To authorize the cancellation of removal and adjustment of status of certain aliens, and for other purposes.
and Mr. Yarmuth) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Education and Labor, 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 authorize the cancellation of removal and adjustment of status of certain aliens, 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 “American Dream and Promise Act of 2021”.

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—DREAM ACT OF 2021

Sec. 101. Short title.
Sec. 102. Permanent resident status on a conditional basis for certain long-term residents who entered the United States as children.
Sec. 103. Terms of permanent resident status on a conditional basis.
Sec. 104. Removal of conditional basis of permanent resident status.
Sec. 105. Restoration of State option to determine residency for purposes of higher education benefits.

TITLE II—AMERICAN PROMISE ACT OF 2021

Sec. 201. Short title.
Sec. 202. Adjustment of status for certain nationals of certain countries designated for temporary protected status or deferred enforced departure.
Sec. 203. Clarification.

TITLE III—GENERAL PROVISIONS

Sec. 301. Definitions.
Sec. 302. Submission of biometric and biographic data; background checks.

•HR 6 IH
Sec. 303. Limitation on removal; application and fee exemption; and other conditions on eligible individuals.
Sec. 304. Determination of continuous presence and residence.
Sec. 305. Exemption from numerical limitations.
Sec. 306. Availability of administrative and judicial review.
Sec. 307. Documentation requirements.
Sec. 308. Rulemaking.
Sec. 309. Confidentiality of information.
Sec. 310. Grant program to assist eligible applicants.
Sec. 311. Provisions affecting eligibility for adjustment of status.
Sec. 312. Supplementary surcharge for appointed counsel.
Sec. 313. Annual report on provisional denial authority.

TITLE I—DREAM ACT OF 2021

SEC. 101. SHORT TITLE.

This title may be cited as the “Dream Act of 2021”.

SEC. 102. PERMANENT RESIDENT STATUS ON A CONDITIONAL BASIS FOR CERTAIN LONG-TERM RESIDENTS WHO ENTERED THE UNITED STATES AS CHILDREN.

(a) Conditional Basis for Status.—Notwithstanding any other provision of law, and except as provided in section 104(c)(2), an alien shall be considered, at the time of obtaining the status of an alien lawfully admitted for permanent residence under this section, to have obtained such status on a conditional basis subject to the provisions of this title.

(b) Requirements.—

(1) In general.—Notwithstanding any other provision of law, the Secretary or the Attorney General shall adjust to the status of an alien lawfully admitted for permanent residence on a conditional basis, or without the conditional basis as provided in
section 104(c)(2), an alien who is inadmissible or deportable from the United States, is subject to a grant of Deferred Enforced Departure, has temporary protected status under section 244 of the Immigration and Nationality Act (8 U.S.C. 1254a), or is the son or daughter of an alien admitted as a non-immigrant under subparagraphs (E)(i), (E)(ii), (H)(i)(b), or (L) of section 101(a)(15) of such Act (8 U.S.C. 1101(a)(15)) if—

(A) the alien has been continuously physically present in the United States since January 1, 2021;

(B) the alien was 18 years of age or younger on the date on which the alien entered the United States and has continuously resided in the United States since such entry;

(C) the alien—

(i) subject to paragraph (2), is not inadmissible under paragraph (1), (6)(E), (6)(G), (8), or (10) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a));

(ii) has not ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion,
nationality, membership in a particular social group, or political opinion; and

(iii) is not barred from adjustment of status under this title based on the criminal and national security grounds described under subsection (c), subject to the provisions of such subsection; and

(D) the alien—

(i) has been admitted to an institution of higher education;

(ii) has been admitted to an area career and technical education school at the postsecondary level;

(iii) in the United States, has obtained—

(I) a high school diploma or a commensurate alternative award from a public or private high school;

(II) a General Education Development credential, a high school equivalency diploma recognized under State law, or another similar State-authorized credential;

(III) a credential or certificate from an area career and technical
education school at the secondary level; or

(IV) a recognized postsecondary credential; or

(iv) is enrolled in secondary school or in an education program assisting students in—

(I) obtaining a high school diploma or its recognized equivalent under State law;

(II) passing the General Education Development test, a high school equivalence diploma examination, or other similar State-authorized exam;

(III) obtaining a certificate or credential from an area career and technical education school providing education at the secondary level; or

(IV) obtaining a recognized post-secondary credential.

(2) WAIVER OF GROUNDS OF INADMISSIBILITY.—With respect to any benefit under this title, and in addition to the waivers under subsection (c)(2), the Secretary may waive the grounds of inadmissibility under paragraph (1), (6)(E), (6)(G), or
(10)(D) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) for humanitarian purposes, for family unity, or because the waiver is otherwise in the public interest.

(3) APPLICATION FEE.—

(A) IN GENERAL.—The Secretary may, subject to an exemption under section 303(c), require an alien applying under this section to pay a reasonable fee that is commensurate with the cost of processing the application but does not exceed $495.00.

(B) SPECIAL PROCEDURES FOR APPLICANTS WITH DACA.—The Secretary shall establish a streamlined procedure for aliens who have been granted DACA and who meet the requirements for renewal (under the terms of the program in effect on January 1, 2017) to apply for adjustment of status to that of an alien lawfully admitted for permanent residence on a conditional basis under this section, or without the conditional basis as provided in section 104(c)(2). Such procedure shall not include a requirement that the applicant pay a fee, except that the Secretary may require an applicant who meets the requirements for lawful perma-
ment residence without the conditional basis under section 104(e)(2) to pay a fee that is commensurate with the cost of processing the application, subject to the exemption under section 303(c).

(4) BACKGROUND CHECKS.—The Secretary may not grant an alien permanent resident status on a conditional basis under this section until the requirements of section 302 are satisfied.

(5) MILITARY SELECTIVE SERVICE.—An alien applying for permanent resident status on a conditional basis under this section, or without the conditional basis as provided in section 104(e)(2), shall establish that the alien has registered under the Military Selective Service Act (50 U.S.C. 3801 et seq.), if the alien is subject to registration under such Act.

