

105TH CONGRESS
2D SESSION

S. 1698

To amend the Immigration and Nationality Act to create a new nonimmigrant category for temporary agricultural workers admitted pursuant to a labor condition attestation.

IN THE SENATE OF THE UNITED STATES

MARCH 3, 1998

Mr. COVERDELL introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act to create a new nonimmigrant category for temporary agricultural workers admitted pursuant to a labor condition attestation.

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 “Farmers’ Temporary
5 Employment Assistance Act”.

1 **SEC. 2. NEW NONIMMIGRANT H-2C CATEGORY FOR TEM-**
 2 **PORARY AGRICULTURAL WORKERS.**

3 (a) ESTABLISHMENT OF NEW CLASSIFICATION.—
 4 Section 101(a)(15)(H)(ii) of the Immigration and Nation-
 5 ality Act (8 U.S.C. 1101(a)(15)(ii)) is amended—

6 (1) by striking “or (b)” and inserting “(b)”;
 7 and

8 (2) by adding at the end the following: “or (c)
 9 having a residence in a foreign country which he has
 10 no intention of abandoning who is coming tempo-
 11 rarily to the United States pursuant to section 218A
 12 to perform such agricultural labor or services of a
 13 temporary or seasonal nature;”.

14 (b) NO FAMILY MEMBERS PERMITTED.—Section
 15 101(a)(15)(H) (8 U.S.C. 1101(a)(15)(H)) is amended by
 16 striking “specified in this paragraph” and inserting “spec-
 17 ified in this subparagraph (other than in clause (ii)(c))”.

18 **SEC. 3. ALTERNATIVE AGRICULTURAL TEMPORARY WORK-**
 19 **ER PROCESS USING ATTESTATIONS.**

20 (a) IN GENERAL.—The Immigration and Nationality
 21 Act is amended by inserting after section 218 the follow-
 22 ing:

23 “ALTERNATIVE AGRICULTURAL TEMPORARY WORKER
 24 PROGRAM

25 “SEC. 218A. (a) CONDITION FOR THE EMPLOYMENT
 26 OF H-2C ALIENS.—

1 “(1) IN GENERAL.—No alien may be admitted
2 or provided status as an H–2C alien (as defined in
3 subsection (n)(4)) unless—

4 “(A) the employment of the alien is cov-
5 ered by a currently valid labor condition attes-
6 tation which—

7 “(i) is filed by the employer, or by an
8 association on behalf of the employer, for
9 the occupation in which the alien will be
10 employed;

11 “(ii) has been accepted by the State
12 employment security agency having juris-
13 diction over the area of intended employ-
14 ment; and

15 “(iii) states each of the items de-
16 scribed in paragraph (2) and includes in-
17 formation identifying the employer or asso-
18 ciation and agricultural job opportunities
19 involved;

20 “(B) the employer is not disqualified from
21 employing H–2C aliens pursuant to subsection
22 (h); and

23 “(C) the employer has not, during the past
24 2 years, been found by the Attorney General to
25 have employed any aliens in violation of section

1 274A(a), including aliens admitted pursuant to
2 this section.

3 “(2) CONTENTS OF LABOR CONDITION ATTES-
4 TATION.—Each labor condition attestation filed by,
5 or on behalf of, an employer shall include the follow-
6 ing:

7 “(A) WAGE RATE.—The employer will pay
8 H-2C aliens and all other workers in the occu-
9 pation not less than the prevailing wage for
10 similarly employed workers in the area of em-
11 ployment, and not less than the applicable Fed-
12 eral, State or local statutory minimum wage.

13 “(B) WORKING CONDITIONS.—The em-
14 ployment of H-2C aliens will not adversely af-
15 fect the working conditions of similarly em-
16 ployed workers in the area of employment.

17 “(C) LIMITATION ON EMPLOYMENT.—An
18 H-2C alien will not be employed in any job op-
19 portunity which is not temporary or seasonal,
20 and will not be employed by the employer in
21 any job opportunity for more than 10 months
22 in any 12-consecutive-month period.

23 “(D) NO LABOR DISPUTE.—No H-2C
24 alien will be employed in any job opportunity
25 which is vacant because its former occupant is

1 involved in a strike, lockout or work stoppage
2 in the course of a labor dispute in the occupa-
3 tion at the place of employment.

4 “(E) NOTICE.—The employer, at the time
5 of filing the attestation, has provided notice of
6 the attestation to workers employed in the occu-
7 pation in which H-2C aliens will be employed.

8 “(F) JOB ORDERS.—The employer will file
9 one or more job orders for the occupation (or
10 occupations) covered by the attestation with the
11 State employment security agency no later than
12 the day on which the employer first employs
13 any H-2C aliens in the occupation.

14 “(G) PREFERENCE TO DOMESTIC WORK-
15 ERS.—The employer will give preference to
16 able, willing, and qualified United States work-
17 ers who apply to the employer and are available
18 at the time and place needed, for the first 25
19 days after the filing of the job order in an occu-
20 pation or until 5 days before the date employ-
21 ment of workers in the occupation begins,
22 whichever occurs later.

23 “(3) GENERAL ACCOUNTING OFFICE RE-
24 PORTS.—Beginning 1 year after the effective date of
25 this section, and annually thereafter, the Control-

1 ler General shall prepare and transmit to the Con-
2 gress a report describing the results of a review of
3 the implementation and enforcement of this section
4 during the preceding 12-month period, for the pur-
5 pose of determining if—

6 “(A) such provisions have been carried out
7 satisfactorily;

8 “(B) the program has ensured an adequate
9 and timely supply of qualified, eligible workers
10 at the time and place needed for employers;

11 “(C) the program has ensured that imple-
12 mentation of the program is not displacing
13 United States agricultural workers or diminish-
14 ing the terms and conditions of employment of
15 United States agricultural workers; and

16 “(D) an unnecessary regulatory burden
17 has been created for employers hiring workers
18 admitted under this section.

19 “(b) FILING A LABOR CONDITION ATTESTATION.—

20 “(1) FILING BY EMPLOYERS.—Any employer in
21 the United States is eligible to file a labor condition
22 attestation.

23 “(2) FILING BY ASSOCIATIONS ON BEHALF OF
24 EMPLOYER MEMBERS.—An agricultural association
25 may file a labor condition attestation as an agent on

1 behalf of its members. Such an attestation filed by
2 an agricultural association acting as an agent for its
3 members, when accepted, shall apply to those em-
4 ployer members of the association that the associa-
5 tion certifies to the State employment security agen-
6 cy are members of the association and have agreed
7 in writing to comply with the requirements of this
8 section.

