

115TH CONGRESS
1ST SESSION

S. 1034

To improve agricultural job opportunities, benefits, and security for aliens
in the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 3, 2017

Mrs. FEINSTEIN (for herself, Mr. LEAHY, Mr. BENNET, Ms. HIRONO, and Ms. HARRIS) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To improve agricultural job opportunities, benefits, and security for aliens in the United 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 TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Agricultural Worker Program Act of 2017”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—PROGRAM FOR EARNED STATUS ADJUSTMENT OF
AGRICULTURAL WORKERS

Sec. 101. Blue card status.
 Sec. 102. Adjustment to permanent resident status.
 Sec. 103. Use of information.
 Sec. 104. Reports on blue cards.
 Sec. 105. Authorization of appropriations.

TITLE II—CORRECTION OF SOCIAL SECURITY RECORDS

Sec. 201. Correction of Social Security records.

TITLE III—DEFINITIONS

Sec. 301. Definitions.

1 TITLE I—PROGRAM FOR 2 EARNED STATUS ADJUST- 3 MENT OF AGRICULTURAL 4 WORKERS

5 SEC. 101. BLUE CARD STATUS.

6 (a) REQUIREMENTS FOR BLUE CARD STATUS.—Not-
 7 withstanding any other provision of law, the Secretary,
 8 may grant blue card status to an alien who—

9 (1)(A) has completed qualified work;

10 (B)(i) is the spouse or child of an alien de-
 11 scribed in subparagraph (A);

12 (ii) was physically present in the United States
 13 on or before the date of the enactment of this Act;
 14 and

15 (iii) has maintained continuous presence in the
 16 United States from that date until the date on which
 17 the alien is granted blue card status; or

18 (C) is, or has been, a nonimmigrant alien ad-
 19 mitted to the United States for agricultural employ-

ment described in section 101(a)(15)(H)(ii)(a) of such Act who has completed qualified work;

(2) is not ineligible under subsection (d)(2);

(3) submits a completed application before the end of the period set forth in subsection (b)(3);

(4) passes the national security and law enforcement clearances required under subsection (d)(1) to the satisfaction of the Secretary; and

(5) pays the required processing fees and penalties in accordance with subsection (e).

(b) APPLICATION.—

(1) SUBMISSION REQUIREMENTS.—An alien described in subsection (a)(1) who is seeking blue card status shall submit an application—

(A) to the Secretary, with the assistance of an attorney or a nonprofit religious, charitable, social service, or similar organization recognized by the Board of Immigration Appeals under section 292.2 of title 8, Code of Federal Regulations; or

(B) to a qualified entity if the applicant consents to the forwarding of the application to the Secretary.

(2) EVIDENCE OF APPLICATION FILING.—As soon as practicable after receiving each application

1 for blue card status under paragraph (1), the Sec-
2 retary shall provide the applicant with a document
3 acknowledging the receipt of such application.

4 (3) APPLICATION PERIOD.—

5 (A) INITIAL PERIOD.—Except as provided
6 in subparagraphs (B) and (C), the Secretary
7 shall accept applications for blue card status
8 from aliens in the United States during the 18-
9 month period beginning on the date on which
10 the final rule is published in the Federal Reg-
11 ister pursuant to subsection (j).

12 (B) EXCEPTION.—Aliens described in sub-
13 section (a)(1)(C) may apply for blue card status
14 from outside of the United States.

15 (C) EXTENSION.—If the Secretary deter-
16 mines, during the initial period described in
17 subparagraph (A), that additional time is re-
18 quired to process applications for blue card sta-
19 tus or for other good cause, the Secretary may
20 extend the period for accepting applications for
21 an additional 18 months.

22 (4) APPLICATION.—

23 (A) IN GENERAL.—The application form
24 referred to in paragraph (1) shall collect such

1 information as the Secretary determines nec-
2 essary and appropriate.

3 (B) FAMILY APPLICATION.—The Secretary
4 shall establish a process through which an alien
5 may submit a single application under this sec-
6 tion on behalf of the alien and his or her spouse
7 and children who meet the requirements set
8 forth in subsection (a)(1)(B).

9 (5) ADJUDICATION.—

10 (A) INTERVIEW.—The Secretary may
11 interview applicants for blue card status to de-
12 termine whether they meet the eligibility re-
13 quirements set forth in this section.

14 (B) FAILURE TO SUBMIT SUFFICIENT EVI-
15 DENCE.—The Secretary may deny an applica-
16 tion for blue card status submitted by an alien
17 who fails to submit evidence of the alien's eligi-
18 bility for such status.

19 (C) NOTICE.—If the Secretary denies an
20 application for blue card status, the Secretary
21 shall—

22 (i) send a written notice to the appli-
23 cant that provides the applicant with the
24 basis for denial; and

1 (ii) provide the alien with an oppor-
2 tunity to cure the denial within a reason-
3 able time.

4 (D) AMENDED APPLICATION.—An alien
5 whose application for blue card status is denied
6 under subparagraph (B) may submit an amend-
7 ed application for such status to the Secretary
8 if the amended application—

9 (i) is submitted within the application
10 period described in paragraph (3); and

11 (ii) contains all the required informa-
12 tion and fees that were missing from the
13 initial application.

14 (E) ADDITIONAL PROCEDURES.—The Sec-
15 retary may utilize the procedures set forth in
16 sections 103.2 and 103.3 of title 8, Code of
17 Federal Regulations, as in effect on the date of
18 the enactment of this Act, to adjudicate re-
19 quests for blue card status to the extent such
20 procedures are consistent with the requirements
21 under this section.

22 (6) EVIDENCE OF BLUE CARD STATUS.—

23 (A) IN GENERAL.—The Secretary shall
24 issue documentary evidence of blue card status

1 to each alien whose application for such status
2 has been approved.