(c) CRIMINAL AND NATIONAL SECURITY BARS.—

(1) GROUNDS OF INELIGIBILITY.—Except as provided in paragraph (2), an alien is ineligible for adjustment of status under this title (whether on a conditional basis or without the conditional basis as provided in section 104(e)(2)) if any of the following apply:
(A) The alien is inadmissible under paragraph (2) or (3) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)).

(B) Excluding any offense under State law for which an essential element is the alien’s immigration status, and any minor traffic offense, the alien has been convicted of—

(i) any felony offense;

(ii) three or more misdemeanor offenses (excluding simple possession of cannabis or cannabis-related paraphernalia, any offense involving cannabis or cannabis-related paraphernalia which is no longer prosecutable in the State in which the conviction was entered, and any offense involving civil disobedience without violence) not occurring on the same date, and not arising out of the same act, omission, or scheme of misconduct; or

(iii) a misdemeanor offense of domestic violence, unless the alien demonstrates that such crime is related to the alien having been—

(I) a victim of domestic violence,

sexual assault, stalking, child abuse or
neglect, abuse or neglect in later life, or human trafficking;

(II) battered or subjected to extreme cruelty; or


(2) WAIVERS FOR CERTAIN MISDEMEANORS.—

For humanitarian purposes, family unity, or if otherwise in the public interest, the Secretary may—

(A) waive the grounds of inadmissibility under subparagraphs (A), (C), and (D) of section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)), unless the conviction forming the basis for inadmissibility would otherwise render the alien ineligible under paragraph (1)(B) (subject to subparagraph (B)); and

(B) for purposes of clauses (ii) and (iii) of paragraph (1)(B), waive consideration of—

(i) one misdemeanor offense if the alien has not been convicted of any offense in the 5-year period preceding the date on
which the alien applies for adjustment of status under this title; or

(ii) up to two misdemeanor offenses if the alien has not been convicted of any offense in the 10-year period preceding the date on which the alien applies for adjustment of status under this title.

(3) **Authority to Conduct Secondary Review.**—

(A) **In General.**—Notwithstanding an alien’s eligibility for adjustment of status under this title, and subject to the procedures described in this paragraph, the Secretary may, as a matter of non-delegable discretion, provisionally deny an application for adjustment of status (whether on a conditional basis or without the conditional basis as provided in section 104(c)(2)) if the Secretary, based on clear and convincing evidence, which shall include credible law enforcement information, determines that the alien is described in subparagraph (B) or (D).

(B) **Public Safety.**—An alien is described in this subparagraph if—
(i) excluding simple possession of cannabis or cannabis-related paraphernalia, any offense involving cannabis or cannabis-related paraphernalia which is no longer prosecutable in the State in which the conviction was entered, any offense under State law for which an essential element is the alien’s immigration status, any offense involving civil disobedience without violence, and any minor traffic offense, the alien—

(I) has been convicted of a misdemeanor offense punishable by a term of imprisonment of more than 30 days; or

(II) has been adjudicated delinquent in a State or local juvenile court proceeding that resulted in a disposition ordering placement in a secure facility; and

(ii) the alien poses a significant and continuing threat to public safety related to such conviction or adjudication.

(C) PUBLIC SAFETY DETERMINATION.—

For purposes of subparagraph (B)(ii), the Sec-
retary shall consider the recency of the conviction or adjudication; the length of any imposed sentence or placement; the nature and seriousness of the conviction or adjudication, including whether the elements of the offense include the unlawful possession or use of a deadly weapon to commit an offense or other conduct intended to cause serious bodily injury; and any mitigating factors pertaining to the alien’s role in the commission of the offense.

(D) GANG PARTICIPATION.—An alien is described in this subparagraph if the alien has, within the 5 years immediately preceding the date of the application, knowingly, willfully, and voluntarily participated in offenses committed by a criminal street gang (as described in subsections (a) and (c) of section 521 of title 18, United States Code) with the intent to promote or further the commission of such offenses.

(E) EVIDENTIARY LIMITATION.—For purposes of subparagraph (D), allegations of gang membership obtained from a State or Federal in-house or local database, or a network of databases used for the purpose of recording and sharing activities of alleged gang members
across law enforcement agencies, shall not estab-

ish the participation described in such para-

graph.

(F) NOTICE.—

(i) IN GENERAL.—Prior to rendering

a discretionary decision under this para-

graph, the Secretary shall provide written

notice of the intent to provisionally deny

the application to the alien (or the alien’s

counsel of record, if any) by certified mail

and, if an electronic mail address is pro-

vided, by electronic mail (or other form of

electronic communication). Such notice

shall—

(I) articulate with specificity all

ground for the preliminary deter-

mination, including the evidence relied

upon to support the determination;

and

(II) provide the alien with not

less than 90 days to respond.

(ii) SECOND NOTICE.—Not more than

30 days after the issuance of the notice

under clause (i), the Secretary shall pro-
vide a second written notice that meets the requirements of such clause.

(iii) NOTICE NOT RECEIVED.—Notwithstanding any other provision of law, if an applicant provides good cause for not contesting a provisional denial under this paragraph, including a failure to receive notice as required under this subparagraph, the Secretary shall, upon a motion filed by the alien, reopen an application for adjustment of status under this title and allow the applicant an opportunity to respond, consistent with clause (i)(II).

(G) JUDICIAL REVIEW OF A PROVISIONAL DENIAL.—

(i) IN GENERAL.—Notwithstanding any other provision of law, if, after notice and the opportunity to respond under subparagraph (F), the Secretary provisionally denies an application for adjustment of status under this Act, the alien shall have 60 days from the date of the Secretary’s determination to seek review of such determination in an appropriate United States district court.
Scope of review and decision.—Notwithstanding any other provision of law, review under paragraph (1) shall be de novo and based solely on the administrative record, except that the applicant shall be given the opportunity to supplement the administrative record and the Secretary shall be given the opportunity to rebut the evidence and arguments raised in such submission. Upon issuing its decision, the court shall remand the matter, with appropriate instructions, to the Department of Homeland Security to render a final decision on the application.

