

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Agricultural Labor Market Reform Act of 2011”.

(b) **TABLE OF CONTENTS.**—The table of contents for 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.

SEC. 2. DEFINITIONS.

In this Act:

(1) **AGRICULTURAL EMPLOYMENT.**—The term “agricultural employment” has the meaning given such term in section 3 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1802), without regard to whether the specific service or activity is temporary or seasonal, including the performance of agricultural labor or service described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act.

(2) **BLUE CARD STATUS.**—The term “blue card status” means the status of an alien who has been lawfully admitted into the United States for temporary residence under section 101(a).

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

(4) EMPLOYER.—The term “employer” means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

(5) SECRETARY.—Except as otherwise provided, the term “Secretary” means the Secretary of Homeland Security.

**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.

(a) REQUIREMENT TO GRANT BLUE CARD STATUS.—Notwithstanding any other provision of law, the Secretary shall, pursuant to the requirements of this section, grant blue card status to an alien who qualifies under this section if the Secretary determines that the alien—

(1) during the 24-month period ending on December 31, 2010—

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

(B) earned at least \$7,500 from agricultural employment in the United States;

(2) applied for such status during the 18-month application period beginning on the first day of the seventh month that begins after the date of enactment of this Act;

(3) is otherwise admissible to the United States under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182), except as otherwise provided under section 105(b); and

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

(b) AUTHORIZED TRAVEL.—An alien who is granted blue card status is authorized to travel outside the United States (including commuting to the United States from a residence in a foreign country) in the same manner as an alien lawfully admitted for permanent residence.

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

(d) TERMINATION OF BLUE CARD STATUS.—

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

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

(A) the Secretary finds, by a preponderance of the evidence, that the adjustment to blue card status was the result of fraud or willful misrepresentation, as described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)); or

(B) the alien—

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

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

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

(iv) fails to perform the agricultural employment required under paragraph (1)(A) of section 103(a) unless the alien was unable to work in agricultural employment due to the extraordinary circumstances described in paragraph (3) of such section.

(e) RECORD OF EMPLOYMENT.—

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

(A) provide a written record of employment to the alien; and

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

(2) CIVIL PENALTIES.—

(A) **IN GENERAL.**—If the Secretary finds, after notice and opportunity for a hearing, that an employer of an alien granted blue card status has 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 \$1,000 per violation.

(B) **LIMITATION.**—The penalty applicable under subparagraph (A) for failure to provide records shall not apply unless the alien has provided the employer with evidence of employment authorization granted under this section.

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

(f) **REQUIRED FEATURES OF IDENTITY CARD.**—The Secretary shall provide each alien granted blue card status, and the spouse and any child of each such alien residing in the United States, with a card that contains—

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

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

(3) physical security features designed to prevent tampering, counterfeiting, or duplication of the card for fraudulent purposes.

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

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

SEC. 102. TREATMENT OF ALIENS GRANTED BLUE CARD STATUS.

(a) **IN GENERAL.**—Except as otherwise provided under this section, an alien granted blue card status (including a spouse or child of the alien granted derivative status) shall be considered to be an alien lawfully admitted for permanent residence for purposes of any law other than any provision of the Immigration and Nationality Act ([8 U.S.C. 1101 et seq.](#)).

(b) **DELAYED ELIGIBILITY FOR CERTAIN FEDERAL PUBLIC BENEFITS.**—Except as otherwise provided in law, an alien granted blue card status shall not be eligible, by reason of such status, for any form of assistance or benefit described in section 403(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(a)) until 5 years after the date on which the alien is granted an adjustment of status under section 103.

SEC. 103. ADJUSTMENT TO PERMANENT RESIDENCE.

(a) **IN GENERAL.**—Except as provided in subsection (b), the Secretary shall adjust the status of an alien granted blue card status to that of an alien lawfully admitted for permanent residence if the Secretary determines that the following requirements are satisfied:

(1) QUALIFYING EMPLOYMENT.—

(A) **IN GENERAL.**—Subject to subparagraph (B), the alien has performed at least—

(i) 5 years of agricultural employment in the United States for at least 100 work days per year, during the 5-year period beginning on the date of the enactment of this Act; or

(ii) 3 years of agricultural employment in the United States for at least 150 work days per year, during the 3-year period beginning on the date of the enactment of this Act.

