

118TH CONGRESS
1ST SESSION

S. _____

To grant States the authority to request additional nonimmigrant visas for foreign workers in their respective States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. THUNE (for himself, Ms. KLOBUCHAR, Mr. RICKETTS, and Mr. HICKENLOOPER) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To grant States the authority to request additional non-immigrant visas for foreign workers in their respective States, 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 TITLES.**

4 This Act may be cited as the “State Executive Au-
5 thority for Seasonal Occupations Needing Additional
6 Labor Act” or the “SEASONAL Act”.

1 **SEC. 2. STATE EXEMPTION AUTHORITY FOR SEASONAL OC-**
2 **CUPATIONS NEEDING ADDITIONAL LABOR.**

3 Section 214(g) of the Immigration and Nationality
4 Act (8 U.S.C. 1184(g)) is amended by adding at the end
5 the following:

6 “(12)(A) Notwithstanding the numerical limitation
7 set forth in paragraph (1)(B), the Governor of any State
8 may submit a petition to the Secretary of Homeland Secu-
9 rity and the Secretary of Labor for the issuance of a speci-
10 fied number of supplemental H–2B nonimmigrant visas
11 in a fiscal year for employers based in such State, employ-
12 ers based in such State that have employees who work
13 within a specified Standard Occupational Classification
14 Group (as defined by the Department of Labor), or em-
15 ployers in a specific Economic Development District des-
16 igned by the Economic Development Administration of
17 the Department of Commerce that encompasses any por-
18 tion of such State if—

19 “(i) the number of applications for such visas
20 received from all employers exceeds such numerical
21 limitation for such fiscal year;

22 “(ii) the State had a seasonally adjusted unem-
23 ployment rate of not more than 3.5 percent in at
24 least 9 of the 12 most recent monthly reports issued
25 by the Bureau of Labor Statistics;

26 “(iii) such Governor certifies that—

1 “(I) there is a persistent, unmet need for
2 labor within the State, the specified Standard
3 Occupational Classification Group in the State,
4 or the specific Economic Development District
5 in the State; and

6 “(II) the allocation of additional H-2B
7 nonimmigrant visas pursuant to this para-
8 graph—

9 “(aa) will not displace domestic work-
10 ers; and

11 “(bb) will not negatively affect aver-
12 age wages in such State; and

13 “(iv) employers who hire H-2B nonimmigrant
14 workers pursuant to this paragraph comply with any
15 additional requirements imposed by the Secretary of
16 Labor, by regulation.

17 “(B) The Secretary of Homeland Security, acting
18 through the Director of U.S. Citizenship and Immigration
19 Services, shall issue the supplemental H-2B non-
20 immigrant visas requested by the Governor of a State pur-
21 suant to subparagraph (A) to the extent that the applica-
22 tions for such visas submitted by employers based in such
23 State meet all applicable requirements of the H-2B non-
24 immigrant visa program.

1 “(C) If the number of employer applications from a
2 State exceed the number of H–2B nonimmigrant visas re-
3 quested pursuant to subparagraph (A), the Office of For-
4 eign Labor Certification shall randomly assign for proc-
5 essing all of the remaining H–2B nonimmigrant visa ap-
6 plications and issue supplemental visas to all qualified ap-
7 plicants until the number of supplemental visas allocated
8 to such State pursuant to subparagraph (B) have been
9 issued.

10 “(D) This paragraph shall cease to have force or ef-
11 fect on the date that is 4 years after the date of the enact-
12 ment of the SEASONAL Act.

13 “(E) Nothing in this paragraph may be construed to
14 prohibit the legislature of any State from setting limits
15 with respect to supplemental H–2B nonimmigrant visas
16 that the Governor of such State may request, including—

17 “(i) limiting the number of such visas that may
18 be requested in a fiscal year; and

19 “(ii) limiting the allocation of such visas to H–
20 2B nonimmigrant workers who are employed—

21 “(I) within such State;

22 “(II) within specified Standard Occupa-
23 tional Classification Groups; or

24 “(III) within specified Economic Develop-
25 ment Districts.”.

1 **SEC. 3. ANNUAL REPORT.**

2 Not later than 15 months after the date of the enact-
3 ment of this Act, and annually thereafter until the date
4 that is 4 years after such date of enactment, the Secretary
5 of Homeland Security and the Secretary of Labor shall
6 submit a joint report to Congress that includes, with re-
7 spect to the preceding year—

8 (1) the number of supplemental H–2B non-
9 immigrant visas issued pursuant to section
10 214(g)(12) of the Immigration and Nationality Act
11 (8 U.S.C. 1184(g)(12)), disaggregated by the State
12 in which the recipients of such visas are working;

13 (2) a breakdown of Standard Occupational
14 Classification Groups or Economic Development Dis-
15 tricts for which supplemental H–2B nonimmigrant
16 visas were issued, disaggregated by the State in
17 which the recipients of such visas are working;

18 (3) an analysis of any effect caused by the
19 issuance of supplemental H–2B nonimmigrant visas
20 that led to the displacement of domestic workers or
21 a reduction in the average wages, disaggregated by
22 State; and

23 (4) an assessment of whether the issuance of
24 supplemental H–2B nonimmigrant visas led to in-
25 creased economic opportunities and productivity in

- 1 the States in which the recipients of such visas are
- 2 working.