Appointed counsel.—Notwithstanding any other provision of law, an applicant seeking judicial review under clause (i) shall be represented by counsel. Upon the request of the applicant, counsel shall be appointed for the applicant, in accordance with procedures to be established by the Attorney General within 90 days of the date of the enactment of this Act, and shall be funded in accordance with fees col-
lected and deposited in the Immigration
Counsel Account under section 312.

(4) DEFINITIONS.—For purposes of this sub-
section—

(A) the term “felony offense” means an of-
fense under Federal or State law that is pun-
ishable by a maximum term of imprisonment of
more than 1 year;

(B) the term “misdemeanor offense”
means an offense under Federal or State law
that is punishable by a term of imprisonment of
more than 5 days but not more than 1 year;

and

(C) the term “crime of domestic violence”
means any offense that has as an element the
use, attempted use, or threatened use of phys-
ical force against a person committed by a cur-
rent or former spouse of the person, by an indi-
vidual with whom the person shares a child in
common, by an individual who is cohabiting
with or has cohabited with the person as a
spouse, by an individual similarly situated to a
spouse of the person under the domestic or
family violence laws of the jurisdiction where
the offense occurs, or by any other individual
against a person who is protected from that
individual’s acts under the domestic or family vio-
ulence laws of the United States or any State,
Indian Tribal government, or unit of local gov-
ernment.

(d) LIMITATION ON REMOVAL OF CERTAIN ALIEN
MINORS.—An alien who is 18 years of age or younger and
meets the requirements under subparagraphs (A), (B),
and (C) of subsection (b)(1) shall be provided a reasonable
opportunity to meet the educational requirements under
subparagraph (D) of such subsection. The Attorney Gen-
eral or the Secretary may not commence or continue with
removal proceedings against such an alien.

(e) WITHDRAWAL OF APPLICATION.—The Secretary
shall, upon receipt of a request to withdraw an application
for adjustment of status under this section, cease proc-
essing of the application, and close the case. Withdrawal
of the application under this subsection shall not prejudice
any future application filed by the applicant for any immi-
gration benefit under this title or under the Immigration
and Nationality Act (8 U.S.C. 1101 et seq.).

SEC. 103. TERMS OF PERMANENT RESIDENT STATUS ON A
CONDITIONAL BASIS.

(a) PERIOD OF STATUS.—Permanent resident status
on a conditional basis is—
(1) valid for a period of 10 years, unless such period is extended by the Secretary; and

(2) subject to revocation under subsection (c).

(b) Notice of Requirements.—At the time an alien obtains permanent resident status on a conditional basis, the Secretary shall provide notice to the alien regarding the provisions of this title and the requirements to have the conditional basis of such status removed.

(e) Revocation of Status.—The Secretary may revoke the permanent resident status on a conditional basis of an alien only if the Secretary—

(1) determines that the alien ceases to meet the requirements under section 102(b)(1)(C); and

(2) prior to the revocation, provides the alien—

(A) notice of the proposed revocation; and

(B) the opportunity for a hearing to provide evidence that the alien meets such requirements or otherwise to contest the proposed revocation.

(d) Return to Previous Immigration Status.—An alien whose permanent resident status on a conditional basis expires under subsection (a)(1) or is revoked under subsection (c), shall return to the immigration status that the alien had immediately before receiving permanent resident status on a conditional basis.
SEC. 104. REMOVAL OF CONDITIONAL BASIS OF PERMANENT RESIDENT STATUS.

(a) Eligibility for Removal of Conditional Basis.—

(1) In general.—Subject to paragraph (2), the Secretary shall remove the conditional basis of an alien’s permanent resident status granted under this title and grant the alien status as an alien lawfully admitted for permanent residence if the alien—

(A) is described in section 102(b)(1)(C);

(B) has not abandoned the alien’s residence in the United States during the period in which the alien has permanent resident status on a conditional basis; and

(C)(i) has obtained a degree from an institution of higher education, or has completed at least 2 years, in good standing, of a program in the United States leading to a bachelor’s degree or higher degree or a recognized postsecondary credential from an area career and technical education school providing education at the postsecondary level;

(ii) has served in the Uniformed Services for at least 2 years and, if discharged, received an honorable discharge; or
(iii) demonstrates earned income for periods totaling at least 3 years and at least 75 percent of the time that the alien has had a valid employment authorization, except that, in the case of an alien who was enrolled in an institution of higher education, an area career and technical education school to obtain a recognized postsecondary credential, or an education program described in section 102(b)(1)(D)(iii), the Secretary shall reduce such total 3-year requirement by the total of such periods of enrollment.

(2) HARDSHIP EXCEPTION.—The Secretary shall remove the conditional basis of an alien’s permanent resident status and grant the alien status as an alien lawfully admitted for permanent residence if the alien—

(A) satisfies the requirements under subparagraphs (A) and (B) of paragraph (1);

(B) demonstrates compelling circumstances for the inability to satisfy the requirements under subparagraph (C) of such paragraph; and

(C) demonstrates that—

(i) the alien has a disability;
(ii) the alien is a full-time caregiver;

or

(iii) the removal of the alien from the United States would result in hardship to the alien or the alien’s spouse, parent, or child who is a national of the United States or is lawfully admitted for permanent residence.

(3) Citizenship Requirement.—

(A) In general.—Except as provided in subparagraph (B), the conditional basis of an alien’s permanent resident status granted under this title may not be removed unless the alien demonstrates that the alien satisfies the requirements under section 312(a) of the Immigration and Nationality Act (8 U.S.C. 1423(a)).

(B) Exception.—Subparagraph (A) shall not apply to an alien who is unable to meet the requirements under such section 312(a) due to disability.

(4) Application Fee.—The Secretary may, subject to an exemption under section 303(c), require aliens applying for removal of the conditional basis of an alien’s permanent resident status under
this section to pay a reasonable fee that is commen-
surate with the cost of processing the application.