(B) **4-YEAR PERIOD OF EMPLOYMENT.**—An alien shall be considered to meet the requirements of subparagraph (A) if the alien has performed 4 years of agricultural employment in the United States for at least 150 work days during 3 years of those 4 years and at least 100 work days during the remaining year, during the 4-year period beginning on the date of the enactment of this Act.

(2) **PROOF.**—An alien may demonstrate compliance with the requirement under paragraph (1) by submitting—

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

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

(3) **EXTRAORDINARY CIRCUMSTANCES.**—In determining whether an alien has met the requirement of paragraph (1)(A), the Secretary may credit the alien with not more than 12 additional months of agricultural employment in the United States to meet such requirement if the alien was unable to work in agricultural employment due to—

(A) pregnancy, injury, or disease, if the alien can establish such pregnancy, disabling injury, or disease through medical records;

(B) illness, disease, or other special needs of a minor child, if the alien can establish such illness, disease, or special needs through medical records;

(C) severe weather conditions that prevented the alien from engaging in agricultural employment for a significant period of time; or

(D) termination from agricultural employment, if the Secretary finds that the termination was without just cause and that the alien was unable to find alternative agricultural employment after a reasonable job search.

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

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

(b) GROUNDS FOR DENIAL OF ADJUSTMENT OF STATUS.—The Secretary shall deny an alien granted blue card status an adjustment of status under this section if—

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

(2) the alien—

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

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

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

(D) failed to perform the agricultural employment required under paragraph (1)(A) of subsection (a) unless the alien was unable to work in agricultural employment due to the extraordinary circumstances described in paragraph (3) of such subsection.

(c) GROUNDS FOR REMOVAL.—Any alien granted blue card status who does not apply for adjustment of status under this section before the expiration of the application period described in subsection (a)(4) or who fails to meet the other requirements of subsection (a) by the end of the application period, is deportable and may be removed under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a).

(d) PAYMENT OF TAXES.—

(1) IN GENERAL.—Not later than the date on which an alien’s status is adjusted under this section, the alien shall establish that the alien does not owe any applicable Federal tax liability by establishing that—

(A) no such tax liability exists;

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

(C) the alien has entered into an agreement for payment of all outstanding liabilities with the Internal Revenue Service.

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

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

(e) SPOUSES AND MINOR CHILDREN.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall confer the status of lawful permanent resident on the spouse and minor child of an alien granted any adjustment of status under subsection (a), including any individual who was a minor child on the date such alien was granted blue card status, if the spouse or minor child applies for such status, or if the principal alien includes the spouse or minor child in an application for adjustment of status to that of a lawful permanent resident.

(2) TREATMENT OF SPOUSES AND MINOR CHILDREN.—

(A) GRANTING OF STATUS AND REMOVAL.—The Secretary shall grant derivative status to the alien spouse and any minor child residing in the United States of an alien granted blue card status and shall not remove such derivative spouse or child during the period that the alien granted blue card status maintains such status, except as provided in paragraph (3). A grant of derivative status to such a spouse or child under this subparagraph shall not decrease the number of aliens who may receive blue card status under subsection (h) of section 101.

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

(C) EMPLOYMENT.—The derivative spouse of an alien granted blue card status may apply to the Secretary for a work permit to authorize such spouse to engage in any lawful employment in the United States while such alien maintains blue card status.

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

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

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

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

SEC. 104. APPLICATIONS.

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

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

(A) to the Secretary if the applicant is represented by 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 designated entity if the applicant consents to the forwarding of the application to the Secretary; and

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

(b) QUALIFIED DESIGNATED ENTITY DEFINED.—In this section, the term “qualified designated entity” means a qualified farm labor organization and any affiliated organization or an association of employers designated by the Secretary.

(c) PROOF OF ELIGIBILITY.—

(1) IN GENERAL.—An alien may establish that the alien meets the requirement of section 101(a)(1) or 103(a)(1) through government employment records or records supplied by employers or collective bargaining organizations, and other reliable documentation as the alien may provide. The Secretary shall establish special procedures to properly credit work in cases in which an alien was employed under an assumed name.

