

112TH CONGRESS
1ST SESSION

H. R. 3017

To provide for a more structured and stable domestic agricultural labor market in the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 22, 2011

Mr. BERMAN (for himself, Ms. ZOE LOFGREN of California, Mr. CONYERS, Mr. GUTIERREZ, Ms. CHU, Ms. LINDA T. SÁNCHEZ of California, and Mr. BACA) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Ways and Means, Education and the Workforce, and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for a more structured and stable domestic agricultural labor market 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 Labor Market Reform Act of 2011”.

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

- Sec. 1. Short title, table of contents.
 Sec. 2. Definitions.

TITLE I—EARNED ADJUSTMENT OF STATUS FOR CERTAIN
 AGRICULTURAL WORKERS AND THEIR FAMILIES

Subtitle A—Blue Card Status

- Sec. 101. Requirements for blue card status.
 Sec. 102. Treatment of aliens granted blue card status.
 Sec. 103. Adjustment to permanent residence.
 Sec. 104. Applications.
 Sec. 105. Waiver of numerical limitations and certain grounds for inadmissibility.
 Sec. 106. Administrative and judicial review.
 Sec. 107. Use of information.
 Sec. 108. Regulations, effective date, authorization of appropriations.

Subtitle B—Correction of Social Security Records

- Sec. 111. Correction of Social Security records.

TITLE II—MANDATORY USE OF E-VERIFY BY FARM LABOR
 CONTRACTORS

- Sec. 201. Amendments to the Illegal Immigration Reform and Immigrant Responsibility Act.
 Sec. 202. Amendments to the Migrant and Seasonal Agricultural Worker Protection Act.

TITLE III—LABOR MARKET REFORMS

- Sec. 301. Trust fund for agricultural labor market reform.
 Sec. 302. Expenditures from trust fund.

TITLE IV—EQUAL TREATMENT OF U.S. AND GUEST WORKERS
 UNDER THE H-2A PROGRAM

- Sec. 401. Amendments to the Migrant and Seasonal Agricultural Protection Act.
 Sec. 402. Amendments to the Internal Revenue Code.

1 SEC. 2. DEFINITIONS.

2 In this Act:

- 3 (1) AGRICULTURAL EMPLOYMENT.**—The term
4 “agricultural employment” has the meaning given
5 such term in section 3 of the Migrant and Seasonal
6 Agricultural Worker Protection Act (29 U.S.C.
7 1802), without regard to whether the specific service

1 or activity is temporary or seasonal, including the
2 performance of agricultural labor or service de-
3 scribed in section 101(a)(15)(H)(ii)(a) of the Immi-
4 gration and Nationality Act.

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

9 (3) DEPARTMENT.—The term “Department”
10 means the Department of Homeland Security.

11 (4) EMPLOYER.—The term “employer” means
12 any person or entity, including any farm labor con-
13 tractor and any agricultural association, that em-
14 ploys workers in agricultural employment.

15 (5) SECRETARY.—Except as otherwise provided,
16 the term “Secretary” means the Secretary of Home-
17 land Security.

18 **TITLE I—EARNED ADJUSTMENT**
19 **OF STATUS FOR CERTAIN AG-**
20 **RICULTURAL WORKERS AND**
21 **THEIR FAMILIES**

22 **Subtitle A—Blue Card Status**

23 **SEC. 101. REQUIREMENTS FOR BLUE CARD STATUS.**

24 (a) REQUIREMENT TO GRANT BLUE CARD STA-
25 TUS.—Notwithstanding any other provision of law, the

1 Secretary shall, pursuant to the requirements of this sec-
2 tion, grant blue card status to an alien who qualifies under
3 this section if the Secretary determines that the alien—

4 (1) during the 24-month period ending on De-
5 cember 31, 2010—

6 (A) performed agricultural employment in
7 the United States for at least 863 hours or 150
8 work days; or

9 (B) earned at least \$7,500 from agricul-
10 tural employment in the United States;

11 (2) applied for such status during the 18-month
12 application period beginning on the first day of the
13 seventh month that begins after the date of enact-
14 ment of this Act;

15 (3) is otherwise admissible to the United States
16 under section 212 of the Immigration and Nation-
17 ality Act (8 U.S.C. 1182), except as otherwise pro-
18 vided under section 105(b); and

19 (4) has not been convicted of any felony or a
20 misdemeanor, an element of which involves bodily in-
21 jury, threat of serious bodily injury, or harm to
22 property in excess of \$500.

23 (b) AUTHORIZED TRAVEL.—An alien who is granted
24 blue card status is authorized to travel outside the United
25 States (including commuting to the United States from

1 a residence in a foreign country) in the same manner as
2 an alien lawfully admitted for permanent residence.

3 (c) AUTHORIZED EMPLOYMENT.—The Secretary
4 shall provide an alien who is granted blue card status an
5 employment authorized endorsement or other appropriate
6 work permit, in the same manner as an alien lawfully ad-
7 mitted for permanent residence.