(5) BACKGROUND CHECKS.—The Secretary
may not remove the conditional basis of an alien’s
permanent resident status until the requirements of
section 302 are satisfied.

(b) TREATMENT FOR PURPOSES OF NATURALI-
ZATION.—

(1) IN GENERAL.—For purposes of title III of
the Immigration and Nationality Act (8 U.S.C. 1401
et seq.), an alien granted permanent resident status
on a conditional basis shall be considered to have
been admitted to the United States, and be present
in the United States, as an alien lawfully admitted
for permanent residence.

(2) LIMITATION ON APPLICATION FOR NATU-
RALIZATION.—An alien may not apply for natu-
ralization while the alien is in permanent resident
status on a conditional basis.

(c) TIMING OF APPROVAL OF LAWFUL PERMANENT
RESIDENT STATUS.—

(1) IN GENERAL.—An alien granted permanent
resident status on a conditional basis under this title
may apply to have such conditional basis removed at
any time after such alien has met the eligibility re-
quirements set forth in subsection (a).

(2) Approval with regard to initial appli-
cations.—

(A) In general.—Notwithstanding any
other provision of law, the Secretary or the At-
torney General shall cancel the removal of, and
adjust to the status of an alien lawfully admit-
ted for permanent resident status without con-
ditional basis, any alien who—

(i) demonstrates eligibility for lawful
permanent residence status on a condi-
tional basis under section 102(b); and

(ii) subject to the exceptions described
in subsections (a)(2) and (a)(3)(B) of this
section, already has fulfilled the require-
ments of paragraphs (1) and (3) of sub-
section (a) of this section at the time such
alien first submits an application for bene-
fits under this title.

(B) Background checks.—Subsection
(a)(5) shall apply to an alien seeking lawful
permanent resident status without conditional
basis in an initial application in the same man-
ner as it applies to an alien seeking removal of
the conditional basis of an alien’s permanent resident status. Section 102(b)(4) shall not be construed to require the Secretary to conduct more than one identical security or law enforcement background check on such an alien.

(C) APPLICATION FEES.—In the case of an alien seeking lawful permanent resident status without conditional basis in an initial application, the alien shall pay the fee required under subsection (a)(4), subject to the exemption allowed under section 303(e), but shall not be required to pay the application fee under section 102(b)(3).

SEC. 105. RESTORATION OF STATE OPTION TO DETERMINE RESIDENCY FOR PURPOSES OF HIGHER EDUCATION BENEFITS.

(a) In General.—Section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1623) is repealed.

(b) Effective Date.—The repeal under subsection (a) shall take effect as if included in the original enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 110 Stat. 3009–546).
(c) Limitation of Federal Student Assistance.—Notwithstanding any other provision of law, an alien who has permanent resident status on a conditional basis under this title shall be eligible only for the following assistance under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.):

(1) Student loans under parts D and E of such title IV (20 U.S.C. 1087a et seq. and 1087aa et seq.), subject to the requirements of such parts.

(2) Federal work-study programs under part C of such title IV (42 U.S.C. 2751 et seq.), subject to the requirements of such part.

(3) Services under such title IV (20 U.S.C. 1070 et seq.), subject to the requirements for such services.

TITLE II—AMERICAN PROMISE ACT OF 2021

SEC. 201. SHORT TITLE.

This title may be cited as the “American Promise Act of 2021”.
SEC. 202. ADJUSTMENT OF STATUS FOR CERTAIN NATIONALS OF CERTAIN COUNTRIES DESIGNATED FOR TEMPORARY PROTECTED STATUS OR DEFERRED ENFORCED DEPARTURE.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary or the Attorney General shall cancel the removal of, and adjust to the status of an alien lawfully admitted for permanent residence, an alien described in subsection (b) if the alien—

(1) applies for such adjustment, including submitting any required documents under section 307, not later than 3 years after the date of the enactment of this Act;

(2) has been continuously physically present in the United States for a period of not less than 3 years; and

(3) subject to subsection (c), is not inadmissible under paragraph (1), (2), (3), (6)(D), (6)(E), (6)(F), (6)(G), (8), or (10) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)).

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—An alien shall be eligible for adjustment of status under this section if the alien is an individual—

(1) who—
(A) is a national of a foreign state (or part thereof) (or in the case of an alien having no nationality, is a person who last habitually resided in such state) with a designation under subsection (b) of section 244 of the Immigration and Nationality Act (8 U.S.C. 1254a(b)) on January 1, 2017, who had or was otherwise eligible for temporary protected status on such date notwithstanding subsections (c)(1)(A)(iv) and (c)(3)(C) of such section; and

(B) has not engaged in conduct since such date that would render the alien ineligible for temporary protected status under section 244(c)(2) of the Immigration and Nationality Act (8 U.S.C. 1245a(c)(2)); or

(2) who was eligible for Deferred Enforced Departure as of January 20, 2021, and has not engaged in conduct since that date that would render the alien ineligible for Deferred Enforced Departure.

(c) WAIVER OF GROUNDS OF INADMISSIBILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), with respect to any benefit under this title, and in addition to any waivers that are otherwise available, the Secretary may waive the grounds of inadmissibility under paragraph (1), subpara-
graphs (A), (C), and (D) of paragraph (2), subparagraphs (D) through (G) of paragraph (6), or paragraph (10)(D) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) for humanitarian purposes, for family unity, or because the waiver is otherwise in the public interest.

(2) EXCEPTION.—The Secretary may not waive a ground described in paragraph (1) if such inadmissibility is based on a conviction or convictions, and such conviction or convictions would otherwise render the alien ineligible under section 244(c)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1254a(c)(2)(B)).

(d) APPLICATION.—

(1) FEE.—The Secretary shall, subject to an exemption under section 303(c), require an alien applying for adjustment of status under this section to pay a reasonable fee that is commensurate with the cost of processing the application, but does not exceed $1,140.