(2) DOCUMENTATION OF WORK HISTORY.—

(A) BURDEN OF PROOF.—An alien applying for status under section 101(a) or 103(a) has the burden of proving by a preponderance of the evidence that the alien has worked the requisite number of hours or days required under section 101(a)(1) or 103(a)(1), as applicable.

(B) TIMELY PRODUCTION OF RECORDS.—If an employer or farm labor contractor employing 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 required by section 101(a)(1) or 103(a)(1) by producing sufficient evidence to show the extent of that employment as a matter of just and reasonable inference.

(d) APPLICATIONS SUBMITTED TO QUALIFIED DESIGNATED ENTITIES.—

(1) REQUIREMENTS.—Each qualified designated entity shall agree—

(A) to forward to the Secretary an application submitted to that entity pursuant to subsection (a)(1)(B) if the applicant has consented to such forwarding;

(B) not to forward to the Secretary any such application if the applicant has not consented to such forwarding; and

(C) to assist an alien in obtaining documentation of the alien's work history, if the alien requests such assistance.

(2) NO AUTHORITY TO MAKE DETERMINATIONS.—No qualified designated entity may make a determination required by this subtitle to be made by the Secretary.

(e) LIMITATION ON ACCESS TO INFORMATION.—Files and records collected or compiled by a qualified designated entity for the purposes of this section are confidential and the Secretary

shall not have access to such a file or record relating to an alien without the consent of the alien, except as allowed by a court order issued pursuant to subsection (f).

(f) CONFIDENTIALITY OF INFORMATION.—

(1) IN GENERAL.—Except as otherwise provided in this section, the Secretary or any other official or employee of the Department or a bureau or agency of the Department is prohibited from—

(A) using information furnished by the applicant pursuant to an application filed under this title, the information provided by an applicant to a qualified designated entity, or any information provided by an employer or former employer for any purpose other than to make a determination on the application or for imposing the penalties described in subsection (g);

(B) making any publication in which the information furnished by any particular individual can be identified; or

(C) permitting a person other than a sworn officer or employee of the Department or a bureau or agency of the Department or, with respect to applications filed with a qualified designated entity, that qualified designated entity, to examine individual applications.

(2) REQUIRED DISCLOSURES.—The Secretary shall provide the information furnished under this title or any other information derived from such furnished information to—

(A) a duly recognized law enforcement entity in connection with a criminal investigation or prosecution, if such information is requested in writing by such entity; or

(B) an official coroner, for purposes of affirmatively identifying a deceased individual, whether or not the death of such individual resulted from a crime.

(3) CONSTRUCTION.—

(A) IN GENERAL.—Nothing in this subsection shall be construed to limit the use, or release, for immigration enforcement purposes or law enforcement purposes, of information contained in files or records of the Department pertaining to an application filed under this section, other than information furnished by an applicant pursuant to the application, or any other information derived from the application, that is not available from any other source.

(B) CRIMINAL CONVICTIONS.—Notwithstanding any other provision of this subsection, information concerning whether the alien applying for blue card status or an adjustment of status under section 103 has been convicted of a crime at any time may be used or released for immigration enforcement or law enforcement purposes.

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

(g) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—

(1) CRIMINAL PENALTY.—Any person who—

(A) files an application for blue card status or an adjustment of status under section 103 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 the same to contain any false, fictitious, or fraudulent statement or entry; or

(B) creates or supplies a false writing or document for use in making such an application,

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

(2) INADMISSIBILITY.—An alien who is convicted of a crime under paragraph (1) shall be considered to be inadmissible to the United States on the ground described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)).

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

(i) APPLICATION FEES.—

(1) FEE SCHEDULE.—The Secretary shall provide for a schedule of fees that—

(A) shall be charged for the filing of an application for blue card status or for an adjustment of status under section 103; and

(B) may be charged by qualified designated entities to help defray the costs of services provided to such applicants.