9 “(3) PERIOD OF VALIDITY.—A labor condition
10 attestation is valid from the date on which it is ac-
11 cepted by the State employment security agency for
12 the period of time requested by the employer, but
13 not to exceed 12 months.

14 “(4) WHERE TO FILE.—A labor condition attes-
15 tation shall be filed with the State employment secu-
16 rity agency having jurisdiction over the area of in-
17 tended employment of the workers covered by the at-
18 testation. If an employer, or the members of an as-
19 sociation of employers, will be employing workers in
20 an area or areas covered by more than one such
21 agency, the attestation shall be filed with each such
22 agency having jurisdiction over an area where the
23 workers will be employed.

24 “(5) DEADLINE FOR FILING.—A labor condi-
25 tion attestation may be filed at any time up to 12

1 months prior to the date of the employer's antici-
2 pated need for workers in the occupation (or occupa-
3 tions) covered by the attestation.

4 “(6) FILING FOR MULTIPLE OCCUPATIONS.—A
5 labor condition attestation may be filed for one or
6 more occupations and cover one or more periods of
7 employment.

8 “(7) MAINTAINING REQUIRED DOCUMENTA-
9 TION.—

10 “(A) BY EMPLOYERS.—Each employer cov-
11 ered by an accepted labor condition attestation
12 must maintain a file of the documentation re-
13 quired in subsection (c) for each occupation in-
14 cluded in an accepted attestation covering the
15 employer. The documentation shall be retained
16 for a period of one year following the expiration
17 of an accepted attestation. The employer shall
18 make the documentation available to represent-
19 atives of the Secretary during normal business
20 hours.

21 “(B) BY ASSOCIATIONS.—In complying
22 with subparagraph (A), documentation main-
23 tained by an association filing a labor condition
24 attestation on behalf of an employer shall be
25 deemed to be maintained by the employer.

1 “(8) WITHDRAWAL.—

2 “(A) COMPLIANCE WITH ATTESTATION OB-
3 LIGATIONS.—An employer covered by an ac-
4 cepted labor condition attestation for an occu-
5 pation shall comply with the terms and condi-
6 tions of the attestation from the date the attes-
7 tation is accepted and continuing throughout
8 the period any persons are employed in an occu-
9 pation covered by such an accepted attestation,
10 whether or not H-2C aliens are employed in the
11 occupation, unless the attestation is withdrawn.

12 “(B) TERMINATION OF OBLIGATIONS.—An
13 employer may withdraw a labor condition attes-
14 tation in total, or with respect to a particular
15 occupation covered by the attestation. An asso-
16 ciation may withdraw such an attestation with
17 respect to one or more of its members. To with-
18 draw an attestation the employer or association
19 must notify in writing the State employment se-
20 curity agency office with which the attestation
21 was filed of the withdrawal of the attestation.
22 An employer who withdraws an attestation, or
23 on whose behalf an attestation is withdrawn by
24 an association, is relieved of the obligations un-
25 dertaken in the attestation with respect to the

1 occupation (or occupations) with respect to
2 which the attestation was withdrawn, upon ac-
3 knowledgement by the appropriate State em-
4 ployment security agency of receipt of the with-
5 drawal notice. An attestation may not be with-
6 drawn with respect to any occupation while any
7 H-2C aliens covered by that attestation is em-
8 ployed in the occupation.

9 “(C) OBLIGATIONS UNDER OTHER STAT-
10 UTES.—Any obligation incurred by the em-
11 ployer under any other law or regulation as a
12 result of recruitment of United States workers
13 under an offer of terms and conditions of em-
14 ployment required by the H-2C program is un-
15 affected by withdrawal of a labor condition at-
16 testation.

17 “(c) EMPLOYER RESPONSIBILITIES AND REQUIRE-
18 MENTS FOR EMPLOYING H-2C NONIMMIGRANTS.—

19 “(1) REQUIREMENT TO PAY THE PREVAILING
20 WAGE.—

21 “(A) EFFECT OF THE ATTESTATION.—
22 Employers shall pay each worker in an occupa-
23 tion covered by an accepted labor condition at-
24 testation at least the prevailing wage in the oc-
25 cupation in the area of intended employment.

1 The preceding sentence does not require em-
2 ployers to pay all workers in the occupation the
3 same wage. The employer may, in the sole dis-
4 cretion of the employer, maintain pay differen-
5 tials based on experience, tenure with the em-
6 ployer, skill, or any other work-related factor, if
7 the differential is not based on a criterion for
8 which discrimination is prohibited by the law
9 and all workers in the covered occupation re-
10 ceive at least the prevailing wage.

11 “(B) PAYMENT OF STATE EMPLOYMENT
12 SECURITY AGENCY DETERMINED WAGE SUFFI-
13 CIENT.—The employer may request and obtain
14 a prevailing wage determination from the State
15 employment security agency. If the employer re-
16 quests such a determination, and pays the wage
17 determined, such payment shall be considered
18 sufficient to meet the requirement of this para-
19 graph if the H-2C workers—

20 “(i) are employed in the occupation
21 for which the employer possesses an ac-
22 cepted labor condition attestation, and for
23 which the employer or association pos-
24 sesses a prevailing wage determination by
25 the State employment security agency, and

1 “(ii) are being paid at least the pre-
2 vailing wage so determined.

3 “(C) RELIANCE ON WAGE SURVEY.—In
4 lieu of the procedures of subparagraph (B), an
5 employer may rely on other information, such
6 as an employer generated prevailing wage sur-
7 vey and determination, which meets criteria
8 specified by the Secretary by regulation. In the
9 event of a complaint that the employer has
10 failed to pay the required wage, the Secretary
11 shall investigate to determine if the information
12 upon which the employer relied complied with
13 the criteria for prevailing wage determinations.

14 “(D) ALTERNATE METHODS OF PAYMENT
15 PERMITTED.—

16 “(i) IN GENERAL.—A prevailing wage
17 may be expressed as an hourly wage, a
18 piece rate, a task rate (described in clause
19 (ii)), or other incentive pay system, includ-
20 ing a group rate (described in clause (iii)).
21 The requirement to pay at least the pre-
22 vailing wage in the occupation and area of
23 intended employment does not require an
24 employer to pay by the method of pay in
25 which the prevailing rate is expressed.