(2) BACKGROUND CHECKS.—The Secretary may not grant an alien permanent resident status on a conditional basis under this section until the requirements of section 302 are satisfied.
(3) **WITHDRAWAL OF APPLICATION.**—The Secretary of Homeland Security shall, upon receipt of a request to withdraw an application for adjustment of status under this section, cease processing of the application and close the case. Withdrawal of the application under this subsection shall not prejudice any future application filed by the applicant for any immigration benefit under this title or under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

**SEC. 203. CLARIFICATION.**

Section 244(f)(4) of the Immigration and Nationality Act (8 U.S.C. 1254a(f)(4)) is amended by inserting after “considered” the following: “as having been inspected and admitted into the United States, and”.

**TITLE III—GENERAL PROVISIONS**

**SEC. 301. DEFINITIONS.**

(a) **IN GENERAL.**—In this Act:

(1) **IN GENERAL.**—Except as otherwise specifically provided, any term used in this Act that is used in the immigration laws shall have the meaning given such term in the immigration laws.

(2) **APPROPRIATE UNITED STATES DISTRICT COURT.**—The term “appropriate United States dis-
“district court” means the United States District Court for the District of Columbia or the United States district court with jurisdiction over the alien’s principal place of residence.

(3) **AREA CAREER AND TECHNICAL EDUCATION SCHOOL.**—The term “area career and technical education school” has the meaning given such term in section 3 of the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2302).

(4) **DACA.**—The term “DACA” means deferred action granted to an alien pursuant to the Deferred Action for Childhood Arrivals policy announced by the Secretary of Homeland Security on June 15, 2012.

(5) **DISABILITY.**—The term “disability” has the meaning given such term in section 3(1) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(1)).

(6) **FEDERAL POVERTY LINE.**—The term “Federal poverty line” has the meaning given such term in section 213A(h) of the Immigration and Nationality Act (8 U.S.C. 1183a).

(7) **HIGH SCHOOL; SECONDARY SCHOOL.**—The terms “high school” and “secondary school” have the meanings given such terms in section 8101 of

(8) IMMIGRATION LAWS.—The term “immigration laws” has the meaning given such term in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)).

(9) INSTITUTION OF HIGHER EDUCATION.—The term “institution of higher education”—

(A) except as provided in subparagraph (B), has the meaning given such term in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002); and

(B) does not include an institution of higher education outside of the United States.

(10) RECOGNIZED POSTSECONDARY CREDENTIAL.—The term “recognized postsecondary credential” has the meaning given such term in section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102).

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

(12) UNIFORMED SERVICES.—The term “Uniformed Services” has the meaning given the term
“uniformed services” in section 101(a) of title 10, United States Code.

(b) **TREATMENT OF EXPUNGED CONVICTIONS.**—For purposes of adjustment of status under this Act, the terms “convicted” and “conviction”, as used in this Act and in sections 212 and 244 of the Immigration and Nationality Act (8 U.S.C. 1182, 1254a), do not include a judgment that has been expunged or set aside, that resulted in a rehabilitative disposition, or the equivalent.

**SEC. 302. SUBMISSION OF BIOMETRIC AND BIOGRAPHIC DATA; BACKGROUND CHECKS.**

(a) **SUBMISSION OF BIOMETRIC AND BIOGRAPHIC DATA.**—The Secretary may not grant an alien adjustment of status under this Act, on either a conditional or permanent basis, unless the alien submits biometric and biographic data, in accordance with procedures established by the Secretary. The Secretary shall provide an alternative procedure for aliens who are unable to provide such biometric or biographic data because of a physical impairment.

(b) **BACKGROUND CHECKS.**—The Secretary shall use biometric, biographic, and other data that the Secretary determines appropriate to conduct security and law enforcement background checks and to determine whether there is any criminal, national security, or other factor
that would render the alien ineligible for adjustment of
status under this Act, on either a conditional or perma-
nent basis. The status of an alien may not be adjusted,
on either a conditional or permanent basis, unless security
and law enforcement background checks are completed to
the satisfaction of the Secretary.

SEC. 303. LIMITATION ON REMOVAL; APPLICATION AND
FEE EXEMPTION; AND OTHER CONDITIONS
ON ELIGIBLE INDIVIDUALS.

(a) LIMITATION ON REMOVAL.—An alien who ap-
ppears to be prima facie eligible for relief under this Act
shall be given a reasonable opportunity to apply for such
relief and may not be removed until, subject to section
306(c)(2), a final decision establishing ineligibility for re-

(b) APPLICATION.—An alien present in the United
States who has been ordered removed or has been per-
mitted to depart voluntarily from the United States may,
notwithstanding such order or permission to depart, apply
for adjustment of status under this Act. Such alien shall
not be required to file a separate motion to reopen, reconsid-
er, or vacate the order of removal. If the Secretary ap-

Of removal. If the Secretary renders a final administrative
decision to deny the application, the order of removal or
permission to depart shall be effective and enforceable to
the same extent as if the application had not been made,
only after all available administrative and judicial rem-
edies have been exhausted.

(c) Fee Exemption.—An applicant may be exempt-
ed from paying an application fee required under this Act
if the applicant—

(1) is 18 years of age or younger;

(2) received total income, during the 12-month
period immediately preceding the date on which the
applicant files an application under this Act, that is
less than 150 percent of the Federal poverty line;

(3) is in foster care or otherwise lacks any pa-
rental or other familial support; or

(4) cannot care for himself or herself because of
a serious, chronic disability.

(d) Advance Parole.—During the period beginning
on the date on which an alien applies for adjustment of
status under this Act and ending on the date on which
the Secretary makes a final decision regarding such appli-
cation, the alien shall be eligible to apply for advance pa-
role. Section 101(g) of the Immigration and Nationality
Act (8 U.S.C. 1101(g)) shall not apply to an alien granted
advance parole under this Act.
(c) EMPLOYMENT.—An alien whose removal is stayed pursuant to this Act, who may not be placed in removal proceedings pursuant to this Act, or who has pending an application under this Act, shall, upon application to the Secretary, be granted an employment authorization document.

SEC. 304. DETERMINATION OF CONTINUOUS PRESENCE AND RESIDENCE.