3 (B) DOCUMENTATION FEATURES.—Docu-
4 mentary evidence provided under subparagraph
5 (A)—

6 (i) shall be machine-readable and tam-
7 per-resistant;

8 (ii) shall contain a digitized photo-
9 graph;

10 (iii) shall, during the alien's author-
11 ized period of admission, and any exten-
12 sion of such authorized admission, serve as
13 a valid travel and entry document for the
14 purpose of applying for admission to the
15 United States;

16 (iv) may be accepted during the pe-
17 riod of its validity by an employer as evi-
18 dence of employment authorization and
19 identity under section 274A(b)(1)(B) of
20 the Immigration and Nationality Act (8
21 U.S.C. 1324a(b)(1)(B)); and

22 (v) shall include such other features
23 and information as the Secretary may pre-
24 scribe.

1 (c) SPECIAL RULES FOR BLUE CARD APPLICANTS
2 AND ALIENS ELIGIBLE FOR BLUE CARD STATUS.—

3 (1) ALIENS APPREHENDED BEFORE OR DURING
4 THE APPLICATION PERIOD.—If an alien, who is ap-
5 prehended during the period beginning on the date
6 of the enactment of this Act and ending on the last
7 day of the application period described in paragraph
8 (3), appears *prima facie* eligible for blue card status,
9 the Secretary—

10 (A) shall provide the alien with a reason-
11 able opportunity to submit an application for
12 such status under this section during such ap-
13 plication period; and

14 (B) may not remove the individual until a
15 final administrative determination is made on
16 the application.

17 (2) ALIENS IN REMOVAL PROCEEDINGS.—Not-
18 withstanding any other provision of the Immigration
19 and Nationality Act (8 U.S.C. 1101 et seq.) if an
20 alien is in removal, deportation, or exclusion pro-
21 ceedings during the period beginning on the date of
22 the enactment of this Act and ending on the last day
23 of the application period described in subsection
24 (b)(3) and is *prima facie* eligible for blue card status
25 under this section, upon motion by the Secretary

1 and with the consent of the alien or upon motion by
 2 the alien, the Executive Office for Immigration Re-
 3 view shall—

4 (A) terminate such proceedings without
 5 prejudice to future proceedings; and

6 (B) permit the alien a reasonable oppor-
 7 tunity to apply for such status.

8 (3) TREATMENT OF ALIENS PREVIOUSLY OR-
 9 DERED REMOVED.—

10 (A) IN GENERAL.—If an alien who meets
 11 the eligibility requirements set forth in sub-
 12 section (a) is present in the United States and
 13 has been ordered excluded, deported, or re-
 14 moved, or ordered to depart voluntarily from
 15 the United States under any provision of the
 16 Immigration and Nationality Act—

17 (i) notwithstanding such order or sec-
 18 tion 241(a)(5) of the Immigration and Na-
 19 tionality Act (8 U.S.C. 1231(a)(5)), the
 20 alien may apply for blue card status under
 21 this section; and

22 (ii) if the alien is granted such status,
 23 the alien may file a motion to reopen the
 24 exclusion, deportation, removal, or vol-

1 untary departure order, which motion shall
2 be granted.

3 (B) LIMITATIONS ON MOTIONS TO RE-
4 OPEN.—The limitations on motions to reopen
5 set forth in section 240(c)(7) of the Immigra-
6 tion and Nationality Act (8 U.S.C. 1229a(c)(7))
7 shall not apply to motions filed under subpara-
8 graph (A)(ii).

9 (4) PERIOD PENDING ADJUDICATION OF APPLI-
10 CATION.—During the period beginning on the date
11 on which an alien applies for blue card status under
12 this section and ending on the date on which the
13 Secretary makes a final decision regarding such ap-
14 plication, the alien—

15 (A) is eligible to apply for advance parole;

16 (B) may not be detained by the Secretary
17 or removed from the United States unless the
18 Secretary makes a prima facie determination
19 that such alien is, or has become, ineligible for
20 blue card status under subsection (d)(2);

21 (C) shall not be considered unlawfully
22 present under section 212(a)(9)(B) of the Im-
23 migration and Nationality Act (8 U.S.C.
24 1182(a)(9)(B)); and

1 (D) shall not be considered an unauthor-
2 ized alien (as defined in section 274A(h)(3) of
3 the Immigration and Nationality Act (8 U.S.C.
4 1324a(h)(3))).

5 (5) EFFECT OF DEPARTURE.—Section 101(g)
6 of the Immigration and Nationality Act (8 U.S.C.
7 1101(g)) shall not apply to an alien granted—

8 (A) advance parole under paragraph (4)(A)
9 to reenter the United States; or

10 (B) blue card status.

11 (6) PROTECTION FROM DETENTION OR RE-
12 MOVAL DURING BLUE CARD STATUS.—An alien
13 granted blue card status under this section may not
14 be detained by the Secretary or removed from the
15 United States unless—

16 (A) the alien is removable under 237 of the
17 Immigration and Nationality Act (8 U.S.C.
18 1227); or

19 (B) the alien’s blue card status has been
20 revoked.

21 (7) DURATION OF STATUS.—Beginning on the
22 date that is eight years after the date on which reg-
23 ulations are published under subsection (j), no alien
24 may remain in blue card status.

1 (d) REQUIRED BACKGROUND INVESTIGATIONS AND
2 INELIGIBILITY.—

3 (1) IN GENERAL.—

4 (A) BIOMETRIC AND BIOGRAPHIC DATA.—

5 The Secretary may not grant blue card status
6 to an alien or an alien dependent spouse or
7 child under this section unless such alien sub-
8 mits biometric and biographic data in accord-
9 ance with procedures established by the Sec-
10 retary.