1 However, if the employer adopts a method
2 of pay other than the prevailing rate, the
3 burden of proof is on the employer to dem-
4 onstrate that the employer's method of pay
5 is designed to produce earnings equivalent
6 to the earnings that would result from pay-
7 ment of the prevailing rate.

8 “(ii) TASK RATE.—For purposes of
9 this subparagraph, a task rate is an incen-
10 tive payment based on a unit of work per-
11 formed such that the incentive rate varies
12 with the level of effort required to perform
13 individual units of work.

14 “(iii) GROUP RATE.—For purposes of
15 this subparagraph, a group rate is an in-
16 centive payment system in which the pay-
17 ment is shared among a group of workers
18 working together to perform the task.

19 “(E) REQUIRED DOCUMENTATION.—The
20 employer or association shall document compli-
21 ance with this paragraph by retaining on file
22 the employer or association's request for a de-
23 termination by a State employment security
24 agency and the prevailing wage determination
25 received from such agency or other information

1 upon which the employer or association relied to
2 assure compliance with the prevailing wage re-
3 quirement.

4 “(2) REQUIREMENT TO PROVIDE HOUSING AND
5 TRANSPORTATION.—

6 “(A) EFFECT OF THE ATTESTATION.—The
7 employment of H-2C aliens shall not adversely
8 affect the working conditions of United States
9 workers similarly employed in the area of in-
10 tended employment. The employer’s obligation
11 not to adversely affect working conditions shall
12 continue for the duration of the period of em-
13 ployment by the employer of any H-2C aliens
14 in the occupation and area of intended employ-
15 ment. An employer will be deemed to be in com-
16 pliance with this attestation if the employer of-
17 fers at least the benefits required by subpara-
18 graphs (B) through (D). The previous sentence
19 does not require an employer to offer more than
20 such benefits.

21 “(B) HOUSING REQUIRED.—

22 “(i) HOUSING OFFER.—The employer
23 must offer to H-2C aliens and United
24 States workers recruited from beyond nor-
25 mal recruiting distance housing, or a hous-

1 ing allowance, if it is prevailing practice in
2 the occupation and area of intended em-
3 ployment to offer housing or a housing al-
4 lowance to workers who are recruited from
5 beyond normal commuting distance.

6 “(ii) HOUSING STANDARDS.—If the
7 employer offers housing to such workers,
8 the housing shall meet (at the option of
9 the employer) applicable Federal farm
10 labor housing standards or applicable local
11 or State standards for rental, public ac-
12 commodation, or other substantially simi-
13 lar class of habitation.

14 “(iii) CHARGES FOR HOUSING.—An
15 employer who offers housing to such work-
16 ers may charge an amount equal to the
17 fair market value (but not greater than the
18 employer’s actual cost) for utilities and
19 maintenance, or such lesser amount as per-
20 mitted by law.

21 “(iv) HOUSING ALLOWANCE AS AL-
22 TERNATIVE.—In lieu of offering housing to
23 such workers, at the employer’s sole discre-
24 tion on an individual basis, the employer
25 may provide a reasonable housing allow-

1 ance. An employer who offers a housing al-
2 lowance to such a worker under this sub-
3 paragraph shall not be deemed to be a
4 housing provider under section 203 of the
5 Migrant and Seasonal Agricultural Worker
6 Protection Act (29 U.S.C. 1823) merely by
7 virtue of providing such housing allowance.

8 “(v) SECURITY DEPOSIT.—The re-
9 quirement, if any, to offer housing to such
10 a worker under this subparagraph shall
11 not preclude an employer from requiring a
12 reasonable deposit to protect against gross
13 negligence or willful destruction of prop-
14 erty, as a condition for providing such
15 housing.

16 “(vi) DAMAGES.—An employer who
17 offers housing to such a worker shall not
18 be precluded from requiring a worker
19 found to have been responsible for damage
20 to such housing which is not the result of
21 normal wear and tear related to habitation
22 to reimburse the employer for the reason-
23 able cost of repair of such damage.

24 “(C) TRANSPORTATION.—If the employer
25 provides transportation arrangements or assist-

1 ance to H-2C aliens, the employer must offer
2 to provide the same transportation arrange-
3 ments or assistance (generally comparable in
4 expense and scope) for other individuals em-
5 ployed by the employer in the occupation at the
6 place of employment who were recruited from
7 beyond normal commuting distance.

8 “(D) WORKERS’ COMPENSATION.—If the
9 employment covered by a labor condition attes-
10 tation is not covered by the State workers’ com-
11 pensation law, the employer must provide, at no
12 cost to the worker, insurance covering injury
13 and disease arising out of and in the course of
14 the workers’ employment which will provide
15 benefits at least equal to those provided under
16 the State workers’ compensation law for com-
17 parable employment.

18 “(E) REQUIRED DOCUMENTATION.—

19 “(i) HOUSING AND TRANSPOR-
20 TATION.—No specific documentation is re-
21 quired to be maintained to evidence com-
22 pliance with the requirements of subpara-
23 graphs (B) and (C). In the event of a com-
24 plaint alleging a failure to comply with
25 such a requirement, the burden of proof

1 shall be on the employer to show that the
 2 employer offered the required benefit to
 3 the complainant, or that the employer was
 4 not required by the terms of this para-
 5 graph to offer such benefit to the com-
 6 plainant.

7 “(ii) WORKERS’ COMPENSATION.—

8 The employer shall maintain copies of cer-
 9 tificates of insurance evidencing compli-
 10 ance with subparagraph (D) throughout
 11 the period of validity of the labor condition
 12 attestation.

13 “(3) REQUIREMENT TO EMPLOY ALIENS IN

14 TEMPORARY OR SEASONAL AGRICULTURAL JOB OP-
 15 PORTUNITIES.—

16 “(A) LIMITATIONS.—

17 “(i) IN GENERAL.—The employer may
 18 employ H-2C aliens only in agricultural
 19 employment which is temporary or sea-
 20 sonal.

21 “(ii) SEASONAL BASIS.—For purposes
 22 of this section, labor is performed on a sea-
 23 sonal basis where, ordinarily, the employ-
 24 ment pertains to or is of the kind exclu-
 25 sively performed at certain seasons or peri-

1 ods of the year and which, from its nature,
 2 may not be continuous or carried on
 3 throughout the year.

