

**SUBSTITUTE FOR THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 4092
OFFERED BY MR. GUTIÉRREZ OF ILLINOIS**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

4 (b) **TABLE OF CONTENTS.**—The table of contents for
5 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-
20 ment described in section 101(a)(15)(H)(ii)(a) of
21 such Act who has completed qualified work;

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

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

1 (4) passes the national security and law en-
2 forcement clearances required under subsection
3 (d)(1) to the satisfaction of the Secretary; and

4 (5) pays the required processing fees and pen-
5 alties in accordance with subsection (e).

6 (b) APPLICATION.—

7 (1) SUBMISSION REQUIREMENTS.—An alien de-
8 scribed in subsection (a)(1) who is seeking blue card
9 status shall submit an application—

10 (A) to the Secretary, with the assistance of
11 an attorney or a nonprofit religious, charitable,
12 social service, or similar organization recognized
13 by the Board of Immigration Appeals under
14 section 292.2 of title 8, Code of Federal Regu-
15 lations; or

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

19 (2) EVIDENCE OF APPLICATION FILING.—As
20 soon as practicable after receiving each application
21 for blue card status under paragraph (1), the Sec-
22 retary shall provide the applicant with a document
23 acknowledging the receipt of such application.

24 (3) APPLICATION PERIOD.—

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

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

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

18 (4) APPLICATION.—

19 (A) IN GENERAL.—The application form
20 referred to in paragraph (1) shall collect such
21 information as the Secretary determines nec-
22 essary and appropriate.

23 (B) FAMILY APPLICATION.—The Secretary
24 shall establish a process through which an alien
25 may submit a single application under this sec-

1 tion on behalf of the alien and his or her spouse
2 and children who meet the requirements set
3 forth in subsection (a)(1)(B).

4 (5) ADJUDICATION.—

5 (A) INTERVIEW.—The Secretary may
6 interview applicants for blue card status to de-
7 termine whether they meet the eligibility re-
8 quirements set forth in this section.

9 (B) FAILURE TO SUBMIT SUFFICIENT EVI-
10 DENCE.—The Secretary may deny an applica-
11 tion for blue card status submitted by an alien
12 who fails to submit evidence of the alien's eligi-
13 bility for such status.

14 (C) NOTICE.—If the Secretary denies an
15 application for blue card status, the Secretary
16 shall—

17 (i) send a written notice to the appli-
18 cant that provides the applicant with the
19 basis for denial; and

20 (ii) provide the alien with an oppor-
21 tunity to cure the denial within a reason-
22 able time.

23 (D) AMENDED APPLICATION.—An alien
24 whose application for blue card status is denied
25 under subparagraph (B) may submit an amend-

1 ed application for such status to the Secretary
2 if the amended application—

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

5 (ii) contains all the required informa-
6 tion and fees that were missing from the
7 initial application.

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

16 (6) EVIDENCE OF BLUE CARD STATUS.—

17 (A) IN GENERAL.—The Secretary shall
18 issue documentary evidence of blue card status
19 to each alien whose application for such status
20 has been approved.

21 (B) DOCUMENTATION FEATURES.—Docu-
22 mentary evidence provided under subparagraph

23 (A)—

24 (i) shall be machine-readable and tam-
25 per-resistant;

1 (ii) shall contain a digitized photo-
2 graph;

3 (iii) shall, during the alien's author-
4 ized period of admission, and any exten-
5 sion of such authorized admission, serve as
6 a valid travel and entry document for the
7 purpose of applying for admission to the
8 United States;

9 (iv) may be accepted during the pe-
10 riod of its validity by an employer as evi-
11 dence of employment authorization and
12 identity under section 274A(b)(1)(B) of
13 the Immigration and Nationality Act (8
14 U.S.C. 1324a(b)(1)(B)); and

15 (v) shall include such other features
16 and information as the Secretary may pre-
17 scribe.

18 (c) SPECIAL RULES FOR BLUE CARD APPLICANTS
19 AND ALIENS ELIGIBLE FOR BLUE CARD STATUS.—

20 (1) ALIENS APPREHENDED BEFORE OR DURING
21 THE APPLICATION PERIOD.—If an alien, who is ap-
22 prehended during the period beginning on the date
23 of the enactment of this Act and ending on the last
24 day of the application period described in paragraph

1 (3), appears prima facie eligible for blue card status,
2 the Secretary—

3 (A) shall provide the alien with a reason-
4 able opportunity to submit an application for
5 such status under this section during such ap-
6 plication period; and

7 (B) may not remove the individual until a
8 final administrative determination is made on
9 the application.