11 (B) ALTERNATIVE PROCEDURES.—The
12 Secretary shall provide an alternative procedure
13 for applicants who cannot provide the standard
14 biometric data required under subparagraph
15 (A) because of a physical impairment.

16 (C) DATA COLLECTION.—The Secretary
17 shall collect, from each alien applying for status
18 under this section, biometric, biographic, and
19 other data that the Secretary determines to be
20 appropriate in order to conduct a background
21 investigation and determine the alien's eligi-
22 bility for blue card status.

23 (2) GROUNDS FOR INELIGIBILITY.—

24 (A) IN GENERAL.—Except as provided in
25 subparagraph (B), an alien is ineligible for blue

1 card status if the Secretary determines that the
2 alien—

3 (i) has a conviction for—

4 (I) an offense classified as a fel-
5 ony in the convicting jurisdiction
6 (other than a State or local offense
7 for which an essential element was the
8 alien's immigration status, or a viola-
9 tion of the Immigration and Nation-
10 ality Act (8 U.S.C. 1101 et seq.));

11 (II) an aggravated felony (as de-
12 fined in section 101(a)(43) of the Im-
13 migration and Nationality Act (8
14 U.S.C. 1101(a)(43)) at the time of
15 the conviction);

16 (III) three or more misdemeanor
17 offenses (other than minor traffic of-
18 fenses or State or local offenses for
19 which an essential element was the
20 alien's immigration status, or viola-
21 tions of the Immigration and Nation-
22 ality Act) if the alien was convicted on
23 different dates for each of the 3 of-
24 fenses;

1 (IV) any offense under foreign
2 law, except for a purely political of-
3 fense, which, if the offense had been
4 committed in the United States,
5 would render the alien inadmissible
6 under section 212(a) of the Immigra-
7 tion and Nationality Act (8 U.S.C.
8 1182(a)), excluding the paragraphs
9 set forth in clause (ii), or removable
10 under section 237(a) of such Act (8
11 U.S.C. 1227(a)), except as provided in
12 paragraph (3) of such section 237(a);
13 or

14 (V) unlawful voting (as defined
15 in section 237(a)(6) of the Immigra-
16 tion and Nationality Act (8 U.S.C.
17 1227(a)(6)));

18 (ii) is inadmissible under section
19 212(a) of the Immigration and Nationality
20 Act (8 U.S.C. 1182(a)), except that in de-
21 termining an alien's inadmissibility—

22 (I) paragraphs (4), (5), (7), and
23 (9)(B) of such section 212(a) shall
24 not apply;

- 1 (II) subparagraphs (A), (C), (D),
2 (F), and (G) of such section 212(a)(6)
3 and paragraphs (9)(C) and (10)(B) of
4 such section 212(a) shall not apply
5 unless based on the act of unlawfully
6 entering the United States after the
7 date of the enactment of this Act; and
- 8 (III) paragraphs (6)(B) and
9 (9)(A) of such section 212(a) shall
10 not apply unless the relevant conduct
11 began on or after the date on which
12 the alien files an application for reg-
13 istered provisional immigrant status
14 under this section;
- 15 (iii) is an alien who the Secretary
16 knows or has reasonable grounds to be-
17 lieve, is engaged in or is likely to engage
18 after entry in any terrorist activity (as de-
19 fined in section 212(a)(3)(B)(iv) of such
20 Act); or
- 21 (iv) was, on the date of the enactment
22 of this Act—
- 23 (I) an alien lawfully admitted for
24 permanent residence; or

1 (II) an alien admitted as a ref-
2 ugee under section 207 of the Immi-
3 gration and Nationality Act (8 U.S.C.
4 1157) or granted asylum under sec-
5 tion 208 of such Act (8 U.S.C. 1158).

6 (B) WAIVER.—

7 (i) IN GENERAL.—The Secretary may
8 waive the application of subparagraph
9 (A)(i)(III) or any provision of section
10 212(a) of the Immigration and Nationality
11 Act (8 U.S.C. 1182(a)) that is not listed in
12 clause (ii) on behalf of an alien for human-
13 itarian purposes, to ensure family unity, or
14 if such a waiver is otherwise in the public
15 interest. Any discretionary authority to
16 waive grounds of inadmissibility under
17 such section 212(a) conferred under any
18 other provision of the Immigration and
19 Nationality Act shall apply equally to
20 aliens seeking blue card status under this
21 section.

22 (ii) EXCEPTIONS.—The discretionary
23 authority under clause (i) may not be used
24 to waive—

1 (I) subparagraph (B), (C),
 2 (D)(ii), (E), (G), (H), or (I) of section
 3 212(a)(2) of such Act;

4 (II) section 212(a)(3) of such
 5 Act; or

6 (III) subparagraph (A), (C), (D),
 7 or (E) of section 212(a)(10) of such
 8 Act.

9 (C) CONVICTION EXPLAINED.—For pur-
 10 poses of this paragraph, the term “conviction”
 11 does not include a judgment that has been ex-
 12 punged, set aside, or the equivalent.

13 (D) RULE OF CONSTRUCTION.—Nothing in
 14 this paragraph may be construed to require the
 15 Secretary to commence removal proceedings
 16 against an alien.

17 (e) FEES AND PENALTIES.—

18 (1) STANDARD PROCESSING FEE.—Aliens 16
 19 years of age or older who are applying for blue card
 20 status under this subsection, or for an extension of
 21 such status, shall pay a processing fee to the De-
 22 partment of Homeland Security in an amount deter-
 23 mined by the Secretary.

24 (2) RECOVERY OF COSTS.—The processing fee
 25 authorized under paragraph (1) shall be set at a

1 level that is sufficient to recover the full costs of
2 processing the application, including any costs in-
3 curred—

4 (A) to adjudicate the application;

5 (B) to take and process biometric data;

6 (C) to perform national security and crimi-
7 nal checks, including adjudication;

8 (D) to prevent and investigate fraud; and

9 (E) to administer the collection of such
10 fee.