8 (d) TERMINATION OF BLUE CARD STATUS.—

9 (1) DEPORTABLE ALIENS.—The Secretary shall
10 terminate blue card status granted to an alien if the
11 Secretary determines that the alien is deportable.

12 (2) OTHER GROUNDS FOR TERMINATION.—The
13 Secretary shall terminate blue card status granted to
14 an alien if—

15 (A) the Secretary finds, by a preponder-
16 ance of the evidence, that the adjustment to
17 blue card status was the result of fraud or will-
18 ful misrepresentation, as described in section
19 212(a)(6)(C)(i) of the Immigration and Nation-
20 ality Act (8 U.S.C. 1182(a)(6)(C)(i)); or

21 (B) the alien—

22 (i) commits an act that makes the
23 alien inadmissible to the United States
24 under section 212 of the Immigration and

1 Nationality Act (8 U.S.C. 1182), except as
2 provided under section 105(b);

3 (ii) is convicted of a felony or 3 or
4 more misdemeanors committed in the
5 United States;

6 (iii) is convicted of an offense, an ele-
7 ment of which involves bodily injury, threat
8 of serious bodily injury, or harm to prop-
9 erty in excess of \$500; or

10 (iv) fails to perform the agricultural
11 employment required under paragraph
12 (1)(A) of section 103(a) unless the alien
13 was unable to work in agricultural employ-
14 ment due to the extraordinary cir-
15 cumstances described in paragraph (3) of
16 such section.

17 (e) RECORD OF EMPLOYMENT.—

18 (1) IN GENERAL.—Each employer of an alien
19 granted blue card status shall annually—

20 (A) provide a written record of employ-
21 ment to the alien; and

22 (B) provide a copy of such record to the
23 Secretary.

24 (2) CIVIL PENALTIES.—

1 (A) IN GENERAL.—If the Secretary finds,
2 after notice and opportunity for a hearing, that
3 an employer of an alien granted blue card sta-
4 tus has failed to provide the record of employ-
5 ment required under paragraph (1) or has pro-
6 vided a false statement of material fact in such
7 a record, the employer shall be subject to a civil
8 penalty in an amount not to exceed \$1,000 per
9 violation.

10 (B) LIMITATION.—The penalty applicable
11 under subparagraph (A) for failure to provide
12 records shall not apply unless the alien has pro-
13 vided the employer with evidence of employment
14 authorization granted under this section.

15 (3) SUNSET.—The obligation under paragraph
16 (1) shall terminate on the date that is 6 years after
17 the date of the enactment of this Act.

18 (f) REQUIRED FEATURES OF IDENTITY CARD.—The
19 Secretary shall provide each alien granted blue card sta-
20 tus, and the spouse and any child of each such alien resid-
21 ing in the United States, with a card that contains—

22 (1) an encrypted, machine-readable, electronic
23 identification strip that is unique to the alien to
24 whom the card is issued;

1 (2) biometric identifiers, including fingerprints
2 and a digital photograph; and

3 (3) physical security features designed to pre-
4 vent tampering, counterfeiting, or duplication of the
5 card for fraudulent purposes.

6 (g) FINE.—An alien granted blue card status shall
7 pay a fine of \$100 to the Secretary.

8 (h) MAXIMUM NUMBER.—The Secretary may not
9 issue more than 1,000,000 blue cards during the 5-year
10 period beginning on the date of the enactment of this Act.

11 **SEC. 102. TREATMENT OF ALIENS GRANTED BLUE CARD**
12 **STATUS.**

13 (a) IN GENERAL.—Except as otherwise provided
14 under this section, an alien granted blue card status (in-
15 cluding a spouse or child of the alien granted derivative
16 status) shall be considered to be an alien lawfully admitted
17 for permanent residence for purposes of any law other
18 than any provision of the Immigration and Nationality Act
19 (8 U.S.C. 1101 et seq.).

20 (b) DELAYED ELIGIBILITY FOR CERTAIN FEDERAL
21 PUBLIC BENEFITS.—Except as otherwise provided in law,
22 an alien granted blue card status shall not be eligible, by
23 reason of such status, for any form of assistance or benefit
24 described in section 403(a) of the Personal Responsibility
25 and Work Opportunity Reconciliation Act of 1996 (8

1 U.S.C. 1613(a)) until 5 years after the date on which the
2 alien is granted an adjustment of status under section
3 103.

4 **SEC. 103. ADJUSTMENT TO PERMANENT RESIDENCE.**

5 (a) IN GENERAL.—Except as provided in subsection
6 (b), the Secretary shall adjust the status of an alien grant-
7 ed blue card status to that of an alien lawfully admitted
8 for permanent residence if the Secretary determines that
9 the following requirements are satisfied:

10 (1) QUALIFYING EMPLOYMENT.—

11 (A) IN GENERAL.—Subject to subpara-
12 graph (B), the alien has performed at least—

13 (i) 5 years of agricultural employment
14 in the United States for at least 100 work
15 days per year, during the 5-year period be-
16 ginning on the date of the enactment of
17 this Act; or

18 (ii) 3 years of agricultural employ-
19 ment in the United States for at least 150
20 work days per year, during the 3-year pe-
21 riod beginning on the date of the enact-
22 ment of this Act.