(2) **PROHIBITION ON EXCESS FEES BY QUALIFIED DESIGNATED ENTITIES.**—A qualified designated entity may not charge any fee in excess of, or in addition to, the fees authorized under paragraph (1)(B) for services provided to applicants.

(3) **DISPOSITION OF FEES.**—

(A) **IN GENERAL.**—There is established in the general fund of the Treasury a separate account, which shall be known as the “Agricultural Worker Immigration Status Adjustment Account”. Notwithstanding any other provision of law, there shall be deposited as offsetting receipts into the account all fees collected under paragraph (1)(A).

(B) **USE OF FEES FOR APPLICATION PROCESSING.**—Amounts deposited in the “Agricultural Worker Immigration Status Adjustment Account” shall remain available to the Secretary until expended for processing applications for blue card status or an adjustment of status under section 103.

SEC. 105. WAIVER OF NUMERICAL LIMITATIONS AND CERTAIN GROUNDS FOR INADMISSIBILITY.

(a) **NUMERICAL LIMITATIONS DO NOT APPLY.**—The numerical limitations of sections 201 and 202 of the Immigration and Nationality Act (8 U.S.C. 1151 and 1152) shall not apply to the adjustment of aliens to lawful permanent resident status under section 103.

(b) **WAIVER OF CERTAIN GROUNDS OF INADMISSIBILITY.**—In the determination of an alien’s eligibility for status under section 101(a) or an alien’s eligibility for adjustment of status under section 103(b)(2)(A) the following rules shall apply:

(1) **GROUND OF EXCLUSION NOT APPLICABLE.**—The provisions of paragraphs (5), (6)(A), (7), and (9) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply.

(2) **WAIVER OF OTHER GROUNDS.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), the Secretary may waive any other provision of such section 212(a) in the case of individual aliens for humanitarian purposes, to ensure family unity, or if otherwise in the public interest.

(B) **GROUND THAT MAY NOT BE WAIVED.**—Subparagraphs (A), (B), (C), (D), (G), (H), and (I) of paragraph (2) and paragraphs (3) and (4) of such section 212(a) may not be waived by the Secretary under subparagraph (A).

(C) CONSTRUCTION.—Nothing in this paragraph shall be construed as affecting the authority of the Secretary other than under this subparagraph to waive provisions of such section 212(a).

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

(c) TEMPORARY STAY OF REMOVAL AND WORK AUTHORIZATION FOR CERTAIN APPLICANTS.—

(1) BEFORE APPLICATION PERIOD.—Effective on the date of enactment of this Act, the Secretary shall provide that, in the case of an alien who is apprehended before the beginning of the application period described in section 101(a)(2) and who can establish a nonfrivolous case of eligibility for blue card status (but for the fact that the alien may not apply for such status until the beginning of such period), until the alien has had the opportunity during the first 30 days of the application period to complete the filing of an application for blue card status, the alien—

(A) may not be removed; and

(B) shall be granted authorization to engage in employment in the United States and be provided an employment authorized endorsement or other appropriate work permit for such purpose.

(2) DURING APPLICATION PERIOD.—The Secretary shall provide that, in the case of an alien who presents a nonfrivolous application for blue card status during the application period described in section 101(a)(2), including an alien who files such an application within 30 days of the alien's apprehension, and until a final determination on the application has been made in accordance with this section, the alien—

(A) may not be removed; and

(B) shall be granted authorization to engage in employment in the United States and be provided an employment authorized endorsement or other appropriate work permit for such purpose.

SEC. 106. ADMINISTRATIVE AND JUDICIAL REVIEW.

(a) **IN GENERAL.**—There shall be no administrative or judicial review of a determination respecting an application for blue card status or adjustment of status under section 103 except in accordance with this section.

(b) **ADMINISTRATIVE REVIEW.**—

(1) **SINGLE LEVEL OF ADMINISTRATIVE APPELLATE REVIEW.**—The Secretary shall establish an appellate authority to provide for a single level of administrative appellate review of such a determination.

(2) **STANDARD FOR REVIEW.**—Such administrative appellate review shall be based solely upon the administrative record established at the time of the determination on the application and upon such additional or newly discovered evidence as may not have been available at the time of the determination.