11 (3) AUTHORITY TO LIMIT FEES.—The Sec-
12 retary may issue regulations—

13 (A) to limit the maximum processing fee
14 payable under this subsection by a family, in-
15 cluding spouses and unmarried children young-
16 er than 21 years of age; and

17 (B) to exempt defined classes of individ-
18 uals from the payment of the fee required
19 under paragraph (1).

20 (4) PENALTY.—In addition to the processing
21 fee required under paragraph (1), aliens applying for
22 blue card status under this subsection who are 21
23 years of age or older shall pay a \$100 penalty to the
24 Department of Homeland Security.

1 (5) DEPOSIT AND USE OF PROCESSING FEES
2 AND PENALTIES.—Fees and penalties authorized
3 under this subsection—

4 (A) shall be deposited into the Immigration
5 Examinations Fee Account pursuant to section
6 286(m) of the Immigration and Nationality Act
7 (8 U.S.C. 1356(m)); and

8 (B) shall remain available until expended
9 pursuant to section 286(n) of such Act.

10 (f) TERMS AND CONDITIONS OF BLUE CARD STA-
11 TUS.—

12 (1) CONDITIONS OF BLUE CARD STATUS.—

13 (A) EMPLOYMENT.—Notwithstanding any
14 other provision of law, including section
15 241(a)(7) of the Immigration and Nationality
16 Act (8 U.S.C. 1231(a)(7)), an alien with blue
17 card status shall be authorized to be employed
18 in the United States while in such status.

19 (B) TRAVEL OUTSIDE THE UNITED
20 STATES.—An alien with blue card status—

21 (i) may travel outside of the United
22 States, including commuting to the United
23 States from a residence in a foreign coun-
24 try; and

1 (ii) may be admitted upon returning
2 to the United States without having to ob-
3 tain a visa if—

4 (I) the alien is in possession of—

5 (aa) valid, unexpired docu-
6 mentary evidence of blue card
7 status that complies with sub-
8 section (b)(6)(B); or

9 (bb) a travel document that
10 has been approved by the Sec-
11 retary and was issued to the
12 alien after the alien's original
13 documentary evidence was lost,
14 stolen, or destroyed;

15 (II) the alien's absence from the
16 United States did not exceed 180
17 days, unless the alien's failure to
18 timely return was due to extenuating
19 circumstances beyond the alien's con-
20 trol; and

21 (III) the alien establishes that he
22 or she is not inadmissible under sub-
23 paragraph (A)(i), (A)(iii), (B), or (C)
24 of section 212(a)(3) of the Immigra-

1 tion and Nationality Act (8 U.S.C.
2 1182(a)(3)).

3 (C) ADMISSION.—An alien granted blue
4 card status shall be considered to have been ad-
5 mitted in such status as of the date on which
6 the alien’s application was submitted.

7 (D) CLARIFICATION OF STATUS.—An alien
8 granted blue card status shall be considered
9 lawfully admitted to the United States.

10 (2) REVOCATION.—

11 (A) IN GENERAL.—The Secretary may re-
12 voke blue card status at any time after pro-
13 viding appropriate notice to the alien, and after
14 the exhaustion or waiver of all applicable ad-
15 ministrative review procedures if the alien—

16 (i) no longer meets the eligibility re-
17 quirements for blue card status;

18 (ii) knowingly used documentation
19 issued under this section for an unlawful
20 or fraudulent purpose; or

21 (iii) was absent from the United
22 States for—

23 (I) any single period longer than
24 180 days in violation of the require-

1 ment under paragraph (1)(B)(ii)(II);
 2 or

3 (II) for more than 180 days in
 4 the aggregate during any calendar
 5 year, unless the alien's failure to time-
 6 ly return was due to extenuating cir-
 7 cumstances beyond the alien's control.

8 (B) ADDITIONAL EVIDENCE.—

9 (i) IN GENERAL.—In determining
 10 whether to revoke an alien's status under
 11 subparagraph (A), the Secretary may re-
 12 quire the alien—

13 (I) to submit additional evidence;
 14 and

15 (II) to appear for an interview.

16 (ii) EFFECT OF NONCOMPLIANCE.—

17 The blue card status of an alien who fails
 18 to comply with any requirement imposed
 19 by the Secretary under clause (i) shall be
 20 revoked unless the alien demonstrates to
 21 the Secretary's satisfaction that such fail-
 22 ure was reasonably excusable.

23 (C) INVALIDATION OF DOCUMENTATION.—

24 If an alien's blue card status is revoked pursu-
 25 ant to subparagraph (A), any documentation

1 issued by the Secretary to such alien under sub-
2 section (b)(6) shall automatically be rendered
3 invalid for any purpose except for departure
4 from the United States.

5 (3) INELIGIBILITY FOR PUBLIC BENEFITS.—An
6 alien who has been granted blue card status is not
7 eligible for the Federal means-tested public benefits
8 unavailable to qualified aliens under section 403 of
9 the Personal Responsibility and Work Opportunity
10 Reconciliation Act of 1996 (8 U.S.C. 1613).

11 (4) TREATMENT OF BLUE CARD STATUS.—An
12 alien granted blue card status shall be considered
13 lawfully present in the United States for all pur-
14 poses while such alien remains in such status, except
15 that the alien—

16 (A) is not entitled to the premium assist-
17 ance tax credit authorized under section 36B of
18 the Internal Revenue Code of 1986 (26 U.S.C.
19 36B) for his or her coverage;

20 (B) shall be subject to the rules applicable
21 to individuals who are not lawfully present set
22 forth in subsection (e) of such section;

23 (C) shall be subject to the rules applicable
24 to individuals who are not lawfully present set
25 forth in section 1402(e) of the Patient Protec-

tion and Affordable Care Act (42 U.S.C. 18071(e)); and

(D) shall be subject to the rules applicable to individuals not lawfully present set forth in section 5000A(d)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 5000A(d)(3)).