(a) Effect of Notice To Appear.—Any period of continuous physical presence or continuous residence in the United States of an alien who applies for permanent resident status under this Act (whether on a conditional basis or without the conditional basis as provided in section 104(c)(2)) shall not terminate when the alien is served a notice to appear under section 239(a) of the Immigration and Nationality Act (8 U.S.C. 1229(a)).

(b) Treatment of Certain Breaks in Presence or Residence.—

(1) In general.—Except as provided in paragraphs (2) and (3), an alien shall be considered to have failed to maintain—

(A) continuous physical presence in the United States under this Act if the alien has departed from the United States for any period

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exceeding 90 days or for any periods, in the ag-
ggregate, exceeding 180 days; and

(B) continuous residence in the United
States under this Act if the alien has departed
from the United States for any period exceeding
180 days, unless the alien establishes to the
satisfaction of the Secretary of Homeland Secu-

rity that the alien did not in fact abandon resi-
dence in the United States during such period.

(2) EXTENSIONS FOR EXTENUATING CIR-
CUMSTANCES.—The Secretary may extend the time
periods described in paragraph (1) for an alien who
demonstrates that the failure to timely return to the
United States was due to extenuating circumstances
beyond the alien’s control, including—

(A) the serious illness of the alien;

(B) death or serious illness of a parent,
grandparent, sibling, or child of the alien;

(C) processing delays associated with the
application process for a visa or other travel
document; or

(D) restrictions on international travel due
to the COVID–19 public health emergency.

(3) TRAVEL AUTHORIZED BY THE SEC-
RETARY.—Any period of travel outside of the United
States by an alien that was authorized by the Sec- 
retary may not be counted toward any period of de-
parture from the United States under paragraph 
(1).

(c) WAIVER OF PHYSICAL PRESENCE.—With respect 
to aliens who were removed or departed the United States 
on or after January 20, 2017, and who were continuously 
physically present in the United States for at least 4 years 
prior to such removal or departure, the Secretary may, 
as a matter of discretion, waive the physical presence re-
quirement under section 102(b)(1)(A) or section 
202(a)(2) for humanitarian purposes, for family unity, or 
because a waiver is otherwise in the public interest. The 
Secretary, in consultation with the Secretary of State, 
shall establish a procedure for such aliens to apply for re-
lief under section 102 or 202 from outside the United 
States if they would have been eligible for relief under 
such section, but for their removal or departure.

SEC. 305. EXEMPTION FROM NUMERICAL LIMITATIONS.

Nothing in this Act or in any other law may be con-
strued to apply a numerical limitation on the number of 
aliens who may be granted permanent resident status 
under this Act (whether on a conditional basis, or without 
the conditional basis as provided in section 104(c)(2)).
SEC. 306. AVAILABILITY OF ADMINISTRATIVE AND JUDICIAL REVIEW.

(a) Administrative Review.—Not later than 30 days after the date of the enactment of this Act, the Secretary shall provide to aliens who have applied for adjustment of status under this Act a process by which an applicant may seek administrative appellate review of a denial of an application for adjustment of status, or a revocation of such status.

(b) Judicial Review.—Except as provided in subsection (c), and notwithstanding any other provision of law, an alien may seek judicial review of a denial of an application for adjustment of status, or a revocation of such status, under this Act in an appropriate United States district court.

(c) Stay of Removal.—

(1) In General.—Except as provided in paragraph (2), an alien seeking administrative or judicial review under this Act may not be removed from the United States until a final decision is rendered establishing that the alien is ineligible for adjustment of status under this Act.

(2) Exception.—The Secretary may remove an alien described in paragraph (1) pending judicial review if such removal is based on criminal or national security grounds described in this Act. Such
removal shall not affect the alien’s right to judicial
review under this Act. The Secretary shall promptly
return a removed alien if a decision to deny an ap-
plication for adjustment of status under this Act, or
to revoke such status, is reversed.

SEC. 307. DOCUMENTATION REQUIREMENTS.

(a) DOCUMENTS ESTABLISHING IDENTITY.—An
alien’s application for permanent resident status under
this Act (whether on a conditional basis, or without the
conditional basis as provided in section 104(c)(2)) may in-
clude, as evidence of identity, the following:

(1) A passport or national identity document
from the alien’s country of origin that includes the
alien’s name and the alien’s photograph or finger-
print.

(2) The alien’s birth certificate and an identity
card that includes the alien’s name and photograph.

(3) A school identification card that includes
the alien’s name and photograph, and school records
showing the alien’s name and that the alien is or
was enrolled at the school.

(4) A Uniformed Services identification card
issued by the Department of Defense.
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(5) Any immigration or other document issued by the United States Government bearing the alien’s name and photograph.

(6) A State-issued identification card bearing the alien’s name and photograph.

(7) Any other evidence determined to be credible by the Secretary.

(b) DOCUMENTS ESTABLISHING ENTRY, CONTINUOUS PHYSICAL PRESENCE, LACK OF ABANDONMENT OF RESIDENCE.—To establish that an alien was 18 years of age or younger on the date on which the alien entered the United States, and has continuously resided in the United States since such entry, as required under section 102(b)(1)(B), that an alien has been continuously physically present in the United States, as required under section 102(b)(1)(A) or 202(a)(2), or that an alien has not abandoned residence in the United States, as required under section 104(a)(1)(B), the alien may submit the following forms of evidence:

(1) Passport entries, including admission stamps on the alien’s passport.

(2) Any document from the Department of Justice or the Department of Homeland Security noting the alien’s date of entry into the United States.
(3) Records from any educational institution the alien has attended in the United States.

(4) Employment records of the alien that include the employer’s name and contact information, or other records demonstrating earned income.

(5) Records of service from the Uniformed Services.

(6) Official records from a religious entity confirming the alien’s participation in a religious ceremony.

(7) A birth certificate for a child who was born in the United States.

(8) Hospital or medical records showing medical treatment or hospitalization, the name of the medical facility or physician, and the date of the treatment or hospitalization.

