To provide for adjustment of immigration status for certain aliens granted temporary protected status in the United States because of conditions in Montserrat, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 7, 2005

Mr. SCHUMER introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To provide for adjustment of immigration status for certain aliens granted temporary protected status in the United States because of conditions in Montserrat, 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.

This Act may be cited as the “Montserrat Immigration Fairness Act”. 
SEC. 2. ADJUSTMENT OF STATUS FOR CERTAIN NATIONALS
OF MONTSERRAT.

(a) IN GENERAL.—The status of any alien described
in subsection (c) shall be adjusted by the Secretary of
Homeland Security to that of an alien lawfully admitted
for permanent residence, if the alien—

(1) applies for such adjustment within 1 year
after the date of enactment of this Act; and

(2) is determined to be admissible to the United
States for permanent residence.

(b) CERTAIN GROUNDS FOR EXCLUSION INAPPLI-
CABLE.—For purposes of determining admissibility under
subsection (a)(2), the grounds for inadmissibility specified
in paragraphs (4), (5), (6)(A), and 7(A) of section 212(a)
of the Immigration and Nationality Act (8 U.S.C.
1182(a)) shall not apply.

(c) Aliens Eligible for Adjustment of Status.—An alien shall be eligible for adjustment of status
under subsection (a) only if the alien—

(1) is a national of Montserrat; and

(2) was granted temporary protected status in
the United States by the Secretary of Homeland Se-
curity pursuant to the designation of Montserrat
under section 244(b)(1) of the Immigration and Na-
tionality Act (8 U.S.C. 1254a(b)(1)) on August 28,
1997.
SEC. 3. EFFECT OF APPLICATION ON CERTAIN ORDERS.

An alien present in the United States who has been ordered excluded, deported, or removed, or ordered to depart voluntarily, from the United States through an order of removal issued under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) may, notwithstanding such order of removal, apply for adjustment of status under section 1. Such an alien shall not be required to file a separate motion to reopen, reconsider, or vacate the order of removal. If the Secretary of Homeland Security approves the application, the Secretary shall cancel the order of removal. If the Secretary renders a final administrative decision to deny the application, the order of removal shall be effective and enforceable to the same extent as if the application had not been made.

SEC. 4. WORK AUTHORIZATION.

The Secretary of Homeland Security shall authorize an alien who has applied for adjustment of status under section 1 to engage in employment in the United States during the pendency of such application and shall provide the alien with an appropriate document signifying authorization of employment.

SEC. 5. ADJUSTMENT OF STATUS FOR CERTAIN FAMILY MEMBERS.

(a) IN GENERAL.—The status of an alien shall be adjusted by the Secretary of Homeland Security to that
of an alien lawfully admitted for permanent residence if
the alien—

(1) is the spouse, parent, or unmarried son or
daughter of an alien whose status is adjusted under
section 1;

(2) applies for adjustment under this section
within 2 years after the date of enactment of this
Act; and

(3) is determined to be admissible to the United
States for permanent residence.

(b) CERTAIN GROUNDS FOR EXCLUSION INAPPLI-
CABLE.—For purposes of determining admissibility under
subsection (a)(3), the grounds for inadmissibility specified
in paragraphs (4), (5), (6)(A), and 7(A) of section 212(a)
of the Immigration and Nationality Act (8 U.S.C.
1182(a)) shall not apply.

SEC. 6. AVAILABILITY OF REVIEW.

(a) ADMINISTRATIVE REVIEW.—The Secretary of
Homeland Security shall provide to aliens applying for ad-
justment of status under section 1 or 4 the same right
to, and procedures for, administrative review as are pro-
vided to—

(1) applicants for adjustment of status under
section 245 of the Immigration and Nationality Act
(8 U.S.C. 1255); or
(2) aliens subject to removal proceedings under section 240 of such Act (8 U.S.C. 1229a).

(b) Limitation on Judicial Review.—A determination by the Secretary of Homeland Security as to whether the status of any alien should be adjusted under this Act is final and shall not be subject to review by any court.

SEC. 7. NO OFFSET IN NUMBER OF VISAS AVAILABLE.

The granting of adjustment of status under section 2 shall not reduce the number of immigrant visas authorized to be issued under any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).