(g) PROVISIONS INVOLVING EMPLOYERS.—

(1) RECORD OF EMPLOYMENT.—Employers of aliens granted blue card status shall provide the alien and the Secretary with a written record of employment each year the alien remains in such status.

(2) CIVIL PENALTIES.—

(A) IN GENERAL.—If the Secretary determines, after notice and an opportunity for a hearing, that an employer of an alien granted blue card status has knowingly failed to provide the record of employment required under paragraph (1) or has provided a false statement of material fact in such a record, the employer shall be subject to a civil penalty in an amount not to exceed \$500 per violation.

(B) LIMITATION.—The penalty under subparagraph (A) for failure to provide employment records shall not apply unless the alien has provided the employer with evidence of em-

1 ployment authorization described in subsection
2 (b)(11).

3 (C) DEPOSIT OF CIVIL PENALTIES.—Civil
4 penalties collected under this paragraph shall be
5 deposited into the Immigration Examinations
6 Fee Account pursuant to section 286(m) of the
7 Immigration and Nationality Act (8 U.S.C.
8 1356(m)).

9 (3) CONTINUING EMPLOYMENT.—An employer
10 that knows an alien employee is an applicant for
11 blue card status or will apply for such status once
12 the application period commences is not in violation
13 of section 274A(a)(2) of the Immigration and Na-
14 tionality Act (8 U.S.C. 1324a(a)(2)) if the employer
15 continues to employ the alien pending the adjudica-
16 tion of the alien employee's application.

17 (4) EMPLOYER PROTECTIONS.—

18 (A) USE OF EMPLOYMENT RECORDS.—
19 Copies of employment records or other evidence
20 of employment provided by an alien or by an
21 alien's employer in support of an alien's appli-
22 cation for blue card status may not be used in
23 a civil or criminal prosecution or investigation
24 of that employer under section 274A of the Im-
25 migration and Nationality Act (8 U.S.C.

1 1324a) or the Internal Revenue Code of 1986
 2 for the prior unlawful employment of that alien
 3 regardless of the adjudication of such applica-
 4 tion or reconsideration by the Secretary of such
 5 alien's prima facie eligibility determination.
 6 Employers that provide unauthorized aliens
 7 with copies of employment records or other evi-
 8 dence of employment pursuant to an application
 9 for blue card status shall not be subject to civil
 10 and criminal liability pursuant to such section
 11 274A for employing such unauthorized aliens.

12 (B) LIMIT ON APPLICABILITY.—The pro-
 13 tections for employers and aliens under sub-
 14 paragraph (A) shall not apply if the aliens or
 15 employers submit employment records that are
 16 determined to be fraudulent.

17 (h) ADMINISTRATIVE AND JUDICIAL REVIEW.—

18 (1) IN GENERAL.—Any administrative or judi-
 19 cial review of a determination regarding an applica-
 20 tion for blue card status shall comply with the re-
 21 quirements under this subsection.

22 (2) ADMINISTRATIVE REVIEW.—

23 (A) SINGLE LEVEL OF APPELLATE RE-
 24 VIEW.—The Secretary shall establish an appel-
 25 late authority to provide for a single level of ad-

1 ministration appellate review of a final agency
2 determination.

3 (B) STANDARD FOR REVIEW.—An admin-
4 istrative appellate review established under sub-
5 paragraph (A) shall be based solely upon—

6 (i) the administrative record estab-
7 lished at the time of the determination re-
8 garding the application; and

9 (ii) any additional or newly discovered
10 evidence that was not available at the time
11 of a final agency determination.

12 (3) JUDICIAL REVIEW.—Judicial review of a de-
13 termination under this section shall be limited to the
14 review of an order of removal under section 242 of
15 the Immigration and Nationality Act (8 U.S.C.
16 1252).

17 (i) DISCLOSURES AND PRIVACY.—

18 (1) PROHIBITED DISCLOSURES.—Except as oth-
19 erwise provided in this subsection, no officer or em-
20 ployee of any Federal agency may—

21 (A) use the information furnished in an
22 application for lawful status under this section
23 or section 245B of the Immigration and Na-
24 tionality Act, as added by section 102, for any
25 purpose other than to make a determination on

1 any application by the alien for any immigra-
2 tion benefit or protection;

3 (B) make any publication through which
4 information furnished by any particular appli-
5 cant can be identified; or

6 (C) permit anyone other than the sworn of-
7 ficers, employees, and contractors of such agen-
8 cy or of another entity approved by the Sec-
9 retary to examine any individual application for
10 lawful status under this section or such section
11 245B.

12 (2) REQUIRED DISCLOSURES.—The Secretary
13 shall provide the information furnished in an appli-
14 cation filed under this section or section 245B of the
15 Immigration and Nationality Act, as added by sec-
16 tion 102, and any other information derived from
17 such furnished information to—

18 (A) a law enforcement agency, intelligence
19 agency, national security agency, a component
20 of the Department of Homeland Security,
21 court, or grand jury, consistent with law, in
22 connection with—

23 (i) a criminal investigation or prosecu-
24 tion of any felony not related to the appli-
25 cant's immigration status; or

1 (ii) a national security investigation or
2 prosecution; and

3 (B) an official coroner for purposes of af-
4 firmatively identifying a deceased individual,
5 whether or not the death of such individual re-
6 sulted from a crime.

7 (3) AUDITING AND EVALUATION OF INFORMA-
8 TION.—The Secretary may—

9 (A) audit and evaluate information fur-
10 nished as part of any application filed under
11 this section or section 245B of the Immigration
12 and Nationality Act, as added by section 102,
13 for purposes of identifying immigration fraud or
14 fraud schemes; and

15 (B) use any evidence detected by means of
16 audits and evaluations for purposes of inves-
17 tigating, prosecuting, referring for prosecution,
18 or denying or terminating immigration benefits.

