To amend the Immigration and Nationality Act to simplify and rename the H–2C worker program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

February 14, 2013

Mr. CRAWFORD (for himself and Mr. AUSTIN SCOTT of Georgia) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Education and the Workforce and Energy and Commerce, 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 amend the Immigration and Nationality Act to simplify and rename the H–2C worker 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.

4 This Act may be cited as the “Short Term Retention
5 for Agricultural Workers Act of 2013”.

6 SEC. 2. IN GENERAL.

7 (a) INCLUSION OF DAIRY OR RANCH WORKERS.—
8 Section 101(a)(15)(H) of the Immigration and Nationality
Act (8 U.S.C. 1101(a)(15)(H)) is amended by inserting “labor on a dairy or ranch and” before “agricultural labor defined in”.

(b) Elimination of 50 Percent Rule.—Section 218(c)(3) of such Act (8 U.S.C. 1188(c)(3)) is amended—

(1) in subparagraph (A), by striking “(A)”; and

(2) by striking subparagraph (B).

(c) Wage Rate.—Section 218(a)(1)(B) of such Act (8 U.S.C. 1188(a)(1)(B)) is amended by striking the period at the end and inserting “, except that no employer shall be required to pay a wage rate greater than the greatest of the Federal, State, and local minimum wage rates.”.

(d) Legal Assistance From the Legal Services Corporation.—Section 218(h) of such Act (8 U.S.C. 1188(h)), as amended by subsection (g), is further amended by adding at the end the following:

“(4)(A) The Legal Services Corporation may not provide legal assistance for, or on behalf of, any alien, and may not provide financial assistance to any person or entity that provides legal assistance for, or on behalf of, any alien, unless—

“(i) the alien is present in the United States at the time the legal assistance is provided; and...
“(ii) the parties to the dispute have attempted, in good faith, mediation or other non-binding dispute resolution of all issues involving all such parties.

“(B) If an employer and a nonimmigrant having status under section 101(a)(15)(H)(ii)(a) have an arbitration arrangement, the Legal Services Corporation shall respect the arbitration process and outcome.

“(C) No employer of a nonimmigrant having status under section 101(a)(15)(H)(ii)(a) shall be required to permit any recipient of a grant or contract under section 1007 of the Legal Services Corporation Act (42 U.S.C. 2996f), or any employee of such a recipient, to enter upon the employer’s property, unless such recipient or employee has a pre-arranged appointment with a specific non-immigrant having such status.”.

(e) LENGTH OF STAY.—Section 218 of such Act (8 U.S.C. 1188) is amended by adding at the end the following:

“(j) LENGTH OF STAY.—A STRAW worker who enters the United States may remain in the United States for a period of not more than 11 months. The STRAW worker may not enter the United States on an additional visa under section 101(a)(15)(H)(ii)(c) unless the STRAW worker first returns to that worker’s country of
origin for a period of not less than 1 month. A STRAW worker may enter and remain in the United States for a total of not more than 3 years.”.

(f) HOUSING.—Section 218(c)(4) of such Act (8 U.S.C. 1188(c)(4)) is amended to read as follows:

“(4) HOUSING.—Except for STRAW workers who are reasonably able to return to their permanent residence (either within or outside the United States) within the same day, the employer will provide housing to STRAW workers through one of the following means:

“(A) Employer-owned housing in accordance with regulations promulgated by the Secretary of Agriculture.

“(B) Rental or public accommodations or other substantially similar class of habitation in accordance with regulations promulgated by the Secretary of Agriculture.

“(C) Except where the Governor of the State has certified that there is inadequate housing available in the area of intended employment for migrant farm workers and STRAW workers seeking temporary housing while employed in agricultural work, the em-
ployer may furnish the worker with a housing voucher in accordance with regulations, if—

“(i) the employer has verified that housing is available for the period during which the work is to be performed, within a reasonable commuting distance of the place of employment, for the amount of the voucher provided, and that the voucher is useable for that housing;

“(ii) upon the request of a worker seeking assistance in locating housing for which the voucher will be accepted, the employer makes a good faith effort to assist the worker in identifying, locating and securing housing in the area of intended employment; and

“(iii) payment for the housing is made with a housing voucher that is only redeemable by the housing owner or their agent.