23 (B) 4-YEAR PERIOD OF EMPLOYMENT.—

24 An alien shall be considered to meet the re-
25 quirements of subparagraph (A) if the alien has

1 performed 4 years of agricultural employment
2 in the United States for at least 150 work days
3 during 3 years of those 4 years and at least
4 100 work days during the remaining year, dur-
5 ing the 4-year period beginning on the date of
6 the enactment of this Act.

7 (2) PROOF.—An alien may demonstrate compli-
8 ance with the requirement under paragraph (1) by
9 submitting—

10 (A) the record of employment described in
11 section 101(e); or

12 (B) documentation that may be submitted
13 under section 104(c).

14 (3) EXTRAORDINARY CIRCUMSTANCES.—In de-
15 termining whether an alien has met the requirement
16 of paragraph (1)(A), the Secretary may credit the
17 alien with not more than 12 additional months of
18 agricultural employment in the United States to
19 meet such requirement if the alien was unable to
20 work in agricultural employment due to—

21 (A) pregnancy, injury, or disease, if the
22 alien can establish such pregnancy, disabling in-
23 jury, or disease through medical records;

24 (B) illness, disease, or other special needs
25 of a minor child, if the alien can establish such

1 illness, disease, or special needs through med-
2 ical records;

3 (C) severe weather conditions that pre-
4 vented the alien from engaging in agricultural
5 employment for a significant period of time; or

6 (D) termination from agricultural employ-
7 ment, if the Secretary finds that the termi-
8 nation was without just cause and that the
9 alien was unable to find alternative agricultural
10 employment after a reasonable job search.

11 (4) APPLICATION PERIOD.—The alien applies
12 for adjustment of status not later than 7 years after
13 the date of the enactment of this Act.

14 (5) FINE.—The alien pays a fine of \$400 to the
15 Secretary.

16 (b) GROUNDS FOR DENIAL OF ADJUSTMENT OF STA-
17 TUS.—The Secretary shall deny an alien granted blue card
18 status an adjustment of status under this section if—

19 (1) the Secretary finds, by a preponderance of
20 the evidence, that the adjustment to blue card status
21 was the result of fraud or willful misrepresentation,
22 as described in section 212(a)(6)(C)(i) of the Immi-
23 gration and Nationality Act (8 U.S.C.
24 1182(a)(6)(C)(i)); or

25 (2) the alien—

1 (A) commits an act that makes the alien
2 inadmissible to the United States under section
3 212 of the Immigration and Nationality Act (8
4 U.S.C. 1182), except as provided under section
5 105(b);

6 (B) is convicted of a felony or 3 or more
7 misdemeanors committed in the United States;

8 (C) is convicted of an offense, an element
9 of which involves bodily injury, threat of serious
10 bodily injury, or harm to property in excess of
11 \$500; or

12 (D) failed to perform the agricultural em-
13 ployment required under paragraph (1)(A) of
14 subsection (a) unless the alien was unable to
15 work in agricultural employment due to the ex-
16 traordinary circumstances described in para-
17 graph (3) of such subsection.

18 (c) GROUNDS FOR REMOVAL.—Any alien granted
19 blue card status who does not apply for adjustment of sta-
20 tus under this section before the expiration of the applica-
21 tion period described in subsection (a)(4) or who fails to
22 meet the other requirements of subsection (a) by the end
23 of the application period, is deportable and may be re-
24 moved under section 240 of the Immigration and Nation-
25 ality Act (8 U.S.C. 1229a).

1 (d) PAYMENT OF TAXES.—

2 (1) IN GENERAL.—Not later than the date on
3 which an alien’s status is adjusted under this sec-
4 tion, the alien shall establish that the alien does not
5 owe any applicable Federal tax liability by estab-
6 lishing that—

7 (A) no such tax liability exists;

8 (B) all such outstanding tax liabilities have
9 been paid; or

10 (C) the alien has entered into an agree-
11 ment for payment of all outstanding liabilities
12 with the Internal Revenue Service.

13 (2) APPLICABLE FEDERAL TAX LIABILITY.—In
14 paragraph (1) the term “applicable Federal tax li-
15 ability” means liability for Federal taxes, including
16 penalties and interest, owed for any year during the
17 period of employment required under subsection
18 (a)(1) for which the statutory period for assessment
19 of any deficiency for such taxes has not expired.

20 (3) IRS COOPERATION.—The Secretary of the
21 Treasury shall establish rules and procedures under
22 which the Commissioner of Internal Revenue shall
23 provide documentation to an alien upon request to
24 establish the payment of all taxes required by this
25 subsection.

1 (e) SPOUSES AND MINOR CHILDREN.—

2 (1) IN GENERAL.—Notwithstanding any other
3 provision of law, the Secretary shall confer the sta-
4 tus of lawful permanent resident on the spouse and
5 minor child of an alien granted any adjustment of
6 status under subsection (a), including any individual
7 who was a minor child on the date such alien was
8 granted blue card status, if the spouse or minor
9 child applies for such status, or if the principal alien
10 includes the spouse or minor child in an application
11 for adjustment of status to that of a lawful perma-
12 nent resident.