4 “(iii) TEMPORARY BASIS.—For pur-
 5 poses of this section, a worker is employed
 6 on a temporary basis where the employ-
 7 ment is intended not to exceed 10 months.

8 “(B) REQUIRED DOCUMENTATION.—No
 9 specific documentation is required to dem-
 10 onstrate compliance with the requirement of
 11 subparagraph (A). In the event of a complaint,
 12 the burden of proof shall fall on the employer
 13 to show that the employment meets such re-
 14 quirement.

15 “(4) REQUIREMENT NOT TO EMPLOY ALIENS IN
 16 JOB OPPORTUNITIES VACANT BECAUSE OF A LABOR
 17 DISPUTE.—

18 “(A) IN GENERAL.—No H-2C alien may
 19 be employed in any job opportunity which is va-
 20 cant because its former occupant is involved in
 21 a strike, lockout, or work stoppage in the
 22 course of a labor dispute in the occupation at
 23 the place of employment.

24 “(B) REQUIRED DOCUMENTATION.—No
 25 specific documentation is required to dem-

1 onstrate compliance with the requirement of
 2 subparagraph (A). In the event of a complaint,
 3 the burden of proof shall fall on the employer
 4 to show that the job opportunity in which the
 5 H-2C alien was employed was not vacant be-
 6 cause the former occupant was on strike, locked
 7 out, or participating in a work stoppage in the
 8 course of a labor dispute in the occupation at
 9 the place of employment.

10 “(5) NOTICE OF FILING OF LABOR CONDITION
 11 ATTESTATION AND SUPPORTING DOCUMENTATION.—

12 “(A) IN GENERAL.—The employer shall—

13 “(i) provide notice of the filing of a
 14 labor condition attestation to the appro-
 15 priate certified bargaining agent (if any)
 16 which represents workers of the employer
 17 in the occupation (or occupations) at the
 18 place of employment covered by the attes-
 19 tation; or

20 “(ii) in the case where no such bar-
 21 gaining agent exists, post notice of the fil-
 22 ing of such an attestation in at least two
 23 conspicuous locations where applications
 24 for employment are accepted.

1 “(B) PERIOD FOR POSTING.—The require-
 2 ment for a posting under subparagraph (A)(ii)
 3 begins on the day the attestation is filed, and
 4 continues through the period during which the
 5 employer’s job order is required to remain ac-
 6 tive pursuant to paragraph (6)(A).

7 “(C) REQUIRED DOCUMENTATION.—The
 8 employer shall maintain a copy of the notice
 9 provided to the bargaining agent (if any), to-
 10 gether with evidence that the notice was pro-
 11 vided (such as a signed receipt of evidence of
 12 attempt to send the notice by certified or reg-
 13 istered mail). In the case where no certified
 14 bargaining agent described in subparagraph
 15 (A)(i) exists, the employer shall retain a copy of
 16 the posted notice, together with information as
 17 to the dates and locations where the notice was
 18 displayed.

19 “(6) REQUIREMENT TO FILE A JOB ORDER.—

20 “(A) EFFECT OF THE ATTESTATION.—The
 21 employer, or an association acting as agent for
 22 its members, shall file the information nec-
 23 essary to complete a local job order for each oc-
 24 cupation covered by an accepted labor condition
 25 attestation with the appropriate local office of

1 the State employment security agency having
2 jurisdiction over the area of intended employ-
3 ment, or with the State office of such an agency
4 if workers will be employed in an area within
5 the jurisdiction of more than one local office of
6 such an agency. The job orders shall remain on
7 file for 25 calendar days or until 5 calendar
8 days before the anticipated date of need for
9 workers in the occupation covered by the job
10 order, whichever occurs later. The job order
11 shall provide at least the minimum terms and
12 conditions of employment required for partici-
13 pation in the H-2C program.

14 “(B) DEADLINE FOR FILING.—A job order
15 shall be filed under subparagraph (A) no later
16 than the date on which the employer files a pe-
17 tition with the Attorney General for admission
18 or extension of stay for aliens to be employed
19 in the occupation for which the order is filed.

20 “(C) REQUIRED DOCUMENTATION.—The
21 office of the State employment security agency
22 which the employer or association provides with
23 information necessary to file a local job order
24 shall provide the employer with evidence that
25 the information was provided in a timely man-

ner as required by this paragraph, and the employer or association shall retain such evidence for each occupation in which H-2C aliens are employed.

“(7) REQUIREMENT TO GIVE PREFERENCE TO QUALIFIED UNITED STATES WORKERS.—

“(A) FILING 30 DAYS OR MORE BEFORE DATE OF NEED.—If a job order is filed 30 days or more before the anticipated date of need for workers in an occupation covered by a labor condition attestation and for which the job order has been filed, the employer shall offer to employ able, willing, and qualified United States workers who apply to the employer and who will be available at the time and place needed for the job opportunities covered by the attestation until 5 calendar days before the anticipated date of need for workers in the occupation, or until the employer’s job opportunities in the occupation are filled with qualified United States workers, if that occurs more than 5 days before the anticipated date of need for workers in the occupation.

“(B) FILING FEWER THAN 30 DAYS BEFORE DATE OF NEED.—If a job order is filed

1 fewer than 30 days before the anticipated date
2 of need for workers in an occupation covered by
3 such an attestation and for which a job order
4 has been filed, the employer shall offer to em-
5 ploy able, willing, and qualified United States
6 workers who are or will be available at the time
7 and place needed during the first 25 days after
8 the job order is filed or until the employer's job
9 opportunities in the occupation are filled with
10 United States workers, whichever occurs earlier,
11 regardless of whether any of the job opportuni-
12 ties may already be occupied by H-2C aliens.

13 “(C) FILING VACANCIES.—An employer
14 may fill a job opportunity in an occupation cov-
15 ered by an accepted labor condition attestation
16 which remains or becomes vacant after expira-
17 tion of the required preference period specified
18 in subparagraph (A) or (B) of paragraph (6)
19 without regard to such preference.

20 “(D) JOB-RELATED REQUIREMENTS.—No
21 employer shall be required to initially employ a
22 worker who fails to meet lawful job-related em-
23 ployment criteria, nor to continue the employ-
24 ment of a worker who fails to meet lawful job-
25 related standards of conduct and performance,

1 including failure to meet minimum productivity
2 standards after a 3-day break-in period.