19 (4) PRIVACY AND CIVIL LIBERTIES.—

20 (A) IN GENERAL.—The Secretary, in ac-
21 cordance with paragraph (1), shall require ap-
22 propriate administrative and physical safe-
23 guards to protect the security, confidentiality,
24 and integrity of personally identifiable informa-
25 tion collected, maintained, and disseminated

1 pursuant to this section and section 245B of
 2 the Immigration and Nationality Act, as added
 3 by section 102.

4 (B) ASSESSMENTS.—Notwithstanding the
 5 privacy requirements set forth in section 222 of
 6 the Homeland Security Act (6 U.S.C. 142) and
 7 the E-Government Act of 2002 (Public Law
 8 107–347), the Secretary shall conduct a privacy
 9 impact assessment and a civil liberties impact
 10 assessment of the legalization program estab-
 11 lished under this section and section 245B of
 12 the Immigration and Nationality Act during the
 13 pendency of the final regulations to be issued
 14 pursuant to subsection (j).

15 (j) RULEMAKING.—Not later than 1 year after the
 16 date of the enactment of this Act, the Secretary shall issue
 17 final regulations to implement this section.

18 **SEC. 102. ADJUSTMENT TO PERMANENT RESIDENT STATUS.**

19 (a) IN GENERAL.—Chapter 5 of title II (8 U.S.C.
 20 1255 et seq.) is amended by inserting after section 245A
 21 the following:

22 **“SEC. 245B. ADJUSTMENT TO PERMANENT RESIDENT STA-**
 23 **TUS FOR AGRICULTURAL WORKERS.**

24 “(a) IN GENERAL.—Except as provided in subsection
 25 (b), and not earlier than 5 years after the date of the en-

1 actment of the Agricultural Worker Program Act of 2017,
2 the Secretary shall adjust the status of an alien granted
3 blue card status to that of an alien lawfully admitted for
4 permanent residence if the Secretary determines that the
5 following requirements are satisfied:

6 “(1) QUALIFYING EMPLOYMENT.—Except as
7 provided in paragraph (3), the alien—

8 “(A) during the 8-year period beginning on
9 the date of the enactment of the Agricultural
10 Worker Program Act of 2017, performed not
11 less than 100 work days of agricultural employ-
12 ment during each of 5 years; or

13 “(B) during the 5-year period beginning on
14 such date of enactment, performed not less
15 than 150 work days of agricultural employment
16 during each of 3 years.

17 “(2) EVIDENCE.—An alien may demonstrate
18 compliance with the requirement under paragraph
19 (1) by submitting to the Secretary—

20 “(A) the alien’s record of employment (as
21 described in section 101(d) of the Agricultural
22 Worker Program Act of 2017);

23 “(B) documentation that may be submitted
24 under subsection (e)(4); or

1 “(C) any other documentation designated
2 by the Secretary for such purpose.

3 “(3) EXTRAORDINARY CIRCUMSTANCES.—

4 “(A) IN GENERAL.—In determining wheth-
5 er an alien has met the requirement under
6 paragraph (1), the Secretary may credit the
7 alien with not more than 12 additional months
8 of agricultural employment in the United States
9 to meet such requirement if the alien was un-
10 able to work in agricultural employment due
11 to—

12 “(i) pregnancy, disabling injury, or
13 disease established by the alien through
14 medical records;

15 “(ii) illness, disease, or other special
16 needs of the alien’s child established by the
17 alien through medical records;

18 “(iii) severe weather conditions that
19 prevented the alien from engaging in agri-
20 cultural employment for a significant pe-
21 riod; or

22 “(iv) termination from agricultural
23 employment, if the Secretary determines
24 that—

1 “(I) the termination was without
2 just cause; and

3 “(II) the alien was unable to find
4 alternative agricultural employment
5 after a reasonable job search.

6 “(B) EFFECT OF DETERMINATION.—A de-
7 termination under subparagraph (A)(iv), with
8 respect to an alien, shall not be conclusive,
9 binding, or admissible in a separate or subse-
10 quent judicial or administrative action or pro-
11 ceeding between the alien and a current or
12 prior employer of the alien or any other party.

13 “(4) APPLICATION PERIOD.—The alien applies
14 for adjustment of status before the expiration of the
15 alien’s blue card status.

16 “(5) FINE.—The alien pays a fine of \$400 to
17 the Secretary, which shall be deposited into the Im-
18 migration Examinations Fee Account pursuant to
19 section 286(m).

20 “(b) GROUNDS FOR DENIAL OF ADJUSTMENT OF
21 STATUS.—

22 “(1) IN GENERAL.—The Secretary may not ad-
23 just the status of an alien granted blue card status
24 if the alien—

1 “(A) is no longer eligible for blue card sta-
2 tus; or

3 “(B) failed to perform the qualifying em-
4 ployment required under subsection (a)(1),
5 after considering any amount credited by the
6 Secretary under subsection (a)(3).

7 “(2) MAINTENANCE OF WAIVERS OF INADMIS-
8 SIBILITY.—The grounds of inadmissibility set forth
9 in section 212(a) that were previously waived for the
10 alien or made inapplicable shall not apply for pur-
11 poses of the alien’s adjustment of status under this
12 section.

13 “(3) PENDING REVOCATION PROCEEDINGS.—If
14 the Secretary has notified the applicant that the
15 Secretary intends to revoke the applicant’s blue card
16 status, the Secretary may not approve an application
17 for adjustment of status under this section unless
18 the Secretary makes a final determination not to re-
19 voke the applicant’s status.