13 (2) TREATMENT OF SPOUSES AND MINOR CHIL-
14 DREN.—

15 (A) GRANTING OF STATUS AND RE-
16 MOVAL.—The Secretary shall grant derivative
17 status to the alien spouse and any minor child
18 residing in the United States of an alien grant-
19 ed blue card status and shall not remove such
20 derivative spouse or child during the period that
21 the alien granted blue card status maintains
22 such status, except as provided in paragraph
23 (3). A grant of derivative status to such a
24 spouse or child under this subparagraph shall
25 not decrease the number of aliens who may re-

1 ceive blue card status under subsection (h) of
2 section 101.

3 (B) TRAVEL.—The derivative spouse and
4 any minor child of an alien granted blue card
5 status may travel outside the United States in
6 the same manner as an alien lawfully admitted
7 for permanent residence.

8 (C) EMPLOYMENT.—The derivative spouse
9 of an alien granted blue card status may apply
10 to the Secretary for a work permit to authorize
11 such spouse to engage in any lawful employ-
12 ment in the United States while such alien
13 maintains blue card status.

14 (3) GROUNDS FOR DENIAL OF ADJUSTMENT OF
15 STATUS AND REMOVAL.—The Secretary shall deny
16 an alien spouse or child adjustment of status under
17 paragraph (1) and may remove such spouse or child
18 under section 240 of the Immigration and Nation-
19 ality Act (8 U.S.C. 1229a) if the spouse or child—

20 (A) commits an act that makes the alien
21 spouse or child inadmissible to the United
22 States under section 212 of such Act (8 U.S.C.
23 1182), except as provided under section 105(b);

1 (B) is convicted of a felony or 3 or more
2 misdemeanors committed in the United States;
3 or

4 (C) is convicted of an offense, an element
5 of which involves bodily injury, threat of serious
6 bodily injury, or harm to property in excess of
7 \$500.

8 **SEC. 104. APPLICATIONS.**

9 (a) SUBMISSION.—The Secretary shall provide that—

10 (1) applications for blue card status may be
11 submitted—

12 (A) to the Secretary if the applicant is rep-
13 resented by an attorney or a nonprofit religious,
14 charitable, social service, or similar organization
15 recognized by the Board of Immigration Ap-
16 peals under section 292.2 of title 8, Code of
17 Federal Regulations; or

18 (B) to a qualified designated entity if the
19 applicant consents to the forwarding of the ap-
20 plication to the Secretary; and

21 (2) applications for adjustment of status under
22 section 103 shall be filed directly with the Secretary.

23 (b) QUALIFIED DESIGNATED ENTITY DEFINED.—In
24 this section, the term “qualified designated entity” means
25 a qualified farm labor organization and any affiliated or-

1 ganization or an association of employers designated by
2 the Secretary.

3 (c) PROOF OF ELIGIBILITY.—

4 (1) IN GENERAL.—An alien may establish that
5 the alien meets the requirement of section 101(a)(1)
6 or 103(a)(1) through government employment
7 records or records supplied by employers or collec-
8 tive bargaining organizations, and other reliable doc-
9 umentation as the alien may provide. The Secretary
10 shall establish special procedures to properly credit
11 work in cases in which an alien was employed under
12 an assumed name.

13 (2) DOCUMENTATION OF WORK HISTORY.—

14 (A) BURDEN OF PROOF.—An alien apply-
15 ing for status under section 101(a) or 103(a)
16 has the burden of proving by a preponderance
17 of the evidence that the alien has worked the
18 requisite number of hours or days required
19 under section 101(a)(1) or 103(a)(1), as appli-
20 cable.

21 (B) TIMELY PRODUCTION OF RECORDS.—

22 If an employer or farm labor contractor employ-
23 ing such an alien has kept proper and adequate
24 records respecting such employment, the alien's
25 burden of proof under subparagraph (A) may

1 be met by securing timely production of those
2 records under regulations to be promulgated by
3 the Secretary.

4 (C) SUFFICIENT EVIDENCE.—An alien
5 may meet the burden of proof under subpara-
6 graph (A) to establish that the alien has per-
7 formed the days or hours of work required by
8 section 101(a)(1) or 103(a)(1) by producing
9 sufficient evidence to show the extent of that
10 employment as a matter of just and reasonable
11 inference.

12 (d) APPLICATIONS SUBMITTED TO QUALIFIED DES-
13 IGNATED ENTITIES.—

14 (1) REQUIREMENTS.—Each qualified des-
15 ignated entity shall agree—

16 (A) to forward to the Secretary an applica-
17 tion submitted to that entity pursuant to sub-
18 section (a)(1)(B) if the applicant has consented
19 to such forwarding;

20 (B) not to forward to the Secretary any
21 such application if the applicant has not con-
22 sented to such forwarding; and

23 (C) to assist an alien in obtaining docu-
24 mentation of the alien's work history, if the
25 alien requests such assistance.