3 “(E) REQUIRED DOCUMENTATION.—No
4 specific documentation is required to dem-
5 onstrate compliance with the requirements of
6 this paragraph. In the event of a complaint, the
7 burden of proof shall be on the complainant to
8 show that the complainant applied for the job
9 and was available at the time and place needed.
10 If the complainant makes such a showing, the
11 burden of proof shall be on the employer to
12 show that the complainant was not qualified or
13 that the preference period had expired.

14 “(d) REQUIREMENTS OF NOTICE OF CERTAIN
15 BREAKS IN EMPLOYMENT.—

16 “(1) IN GENERAL.—The employer (or the asso-
17 ciation acting as agent for the employer) shall notify
18 the Attorney General within 7 days if an H-2C alien
19 prematurely abandons the alien’s employment.

20 “(2) OUT-OF-STATUS.—An H-2C alien who
21 abandons the alien’s employment shall be considered
22 to have failed to maintain nonimmigrant status as
23 an alien described in section 101(a)(15)(H)(ii)(c)
24 and shall leave the United States or be subject to
25 deportation under section 237(a)(1)(C)(i).

1 “(e) ACCEPTANCE BY STATE EMPLOYMENT SECUR-
 2 RITY AGENCY.—The State employment security agency
 3 shall review labor condition attestations submitted by em-
 4 ployers or associations pursuant to this section only for
 5 completeness and obvious inaccuracies. Unless such an
 6 agency finds that the application is incomplete or obvi-
 7 ously inaccurate, the agency shall accept the attestation
 8 within 7 days of the date of filing of the attestation, and
 9 return a copy to the applicant marked ‘accepted’.

10 “(f) PUBLIC REGISTRY.—The Secretary shall main-
 11 tain a registry of all accepted labor condition attestations
 12 and make such registry available for public inspection.

13 “(g) RESPONSIBILITIES OF STATE EMPLOYMENT SE-
 14 CURITY AGENCIES.—

15 “(1) DISSEMINATION OF LABOR MARKET IN-
 16 FORMATION.—The Secretary shall direct State em-
 17 ployment security agencies to disseminate non-
 18 employer-specific information about potential labor
 19 needs based on accepted attestations filed by em-
 20 ployers. Such dissemination shall be separate from
 21 the clearance of job orders through the Interstate
 22 and Intrastate Clearance Systems, and shall create
 23 no obligations for employers except as provided in
 24 this section.

1 “(2) REFERRAL OF WORKERS ON STATE EM-
2 PLOYMENT SECURITY AGENCY JOB ORDERS.—Such
3 agencies holding job orders filed by employers cov-
4 ered by approved labor condition attestations shall
5 be authorized to refer any able, willing, and qualified
6 eligible job applicant who will be available at the
7 time and place needed and who is authorized to
8 work in the United States, including H-2C aliens
9 who are seeking additional work in the United
10 States and whose eligibility to remain in the United
11 States pursuant to subsection (i) has not expired, on
12 job orders filed by holders of accepted attestations.

13 “(h) ENFORCEMENT AND PENALTIES.—

14 “(1) ENFORCEMENT AUTHORITY.—

15 “(A) INVESTIGATION OF COMPLAINTS.—

16 The Secretary shall establish a process for the
17 receipt, investigation, and disposition of com-
18 plaints respecting an employer’s failure to meet
19 a condition specified in subsection (a) or an em-
20 ployer’s misrepresentation of material facts in
21 such an application. Complaints may be filed by
22 any aggrieved person or organizations (includ-
23 ing bargaining representatives). No investiga-
24 tion or hearing shall be conducted on a com-
25 plaint concerning such a failure or misrepresen-

1 tation unless the complaint was filed not later
2 than two years after the date of the failure or
3 misrepresentation, respectively. The Secretary
4 shall conduct an investigation under this sub-
5 paragraph if there is reasonable cause to believe
6 that such a failure or misrepresentation has oc-
7 curred.

8 “(B) WRITTEN NOTICE OF FINDINGS AND
9 OPPORTUNITY FOR APPEAL.—After an inves-
10 tigation has been conducted, the Secretary shall
11 issue a written determination as to whether or
12 not any violation described in subparagraph (A)
13 has been committed. The Secretary’s deter-
14 mination shall be served on the complainant
15 and the employer, and shall provide an oppor-
16 tunity for an appeal of the Secretary’s decision
17 to an administrative law judge, who may con-
18 duct a de novo hearing.

19 “(2) REMEDIES.—

20 “(A) BACK WAGES.—Upon a final deter-
21 mination that the employer has failed to pay
22 wages as required under this section, the Sec-
23 retary may assess payment of back wages due
24 to any United States worker or H-2C alien em-
25 ployed by the employer in the specific employ-

ment in question. The back wages shall be equal to the difference between the amount that should have been paid and the amount that actually was paid to such worker.

“(B) FAILURE TO PAY WAGES.—Upon a final determination that the employer has failed to pay the wages required under this section, the Secretary may assess a civil money penalty up to \$1,000 for each failure, and may recommend to the Attorney General the disqualification of the employer from the employment of H-2C aliens for a period of time determined by the Secretary not to exceed 1 year.

“(C) OTHER VIOLATIONS.—If the Secretary, as a result of an investigation pursuant to a complaint, determines that an employer covered by an accepted labor condition attestation has—

“(i) filed an attestation which misrepresents a material fact; or

“(ii) failed to meet a condition specified in subsection (a),

the Secretary may assess a civil money penalty not to exceed \$1,000 for each violation. In determining the amount of civil money penalty to

1 be assessed, the Secretary shall consider the se-
 2 riousness of the violation, the good faith of the
 3 employer, the size of the business of the em-
 4 ployer being charged, the history of previous
 5 violations by the employer, whether the em-
 6 ployer obtained a financial gain from the viola-
 7 tion, whether the violation was willful, and
 8 other relevant factors.

9 “(D) PROGRAM DISQUALIFICATION.—

10 “(i) 3-YEARS FOR SECOND VIOLA-
 11 TION.—Upon a second final determination
 12 that an employer has failed to pay the
 13 wages required under this section, the Sec-
 14 retary shall report such determination to
 15 the Attorney General and the Attorney
 16 General shall disqualify the employer from
 17 the employment of H-2C aliens for a pe-
 18 riod of 3 years.