10 (2) ALIENS IN REMOVAL PROCEEDINGS.—Not-
11 withstanding any other provision of the Immigration
12 and Nationality Act (8 U.S.C. 1101 et seq.) if an
13 alien is in removal, deportation, or exclusion pro-
14 ceedings during the period beginning on the date of
15 the enactment of this Act and ending on the last day
16 of the application period described in subsection
17 (b)(3) and is prima facie eligible for blue card status
18 under this section, upon motion by the Secretary
19 and with the consent of the alien or upon motion by
20 the alien, the Executive Office for Immigration Re-
21 view shall—

22 (A) terminate such proceedings without
23 prejudice to future proceedings; and

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

1 (3) TREATMENT OF ALIENS PREVIOUSLY OR-
2 DERED REMOVED.—

3 (A) IN GENERAL.—If an alien who meets
4 the eligibility requirements set forth in sub-
5 section (a) is present in the United States and
6 has been ordered excluded, deported, or re-
7 moved, or ordered to depart voluntarily from
8 the United States under any provision of the
9 Immigration and Nationality Act—

10 (i) notwithstanding such order or sec-
11 tion 241(a)(5) of the Immigration and Na-
12 tionality Act (8 U.S.C. 1231(a)(5)), the
13 alien may apply for blue card status under
14 this section; and

15 (ii) if the alien is granted such status,
16 the alien may file a motion to reopen the
17 exclusion, deportation, removal, or vol-
18 untary departure order, which motion shall
19 be granted.

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

1 (4) PERIOD PENDING ADJUDICATION OF APPLI-
2 CATION.—During the period beginning on the date
3 on which an alien applies for blue card status under
4 this section and ending on the date on which the
5 Secretary makes a final decision regarding such ap-
6 plication, the alien—

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

8 (B) may not be detained by the Secretary
9 or removed from the United States unless the
10 Secretary makes a prima facie determination
11 that such alien is, or has become, ineligible for
12 blue card status under subsection (d)(2);

13 (C) shall not be considered unlawfully
14 present under section 212(a)(9)(B) of the Im-
15 migration and Nationality Act (8 U.S.C.
16 1182(a)(9)(B)); and

17 (D) shall not be considered an unauthor-
18 ized alien (as defined in section 274A(h)(3) of
19 the Immigration and Nationality Act (8 U.S.C.
20 1324a(h)(3))).

21 (5) EFFECT OF DEPARTURE.—Section 101(g)
22 of the Immigration and Nationality Act (8 U.S.C.
23 1101(g)) shall not apply to an alien granted—

24 (A) advance parole under paragraph (4)(A)
25 to reenter the United States; or

1 (B) blue card status.

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

7 (A) the alien is removable under 237 of the
8 Immigration and Nationality Act (8 U.S.C.
9 1227); or

10 (B) the alien's blue card status has been
11 revoked.

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

16 (d) REQUIRED BACKGROUND INVESTIGATIONS AND
17 INELIGIBILITY.—

18 (1) IN GENERAL.—

19 (A) BIOMETRIC AND BIOGRAPHIC DATA.—
20 The Secretary may not grant blue card status
21 to an alien or an alien dependent spouse or
22 child under this section unless such alien sub-
23 mits biometric and biographic data in accord-
24 ance with procedures established by the Sec-
25 retary.

1 (B) ALTERNATIVE PROCEDURES.—The
2 Secretary shall provide an alternative procedure
3 for applicants who cannot provide the standard
4 biometric data required under subparagraph
5 (A) because of a physical impairment.

6 (C) DATA COLLECTION.—The Secretary
7 shall collect, from each alien applying for status
8 under this section, biometric, biographic, and
9 other data that the Secretary determines to be
10 appropriate in order to conduct a background
11 investigation and determine the alien's eligi-
12 bility for blue card status.

13 (2) GROUNDS FOR INELIGIBILITY.—

14 (A) IN GENERAL.—Except as provided in
15 subparagraph (B), an alien is ineligible for blue
16 card status if the Secretary determines that the
17 alien—

18 (i) has a conviction for—

19 (I) an offense classified as a fel-
20 ony in the convicting jurisdiction
21 (other than a State or local offense
22 for which an essential element was the
23 alien's immigration status, or a viola-
24 tion of the Immigration and Nation-
25 ality Act (8 U.S.C. 1101 et seq.);

1 (II) an aggravated felony (as de-
2 fined in section 101(a)(43) of the Im-
3 migration and Nationality Act (8
4 U.S.C. 1101(a)(43)) at the time of
5 the conviction);