1 (2) NO AUTHORITY TO MAKE DETERMINA-
2 TIONS.—No qualified designated entity may make a
3 determination required by this subtitle to be made
4 by the Secretary.

5 (e) LIMITATION ON ACCESS TO INFORMATION.—Files
6 and records collected or compiled by a qualified designated
7 entity for the purposes of this section are confidential and
8 the Secretary shall not have access to such a file or record
9 relating to an alien without the consent of the alien, except
10 as allowed by a court order issued pursuant to subsection
11 (f).

12 (f) CONFIDENTIALITY OF INFORMATION.—

13 (1) IN GENERAL.—Except as otherwise pro-
14 vided in this section, the Secretary or any other offi-
15 cial or employee of the Department or a bureau or
16 agency of the Department is prohibited from—

17 (A) using information furnished by the ap-
18 plicant pursuant to an application filed under
19 this title, the information provided by an appli-
20 cant to a qualified designated entity, or any in-
21 formation provided by an employer or former
22 employer for any purpose other than to make a
23 determination on the application or for impos-
24 ing the penalties described in subsection (g);

1 (B) making any publication in which the
2 information furnished by any particular indi-
3 vidual can be identified; or

4 (C) permitting a person other than a
5 sworn officer or employee of the Department or
6 a bureau or agency of the Department or, with
7 respect to applications filed with a qualified
8 designated entity, that qualified designated en-
9 tity, to examine individual applications.

10 (2) REQUIRED DISCLOSURES.—The Secretary
11 shall provide the information furnished under this
12 title or any other information derived from such fur-
13 nished information to—

14 (A) a duly recognized law enforcement en-
15 tity in connection with a criminal investigation
16 or prosecution, if such information is requested
17 in writing by such entity; or

18 (B) an official coroner, for purposes of af-
19 firmatively identifying a deceased individual,
20 whether or not the death of such individual re-
21 sulted from a crime.

22 (3) CONSTRUCTION.—

23 (A) IN GENERAL.—Nothing in this sub-
24 section shall be construed to limit the use, or
25 release, for immigration enforcement purposes

1 or law enforcement purposes, of information
2 contained in files or records of the Department
3 pertaining to an application filed under this sec-
4 tion, other than information furnished by an
5 applicant pursuant to the application, or any
6 other information derived from the application,
7 that is not available from any other source.

8 (B) CRIMINAL CONVICTIONS.—Notwith-
9 standing any other provision of this subsection,
10 information concerning whether the alien apply-
11 ing for blue card status or an adjustment of
12 status under section 103 has been convicted of
13 a crime at any time may be used or released for
14 immigration enforcement or law enforcement
15 purposes.

16 (4) CRIME.—Any person who knowingly uses,
17 publishes, or permits information to be examined in
18 violation of this subsection shall be subject to a fine
19 in an amount not to exceed \$10,000.

20 (g) PENALTIES FOR FALSE STATEMENTS IN APPLI-
21 CATIONS.—

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

23 (A) files an application for blue card status
24 or an adjustment of status under section 103
25 and knowingly and willfully falsifies, conceals,

1 or covers up a material fact or makes any false,
2 fictitious, or fraudulent statements or represen-
3 tations, or makes or uses any false writing or
4 document knowing the same to contain any
5 false, fictitious, or fraudulent statement or
6 entry; or

7 (B) creates or supplies a false writing or
8 document for use in making such an applica-
9 tion,

10 shall be fined in accordance with title 18, United
11 States Code, imprisoned not more than 5 years, or
12 both.

13 (2) INADMISSIBILITY.—An alien who is con-
14 victed of a crime under paragraph (1) shall be con-
15 sidered to be inadmissible to the United States on
16 the ground described in section 212(a)(6)(C)(i) of
17 the Immigration and Nationality Act (8 U.S.C.
18 1182(a)(6)(C)(i)).

19 (h) ELIGIBILITY FOR LEGAL SERVICES.—Section
20 504(a)(11) of Public Law 104–134 (110 Stat. 1321–53
21 et seq.) shall not be construed to prevent a recipient of
22 funds under the Legal Services Corporation Act (42
23 U.S.C. 2996 et seq.) from providing legal assistance di-
24 rectly related to an application for blue card status or an
25 adjustment of status under section 103.

1 (i) APPLICATION FEES.—

2 (1) FEE SCHEDULE.—The Secretary shall pro-
3 vide for a schedule of fees that—

4 (A) shall be charged for the filing of an
5 application for blue card status or for an ad-
6 justment of status under section 103; and

7 (B) may be charged by qualified des-
8 ignated entities to help defray the costs of serv-
9 ices provided to such applicants.

10 (2) PROHIBITION ON EXCESS FEES BY QUALI-
11 FIED DESIGNATED ENTITIES.—A qualified des-
12 ignated entity may not charge any fee in excess of,
13 or in addition to, the fees authorized under para-
14 graph (1)(B) for services provided to applicants.

