States and verify such per-
14 son’s proper identity.

15 “(B) REQUIREMENTS.—No identification
16 and employment eligibility document may be
17 issued and no identification system may be im-
18 plemented which does not meet the following re-
19 quirements:

20 “(i) The document and system shall
21 be capable of reliably determining
22 whether—

23 “(I) the individual with the iden-
24 tification and employment eligibility
25 document whose eligibility is being

1 verified is in fact eligible for employ-
2 ment,

3 “(II) the individual whose eligi-
4 bility is being verified is claiming the
5 identity of another person, and

6 “(III) the individual whose eligi-
7 bility is being verified has been prop-
8 erly admitted under this section.

9 “(ii) The document shall be in the
10 form that is resistant to counterfeiting and
11 to tampering.

12 “(iii) The document and system
13 shall—

14 “(I) be compatible with other Im-
15 migration and Naturalization Service
16 databases and other Federal govern-
17 ment databases for the purpose of ex-
18 cluding aliens from benefits for which
19 they are not eligible and to determine
20 whether the alien is illegally present
21 in the United States, and

22 “(II) be compatible with law en-
23 forcement databases to determine if
24 the alien has been convicted of crimi-
25 nal offenses.

1 “(b) EXTENSION OF STAY OF ALIENS IN THE
2 UNITED STATES.—

3 “(1) EXTENSION OF STAY.—If an employer
4 with respect to whom a report or application de-
5 scribed in section 203(a)(1) of the Agricultural Op-
6 portunities Act has been submitted seeks to employ
7 an alien who has acquired status under this section
8 and who is lawfully present in the United States, the
9 employer shall file with the Attorney General an ap-
10 plication for an extension of the alien’s stay or a
11 change in the alien’s authorized employment. The
12 application shall be accompanied by a copy of the
13 appropriate report or application described in section
14 203 of the Agricultural Opportunities Act.

15 “(2) LIMITATION ON FILING AN APPLICATION
16 FOR EXTENSION OF STAY.—An application may not
17 be filed to extend an alien’s stay if the granting of
18 the application would permit the alien’s period of
19 physical presence in the United States, under the
20 authority of the most recent nonimmigrant visa (or
21 other document providing nonimmigrant status)
22 issued under section 101(a)(15)(H)(ii)(c), to exceed
23 12 months (disregarding any period of continuous
24 physical absence from the United States exceeding 2
25 months during which the alien appears before a con-

1 sular officer outside of the United States for the
2 purpose of verifying the alien’s identity by pre-
3 senting the identification and employment eligibility
4 document provided under subsection (a)(4)).

5 “(3) WORK AUTHORIZATION UPON FILING AN
6 APPLICATION FOR EXTENSION OF STAY.—An em-
7 ployer may begin employing an alien who is present
8 in the United States who has acquired status under
9 this Act on the day the employer files an application
10 for extension of stay. For the purpose of this re-
11 quirement, the term ‘filing’ means sending the appli-
12 cation by certified mail via the United States Postal
13 Service, return receipt requested, or delivered by
14 guaranteed commercial delivery which will provide
15 the employer with a documented acknowledgment of
16 the date of sending and receipt of the application.
17 The employer shall provide a copy of the employer’s
18 application to the alien, who shall keep the applica-
19 tion with the alien’s identification and employment
20 eligibility document as evidence that the application
21 has been filed and that the alien is authorized to
22 work in the United States. Upon approval of an ap-
23 plication for an extension of stay or change in the
24 alien’s authorized employment, the Attorney General
25 shall provide a new or updated employment eligi-

1 bility document to the alien indicating the new valid-
2 ity date, after which the alien is not required to re-
3 tain a copy of the application.

4 “(4) LIMITATION ON EMPLOYMENT AUTHORIZA-
5 TION OF ALIENS WITHOUT VALID IDENTIFICATION
6 AND EMPLOYMENT ELIGIBILITY CARD.—An expired
7 identification and employment eligibility document,
8 together with a copy of an application for extension
9 of stay or change in the alien’s authorized employ-
10 ment that complies with the requirements of para-
11 graph (1), shall constitute a valid work authorization
12 document for a period of not more than 60 days
13 from the date of application for the extension of
14 stay, after which time only a currently valid identi-
15 fication and employment eligibility document shall be
16 acceptable.