6 (III) 3 or more misdemeanor of-
7 fenses (other than minor traffic of-
8 fenses or State or local offenses for
9 which an essential element was the
10 alien's immigration status, or viola-
11 tions of the Immigration and Nation-
12 ality Act) if the alien was convicted on
13 different dates for each of the 3 of-
14 fenses;

15 (IV) any offense under foreign
16 law, except for a purely political of-
17 fense, which, if the offense had been
18 committed in the United States,
19 would render the alien inadmissible
20 under section 212(a) of the Immigra-
21 tion and Nationality Act (8 U.S.C.
22 1182(a)), excluding the paragraphs
23 set forth in clause (ii), or removable
24 under section 237(a) of such Act (8
25 U.S.C. 1227(a)), except as provided in

1 paragraph (3) of such section 237(a);

2 or

3 (V) unlawful voting (as defined
4 in section 237(a)(6) of the Immigra-
5 tion and Nationality Act (8 U.S.C.
6 1227(a)(6)));

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

11 (I) paragraphs (4), (5), (7), and
12 (9)(B) of such section 212(a) shall
13 not apply;

14 (II) subparagraphs (A), (C), (D),
15 (F), and (G) of such section 212(a)(6)
16 and paragraphs (9)(C) and (10)(B) of
17 such section 212(a) shall not apply
18 unless based on the act of unlawfully
19 entering the United States after the
20 date of the enactment of this Act; and

21 (III) paragraphs (6)(B) and
22 (9)(A) of such section 212(a) shall
23 not apply unless the relevant conduct
24 began on or after the date on which
25 the alien files an application for reg-

1 istered provisional immigrant status
2 under this section;

3 (iii) is an alien who the Secretary
4 knows or has reasonable grounds to be-
5 lieve, is engaged in or is likely to engage
6 after entry in any terrorist activity (as de-
7 fined in section 212(a)(3)(B)(iv) of such
8 Act); or

9 (iv) was, on the date of the enactment
10 of this Act—

11 (I) an alien lawfully admitted for
12 permanent residence; or

13 (II) an alien admitted as a ref-
14 ugee under section 207 of the Immi-
15 gration and Nationality Act (8 U.S.C.
16 1157) or granted asylum under sec-
17 tion 208 of such Act (8 U.S.C. 1158).

18 (B) WAIVER.—

19 (i) IN GENERAL.—The Secretary may
20 waive the application of subparagraph
21 (A)(i)(III) or any provision of section
22 212(a) of the Immigration and Nationality
23 Act (8 U.S.C. 1182(a)) that is not listed in
24 clause (ii) on behalf of an alien for human-
25 itarian purposes, to ensure family unity, or

1 if such a waiver is otherwise in the public
2 interest. Any discretionary authority to
3 waive grounds of inadmissibility under
4 such section 212(a) conferred under any
5 other provision of the Immigration and
6 Nationality Act shall apply equally to
7 aliens seeking blue card status under this
8 section.

9 (ii) EXCEPTIONS.—The discretionary
10 authority under clause (i) may not be used
11 to waive—

12 (I) subparagraph (B), (C),
13 (D)(ii), (E), (G), (H), or (I) of section
14 212(a)(2) of such Act;

15 (II) section 212(a)(3) of such
16 Act; or

17 (III) subparagraph (A), (C), (D),
18 or (E) of section 212(a)(10) of such
19 Act.

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

24 (D) RULE OF CONSTRUCTION.—Nothing in
25 this paragraph may be construed to require the

1 Secretary to commence removal proceedings
2 against an alien.

3 (e) FEES AND PENALTIES.—

4 (1) STANDARD PROCESSING FEE.—Aliens 16
5 years of age or older who are applying for blue card
6 status under this subsection, or for an extension of
7 such status, shall pay a processing fee to the De-
8 partment of Homeland Security in an amount deter-
9 mined by the Secretary.

10 (2) RECOVERY OF COSTS.—The processing fee
11 authorized under paragraph (1) shall be set at a
12 level that is sufficient to recover the full costs of
13 processing the application, including any costs in-
14 curred—

- 15 (A) to adjudicate the application;
- 16 (B) to take and process biometric data;
- 17 (C) to perform national security and crimi-
18 nal checks, including adjudication;
- 19 (D) to prevent and investigate fraud; and
- 20 (E) to administer the collection of such
21 fee.