19 “(ii) PERMANENT FOR THIRD VIOLA-
 20 TION.—Upon a third final determination
 21 that an employer has failed to pay the
 22 wages required under this section, the Sec-
 23 retary shall report such determination to
 24 the Attorney General and the Attorney
 25 General shall disqualify the employer from

1 any subsequent employment of H-2C
2 aliens.

3 “(3) ROLE OF ASSOCIATIONS.—

4 “(A) VIOLATION BY A MEMBER OF AN AS-
5 SOCIATION.—An employer on whose behalf a
6 labor condition attestation is filed by an asso-
7 ciation acting as its agent is fully responsible
8 for such attestation, and for complying with the
9 terms and conditions of this section, as though
10 the employer had filed the attestation itself. If
11 such an employer is determined to have violated
12 a requirement of this section, the penalty for
13 such violation shall be assessed against the em-
14 ployer who committed the violation and not
15 against the association or other members of the
16 association.

17 “(B) VIOLATION BY AN ASSOCIATION ACT-
18 ING AS AN EMPLOYER.—If an association filing
19 a labor condition attestation on its own behalf
20 as an employer is determined to have commit-
21 ted a violation under this subsection which re-
22 sults in disqualification from the program under
23 paragraph (2)(D), no individual member of
24 such association may be the beneficiary of the
25 services of an H-2C alien in an occupation in

1 which such alien was employed by the associa-
2 tion during the period such disqualification is in
3 effect, unless such member files a labor condi-
4 tion attestation as an individual employer or
5 such an attestation is filed on the employer's
6 behalf by an association with which the em-
7 ployer has an agreement that the employer will
8 comply with the requirements of this section.

9 “(i) PROCEDURE FOR ADMISSION OR EXTENSION OF
10 H-2C ALIENS.—

11 “(1) ALIENS WHO ARE OUTSIDE THE UNITED
12 STATES.—

13 “(A) PETITIONING FOR ADMISSION.—An
14 employer or an association acting as agent for
15 its members who seeks the admission into the
16 United States of H-2C aliens may file a peti-
17 tion with the District Director of the Immigra-
18 tion and Naturalization Service having jurisdic-
19 tion over the location where the aliens will be
20 employed. The petition shall be accompanied by
21 an accepted and currently valid labor condition
22 attestation covering the petitioner. The petition
23 may be for named or unnamed individual or
24 multiple beneficiaries.

1 “(B) EXPEDITED ADJUDICATION BY DIS-
2 TRICT DIRECTOR.—If an employer’s petition for
3 admission of H–2C aliens is correctly filled out,
4 and the employer is not ineligible to employ H–
5 2C aliens, the District Director (or the Direc-
6 tor’s designee) shall approve the petition within
7 3 working days of receipt of the petition and
8 accepted labor condition attestation and imme-
9 diately (by fax, cable, or other means assuring
10 expedited delivery) transmit a copy of the ap-
11 proved petition to the petitioner and to the ap-
12 propriate immigration officer at the port of
13 entry or United States consulate (as the case
14 may be) where the petitioner has indicated that
15 the alien beneficiary (or beneficiaries) will apply
16 for a visa or admission to the United States.

17 “(C) UNNAMED BENEFICIARIES SELECTED
18 BY PETITIONER.—The petitioning employer or
19 association or its representative shall approve
20 the issuance of visas to beneficiaries who are
21 unnamed on a petition for admission granted to
22 the employer or association.

23 “(D) CRITERIA FOR ADMISSIBILITY.—

24 “(i) IN GENERAL.—An alien shall be
25 admissible under this section if the alien is

1 otherwise admissible under this Act and
2 the alien is not debarred pursuant to the
3 provisions of clause (ii).

4 “(ii) DISQUALIFICATION.—An alien
5 shall be debarred from admission or being
6 provided status as an H-2C alien under
7 this section if the alien has, at any time
8 during the past 5 years—

9 “(I) violated a material provision
10 of this section, including the require-
11 ment to promptly depart the United
12 States when the alien’s authorized pe-
13 riod of admission under this section
14 has expired; or

15 “(II) otherwise violated a term or
16 condition of admission to the United
17 States as a nonimmigrant, including
18 overstaying the period of authorized
19 admission as such a nonimmigrant.

20 “(E) PERIOD OF ADMISSION.—The alien
21 shall be admitted for the period requested by
22 the petitioner not to exceed 10 months, or the
23 remaining validity period of the petitioner’s ap-
24 proved labor condition attestation, whichever is
25 less, plus an additional period of 14 days, dur-

1 ing which the alien shall seek authorized em-
2 ployment in the United States. During the 14-
3 day period following the expiration of the alien's
4 work authorization, the alien is not authorized
5 to be employed unless the original petitioner or
6 a subsequent petitioner has filed an extension
7 of stay on behalf of the alien pursuant to para-
8 graph (2).

9 “(F) ISSUANCE OF IDENTIFICATION AND
10 EMPLOYMENT ELIGIBILITY DOCUMENT.—

11 “(i) IN GENERAL.—The Attorney
12 General shall cause to be issued to each
13 H-2C alien a card in a form which is re-
14 sistant to counterfeiting and tampering for
15 the purpose of providing proof of identity
16 and employment eligibility under section
17 274A.

18 “(ii) DESIGN OF CARD.—Each card
19 issued pursuant to clause (i) shall be de-
20 signed in such a manner and contain a
21 photograph and other identifying informa-
22 tion (such as date of birth, sex, and distin-
23 guishing marks) that would allow an em-
24 ployer to determine with reasonable cer-

1 tainty that the bearer is not claiming the
2 identity of another individual, and shall—

3 “(I) contain a fingerprint or
4 other biometric identifying data (or
5 both);

6 “(II) specify the date of the
7 alien’s authorization as an H-2C
8 alien;

9 “(III) specify the expiration date
10 of the alien’s work authorization; and

11 “(IV) specify the alien’s admis-
12 sion number or alien file number.

13 “(2) EXTENSION OF STAY.—

14 “(A) APPLICATION FOR EXTENSION OF
15 STAY.—If a petitioner seeks to employ an H-2C
16 alien already in the United States, the peti-
17 tioner shall file with the Attorney General an
18 application for an extension of the alien’s stay.
19 The application for extension of stay shall be
20 accompanied by a currently valid labor condi-
21 tion attestation.