17 “(5) LIMITATION ON AN INDIVIDUAL’S STAY IN
18 STATUS.—In the case of a nonimmigrant granted an
19 extension of stay under this section, such extension
20 may not permit the alien’s total period of physical
21 presence in the United States, under the authority
22 of the nonimmigrant visa (or other document pro-
23 viding nonimmigrant status) to which the extension
24 applies, to exceed 12 months (disregarding any pe-
25 riod of continuous physical absence from the United

1 States exceeding 2 months during which the alien
 2 appears before a consular officer outside of the
 3 United States for the purpose of verifying the alien’s
 4 identity by presenting the identification and employ-
 5 ment eligibility document provided under subsection
 6 (a)(4)).”.

7 (2) CLERICAL AMENDMENT.—The table of con-
 8 tents of the Immigration and Nationality Act is
 9 amended by inserting after the item relating to sec-
 10 tion 218 the following new item:

“Sec. 218A. Alternative agricultural temporary worker program.”.

11 (d) RANGE PRODUCTION OF LIVESTOCK.—Nothing
 12 in this title shall preclude the Secretary of Labor and the
 13 Attorney General from continuing to apply special proce-
 14 dures to the employment, admission, and extension of
 15 aliens in the range production of livestock.

16 (e) VERIFICATION OF RETURN OF WORKERS TO
 17 COUNTRY OF ORIGIN.—The Attorney General shall estab-
 18 lish a program to verify that H-2C workers are departing
 19 from the United States after the expiration of their au-
 20 thorized period of stay in the United States.

21 **TITLE III—MISCELLANEOUS**
 22 **PROVISIONS**

23 **SEC. 301. ENHANCED WORKER PROTECTIONS AND LABOR**
 24 **STANDARDS ENFORCEMENT.**

25 (a) ENFORCEMENT AUTHORITY.—

1 (1) INVESTIGATION OF COMPLAINTS.—

2 (A) AGGRIEVED PERSON OR THIRD PARTY
3 COMPLAINTS.—The Secretary shall establish a
4 process for the receipt, investigation, and dis-
5 position of complaints respecting an employer’s
6 failure to meet a condition specified in section
7 201 or an employer’s misrepresentation of ma-
8 terial facts in an application under that section,
9 or violation of the provisions described in sub-
10 paragraph (B). Complaints may be filed by any
11 aggrieved person or any organization (including
12 bargaining representatives). No investigation or
13 hearing shall be conducted on a complaint con-
14 cerning such a failure or misrepresentation un-
15 less the complaint was filed not later than 12
16 months after the date of the failure or mis-
17 representation, as the case may be. The Sec-
18 retary shall conduct an investigation under this
19 paragraph if there is reasonable cause to believe
20 that such a failure or misrepresentation has oc-
21 curred.

22 (B) EXPEDITED INVESTIGATION OF SERI-
23 OUS CHILD LABOR, WAGE, AND HOUSING VIOLA-
24 TIONS.—The Secretary shall complete an inves-
25 tigation and issue a written determination as to

1 whether or not a violation has been committed
2 within 10 days of the receipt of a complaint
3 pursuant to subparagraph (A) if there is rea-
4 sonable cause to believe that any of the fol-
5 lowing serious violations have occurred:

6 (i) A violation of section 12(c) of the
7 Fair Labor Standards Act of 1938 (29
8 U.S.C. 212(c)).

9 (ii) A failure to make a wage pay-
10 ment, except that complaints alleging that
11 an amount less than the wages due has
12 been paid shall be handled pursuant to
13 subparagraph (A).

14 (iii) A failure to provide the housing
15 allowance required under section
16 204(b)(6).

17 (iv) Providing housing pursuant to
18 section 204(b)(1) that fails to comply with
19 standards under section 204(b)(2) and
20 which poses an immediate threat of serious
21 bodily injury or death to workers.

22 (C) STATUTORY CONSTRUCTION.—Nothing
23 in this Act limits the authority of the Secretary
24 of Labor to conduct any compliance investiga-
25 tion under any other labor law, including any

1 law affecting migrant and seasonal agricultural
2 workers or, in the absence of a complaint under
3 this paragraph, under this Act.

4 (2) WRITTEN NOTICE OF FINDING AND OPPOR-
5 TUNITY FOR APPEAL.—After an investigation has
6 been conducted, the Secretary shall issue a written
7 determination as to whether or not any violation de-
8 scribed in subsection (b) has been committed. The
9 Secretary's determination shall be served on the
10 complainant and the employer, and shall provide an
11 opportunity for an appeal of the Secretary's decision
12 to an administrative law judge, who may conduct a
13 de novo hearing.