(9) Automobile license receipts or registration.

(10) Deeds, mortgages, or rental agreement contracts.

(11) Rent receipts or utility bills bearing the alien’s name or the name of an immediate family member of the alien, and the alien’s address.

(12) Tax receipts.

(13) Insurance policies.
(14) Remittance records, including copies of money order receipts sent in or out of the country.

(15) Travel records.

(16) Dated bank transactions.

(17) Two or more sworn affidavits from individuals who are not related to the alien who have direct knowledge of the alien’s continuous physical presence in the United States, that contain—

(A) the name, address, and telephone number of the affiant; and

(B) the nature and duration of the relationship between the affiant and the alien.

(18) Any other evidence determined to be credible by the Secretary.

(c) Documents Establishing Admission to an Institution of Higher Education.—To establish that an alien has been admitted to an institution of higher education, the alien may submit to the Secretary a document from the institution of higher education certifying that the alien—

(1) has been admitted to the institution; or

(2) is currently enrolled in the institution as a student.

(d) Documents Establishing Receipt of a Degree From an Institution of Higher Education.—
To establish that an alien has acquired a degree from an institution of higher education in the United States, the alien may submit to the Secretary a diploma or other document from the institution stating that the alien has received such a degree.

(e) Documents Establishing Receipt of a High School Diploma, General Educational Development Credential, or a Recognized Equivalent.—To establish that in the United States an alien has earned a high school diploma or a commensurate alternative award from a public or private high school, has obtained the General Education Development credential, or otherwise has satisfied section 102(b)(1)(D)(iii), the alien may submit to the Secretary the following:

(1) A high school diploma, certificate of completion, or other alternate award.

(2) A high school equivalency diploma or certificate recognized under State law.

(3) Evidence that the alien passed a State-authorized exam, including the General Education Development test, in the United States.

(4) Evidence that the alien successfully completed an area career and technical education program, such as a certification, certificate, or similar alternate award.
(5) Evidence that the alien obtained a recognized postsecondary credential.

(6) Any other evidence determined to be credible by the Secretary.

(f) DOCUMENTS ESTABLISHING ENROLLMENT IN AN EDUCATIONAL PROGRAM.—To establish that an alien is enrolled in any school or education program described in section 102(b)(1)(D)(iv) or 104(a)(1)(C), the alien may submit school records from the United States school that the alien is currently attending that include—

(1) the name of the school; and

(2) the alien’s name, periods of attendance, and current grade or educational level.

(g) DOCUMENTS ESTABLISHING EXEMPTION FROM APPLICATION FEES.—To establish that an alien is exempt from an application fee under this Act, the alien may submit to the Secretary the following relevant documents:

(1) DOCUMENTS TO ESTABLISH AGE.—To establish that an alien meets an age requirement, the alien may provide proof of identity, as described in subsection (a), that establishes that the alien is 18 years of age or younger.

(2) DOCUMENTS TO ESTABLISH INCOME.—To establish the alien’s income, the alien may provide—
(A) employment records or other records of
earned income, including records that have been
maintained by the Social Security Administra-
tion, the Internal Revenue Service, or any other
Federal, State, or local government agency;

(B) bank records; or

(C) at least two sworn affidavits from indi-
viduals who are not related to the alien and
who have direct knowledge of the alien’s work
and income that contain—

(i) the name, address, and telephone
number of the affiant; and

(ii) the nature and duration of the re-
lation between the affiant and the
alien.

(3) DOCUMENTS TO ESTABLISH FOSTER CARE,
LACK OF FAMILIAL SUPPORT, OR SERIOUS, CHRONIC
DISABILITY.—To establish that the alien is in foster
care, lacks parental or familial support, or has a se-
rious, chronic disability, the alien may provide at
least two sworn affidavits from individuals who are
not related to the alien and who have direct knowl-
edge of the circumstances that contain—

(A) a statement that the alien is in foster
care, otherwise lacks any parental or other fa-
miliar support, or has a serious, chronic dis-
ability, as appropriate;

(B) the name, address, and telephone num-
ber of the affiant; and

(C) the nature and duration of the rela-
tionship between the affiant and the alien.

(h) DOCUMENTS ESTABLISHING QUALIFICATION FOR
HARDSHIP EXEMPTION.—To establish that an alien satisf-
ies one of the criteria for the hardship exemption set forth
in section 104(a)(2)(C), the alien may submit to the Sec-
retary at least two sworn affidavits from individuals who
are not related to the alien and who have direct knowledge
of the circumstances that warrant the exemption, that
contain—

(1) the name, address, and telephone number of
the affiant; and

(2) the nature and duration of the relationship
between the affiant and the alien.

(i) DOCUMENTS ESTABLISHING SERVICE IN THE
UNIFORMED SERVICES.—To establish that an alien has
served in the Uniformed Services for at least 2 years and,
if discharged, received an honorable discharge, the alien
may submit to the Secretary—

(1) a Department of Defense form DD–214;
(2) a National Guard Report of Separation and
Record of Service form 22;
(3) personnel records for such service from the
appropriate Uniformed Service; or
(4) health records from the appropriate Uniformed Service.

(j) DOCUMENTS ESTABLISHING EARNED INCOME.—

(1) IN GENERAL.—An alien may satisfy the
earned income requirement under section
104(a)(1)(C)(iii) by submitting records that—

(A) establish compliance with such requirement;
and

(B) have been maintained by the Social Security Administration, the Internal Revenue Service, or any other Federal, State, or local government agency.

(2) OTHER DOCUMENTS.—An alien who is unable to submit the records described in paragraph (1) may satisfy the earned income requirement by submitting at least two types of reliable documents that provide evidence of employment or other forms of earned income, including—

(A) bank records;

(B) business records;

(C) employer or contractor records;
(D) records of a labor union, day labor
center, or organization that assists workers in
employment;

(E) sworn affidavits from individuals who
are not related to the alien and who have direct
knowledge of the alien’s work, that contain—

(i) the name, address, and telephone
number of the affiant; and

(ii) the nature and duration of the re-

lationship between the affiant and the

alien;

(F) remittance records; or

(G) any other evidence determined to be
credible by the Secretary.