15 (3) DISPOSITION OF FEES.—

16 (A) IN GENERAL.—There is established in
17 the general fund of the Treasury a separate ac-
18 count, which shall be known as the “Agricul-
19 tural Worker Immigration Status Adjustment
20 Account”. Notwithstanding any other provision
21 of law, there shall be deposited as offsetting re-
22 cepts into the account all fees collected under
23 paragraph (1)(A).

24 (B) USE OF FEES FOR APPLICATION PROC-
25 ESSING.—Amounts deposited in the “Agricul-

1 tural Worker Immigration Status Adjustment
2 Account” shall remain available to the Sec-
3 retary until expended for processing applica-
4 tions for blue card status or an adjustment of
5 status under section 103.

6 **SEC. 105. WAIVER OF NUMERICAL LIMITATIONS AND CER-**
7 **TAIN GROUNDS FOR INADMISSIBILITY.**

8 (a) NUMERICAL LIMITATIONS DO NOT APPLY.—The
9 numerical limitations of sections 201 and 202 of the Im-
10 migration and Nationality Act (8 U.S.C. 1151 and 1152)
11 shall not apply to the adjustment of aliens to lawful per-
12 manent resident status under section 103.

13 (b) WAIVER OF CERTAIN GROUNDS OF INADMISS-
14 SIBILITY.—In the determination of an alien’s eligibility for
15 status under section 101(a) or an alien’s eligibility for ad-
16 justment of status under section 103(b)(2)(A) the fol-
17 lowing rules shall apply:

18 (1) GROUNDS OF EXCLUSION NOT APPLICA-
19 BLE.—The provisions of paragraphs (5), (6)(A), (7),
20 and (9) of section 212(a) of the Immigration and
21 Nationality Act (8 U.S.C. 1182(a)) shall not apply.

22 (2) WAIVER OF OTHER GROUNDS.—

23 (A) IN GENERAL.—Except as provided in
24 subparagraph (B), the Secretary may waive any
25 other provision of such section 212(a) in the

1 case of individual aliens for humanitarian pur-
2 poses, to ensure family unity, or if otherwise in
3 the public interest.

4 (B) GROUNDS THAT MAY NOT BE
5 WAIVED.—Subparagraphs (A), (B), (C), (D),
6 (G), (H), and (I) of paragraph (2) and para-
7 graphs (3) and (4) of such section 212(a) may
8 not be waived by the Secretary under subpara-
9 graph (A).

10 (C) CONSTRUCTION.—Nothing in this
11 paragraph shall be construed as affecting the
12 authority of the Secretary other than under this
13 subparagraph to waive provisions of such sec-
14 tion 212(a).

15 (3) SPECIAL RULE FOR DETERMINATION OF
16 PUBLIC CHARGE.—An alien is not ineligible for blue
17 card status or an adjustment of status under section
18 103 by reason of a ground of inadmissibility under
19 section 212(a)(4) of the Immigration and Nation-
20 ality Act (8 U.S.C. 1182(a)(4)) if the alien dem-
21 onstrates a history of employment in the United
22 States evidencing self-support without reliance on
23 public cash assistance.

24 (c) TEMPORARY STAY OF REMOVAL AND WORK AU-
25 THORIZATION FOR CERTAIN APPLICANTS.—

1 (1) BEFORE APPLICATION PERIOD.—Effective
2 on the date of enactment of this Act, the Secretary
3 shall provide that, in the case of an alien who is ap-
4 prehended before the beginning of the application
5 period described in section 101(a)(2) and who can
6 establish a nonfrivolous case of eligibility for blue
7 card status (but for the fact that the alien may not
8 apply for such status until the beginning of such pe-
9 riod), until the alien has had the opportunity during
10 the first 30 days of the application period to com-
11 plete the filing of an application for blue card status,
12 the alien—

13 (A) may not be removed; and

14 (B) shall be granted authorization to en-
15 gage in employment in the United States and
16 be provided an employment authorized endorse-
17 ment or other appropriate work permit for such
18 purpose.

19 (2) DURING APPLICATION PERIOD.—The Sec-
20 retary shall provide that, in the case of an alien who
21 presents a nonfrivolous application for blue card sta-
22 tus during the application period described in section
23 101(a)(2), including an alien who files such an ap-
24 plication within 30 days of the alien’s apprehension,
25 and until a final determination on the application

1 has been made in accordance with this section, the
2 alien—

3 (A) may not be removed; and

4 (B) shall be granted authorization to en-
5 gage in employment in the United States and
6 be provided an employment authorized endorse-
7 ment or other appropriate work permit for such
8 purpose.

9 **SEC. 106. ADMINISTRATIVE AND JUDICIAL REVIEW.**

10 (a) IN GENERAL.—There shall be no administrative
11 or judicial review of a determination respecting an applica-
12 tion for blue card status or adjustment of status under
13 section 103 except in accordance with this section.