14 (3) ABILITY OF ALIEN WORKERS TO CHANGE
15 EMPLOYERS.—

16 (A) IN GENERAL.—Pending the completion
17 of an investigation pursuant to paragraph
18 (1)(A), the Secretary may permit the transfer
19 of an aggrieved person who has filed a com-
20 plaint under such paragraph to an employer
21 that—

22 (i) has been approved to employ work-
23 ers under this Act; and

24 (ii) agrees to accept the person for
25 employment.

1 (B) REPLACEMENT WORKER.—An ag-
2 grievéd person may not be transferred under
3 subparagraph (A) until such time as the em-
4 ployer from whom the person is to be trans-
5 ferred receives a requested replacement worker
6 referred by a registry pursuant to section 202
7 of this Act or provided status under section
8 101(a)(15)(H)(ii)(c) of the Immigration and
9 Nationality Act.

10 (C) LIMITATION.—An employer from
11 whom an aggrieved person has been transferred
12 under this paragraph shall have no obligation to
13 reimburse the person for the cost of transpor-
14 tation prior to the completion of the period of
15 employment referred to in section 204(c).

16 (D) VOLUNTARY TRANSFER.—Notwith-
17 standing this paragraph, an employer may vol-
18 untarily agree to transfer a worker to another
19 employer that—

20 (i) has been approved to employ work-
21 ers under this Act; and

22 (ii) agrees to accept the person for
23 employment.

24 (b) REMEDIES.—

1 (1) BACK WAGES.—Upon a final determination
2 that the employer has failed to pay wages as re-
3 quired under this section, the Secretary may assess
4 payment of back wages due to any United States
5 worker or alien described in section
6 101(a)(15)(H)(ii)(c) of the Immigration and Nation-
7 ality Act employed by the employer in the specific
8 employment in question. The back wages shall be
9 equal to the difference between the amount that
10 should have been paid and the amount that actually
11 was paid to such worker.

12 (2) FAILURE TO PAY WAGES.—Upon a final de-
13 termination that the employer has failed to pay the
14 wages required under this Act, the Secretary may
15 assess a civil money penalty up to \$1,000 for each
16 person for whom the employer failed to pay the re-
17 quired wage, and may recommend to the Attorney
18 General the disqualification of the employer from the
19 employment of aliens described in section
20 101(a)(15)(H)(ii)(c) of the Immigration and Nation-
21 ality Act for a period of time determined by the Sec-
22 retary not to exceed 1 year.

23 (3) OTHER VIOLATIONS.—If the Secretary, as a
24 result of an investigation pursuant to a complaint,

1 determines that an employer covered by an applica-
2 tion under section 201(a) has—

3 (A) filed an application that misrepresents
4 a material fact;

5 (B) failed to meet a condition specified in
6 section 201; or

7 (C) committed a serious violation of sub-
8 section (a)(1)(B),

9 the Secretary may seek a cease and desist order and
10 assess a civil money penalty not to exceed \$1,000 for
11 each violation and may recommend to the Attorney
12 General the disqualification of the employer if the
13 Secretary finds it to be a substantial misrepresenta-
14 tion or violation of the requirements for the employ-
15 ment of any United States workers or aliens de-
16 scribed in section 101(a)(15)(ii)(c) of the Immigra-
17 tion and Nationality Act for a period of time deter-
18 mined by the Secretary not to exceed 1 year. In de-
19 termining the amount of civil money penalty to be
20 assessed or whether to recommend disqualification of
21 the employer, the Secretary shall consider the seri-
22 ousness of the violation, the good faith of the em-
23 ployer, the size of the business of the employer being
24 charged, the history of previous violations by the em-
25 ployer, whether the employer obtained a financial

1 gain from the violation, whether the violation was
2 willful, and other relevant factors.

3 (4) EXPANDED PROGRAM DISQUALIFICATION.—

4 (A) 3 YEARS FOR SECOND VIOLATION.—

5 Upon a second final determination that an em-
6 ployer has failed to pay the wages required
7 under this Act, or a second final determination
8 that the employer has committed another sub-
9 stantial violation under paragraph (3) in the
10 same category of violations, with respect to the
11 same alien, the Secretary shall report such de-
12 termination to the Attorney General and the
13 Attorney General shall disqualify the employer
14 from the employment of aliens described in sec-
15 tion 101(a)(15)(H)(ii)(c) of the Immigration
16 and Nationality Act for a period of 3 years.