22 “(B) LIMITATION ON FILING AN APPLICA-
23 TION FOR EXTENSION OF STAY.—An applica-
24 tion may not be filed for an extension of an
25 alien’s stay for a period of more than 10

1 months, or later than a date which is 2 years
2 from the date of the alien's last admission to
3 the United States as a H-2C alien, whichever
4 occurs first. An application for extension of stay
5 may not be filed during the pendency of an
6 alien's previous authorized period of employ-
7 ment, nor after the alien's authorized stay in
8 the United States has expired.

9 “(C) WORK AUTHORIZATION UPON FILING
10 AN APPLICATION FOR EXTENSION OF STAY.—

11 An employer may begin employing an alien al-
12 ready in the United States in H-2C status on
13 the day the employer files its application for ex-
14 tension of stay. For the purpose of this require-
15 ment, the term ‘filing’ means sending the appli-
16 cation by certified mail via the United States
17 Postal Service, return receipt requested, or de-
18 livered by guaranteed commercial delivery which
19 will provide the employer with a documented ac-
20 knowledgment of the date of sending and re-
21 ceipt of the application. The employer shall pro-
22 vide a copy of the employer's application for ex-
23 tension of stay to the alien, who shall keep the
24 application with the alien's identification and
25 employment eligibility document as evidence

1 that the extension has been filed and that the
2 alien is authorized to work in the United
3 States. Upon approval of an application for ex-
4 tension of stay, the Attorney General shall pro-
5 vide a new or updated employment eligibility
6 document to the alien indicating the new valid-
7 ity date, after which the alien is not required
8 to retain a copy of the application for extension
9 of stay.

10 “(D) LIMITATION ON EMPLOYMENT AU-
11 THORIZATION OF H-2C ALIENS WITHOUT VALID
12 IDENTIFICATION AND EMPLOYMENT ELIGI-
13 BILITY DOCUMENT.—An expired identification
14 and employment eligibility document, together
15 with a copy of an application for extension of
16 stay, shall constitute a valid work authorization
17 document for a period of not more than 60
18 days from the date of application for the exten-
19 sion of stay, after which time only a currently
20 valid identification and employment eligibility
21 document shall be acceptable.

22 “(3) LIMITATION ON AN INDIVIDUAL’S STAY IN
23 H-2C STATUS.—An alien having status as an H-2C
24 alien may not have the status extended for a contin-
25 uous period longer than 2 years unless the alien re-

1 mains outside the United States for an uninter-
 2 rupted period of 6 months. An absence from the
 3 United States may break the continuity of the period
 4 for which an H-2C visa is valid. If the alien has re-
 5 sided in the United States 10 months or less, an ab-
 6 sence breaks the continuity of the period if it lasts
 7 for at least 2 months. If the alien has resided in the
 8 United States 10 months or more, an absence
 9 breaks the continuity of the period if it lasts for at
 10 least one-fifth the duration of the stay.

11 “(j) TRUST FUND TO ASSURE WORKER RETURN.—

12 “(1) ESTABLISHMENT.—There is established in
 13 the Treasury of the United States a trust fund (in
 14 this section referred to as the ‘Trust Fund’) for the
 15 purpose of providing a monetary incentive for H-2C
 16 aliens to return to their country of origin upon expi-
 17 ration of their visas under this section.

18 “(2) WITHHOLDING OF WAGES; PAYMENT INTO
 19 THE TRUST FUND.—

20 “(A) IN GENERAL.—Employers of H-2C
 21 aliens shall—

22 “(i) withhold from the wages of their
 23 H-2C alien workers an amount equivalent
 24 to 25 percent of the wages of each H-2C
 25 alien worker and pay such withheld

1 amount into the Trust Fund in accordance
2 with paragraph (3); and

3 “(ii) pay to the Trust Fund an
4 amount equivalent to the Federal tax on
5 the wages paid to H–2C aliens that the
6 employer would be obligated to pay under
7 the Federal Unemployment Tax Act and
8 the Federal Insurance Contributions Act.

9 Amounts withheld under clause (i) shall be
10 maintained in such interest bearing account
11 with such a financial institution as the Attorney
12 General shall specify.

13 “(3) DISTRIBUTION OF FUNDS.—Amounts paid
14 into the Trust Fund on behalf of a worker, and held
15 pursuant to paragraph (2)(A)(i) and interest earned
16 thereon, shall be paid by the Attorney General to the
17 worker if—

18 “(A) the worker applies to the Attorney
19 General (or the designee of the Attorney Gen-
20 eral) for payment within 30 days of the expira-
21 tion of the alien’s last authorized stay in the
22 United States as a H–2C alien;

23 “(B) in such application the worker estab-
24 lishes that the worker has complied with the
25 terms and conditions of this section; and

1 “(C) in connection with the application,
2 the worker tenders the identification and em-
3 ployment authorization card issued to the work-
4 er pursuant to subsection (i)(1)(F) and estab-
5 lishes that the worker is identified as the per-
6 son to whom the card was issued based on the
7 biometric identification information contained
8 on the card.

9 “(4) ADMINISTRATIVE EXPENSES.—The
10 amounts paid into the Trust Fund and held pursu-
11 ant to paragraph (2)(A)(ii), and interest earned
12 thereon, shall be paid to the Attorney General, the
13 Secretary of Labor, and the Secretary of State in
14 amounts equivalent to the expenses incurred by such
15 officials in the administration of section
16 101(a)(15)(H)(ii)(c) and this section.

17 “(5) REGULATIONS.—The Attorney General
18 shall prescribe regulations to carry out this sub-
19 section.

20 “(k) INVESTMENT OF TRUST FUND.—

21 “(1) IN GENERAL.—It shall be the duty of the
22 Secretary of the Treasury to invest such portion of
23 the Trust Fund as is not, in the Secretary’s judg-
24 ment, required to meet current withdrawals. Such
25 investments may be made only in interest-bearing

1 obligations of the United States or in obligations
2 guaranteed as to both principal and interest by the
3 United States. For such purpose, such obligations
4 may be acquired—

5 “(A) on original issue at the price; or

6 “(B) by purchase of outstanding obliga-
7 tions at the market price.