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

- 24 (A) to limit the maximum processing fee
25 payable under this subsection by a family, in-

1 including spouses and unmarried children young-
2 er than 21 years of age; and

3 (B) to exempt defined classes of individ-
4 uals from the payment of the fee required
5 under paragraph (1).

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

11 (5) DEPOSIT AND USE OF PROCESSING FEES
12 AND PENALTIES.—Fees and penalties authorized
13 under this subsection—

14 (A) shall be deposited into the Immigration
15 Examinations Fee Account pursuant to section
16 286(m) of the Immigration and Nationality Act
17 (8 U.S.C. 1356(m)); and

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

20 (f) TERMS AND CONDITIONS OF BLUE CARD STA-
21 TUS.—

22 (1) CONDITIONS OF BLUE CARD STATUS.—

23 (A) EMPLOYMENT.—Notwithstanding any
24 other provision of law, including section
25 241(a)(7) of the Immigration and Nationality

1 Act (8 U.S.C. 1231(a)(7)), an alien with blue
2 card status shall be authorized to be employed
3 in the United States while in such status.

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

6 (i) may travel outside of the United
7 States, including commuting to the United
8 States from a residence in a foreign coun-
9 try; and

10 (ii) may be admitted upon returning
11 to the United States without having to ob-
12 tain a visa if—

13 (I) the alien is in possession of—

14 (aa) valid, unexpired docu-
15 mentary evidence of blue card
16 status that complies with sub-
17 section (b)(6)(B); or

18 (bb) a travel document that
19 has been approved by the Sec-
20 retary and was issued to the
21 alien after the alien's original
22 documentary evidence was lost,
23 stolen, or destroyed;

24 (II) the alien's absence from the
25 United States did not exceed 180

1 days, unless the alien's failure to
2 timely return was due to extenuating
3 circumstances beyond the alien's con-
4 trol; and

5 (III) the alien establishes that he
6 or she is not inadmissible under sub-
7 paragraph (A)(i), (A)(iii), (B), or (C)
8 of section 212(a)(3) of the Immigra-
9 tion and Nationality Act (8 U.S.C.
10 1182(a)(3)).

11 (C) ADMISSION.—An alien granted blue
12 card status shall be considered to have been ad-
13 mitted in such status as of the date on which
14 the alien's application was submitted.

15 (D) CLARIFICATION OF STATUS.—An alien
16 granted blue card status shall be considered
17 lawfully admitted to the United States.

18 (2) REVOCATION.—

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

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

1 (ii) knowingly used documentation
2 issued under this section for an unlawful
3 or fraudulent purpose; or

4 (iii) was absent from the United
5 States for—

6 (I) any single period longer than
7 180 days in violation of the require-
8 ment under paragraph (1)(B)(ii)(II);
9 or

10 (II) for more than 180 days in
11 the aggregate during any calendar
12 year, unless the alien's failure to time-
13 ly return was due to extenuating cir-
14 cumstances beyond the alien's control.

15 (B) ADDITIONAL EVIDENCE.—

16 (i) IN GENERAL.—In determining
17 whether to revoke an alien's status under
18 subparagraph (A), the Secretary may re-
19 quire the alien—

20 (I) to submit additional evidence;
21 and

22 (II) to appear for an interview.

23 (ii) EFFECT OF NONCOMPLIANCE.—

24 The blue card status of an alien who fails
25 to comply with any requirement imposed

1 by the Secretary under clause (i) shall be
2 revoked unless the alien demonstrates to
3 the Secretary's satisfaction that such fail-
4 ure was reasonably excusable.

5 (C) INVALIDATION OF DOCUMENTATION.—

6 If an alien's blue card status is revoked pursu-
7 ant to subparagraph (A), any documentation
8 issued by the Secretary to such alien under sub-
9 section (b)(6) shall automatically be rendered
10 invalid for any purpose except for departure
11 from the United States.

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

18 (4) TREATMENT OF BLUE CARD STATUS.—An
19 alien granted blue card status shall be considered
20 lawfully present in the United States for all pur-
21 poses while such alien remains in such status, except
22 that the alien—

23 (A) is not entitled to the premium assist-
24 ance tax credit authorized under section 36B of

1 the Internal Revenue Code of 1986 (26 U.S.C.
2 36B) for his or her coverage;

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

6 (C) shall be subject to the rules applicable
7 to individuals who are not lawfully present set
8 forth in section 1402(e) of the Patient Protec-
9 tion and Affordable Care Act (42 U.S.C.
10 18071(e)); and

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

15 (g) PROVISIONS INVOLVING EMPLOYERS.—

16 (1) RECORD OF EMPLOYMENT.—Employers of
17 aliens granted blue card status shall provide the
18 alien and the Secretary with a written record of em-
19 ployment each year the alien remains in such status.