17 (B) PERMANENT FOR THIRD VIOLATION.—

18 Upon a third final determination that an em-
19 ployer has failed to pay the wages required
20 under this section or committed other substan-
21 tial violations under paragraph (3), the Sec-
22 retary shall report such determination to the
23 Attorney General, and the Attorney General
24 shall disqualify the employer from any subse-
25 quent employment of aliens described in section

1 101(a)(15)(H)(ii)(c) of the Immigration and
2 Nationality Act.

3 (c) ROLE OF ASSOCIATIONS.—

4 (1) VIOLATION BY A MEMBER OF AN ASSOCIA-
5 TION.—An employer on whose behalf an application
6 is filed by an association acting as its agent is fully
7 responsible for such application, and for complying
8 with the terms and conditions of this Act, as though
9 the employer had filed the application itself. If such
10 an employer is determined to have violated a re-
11 quirement of this section, the penalty for such viola-
12 tion shall be assessed against the employer who com-
13 mitted the violation and not against the association
14 or other members of the association.

15 (2) VIOLATION BY AN ASSOCIATION ACTING AS
16 AN EMPLOYER.—If an association filing an applica-
17 tion on its own behalf as an employer is determined
18 to have committed a violation under this subsection
19 which results in disqualification from the program
20 under subsection (b), no individual member of such
21 association may be the beneficiary of the services of
22 an alien described in section 101(a)(15)(H)(ii)(c) of
23 the Immigration and Nationality Act in an occupa-
24 tion in which such alien was employed by the asso-
25 ciation during the period such disqualification is in

1 effect, unless such member files an application as an
2 individual employer or such application is filed on
3 the employer's behalf by an association with which
4 the employer has an agreement that the employer
5 will comply with the requirements of this Act.

6 (d) STUDY OF AGRICULTURAL LABOR STANDARDS
7 AND ENFORCEMENT.—

8 (1) COMMISSION ON HOUSING MIGRANT AGRI-
9 CULTURAL WORKERS.—

10 (A) ESTABLISHMENT.—There is estab-
11 lished the Commission on Housing Migrant Ag-
12 ricultural Workers (in this paragraph referred
13 to as the “Commission”).

14 (B) COMPOSITION.—The Commission shall
15 consist of 12 members, as follows:

16 (i) Four representatives of agricul-
17 tural employers and one representative of
18 the Department of Agriculture, each ap-
19 pointed by the Secretary of Agriculture.

20 (ii) Four representatives of agricul-
21 tural workers and one representative of the
22 Department of Labor, each appointed by
23 the Secretary of Labor.

24 (iii) One State or local official knowl-
25 edgeable about farmworker housing and

1 one representative of Housing and Urban
2 Development, each appointed by the Sec-
3 retary of Housing and Urban Develop-
4 ment.

5 (C) FUNCTIONS.—The Commission shall
6 conduct a study of the problem of in-season
7 housing for migrant agricultural workers.

8 (D) INTERIM REPORTS.—The Commission
9 may at any time submit interim reports to Con-
10 gress describing the findings made up to that
11 time with respect to the study conducted under
12 subparagraph (C).

13 (E) FINAL REPORT.—Not later than 3
14 years after the date of enactment of this Act,
15 the Commission shall submit a report to Con-
16 gress setting forth the findings of the study
17 conducted under subparagraph (C).

18 (F) TERMINATION DATE.—The Commis-
19 sion shall terminate upon filing its final report.

20 (2) STUDY OF RELATIONSHIP BETWEEN CHILD
21 CARE AND CHILD LABOR.—The Secretaries of
22 Labor, Agriculture, and Health and Human Services
23 shall jointly conduct a study of the issues relating to
24 child care of migrant agricultural workers. Such
25 study shall address issues related to the adequacy of

1 educational and day care services for migrant chil-
2 dren and the relationship, if any, of child care needs
3 and child labor violations in agriculture. An evalua-
4 tion of migrant and seasonal Head Start programs
5 (as defined in section 637(12) of the Head Start
6 Act) as they relate to these issues shall be included
7 as a part of the study.

8 (3) STUDY OF FIELD SANITATION.—The Sec-
9 retary of Labor and the Secretary of Agriculture
10 shall jointly conduct a study regarding current field
11 sanitation standards in agriculture and evaluate al-
12 ternative approaches and innovations that may fur-
13 ther compliance with such standards.