An employer who provides housing through one of the foregoing means shall not be deemed a housing provider under section 203 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1823) by virtue of providing such housing.”.
(g) **BIOMETRIC IDENTIFICATION CARD.**—The Secretary of Homeland Security shall provide each non-immigrant agricultural worker with an identification card that contains—

(1) an encrypted, machine-readable, electronic identification strip that is unique to the alien to whom the card is issued;

(2) biometric identifiers, including fingerprints and a digital photograph; and

(3) physical security features designed to prevent tampering, counterfeiting, or duplication of the card for fraudulent purposes.

(h) **TRUST FUND.**—

(1) **ESTABLISHMENT.**—The Secretary of Agriculture shall establish by regulation a trust fund the purpose of which is to provide, without further appropriation, funds for the administration and the enforcement of the program under this section, for the cost of the cards issued under subsection (k), for a monetary incentive for nonimmigrant agricultural workers to return to their country of origin upon expiration of their visas under the program, and for payment with respect to emergency medical services furnished to nonimmigrant agricultural workers. The Secretary of Agriculture in consultation with the
Secretary of the Treasury shall promulgate such other regulations as may be necessary to carry out this subsection.

(2) Payment of FICA and FUTA amounts into trust fund.—In the case of employment of a nonimmigrant agricultural worker—

(A) the employer shall provide for payment into the trust fund established under paragraph (1) of the sum of—

(i) an amount equivalent to the amount of excise taxes which the employer would pay under the chapter 21 of the Internal Revenue Code of 1986 with respect to such employment if it were considered employment for the purpose of such Act; and

(ii) an amount equivalent to (and in lieu of) the amount of excise taxes which the employer would otherwise pay under chapter 23 of such Code with respect to such employment; and

(B) there shall be deducted from the wages of the worker and paid into such trust fund an amount equivalent to the amount of excise taxes that the employee would pay under such chap-
ter 21 with respect to such employment if it
were considered employment for the purposes of
such Act.

(3) EXPENDITURES FROM TRUST FUND.—

(A) USE OF EMPLOYER CONTRIBUTIONS
FOR ADMINISTRATION.—Amounts described in
paragraph (2)(A) paid into the trust fund shall
be used for the purpose of administering and
enforcing the program under this section and
for the cost of the cards issued under sub-
section (k).

(B) USE OF EMPLOYEE CONTRIBUTIONS
FOR REPAYMENT OF EMPLOYEE CONTRIBUTIONS UPON RETURN TO COUNTRY OF ORI-
GAN.—Except as provided in subparagraph (C),
amounts described in paragraph (2)(B) paid
into the trust fund with respect to a non-
immigrant agricultural worker shall, upon ap-

dication by the worker at the United States
consulate nearest the worker’s residence in the
country of origin, be paid to the worker if the
worker demonstrates the compliance of the
worker with the terms and conditions of the
program.
(C) Use of Employee Contributions Attributable to HI Taxes for Emergency Medical Services for Nonimmigrant Agricultural Workers.—

(i) In general.—Amounts described in paragraph (2)(B) paid into the trust fund which relate to excise tax in section 3101(b) of the Internal Revenue Code of 1986 shall be used to provide payment with respect to emergency medical services (as defined in clause (iii)) for non-immigrant agricultural workers.

(ii) Administration.—The Secretary of Agriculture shall establish rules, in consultation with the Secretary of Health and Human Services, with respect to the payments under this subparagraph, including methods for determining qualifications for payment and the amount of payment to be made with respect to emergency medical services.

(iii) Emergency Medical Services Defined.—In this subparagraph, the term “emergency medical services” means those items and services required to be provided
under section 1867 of the Social Security Act (42 U.S.C. 1395dd) with respect to an individual who is a nonimmigrant agricultural worker and does not include items and services for which coverage under workers’ compensation is required under subsection (f)(3) with respect to the worker.

(i) **Semiannual Reports to Congress.**—The Secretary of Agriculture shall report to Congress semiannually regarding the program under this section. Each such report shall include a statement of the number of nonimmigrant visas issued under the program, an evaluation of the effectiveness of the program, a description of any problems related to the enforcement of the program, and any recommendations for legislation relating to the program.

(j) **Program Name and Administrator Changed.**—Section 218 of the Immigration and Nationality Act (8 U.S.C. 1188), as amended by this Act, is further amended—

(1) by striking “H–2A worker” each place it appears and inserting “STRAW worker”; and
(2) by striking “Secretary of Labor” each place it appears and inserting “Secretary of Agriculture”.