20 (2) CIVIL PENALTIES.—

21 (A) IN GENERAL.—If the Secretary deter-
22 mines, after notice and an opportunity for a
23 hearing, that an employer of an alien granted
24 blue card status has knowingly failed to provide
25 the record of employment required under para-

1 graph (1) or has provided a false statement of
2 material fact in such a record, the employer
3 shall be subject to a civil penalty in an amount
4 not to exceed \$500 per violation.

5 (B) LIMITATION.—The penalty under sub-
6 paragraph (A) for failure to provide employ-
7 ment records shall not apply unless the alien
8 has provided the employer with evidence of em-
9 ployment authorization described in subsection
10 (b)(11).

11 (C) DEPOSIT OF CIVIL PENALTIES.—Civil
12 penalties collected under this paragraph shall be
13 deposited into the Immigration Examinations
14 Fee Account pursuant to section 286(m) of the
15 Immigration and Nationality Act (8 U.S.C.
16 1356(m)).

17 (3) CONTINUING EMPLOYMENT.—An employer
18 that knows an alien employee is an applicant for
19 blue card status or will apply for such status once
20 the application period commences is not in violation
21 of section 274A(a)(2) of the Immigration and Na-
22 tionality Act (8 U.S.C. 1324a(a)(2)) if the employer
23 continues to employ the alien pending the adjudica-
24 tion of the alien employee's application.

25 (4) EMPLOYER PROTECTIONS.—

1 (A) USE OF EMPLOYMENT RECORDS.—

2 Copies of employment records or other evidence
3 of employment provided by an alien or by an
4 alien's employer in support of an alien's appli-
5 cation for blue card status may not be used in
6 a civil or criminal prosecution or investigation
7 of that employer under section 274A of the Im-
8 migration and Nationality Act (8 U.S.C.
9 1324a) or the Internal Revenue Code of 1986
10 for the prior unlawful employment of that alien
11 regardless of the adjudication of such applica-
12 tion or reconsideration by the Secretary of such
13 alien's prima facie eligibility determination.
14 Employers that provide unauthorized aliens
15 with copies of employment records or other evi-
16 dence of employment pursuant to an application
17 for blue card status shall not be subject to civil
18 and criminal liability pursuant to such section
19 274A for employing such unauthorized aliens.

20 (B) LIMIT ON APPLICABILITY.—The pro-
21 tections for employers and aliens under sub-
22 paragraph (A) shall not apply if the aliens or
23 employers submit employment records that are
24 determined to be fraudulent.

25 (h) ADMINISTRATIVE AND JUDICIAL REVIEW.—

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

5 (2) ADMINISTRATIVE REVIEW.—

6 (A) SINGLE LEVEL OF APPELLATE RE-
7 VIEW.—The Secretary shall establish an appel-
8 late authority to provide for a single level of ad-
9 ministration appellate review of a final agency
10 determination.

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

14 (i) the administrative record estab-
15 lished at the time of the determination re-
16 garding the application; and

17 (ii) any additional or newly discovered
18 evidence that was not available at the time
19 of a final agency determination.

20 (3) JUDICIAL REVIEW.—Judicial review of a de-
21 termination under this section shall be limited to the
22 review of an order of removal under section 242 of
23 the Immigration and Nationality Act (8 U.S.C.
24 1252).

25 (i) DISCLOSURES AND PRIVACY.—

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

4 (A) use the information furnished in an
5 application for lawful status under this section
6 or section 245B of the Immigration and Na-
7 tionality Act, as added by section 102, for any
8 purpose other than to make a determination on
9 any application by the alien for any immigra-
10 tion benefit or protection;

11 (B) make any publication through which
12 information furnished by any particular appli-
13 cant can be identified; or

14 (C) permit anyone other than the sworn of-
15 ficers, employees, and contractors of such agen-
16 cy or of another entity approved by the Sec-
17 retary to examine any individual application for
18 lawful status under this section or such section
19 245B.

20 (2) REQUIRED DISCLOSURES.—The Secretary
21 shall provide the information furnished in an appli-
22 cation filed under this section or section 245B of the
23 Immigration and Nationality Act, as added by sec-
24 tion 102, and any other information derived from
25 such furnished information to—

1 (A) a law enforcement agency, intelligence
2 agency, national security agency, a component
3 of the Department of Homeland Security,
4 court, or grand jury, consistent with law, in
5 connection with—

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

9 (ii) a national security investigation or
10 prosecution; and

11 (B) an official coroner for purposes of af-
12 firmatively identifying a deceased individual,
13 whether or not the death of such individual re-
14 sulted from a crime.