14 (4) STUDY OF COORDINATED AND TARGETED
15 LABOR STANDARDS ENFORCEMENT.—The Secretary,
16 in consultation with the Secretary of Agriculture,
17 shall conduct a study of the most persistent and se-
18 rious labor standards violations in agriculture and
19 evaluate the most effective means of coordinating
20 enforcement efforts between Federal and State offi-
21 cials. The study shall place primary emphasis on the
22 means by which Federal and State authorities, in
23 consultation with representatives of workers and ag-
24 ricultural employers, may develop more effective
25 methods of targeting resources at repeated and egre-

1 rious violators of labor standards. The study also
2 shall consider ways of facilitating expanded edu-
3 cation among agricultural employers and workers re-
4 garding compliance with labor standards and evalu-
5 ate means of broadening such education on a cooper-
6 ative basis among employers and workers.

7 (5) REPORT.—Not later than 3 years after the
8 date of enactment of this Act, with respect to each
9 study required to be conducted under paragraphs (2)
10 through (4), the Secretary or group of Secretaries
11 required to conduct the study shall submit to Con-
12 gress a report setting forth the findings of the study.

13 **SEC. 302. COMMISSION.**

14 The Attorney General is authorized and requested to
15 establish a commission between the United States and
16 each country not less than 10,000 nationals of which are
17 nonimmigrant aliens described in section
18 101(a)(15)(H)(ii)(c) of the Immigration and Nationality
19 Act (8 U.S.C. 1101(a)(15)(H)(ii)(c)). Such commission
20 shall provide a forum to the governments involved to dis-
21 cuss matters of mutual concern regarding the program for
22 the admission of aliens under section 101(a)(15)(H)(ii)(c)
23 of the Immigration and Nationality Act.

1 **SEC. 303. REGULATIONS.**

2 (a) REGULATIONS OF THE ATTORNEY GENERAL.—

3 The Attorney General shall consult with the Secretary and
4 the Secretary of Agriculture on all regulations to imple-
5 ment the duties of the Attorney General under this Act.

6 (b) REGULATIONS OF THE SECRETARY OF STATE.—

7 The Secretary of State shall consult with the Attorney
8 General, the Secretary of Labor, and the Secretary of Ag-
9 riculture on all regulations to implement the duties of the
10 Secretary of State under this Act.

11 (c) REGULATIONS OF THE SECRETARY OF LABOR.—

12 The Secretary shall consult with the Secretary of Agri-
13 culture and shall obtain the approval of the Attorney Gen-
14 eral on all regulations to implement the duties of the Sec-
15 retary under this Act.

16 (d) DEADLINE FOR ISSUANCE OF REGULATIONS.—

17 All regulations to implement the duties of the Attorney
18 General, the Secretary of State, and the Secretary of
19 Labor shall take effect on the effective date of this Act.

20 **SEC. 304. DETERMINATION AND USE OF USER FEES.**

21 (a) SCHEDULE OF FEES.—The Secretary of Labor
22 shall establish and periodically adjust a schedule for the
23 registry user fee and the alien employment user fee im-
24 posed under this Act, and a collection process for such
25 fees from employers participating in the programs pro-
26 vided under this Act. Such fees shall be the only fees

1 chargeable to employers for services provided under this
2 Act.

3 (b) DETERMINATION OF SCHEDULE.—

4 (1) IN GENERAL.—The schedule under sub-
5 section (a) shall reflect a fee rate based on the num-
6 ber of job opportunities indicated in an employer’s
7 application under section 201(a)(1)(C) and sufficient
8 to provide for the reimbursement of the direct costs
9 of providing the following services:

10 (A) REGISTRY USER FEE.—Services pro-
11 vided through the agricultural worker registries
12 established under section 101(a), including reg-
13 istration, referral, and validation, but not in-
14 cluding services that would otherwise be pro-
15 vided by the Secretary of Labor under related
16 or similar programs if such registries had not
17 been established.

18 (B) ALIEN EMPLOYMENT USER FEE.—
19 Services related to an employer’s authorization
20 to employ eligible aliens pursuant to this Act,
21 including the establishment and certification of
22 eligible employers, the issuance of documenta-
23 tion, and the admission of eligible aliens.

24 (2) PROCEDURE.—

1 (A) IN GENERAL.—In establishing and ad-
2 justing such schedule, the Secretary of Labor
3 shall comply with Federal cost accounting and
4 fee setting standards.

5 (B) PUBLICATION AND COMMENT.—The
6 Secretary of Labor shall publish in the Federal
7 Register an initial fee schedule and associated
8 collection process and the cost data or estimates
9 upon which such fee schedule is based, and any
10 subsequent amendments thereto, pursuant to
11 which public comment will be sought and a final
12 rule issued.