20 “(4) PAYMENT OF TAXES.—

21 “(A) IN GENERAL.—An alien may not file
22 an application for adjustment of status under
23 this section unless the applicant has satisfied
24 any applicable federal tax liability.

1 “(B) DEFINITION OF APPLICABLE FED-
 2 ERAL TAX LIABILITY.—In this paragraph, the
 3 term ‘applicable federal tax liability’ means all
 4 Federal income taxes assessed in accordance
 5 with section 6203 of the Internal Revenue Code
 6 of 1986 since the date on which the applicant
 7 was authorized to work in the United States in
 8 blue card status.

9 “(C) COMPLIANCE.—An alien may dem-
 10 onstrate compliance with subparagraph (A) by
 11 submitting such documentation as the Sec-
 12 retary, in consultation with the Secretary of the
 13 Treasury, may require by regulation.

14 “(c) SPOUSES AND CHILDREN.—Notwithstanding
 15 any other provision of law, the Secretary shall grant per-
 16 manent resident status to the spouse or child of an alien
 17 whose status was adjusted under subsection (a) if—

18 “(1) the spouse or child (including any indi-
 19 vidual who was a child on the date such alien was
 20 granted blue card status) applies for or received
 21 such status;

22 “(2) the principal alien includes the spouse and
 23 children in an application for adjustment of status
 24 to that of a lawful permanent resident; and

1 “(3) the spouse or child is not ineligible for
2 such status.

3 “(d) NUMERICAL LIMITATIONS.—The numerical lim-
4 itations under sections 201 and 202 shall not apply to the
5 adjustment of aliens to lawful permanent resident status
6 under this section.

7 “(e) SUBMISSION OF APPLICATIONS.—

8 “(1) INTERVIEW.—The Secretary may interview
9 applications for adjustment of status under this sec-
10 tion to determine whether the alien meets the eligi-
11 bility requirements set forth in this section.

12 “(2) FEES.—

13 “(A) IN GENERAL.—Applicants for adjust-
14 ment of status under this section shall pay a
15 processing fee to the Secretary in an amount
16 that will ensure the recovery of the full costs of
17 adjudicating such applications, including—

18 “(i) the cost of taking and processing
19 biometric data;

20 “(ii) expenses relating to prevention
21 and investigation of fraud; and

22 “(iii) costs relating to the collection of
23 such fee.

24 “(B) AUTHORITY TO LIMIT FEES.—The
25 Secretary, by regulation—

1 “(i) may limit the maximum proc-
 2 essing fee payable under this paragraph by
 3 a family, including spouses and children;
 4 and

5 “(ii) may exempt defined classes of in-
 6 dividuals from the payment of the fee
 7 under subparagraph (A).

8 “(3) DISPOSITION OF FEES.—All fees collected
 9 under paragraph (2)(A)—

10 “(A) shall be deposited into the Immigra-
 11 tion Examinations Fee Account pursuant to
 12 section 286(m); and

13 “(B) shall remain available until expended
 14 pursuant to section 286(n).

15 “(4) DOCUMENTATION OF WORK HISTORY.—

16 “(A) BURDEN OF PROOF.—An alien apply-
 17 ing for blue card status under section 101 of
 18 the Agricultural Worker Program Act of 2017
 19 or for adjustment of status under subsection (a)
 20 shall provide evidence that the alien has worked
 21 the requisite number of hours or days required
 22 under subsection (a)(1) of such section 101 or
 23 subsection (a)(1) of this section, as applicable.

24 “(B) TIMELY PRODUCTION OF RECORDS.—

25 If an employer or farm labor contractor employ-

ing such an alien has kept proper and adequate records respecting such employment, the alien's burden of proof under subparagraph (A) may be met by securing timely production of those records under regulations to be promulgated by the Secretary.

“(C) SUFFICIENT EVIDENCE.—An alien may meet the burden of proof under subparagraph (A) to establish that the alien has performed the days or hours of work referred to in subparagraph (A) by producing sufficient evidence to show the extent of that employment as a matter of just and reasonable inference.

“(f) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—

“(1) CRIMINAL PENALTY.—Any person who—

“(A) files an application for blue card status under section 101 of the Agricultural Worker Program Act of 2017 or for an adjustment of status under this section and knowingly and willfully falsifies, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing

1 the same to contain any false, fictitious, or
2 fraudulent statement or entry; or

3 “(B) creates or supplies a false writing or
4 document for use in making such an applica-
5 tion,

6 shall be fined in accordance with title 18, United
7 States Code, imprisoned not more than 5 years, or
8 both.

9 “(2) INADMISSIBILITY.—An alien who is con-
10 victed of a crime described in paragraph (1) shall be
11 deemed inadmissible to the United States on the
12 grounds described in section 212(a)(6)(C)(i).

13 “(3) DEPOSIT.—Fines collected under para-
14 graph (1) shall be deposited into the Immigration
15 Examinations Fee Account pursuant to section
16 286(m).

17 “(g) ELIGIBILITY FOR LEGAL SERVICES.—Section
18 504(a)(11) of the Departments of Commerce, Justice, and
19 State, the Judiciary, and Related Agencies Appropriations
20 Act, 1996 (Public Law 104–134; 110 Stat. 1321–55) may
21 not be construed to prevent a recipient of funds under the
22 Legal Services Corporation Act (42 U.S.C. 2996 et seq.)
23 from providing legal assistance directly related to an appli-
24 cation for blue card status under section 101 of the Agri-
25 cultural Worker Program Act of 2017, to an individual

1 who has been granted blue card status, or for an applica-
 2 tion for an adjustment of status under this section.

3 “(h) ADMINISTRATIVE AND JUDICIAL REVIEW.—
 4 Aliens applying for blue card status under section 101 of
 5 the Agricultural Worker Program Act of 2017 or for ad-
 6 justment to permanent resident status under this section
 7 shall be entitled to the rights and subject to the conditions
 8 applicable to other classes of aliens under section 242.”.