15 (3) AUDITING AND EVALUATION OF INFORMA-
16 TION.—The Secretary may—

17 (A) audit and evaluate information fur-
18 nished as part of any application filed under
19 this section or section 245B of the Immigration
20 and Nationality Act, as added by section 102,
21 for purposes of identifying immigration fraud or
22 fraud schemes; and

23 (B) use any evidence detected by means of
24 audits and evaluations for purposes of inves-

1 tigating, prosecuting, referring for prosecution,
2 or denying or terminating immigration benefits.

3 (4) PRIVACY AND CIVIL LIBERTIES.—

4 (A) IN GENERAL.—The Secretary, in ac-
5 cordance with paragraph (1), shall require ap-
6 propriate administrative and physical safe-
7 guards to protect the security, confidentiality,
8 and integrity of personally identifiable informa-
9 tion collected, maintained, and disseminated
10 pursuant to this section and section 245B of
11 the Immigration and Nationality Act, as added
12 by section 102.

13 (B) ASSESSMENTS.—Notwithstanding the
14 privacy requirements set forth in section 222 of
15 the Homeland Security Act (6 U.S.C. 142) and
16 the E-Government Act of 2002 (Public Law
17 107–347), the Secretary shall conduct a privacy
18 impact assessment and a civil liberties impact
19 assessment of the legalization program estab-
20 lished under this section and section 245B of
21 the Immigration and Nationality Act during the
22 pendency of the final regulations to be issued
23 pursuant to subsection (j).

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

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

5 (a) IN GENERAL.—Chapter 5 of title II (8 U.S.C.
6 1255 et seq.) is amended by inserting after section 245A
7 the following:

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

10 “(a) IN GENERAL.—Except as provided in subsection
11 (b), and not earlier than 5 years after the date of the en-
12 actment of the Agricultural Worker Program Act of 2017,
13 the Secretary shall adjust the status of an alien granted
14 blue card status to that of an alien lawfully admitted for
15 permanent residence if the Secretary determines that the
16 following requirements are satisfied:

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

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

24 “(B) during the 5-year period beginning on
25 such date of enactment, performed not less

1 than 150 work days of agricultural employment
2 during each of 3 years.

3 “(2) EVIDENCE.—An alien may demonstrate
4 compliance with the requirement under paragraph
5 (1) by submitting to the Secretary—

6 “(A) the alien’s record of employment (as
7 described in section 101(d) of the Agricultural
8 Worker Program Act of 2017);

9 “(B) documentation that may be submitted
10 under subsection (e)(4); or

11 “(C) any other documentation designated
12 by the Secretary for such purpose.

13 “(3) EXTRAORDINARY CIRCUMSTANCES.—

14 “(A) IN GENERAL.—In determining wheth-
15 er an alien has met the requirement under
16 paragraph (1), the Secretary may credit the
17 alien with not more than 12 additional months
18 of agricultural employment in the United States
19 to meet such requirement if the alien was un-
20 able to work in agricultural employment due
21 to—

22 “(i) pregnancy, disabling injury, or
23 disease established by the alien through
24 medical records;

1 “(ii) illness, disease, or other special
2 needs of the alien’s child established by the
3 alien through medical records;
4 “(iii) severe weather conditions that
5 prevented the alien from engaging in agri-
6 cultural employment for a significant pe-
7 riod; or
8 “(iv) termination from agricultural
9 employment, if the Secretary determines
10 that—
11 “(I) the termination was without
12 just cause; and
13 “(II) the alien was unable to find
14 alternative agricultural employment
15 after a reasonable job search.
16 “(B) EFFECT OF DETERMINATION.—A de-
17 termination under subparagraph (A)(iv), with
18 respect to an alien, shall not be conclusive,
19 binding, or admissible in a separate or subse-
20 quent judicial or administrative action or pro-
21 ceeding between the alien and a current or
22 prior employer of the alien or any other party.
23 “(4) APPLICATION PERIOD.—The alien applies
24 for adjustment of status before the expiration of the
25 alien’s blue card status.

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

5 “(b) GROUNDS FOR DENIAL OF ADJUSTMENT OF
6 STATUS.—

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

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

12 “(B) failed to perform the qualifying em-
13 ployment required under subsection (a)(1),
14 after considering any amount credited by the
15 Secretary under subsection (a)(3).