13 (c) USE OF PROCEEDS.—

14 (1) IN GENERAL.—All proceeds resulting from
15 the payment of registry user fees and alien employ-
16 ment user fees shall be available without further ap-
17 propriation and shall remain available without fiscal
18 year limitation to reimburse the Secretaries of
19 Labor, State, and Agriculture, and the Attorney
20 General for the costs of carrying out section 218A
21 of the Immigration and Nationality Act and the pro-
22 visions of this Act.

23 (2) LIMITATION ON ENFORCEMENT COSTS.—In
24 making a determination of reimbursable costs under
25 paragraph (1), the Secretary of Labor shall provide

1 that reimbursement of the costs of enforcement
2 under section 301 shall not exceed 10 percent of the
3 direct costs of the Secretary described in subpara-
4 graphs (A) and (B) of subsection (b)(1).

5 **SEC. 305. FUNDING FOR STARTUP COSTS.**

6 If additional funds are necessary to pay the startup
7 costs of the agricultural worker registries established
8 under section 101(a), such costs may be paid out of
9 amounts available to Federal or State governmental enti-
10 ties under the Wagner-Peyser Act (29 U.S.C. 49 et seq.).
11 Proceeds described in section 304(c) may be used to reim-
12 burse the use of such available amounts.

13 **SEC. 306. REPORT TO CONGRESS.**

14 (a) REQUIREMENT.—Not later than 4 years after the
15 effective date under section 307, the Resources, Commu-
16 nity and Economic Development Division, and the Health,
17 Education and Human Services Division, of the Office of
18 the Comptroller General of the United States shall jointly
19 prepare and transmit to the Committee on the Judiciary
20 and the Committee on Agriculture of the House of Rep-
21 resentatives and the Committee on the Judiciary and the
22 Committee on Agriculture, Nutrition, and Forestry of the
23 Senate a report describing the results of a review of the
24 implementation of and compliance with this Act. The re-
25 port shall address—

1 (1) whether the program has ensured an ade-
2 quate and timely supply of qualified, eligible workers
3 at the time and place needed by employers;

4 (2) whether the program has ensured that
5 aliens admitted under this program are employed
6 only in authorized employment, and that they timely
7 depart the United States when their authorized stay
8 ends;

9 (3) whether the program has ensured that par-
10 ticipating employers comply with the requirements of
11 the program with respect to the employment of
12 United States workers and aliens admitted under
13 this program;

14 (4) whether the program has ensured that
15 aliens admitted under this program are not dis-
16 placing eligible, qualified United States workers or
17 diminishing the wages and other terms and condi-
18 tions of employment of eligible United States work-
19 ers;

20 (5) to the extent practicable, compare the wages
21 and other terms of employment of eligible United
22 States workers and aliens employed under this pro-
23 gram with the wages and other terms of employment
24 of agricultural workers who are not authorized to
25 work in the United States;

1 (6) whether the housing provisions of this pro-
2 gram ensure that adequate housing is available to
3 workers employed under this program who are re-
4 quired to be provided housing or a housing allow-
5 ance;

6 (7) recommendations for improving the oper-
7 ation of the program for the benefit of participating
8 employers, eligible United States workers, partici-
9 pating aliens, and governmental agencies involved in
10 administering the program; and

11 (8) recommendations for the continuation or
12 termination of the program under this Act.

13 (b) ADVISORY BOARD.—There shall be established an
14 advisory board to be composed of—

15 (1) four representatives of agricultural employ-
16 ers to be appointed by the Secretary of Agriculture,
17 including individuals who have experience with the
18 H-2C program; and

19 (2) four representatives of agricultural workers
20 to be appointed by the Secretary of Labor, including
21 individuals who have experience with the H-2C pro-
22 gram,

23 to provide advice to the Comptroller General in the prepa-
24 ration of the reports required under subsection (a).

1 **SEC. 307. EFFECTIVE DATE.**

2 (a) IN GENERAL.—This Act and the amendments
3 made by this Act shall take effect on the date that is 1
4 year after the date of the enactment of this Act.

5 (b) REPORT.—Not later than 180 days after the date
6 of the enactment of this Act, the Secretary shall prepare
7 and submit to the appropriate committees of Congress a
8 report that described the measures being taken and the
9 progress made in implementing this Act.

10 **SEC. 308. TERMINATION OF PROGRAM.**

11 This Act, and the amendments made by this Act,
12 shall cease to be effective on the date that is 3 years after
13 the effective date under section 307(a).

○