(c) **JUDICIAL REVIEW.**—

(1) **LIMITATION TO REVIEW OF REMOVAL.**—There shall be judicial review of such a determination only in the judicial review of an order of removal under section 242 of the Immigration and Nationality Act ([8 U.S.C. 1252](#)).

(2) **STANDARD FOR JUDICIAL REVIEW.**—Such judicial review shall be based solely upon the administrative record established at the time of the review by the appellate authority and the findings of fact and determinations contained in such record shall be conclusive unless the applicant can establish abuse of discretion or that the findings are directly contrary to clear and convincing facts contained in the record considered as a whole.

SEC. 107. USE OF INFORMATION.

Beginning not later than the first day of the application period described in section 101(a)(2), the Secretary, in cooperation with qualified designated entities (as that term is defined in section 104(b)), shall broadly disseminate information respecting the benefits that aliens may receive under this subtitle and the requirements that an alien is required to meet to receive such benefits.

SEC. 108. REGULATIONS, EFFECTIVE DATE, AUTHORIZATION OF APPROPRIATIONS.

(a) **REGULATIONS.**—The Secretary shall issue regulations to implement this subtitle not later than the first day of the seventh month that begins after the date of enactment of this Act.

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

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to implement this subtitle, including any sums needed for costs associated with the initiation of such implementation, for fiscal years 2011 and 2012.

subtitle B—Correction of Social Security Records

SEC. 111. CORRECTION OF SOCIAL SECURITY RECORDS.

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

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

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

(3) by inserting after subparagraph (C) the following:

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

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

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day of the seventh month that begins after the date of the enactment of this Act.

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

SEC. 201. AMENDMENTS TO THE ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT.

(a) IN GENERAL.—Section 401(e) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of [Public Law 104–208](#); 8 U.S.C. 1324a note) is amended—

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

(2) by inserting after paragraph (1) the following:

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

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

SEC. 202. AMENDMENTS TO THE MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT.

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

“SEC. 106. PROHIBITION AGAINST EMPLOYING ILLEGAL ALIENS.

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

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

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

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

TITLE III—LABOR MARKET REFORMS

SEC. 301. TRUST FUND FOR AGRICULTURAL LABOR MARKET REFORM.

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

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

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

SEC. 302. EXPENDITURES FROM TRUST FUND.

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

(1) **DEPARTMENT OF LABOR.**—The Department of Labor shall expend all monies allocated to it under subsection 301(c) for enforcement of the Migrant and Seasonal Agricultural Worker Protection Act, the Fair Labor Standards Act, and the Occupational Health and Safety Act in agricultural employment including outreach to farm workers, labor organizations, faith-based and community organizations serving farm workers.

(2) **DEPARTMENT OF AGRICULTURE.**—The Department of Agriculture shall expend all monies allocated to it under subsection 301(c) for research and promotion of labor-saving technology and labor management practices in agriculture including ways to enhance worker productivity, better retain workers, and more efficiently utilize the existing work force by reducing farmworker underemployment.

(3) **ADVISORY COMMITTEE.**—The Secretaries of Agriculture and Labor shall jointly establish an advisory committee composed of an equal number of farm worker representatives appointed by the Secretary of Labor and employer representatives appointed by the Secretary of Agriculture to advise the Secretary of Agriculture with respect to expenditures under paragraph (2).

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.

(a) Section 3 of the Migrant and Seasonal Agricultural Worker Protection Act (Public Law 97-470) is amended—

(1) in paragraph (8), by amending subparagraph (B) to read as follows:

“(B) The term ‘migrant agricultural worker’ does not include any immediate family member of an agricultural employer or farm labor contractor.”; and

(2) in paragraph (10), by amending subparagraph (B) to read as follows:

“(B) The term ‘seasonal agricultural worker’ does not include—

“(i) any migrant agricultural worker; or

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

(b) The amendments made by subsection (a) shall apply to the employment, recruitment, referral, or utilization of an individual occurring on or after the first day of the seventh month beginning after the date of enactment of this Act.

SEC. 402. AMENDMENTS TO THE INTERNAL REVENUE CODE.

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

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect beginning on the first January 1st that occurs after the date of the enactment of this Act.