16 “(2) MAINTENANCE OF WAIVERS OF INADMIS-
17 SIBILITY.—The grounds of inadmissibility set forth
18 in section 212(a) that were previously waived for the
19 alien or made inapplicable shall not apply for pur-
20 poses of the alien’s adjustment of status under this
21 section.

22 “(3) PENDING REVOCATION PROCEEDINGS.—If
23 the Secretary has notified the applicant that the
24 Secretary intends to revoke the applicant’s blue card
25 status, the Secretary may not approve an application

1 for adjustment of status under this section unless
2 the Secretary makes a final determination not to re-
3 voke the applicant's status.

4 “(4) PAYMENT OF TAXES.—

5 “(A) IN GENERAL.—An alien may not file
6 an application for adjustment of status under
7 this section unless the applicant has satisfied
8 any applicable Federal tax liability.

9 “(B) DEFINITION OF APPLICABLE FED-
10 ERAL TAX LIABILITY.—In this paragraph, the
11 term ‘applicable federal tax liability’ means all
12 Federal income taxes assessed in accordance
13 with section 6203 of the Internal Revenue Code
14 of 1986 since the date on which the applicant
15 was authorized to work in the United States in
16 blue card status.

17 “(C) COMPLIANCE.—An alien may dem-
18 onstrate compliance with subparagraph (A) by
19 submitting such documentation as the Sec-
20 retary, in consultation with the Secretary of the
21 Treasury, may require by regulation.

22 “(e) SPOUSES AND CHILDREN.—Notwithstanding
23 any other provision of law, the Secretary shall grant per-
24 manent resident status to the spouse or child of an alien
25 whose status was adjusted under subsection (a) if—

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

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

8 “(3) the spouse or child is not ineligible for
9 such status.

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

14 “(e) SUBMISSION OF APPLICATIONS.—

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

19 “(2) FEES.—

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

1 “(i) the cost of taking and processing
2 biometric data;

3 “(ii) expenses relating to prevention
4 and investigation of fraud; and

5 “(iii) costs relating to the collection of
6 such fee.

7 “(B) AUTHORITY TO LIMIT FEES.—The
8 Secretary, by regulation—

9 “(i) may limit the maximum proc-
10 essing fee payable under this paragraph by
11 a family, including spouses and children;
12 and

13 “(ii) may exempt defined classes of in-
14 dividuals from the payment of the fee
15 under subparagraph (A).

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

18 “(A) shall be deposited into the Immigra-
19 tion Examinations Fee Account pursuant to
20 section 286(m); and

21 “(B) shall remain available until expended
22 pursuant to section 286(n).

23 “(4) DOCUMENTATION OF WORK HISTORY.—

24 “(A) BURDEN OF PROOF.—An alien apply-
25 ing for blue card status under section 101 of

1 the Agricultural Worker Program Act of 2017
2 or for adjustment of status under subsection (a)
3 shall provide evidence that the alien has worked
4 the requisite number of hours or days required
5 under subsection (a)(1) of such section 101 or
6 subsection (a)(1) of this section, as applicable.

7 “(B) TIMELY PRODUCTION OF RECORDS.—
8 If an employer or farm labor contractor employ-
9 ing such an alien has kept proper and adequate
10 records respecting such employment, the alien’s
11 burden of proof under subparagraph (A) may
12 be met by securing timely production of those
13 records under regulations to be promulgated by
14 the Secretary.

15 “(C) SUFFICIENT EVIDENCE.—An alien
16 may meet the burden of proof under subpara-
17 graph (A) to establish that the alien has per-
18 formed the days or hours of work referred to in
19 subparagraph (A) by producing sufficient evi-
20 dence to show the extent of that employment as
21 a matter of just and reasonable inference.

22 “(f) PENALTIES FOR FALSE STATEMENTS IN APPLI-
23 CATIONS.—

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

1 “(A) files an application for blue card sta-
2 tus under section 101 of the Agricultural Work-
3 er Program Act of 2017 or for an adjustment
4 of status under this section and knowingly and
5 willfully falsifies, conceals, or covers up a mate-
6 rial fact or makes any false, fictitious, or fraud-
7 ulent statements or representations, or makes
8 or uses any false writing or document knowing
9 the same to contain any false, fictitious, or
10 fraudulent statement or entry; or

11 “(B) creates or supplies a false writing or
12 document for use in making such an applica-
13 tion,
14 shall be fined in accordance with title 18, United
15 States Code, imprisoned not more than 5 years, or
16 both.

