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. RICHETTS, 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 nonimmigrant 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”.

SEC. 2. STATE EXEMPTION AUTHORITY FOR SEASONAL OCCUPATIONS NEEDING ADDITIONAL LABOR.

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

“(12)(A) Notwithstanding the numerical limitation set forth in paragraph (1)(B), the Governor of any State may submit a petition to the Secretary of Homeland Security and the Secretary of Labor for the issuance of a specified number of supplemental H–2B nonimmigrant visas in a fiscal year for employers based in such State, employers based in such State that have employees who work within a specified Standard Occupational Classification Group (as defined by the Department of Labor), or employers in a specific Economic Development District designated by the Economic Development Administration of the Department of Commerce that encompasses any portion of such State if—

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

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

“(iii) such Governor certifies that—
“(I) there is a persistent, unmet need for labor within the State, the specified Standard Occupational Classification Group in the State, or the specific Economic Development District in the State; and

“(II) the allocation of additional H–2B nonimmigrant visas pursuant to this paragraph—

“(aa) will not displace domestic workers; and

“(bb) will not negatively affect average wages in such State; and

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

“(B) The Secretary of Homeland Security, acting through the Director of U.S. Citizenship and Immigration Services, shall issue the supplemental H–2B nonimmigrant visas requested by the Governor of a State pursuant to subparagraph (A) to the extent that the applications for such visas submitted by employers based in such State meet all applicable requirements of the H–2B nonimmigrant visa program.
“(C) If the number of employer applications from a State exceed the number of H–2B nonimmigrant visas requested pursuant to subparagraph (A), the Office of Foreign Labor Certification shall randomly assign for processing all of the remaining H–2B nonimmigrant visa applications and issue supplemental visas to all qualified applicants until the number of supplemental visas allocated to such State pursuant to subparagraph (B) have been issued.

“(D) This paragraph shall cease to have force or effect on the date that is 4 years after the date of the enactment of the SEASONAL Act.

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

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

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

“(I) within such State;

“(II) within specified Standard Occupational Classification Groups; or

“(III) within specified Economic Development Districts.”. 
SEC. 3. ANNUAL REPORT.

Not later than 15 months after the date of the enactment of this Act, and annually thereafter until the date that is 4 years after such date of enactment, the Secretary of Homeland Security and the Secretary of Labor shall submit a joint report to Congress that includes, with respect to the preceding year—

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

(2) a breakdown of Standard Occupational Classification Groups or Economic Development Districts for which supplemental H–2B nonimmigrant visas were issued, disaggregated by the State in which the recipients of such visas are working;

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

(4) an assessment of whether the issuance of supplemental H–2B nonimmigrant visas led to increased economic opportunities and productivity in
the States in which the recipients of such visas are working.