8 The purposes for which obligations of the United
9 States may be issued under chapter 31 of title 31,
10 United States Code, are hereby extended to author-
11 ize the issuance at par of special obligations exclu-
12 sively to the Trust Fund. Such special obligations
13 shall bear interest at a rate equal to the average
14 rate of interest, computed as to the end of the cal-
15 endar month next preceding the date of such issue,
16 borne by all marketable interest-bearing obligations
17 of the United States then forming a part of the pub-
18 lic debt, except that where such average rate is not
19 a multiple of one-eighth of 1 percent next lower than
20 such average rate. Such special obligations shall be
21 issued only if the Secretary of the Treasury deter-
22 mines that the purchase of other interest-bearing ob-
23 ligations of the United States, or of obligations
24 guaranteed as to both principal and interest by the

1 United States on original issue or at the market
2 price, is not in the public interest.

3 “(2) SALE OF OBLIGATION.—Any obligation ac-
4 quired by the Trust Fund (except special obligations
5 issued exclusively to the Trust Fund) may be sold by
6 the Secretary of the Treasury at the market price,
7 and such special obligations may be redeemed at par
8 plus accrued interest.

9 “(3) CREDITS TO TRUST FUND.—The interest
10 on, and the proceeds from the sale or redemption of,
11 any obligations held in the Trust Fund shall be
12 credited to and form a part of the Trust Fund.

13 “(4) REPORT TO CONGRESS.—It shall be the
14 duty of the Secretary of the Treasury to hold the
15 Trust Fund, and (after consultation with the Attor-
16 ney General) to report to the Congress each year on
17 the financial condition and the results of the oper-
18 ations of the Trust Fund during the preceding fiscal
19 year and on its expected condition and operations
20 during the next fiscal year. Such report shall be
21 printed as both a House and a Senate document of
22 the session of the Congress to which the report is
23 made.

24 “(1) MISCELLANEOUS PROVISIONS.—

1 “(1) APPLICABILITY OF LABOR LAWS.—Except
2 as provided in paragraphs (2), (3), and (4), all Fed-
3 eral, State, and local labor laws (including laws af-
4 fecting migrant farm workers) applicable to United
5 States workers shall also apply to H-2C aliens.

6 “(2) LIMITATION OF WRITTEN DISCLOSURE IM-
7 POSED UPON RECRUITERS.—Any disclosure required
8 of recruiters under section 201(a) of the Migrant
9 and Seasonal Agricultural Worker Protection Act
10 (29 U.S.C. 1821(a)) need not be given to H-2C
11 aliens prior to the time their visa is issued permit-
12 ting entry into the United States.

13 “(3) EXEMPTION FROM FICA AND FUTA
14 TAXES.—The wages paid to H-2C aliens shall be ex-
15 cluded from wages subject to taxation under the
16 Federal Unemployment Tax Act and under the Fed-
17 eral Insurance Contributions Act.

18 “(4) INELIGIBILITY FOR CERTAIN PUBLIC BEN-
19 EFITS PROGRAMS.—

20 “(A) IN GENERAL.—Notwithstanding any
21 other provision of law and except as provided in
22 subparagraph (B), any alien provided status as
23 an H-2C alien shall not be eligible for any Fed-
24 eral or State or local means-tested public bene-
25 fit program.

1 “(B) EXCEPTIONS.—Subparagraph (A)
2 shall not apply to the following:

3 “(i) EMERGENCY MEDICAL SERV-
4 ICES.—The provision of emergency medical
5 services (as defined by the Attorney Gen-
6 eral in consultation with the Secretary of
7 Health and Human Services).

8 “(ii) PUBLIC HEALTH IMMUNIZA-
9 TIONS.—Public health assistance for im-
10 munizations with respect to immunizable
11 diseases and for testing and treatment for
12 communicable diseases.

13 “(iii) SHORT-TERM EMERGENCY DIS-
14 ASTER RELIEF.—The provision of non-
15 cash, in-kind, short-term emergency disas-
16 ter relief.

17 “(m) REGULATIONS.—

18 “(1) REGULATIONS OF THE SECRETARY.—The
19 Secretary shall consult with the Secretary of Agri-
20 culture, and the Attorney General shall approve, all
21 regulations dealing with the approval of labor condi-
22 tion attestations for H-2C aliens and enforcement of
23 the requirements for employing H-2C aliens under
24 an approved attestation. The Secretary shall promul-
25 gate, and the Attorney General shall approve, such

1 regulations not later than 180 days after the date
2 of the enactment of the Farmers' Temporary Em-
3 ployment Assistance Act.

4 “(2) REGULATIONS OF THE ATTORNEY GEN-
5 ERAL.—The Attorney General shall consult with the
6 Secretary of Agriculture on all regulations dealing
7 with the approval of petitions for admission or ex-
8 tension of stay of H-2C aliens and the requirements
9 for employing H-2C aliens and the enforcement of
10 such requirements. The Attorney General shall pro-
11 mulgate such regulations not later than 180 days
12 after the date of the enactment of the Farmers'
13 Temporary Employment Assistance Act.

14 “(n) DEFINITIONS.—For the purpose of this section:

15 “(1) AGRICULTURAL ASSOCIATION.—The term
16 ‘agricultural association’ means any nonprofit or co-
17 operative association of farmers, growers, or ranch-
18 ers incorporated or qualified under applicable State
19 law, which recruits, solicits, hires, employs, fur-
20 nishes, or transports any agricultural workers.

21 “(2) AGRICULTURAL EMPLOYMENT.—The term
22 ‘agricultural employment’ means any service or ac-
23 tivity included within the provisions of section 3(f)
24 of the Fair Labor Standards Act of 1938 (29 U.S.C.
25 203(f)) or section 3121(g) of the Internal Revenue

1 Code of 1986 and the handling, planting, drying,
2 packing, packaging, processing, freezing, or grading
3 prior to delivery for storage of any agricultural or
4 horticultural commodity in its unmanufactured
5 state.

6 “(3) EMPLOYER.—The term ‘employer’ means
7 any person or entity, including any independent con-
8 tractor and any agricultural association, that em-
9 ploys workers.

10 “(4) H-2C ALIEN.—The term ‘H-2C alien’
11 means an alien admitted to the United States or
12 provided status as a nonimmigrant under section
13 101(a)(15)(H)(ii)(c).

14 “(5) SECRETARY.—The term ‘Secretary’ means
15 the Secretary of Labor.

16 “(6) UNITED STATES WORKER.—The term
17 ‘United States worker’ means any worker, whether
18 a United States citizen, a United States national, or
19 an alien, who is legally permitted to work in the job
20 opportunity within the United States other than an
21 alien admitted pursuant to this section.”.

22 (b) CLERICAL AMENDMENT.—The table of contents
23 of the Immigration and Nationality Act is amended by in-

1 inserting after the item relating to section 218 the following

2 new item:

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

○