17 “(2) INADMISSIBILITY.—An alien who is con-
18 victed of a crime described in paragraph (1) shall be
19 deemed inadmissible to the United States on the
20 ground described in section 212(a)(6)(C)(i).

21 “(3) DEPOSIT.—Fines collected under para-
22 graph (1) shall be deposited into the Immigration
23 Examinations Fee Account pursuant to section
24 286(m).

1 “(g) ELIGIBILITY FOR LEGAL SERVICES.—Section
2 504(a)(11) of the Departments of Commerce, Justice, and
3 State, the Judiciary, and Related Agencies Appropriations
4 Act, 1996 (Public Law 104–134; 110 Stat. 1321–55) may
5 not be construed to prevent a recipient of funds under the
6 Legal Services Corporation Act (42 U.S.C. 2996 et seq.)
7 from providing legal assistance directly related to an appli-
8 cation for blue card status under section 101 of the Agri-
9 cultural Worker Program Act of 2017, to an individual
10 who has been granted blue card status, or for an applica-
11 tion for an adjustment of status under this section.

12 “(h) ADMINISTRATIVE AND JUDICIAL REVIEW.—
13 Aliens applying for blue card status under section 101 of
14 the Agricultural Worker Program Act of 2017 or for ad-
15 justment to permanent resident status under this section
16 shall be entitled to the rights and subject to the conditions
17 applicable to other classes of aliens under section 242.”.

18 (b) CONFORMING AMENDMENT.—Section 201(b)(1)
19 of the Immigration and Nationality Act (8 U.S.C.
20 1151(b)(1)) is amended—

21 (1) by redesignating subparagraph (E) as sub-
22 paragraph (F); and

23 (2) by inserting after subparagraph (D) the fol-
24 lowing:

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

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

 “Sec. 245B. Adjustment to permanent resident status for agricul-
 tural workers.”.

7 **SEC. 103. USE OF INFORMATION.**

8 Beginning not later than the first day of the applica-
9 tion period described in section 101(b)(3), the Secretary,
10 in cooperation with qualified designated entities, shall
11 broadly disseminate information regarding—

12 (1) the benefits that aliens may receive under
13 this title and the amendments made by this title;
14 and

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

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

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

23 (1) the number of aliens who applied for blue
24 card status;

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

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

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

9 **SEC. 105. AUTHORIZATION OF APPROPRIATIONS.**

10 There are authorized to be appropriated to the Sec-
11 retary such amounts as may be necessary to implement
12 this title, including any amounts needed for costs associ-
13 ated with the initiation of such implementation during fis-
14 cal years 2017 and 2018.

15 **TITLE II—CORRECTION OF**
16 **SOCIAL SECURITY RECORDS**

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

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

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

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

24 (3) by inserting after subparagraph (C) the fol-
25 lowing:

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

4 (4) in the undesignated matter following sub-
5 paragraph (D), as added by paragraph (3), by strik-
6 ing “1990.” and inserting “1990, or in the case of
7 an alien described in subparagraph (D), if such con-
8 duct is alleged to have occurred before the date on
9 which the alien was granted blue card status under
10 section 101(a) of the Agricultural Worker Program
11 Act of 2017.”.

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

16 **TITLE III—DEFINITIONS**

17 **SEC. 301. DEFINITIONS.**

18 In this Act:

19 (1) AGRICULTURAL EMPLOYMENT.—The term
20 “agricultural employment” has the meaning given
21 such term in section 3 of the Migrant and Seasonal
22 Agricultural Worker Protection Act (29 U.S.C.
23 1802), without regard to whether the specific service
24 or activity is temporary or seasonal.

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

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

8 (4) CONTINUOUS PRESENCE.—An alien shall be
9 deemed to have maintained “continuous presence” in
10 the United States for purposes of section
11 101(a)(1)(B)(iii) if any absences from the United
12 States during the applicable period were brief, cas-
13 ual, and innocent, whether or not such absences
14 were authorized by the Secretary.

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

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

21 (A) a qualified farm labor organization or
22 an association of employers designated by the
23 Secretary; or

24 (B) any other entity that the Secretary
25 designates as having substantial experience,

1 demonstrated competence, and a history of
2 long-term involvement in the preparation and
3 submission of application for adjustment of sta-
4 tus under title II of the Immigration and Na-
5 tionality Act (8 U.S.C. 1151 et seq.).

6 (7) QUALIFIED WORK.—The term “qualified
7 work” means work performed in agricultural em-
8 ployment in the United States for not fewer than
9 575 hours or 100 work days during the 2-year pe-
10 riod ending on the date of the enactment of this Act.

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

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