9 (b) CONFORMING AMENDMENT.—Section 201(b)(1)
 10 of the Immigration and Nationality Act (8 U.S.C.
 11 1151(b)(1)) is amended—

12 (1) by redesignating subparagraph (E) as sub-
 13 paragraph (F); and

14 (2) by inserting after subparagraph (D) the fol-
 15 lowing:

16 “(E) Aliens granted lawful permanent resi-
 17 dent status under section 245B.”.

18 (c) CLERICAL AMENDMENT.—The table of contents
 19 of the Immigration and Nationality Act (8 U.S.C. 1101
 20 note) is amended by inserting after the item relating to
 21 section 245A the following:

“Sec. 245B. Adjustment to permanent resident status for agricultural work-
 ers.”.

22 **SEC. 103. USE OF INFORMATION.**

23 Beginning not later than the first day of the applica-
 24 tion period described in section 101(b)(3), the Secretary,

1 in cooperation with qualified designated entities, shall
2 broadly disseminate information regarding—

3 (1) the benefits that aliens may receive under
4 this title and the amendments made by this title;
5 and

6 (2) the requirements that an alien is required
7 to meet to receive such benefits.

8 **SEC. 104. REPORTS ON BLUE CARDS.**

9 Not later than six months after the publication of the
10 final rule under section 101(j), and annually thereafter for
11 the following eight years, the Secretary shall submit a re-
12 port to Congress that identifies, for the previous fiscal
13 year—

14 (1) the number of aliens who applied for blue
15 card status;

16 (2) the number of aliens who were granted blue
17 card status;

18 (3) the number of aliens who applied for an ad-
19 justment of status pursuant to section 245B(a) of
20 the Immigration and Nationality Act, as added by
21 section 102; and

22 (4) the number of aliens who received an ad-
23 justment of status pursuant such section 245B(a).

1 **SEC. 105. AUTHORIZATION OF APPROPRIATIONS.**

2 There are authorized to be appropriated to the Sec-
 3 retary such amounts as may be necessary to implement
 4 this title, including any amounts needed for costs associ-
 5 ated with the initiation of such implementation during fis-
 6 cal years 2017 and 2018.

7 **TITLE II—CORRECTION OF**
 8 **SOCIAL SECURITY RECORDS**

9 **SEC. 201. CORRECTION OF SOCIAL SECURITY RECORDS.**

10 (a) IN GENERAL.—Section 208(e)(1) of the Social
 11 Security Act (42 U.S.C. 408(e)(1)) is amended—

12 (1) in subparagraph (B)(ii), by striking “or” at
 13 the end;

14 (2) in subparagraph (C), by inserting “or” at
 15 the end;

16 (3) by inserting after subparagraph (C) the fol-
 17 lowing:

18 “(D) who is granted blue card status
 19 under section 101 of the Agricultural Worker
 20 Program Act of 2017,”; and

21 (4) in the undesignated matter following sub-
 22 paragraph (D), as added by paragraph (3), by strik-
 23 ing “1990.” and inserting “1990, or in the case of
 24 an alien described in subparagraph (D), if such con-
 25 duct is alleged to have occurred before the date on
 26 which the alien was granted blue card status under

1 section 101(a) of the Agricultural Worker Program
2 Act of 2017.”.

3 (b) EFFECTIVE DATE.—The amendments made by
4 subsection (a) shall take effect on the first day of the sev-
5 enth month that begins after the date of the enactment
6 of this Act.

7 **TITLE III—DEFINITIONS**

8 **SEC. 301. DEFINITIONS.**

9 In this Act:

10 (1) AGRICULTURAL EMPLOYMENT.—The term
11 “agricultural employment” has the meaning given
12 such term in section 3 of the Migrant and Seasonal
13 Agricultural Worker Protection Act (29 U.S.C.
14 1802), without regard to whether the specific service
15 or activity is temporary or seasonal.

16 (2) BLUE CARD STATUS.—The term “blue card
17 status” means the status of an alien who has been
18 lawfully admitted into the United States for tem-
19 porary residence under section 101.

20 (3) CHILD.—The term “child” has the meaning
21 given such term in section 101(b)(1) of the Immi-
22 gration and Nationality Act (8 U.S.C. 1101(b)(1)).

23 (4) CONTINUOUS PRESENCE.—An alien shall be
24 deemed to have maintained “continuous presence” in
25 the United States for purposes of section

1 101(a)(1)(B)(iii) if any absences from the United
2 States during the applicable period were brief, cas-
3 ual, and innocent, whether or not such absences
4 were authorized by the Secretary.

5 (5) EMPLOYER.—The term “employer” means
6 any person or entity, including any farm labor con-
7 tractor and any agricultural association, that em-
8 ploys workers in agricultural employment.

9 (6) QUALIFIED DESIGNATED ENTITY.—The
10 term “qualified designated entity” means—

11 (A) a qualified farm labor organization or
12 an association of employers designated by the
13 Secretary; or

14 (B) any other entity that the Secretary
15 designates as having substantial experience,
16 demonstrated competence, and a history of
17 long-term involvement in the preparation and
18 submission of application for adjustment of sta-
19 tus under title II of the Immigration and Na-
20 tionality Act (8 U.S.C. 1151 et seq.).

21 (7) QUALIFIED WORK.—The term “qualified
22 work” means work performed in agricultural em-
23 ployment in the United States for not fewer than
24 575 hours or 100 work days during the 2-year pe-
25 riod ending on the date of the enactment of this Act.

1 (8) SECRETARY.—The term “Secretary” means
2 the Secretary of Homeland Security.

3 (9) WORK DAY.—The term “work day” means
4 any day in which the individual is employed 5.75 or
5 more hours in agricultural employment.