14 (b) ADMINISTRATIVE REVIEW.—

15 (1) SINGLE LEVEL OF ADMINISTRATIVE APPEL-
16 LATE REVIEW.—The Secretary shall establish an ap-
17 pellate authority to provide for a single level of ad-
18 ministrative appellate review of such a determina-
19 tion.

20 (2) STANDARD FOR REVIEW.—Such administra-
21 tive appellate review shall be based solely upon the
22 administrative record established at the time of the
23 determination on the application and upon such ad-
24 ditional or newly discovered evidence as may not
25 have been available at the time of the determination.

1 (c) JUDICIAL REVIEW.—

2 (1) LIMITATION TO REVIEW OF REMOVAL.—

3 There shall be judicial review of such a determina-
4 tion only in the judicial review of an order of re-
5 moval under section 242 of the Immigration and
6 Nationality Act (8 U.S.C. 1252).

7 (2) STANDARD FOR JUDICIAL REVIEW.—Such
8 judicial review shall be based solely upon the admin-
9 istrative record established at the time of the review
10 by the appellate authority and the findings of fact
11 and determinations contained in such record shall be
12 conclusive unless the applicant can establish abuse
13 of discretion or that the findings are directly con-
14 trary to clear and convincing facts contained in the
15 record considered as a whole.

16 **SEC. 107. USE OF INFORMATION.**

17 Beginning not later than the first day of the applica-
18 tion period described in section 101(a)(2), the Secretary,
19 in cooperation with qualified designated entities (as that
20 term is defined in section 104(b)), shall broadly dissemi-
21 nate information respecting the benefits that aliens may
22 receive under this subtitle and the requirements that an
23 alien is required to meet to receive such benefits.

1 **SEC. 108. REGULATIONS, EFFECTIVE DATE, AUTHORIZA-**
2 **TION OF APPROPRIATIONS.**

3 (a) REGULATIONS.—The Secretary shall issue regula-
4 tions to implement this subtitle not later than the first
5 day of the seventh month that begins after the date of
6 enactment of this Act.

7 (b) EFFECTIVE DATE.—This subtitle shall take effect
8 on the date that regulations required by subsection (a) are
9 issued, regardless of whether such regulations are issued
10 on an interim basis or on any other basis.

11 (c) AUTHORIZATION OF APPROPRIATIONS.—There
12 are authorized to be appropriated to the Secretary such
13 sums as may be necessary to implement this subtitle, in-
14 cluding any sums needed for costs associated with the ini-
15 tiation of such implementation, for fiscal years 2011 and
16 2012.

17 **Subtitle B—Correction of Social**
18 **Security Records**

19 **SEC. 111. CORRECTION OF SOCIAL SECURITY RECORDS.**

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

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

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

1 (3) by inserting after subparagraph (C) the fol-
2 lowing:

3 “(D) who is granted blue card status under the
4 Agricultural Labor Market Reform Act of 2011”;
5 and

6 (4) by striking “1990.” and inserting “1990, or
7 in the case of an alien described in subparagraph
8 (D), if such conduct is alleged to have occurred be-
9 fore the date on which the alien was granted blue
10 card status.”.

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

15 **TITLE II—MANDATORY USE OF**
16 **E-VERIFY BY FARM LABOR**
17 **CONTRACTORS**

18 **SEC. 201. AMENDMENTS TO THE ILLEGAL IMMIGRATION**
19 **REFORM AND IMMIGRANT RESPONSIBILITY**
20 **ACT.**

21 (a) IN GENERAL.—Section 401(e) of the Illegal Im-
22 migration Reform and Immigrant Responsibility Act of
23 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a
24 note) is amended—

1 (1) by redesignating paragraphs (2) and (3) as
2 paragraphs (4) and (5), respectively; and

3 (2) by inserting after paragraph (1) the fol-
4 lowing:

5 “(2) FARM LABOR CONTRACTORS.—Beginning
6 on the date that is 6 months after the date of enact-
7 ment of the Agricultural Labor Market Reform Act
8 of 2011, any farm labor contractor (as defined in
9 section 3 of the Migrant and Seasonal Agricultural
10 Worker Protection Act (29 U.S.C.)) that hires work-
11 ers for agricultural employment (as defined in sec-
12 tion 2(1) of such Act) shall participate in the E-
13 Verify program to confirm the employment eligibility
14 of all newly hired workers.”.

15 (b) EFFECTIVE DATE.—The amendments made by
16 subsection (a) shall take effect on the first day of the sev-
17 enth month that begins after the enactment of this Act.

18 **SEC. 202. AMENDMENTS TO THE MIGRANT AND SEASONAL**

19 **AGRICULTURAL WORKER PROTECTION ACT.**

20 (a) The Migrant and Seasonal Agricultural Worker
21 Protection Act (Public Law 97–470) is amended by insert-
22 ing after section 105 (29 U.S.C. 1815) the following:

1 **“SEC. 106. PROHIBITION AGAINST EMPLOYING ILLEGAL**
2 **ALIENS.**

3 “(a) IN GENERAL.—No farm labor contractor shall
4 hire any individual who is an alien not lawfully admitted
5 for permanent residence or who has not been otherwise
6 authorized by the Secretary of Homeland Security to ac-
7 cept employment.

