

118TH CONGRESS  
1ST SESSION

# S. 2705

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

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## IN THE SENATE OF THE UNITED STATES

JULY 27, 2023

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 the Judiciary

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## 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.

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