8 “(b) COMPLIANCE.—A farm labor contractor shall be
9 considered to comply with subsection (a) if the farm labor
10 contractor demonstrates that the farm labor contractor
11 utilized the E-Verify program to confirm the employment
12 eligibility of all workers hired beginning on the date that
13 is 6 months after the date of enactment of the Agricultural
14 Labor Market Reform Act of 2011.

15 “(c) PRIVATE RIGHT OF ACTION.—Any migrant or
16 seasonal farmworker (including prospective employees)
17 who has been discriminated against or otherwise aggrieved
18 by a violation of this section may file suit pursuant to sec-
19 tion 504.”.

20 (b) The amendments made in subsection (a) shall
21 apply to the hiring of an individual occurring on or after
22 the first day of the seventh month beginning after the date
23 of enactment.

1 **TITLE III—LABOR MARKET**
2 **REFORMS**

3 **SEC. 301. TRUST FUND FOR AGRICULTURAL LABOR MAR-**
4 **KET REFORM.**

5 (a) ESTABLISHMENT.—The Secretary shall establish
6 by regulation a trust fund the purpose of which is to pro-
7 vide funds for enhanced enforcement of labor standards
8 in agricultural employment, for research and promotion
9 of better labor management practices in agriculture and
10 other measures which will increase worker productivity
11 and reduce underemployment among farm workers.

12 (b) PAYMENT OF FINES INTO TRUST FUND.—All
13 fines received by the Secretary pursuant to sections 101(g)
14 and 103(a)(5) shall be paid into the trust fund established
15 by this subsection.

16 (c) DISPOSITION.—The amount in the trust fund
17 shall be divided equally between the Departments of Labor
18 and Agriculture on an annual basis for the uses set forth
19 in section 302.

20 **SEC. 302. EXPENDITURES FROM TRUST FUND.**

21 The monies allocated to the Department of Labor
22 and Department of Agriculture under subsection 301(c)
23 shall be expended as follows:

24 (1) DEPARTMENT OF LABOR.—The Department
25 of Labor shall expend all monies allocated to it

1 under subsection 301(c) for enforcement of the Mi-
2 grant and Seasonal Agricultural Worker Protection
3 Act, the Fair Labor Standards Act, and the Occupa-
4 tional Health and Safety Act in agricultural employ-
5 ment including outreach to farm workers, labor or-
6 ganizations, faith-based and community organiza-
7 tions serving farm workers.

8 (2) DEPARTMENT OF AGRICULTURE.—The De-
9 partment of Agriculture shall expend all monies allo-
10 cated to it under subsection 301(c) for research and
11 promotion of labor-saving technology and labor man-
12 agement practices in agriculture including ways to
13 enhance worker productivity, better retain workers,
14 and more efficiently utilize the existing work force
15 by reducing farmworker underemployment.

16 (3) ADVISORY COMMITTEE.—The Secretaries of
17 Agriculture and Labor shall jointly establish an advi-
18 sory committee composed of an equal number of
19 farm worker representatives appointed by the Sec-
20 retary of Labor and employer representatives ap-
21 pointed by the Secretary of Agriculture to advise the
22 Secretary of Agriculture with respect to expenditures
23 under paragraph (2).

1 **TITLE IV—EQUAL TREATMENT**
2 **OF U.S. AND GUEST WORKERS**
3 **UNDER THE H-2A PROGRAM**

4 **SEC. 401. AMENDMENTS TO THE MIGRANT AND SEASONAL**
5 **AGRICULTURAL PROTECTION ACT.**

6 (a) Section 3 of the Migrant and Seasonal Agricul-
7 tural Worker Protection Act (Public Law 97-470) is
8 amended—

9 (1) in paragraph (8), by amending subpara-
10 graph (B) to read as follows:

11 “(B) The term ‘migrant agricultural work-
12 er’ does not include any immediate family mem-
13 ber of an agricultural employer or farm labor
14 contractor.”; and

15 (2) in paragraph (10), by amending subpara-
16 graph (B) to read as follows:

17 “(B) The term ‘seasonal agricultural work-
18 er’ does not include—

19 “(i) any migrant agricultural worker;

20 or

21 “(ii) any immediate family member of
22 an agricultural employer or farm labor
23 contractor.”.

24 (b) The amendments made by subsection (a) shall
25 apply to the employment, recruitment, referral, or utiliza-

1 tion of an individual occurring on or after the first day
2 of the seventh month beginning after the date of enact-
3 ment of this Act.

4 **SEC. 402. AMENDMENTS TO THE INTERNAL REVENUE**
5 **CODE.**

6 (a) **IN GENERAL.**—The Internal Revenue Code of
7 1986 is amended by striking sections 3121(b)(1) and
8 3306(c)(B)(1)(B).

9 (b) **EFFECTIVE DATE.**—The amendments made by
10 subsection (a) shall take effect beginning on the first Jan-
11 uary 1st that occurs after the date of the enactment of
12 this Act.

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