(k) Authority To Prohibit Use Of Certain
Documents.—If the Secretary determines, after publica-
tion in the Federal Register and an opportunity for public
comment, that any document or class of documents does
not reliably establish identity or that permanent resident
status under this Act (whether on a conditional basis, or
without the conditional basis as provided in section
104(c)(2)) is being obtained fraudulently to an unaccept-
able degree, the Secretary may prohibit or restrict the use
of such document or class of documents.
SEC. 308. RULEMAKING.

(a) In General.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall publish in the Federal Register interim final rules implementing this Act, which shall allow eligible individuals to immediately apply for relief under this Act. Notwithstanding section 553 of title 5, United States Code, the regulation shall be effective, on an interim basis, immediately upon publication, but may be subject to change and revision after public notice and opportunity for a period of public comment. The Secretary shall finalize such rules not later than 180 days after the date of publication.

(b) Paperwork Reduction Act.—The requirements under chapter 35 of title 44, United States Code, (commonly known as the “Paperwork Reduction Act”) shall not apply to any action to implement this Act.

SEC. 309. CONFIDENTIALITY OF INFORMATION.

(a) In General.—The Secretary may not disclose or use information (including information provided during administrative or judicial review) provided in applications filed under this Act or in requests for DACA for the purpose of immigration enforcement.

(b) Referrals Prohibited.—The Secretary, based solely on information provided in an application for adjustment of status under this Act (including information provided during administrative or judicial review) or an appli-
cation for DACA, may not refer an applicant to U.S. Immigration and Customs Enforcement, U.S. Customs and Border Protection, or any designee of either such entity.

(c) LIMITED EXCEPTION.—Notwithstanding subsections (a) and (b), information provided in an application for adjustment of status under this Act may be shared with Federal security and law enforcement agencies—

(1) for assistance in the consideration of an application for adjustment of status under this Act;

(2) to identify or prevent fraudulent claims;

(3) for national security purposes; or

(4) for the investigation or prosecution of any felony offense not related to immigration status.

(d) PENALTY.—Any person who knowingly uses, publishes, or permits information to be examined in violation of this section shall be fined not more than $10,000.

SEC. 310. GRANT PROGRAM TO ASSIST ELIGIBLE APPLICANTS.

(a) ESTABLISHMENT.—The Secretary shall establish, within U.S. Citizenship and Immigration Services, a program to award grants, on a competitive basis, to eligible nonprofit organizations that will use the funding to assist eligible applicants under this Act by providing them with the services described in subsection (b).
(b) USE OF FUNDS.—Grant funds awarded under this section shall be used for the design and implementation of programs that provide—

(1) information to the public regarding the eligibility and benefits of permanent resident status under this Act (whether on a conditional basis, or without the conditional basis as provided in section 104(c)(2)), particularly to individuals potentially eligible for such status;

(2) assistance, within the scope of authorized practice of immigration law, to individuals submitting applications for adjustment of status under this Act (whether on a conditional basis, or without the conditional basis as provided in section 104(c)(2)), including—

(A) screening prospective applicants to assess their eligibility for such status;

(B) completing applications and petitions, including providing assistance in obtaining the requisite documents and supporting evidence;

and

(C) providing any other assistance that the Secretary or grantee considers useful or necessary to apply for adjustment of status under this Act (whether on a conditional basis, or
without the conditional basis as provided in section 104(e)(2)); and

(3) assistance, within the scope of authorized practice of immigration law, and instruction, to individuals—

(A) on the rights and responsibilities of United States citizenship;

(B) in civics and English as a second language;

(C) in preparation for the General Education Development test; and

(D) in applying for adjustment of status and United States citizenship.

(e) Authorization of Appropriations.—

(1) Amounts Authorized.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2022 through 2032 to carry out this section.

(2) Availability.—Any amounts appropriated pursuant to paragraph (1) shall remain available until expended.

SEC. 311. PROVISIONS AFFECTING ELIGIBILITY FOR ADJUSTMENT OF STATUS.

An alien’s eligibility to be lawfully admitted for permanent residence under this Act (whether on a conditional
basis, or without the conditional basis as provided in sec-
tion 104(e)(2)) shall not preclude the alien from seeking
any status under any other provision of law for which the
alien may otherwise be eligible.

SEC. 312. SUPPLEMENTARY SURCHARGE FOR APPOINTED
COUNSEL.

(a) IN GENERAL.—Except as provided in section 302
and in cases where the applicant is exempt from paying
a fee under section 303(c), in any case in which a fee is
charged pursuant to this Act, an additional surcharge of
$25 shall be imposed and collected for the purpose of pro-
viding appointed counsel to applicants seeking judicial re-
view of the Secretary’s decision to provisionally deny an
application under this Act.

(b) IMMIGRATION COUNSEL ACCOUNT.—There is es-
tablished in the general fund of the Treasury a separate
account which shall be known as the “Immigration Coun-
sel Account”. Fees collected under subsection (a) shall be
deposited into the Immigration Counsel Account and shall
remain available until expended for purposes of providing
appointed counsel as required under this Act.

(c) REPORT.—At the end of each 2-year period, be-
beginning with the establishment of this account, the Sec-
retary of Homeland Security shall submit a report to the
Congress concerning the status of the account, including
any balances therein, and recommend any adjustment in
the prescribed fee that may be required to ensure that the
receipts collected from the fee charged for the succeeding
two years equal, as closely as possible, the cost of pro-
viding appointed counsel as required under this Act.

SEC. 313. ANNUAL REPORT ON PROVISIONAL DENIAL AU-
THORITY.

Not later than 1 year after the date of the enactment
of this Act, and annually thereafter, the Secretary of
Homeland Security shall submit to the Congress a report
detailing the number of applicants that receive—

(1) a provisional denial under this Act;

(2) a final denial under this Act without seek-
ing judicial review;

(3) a final denial under this Act after seeking
judicial review; and

(4) an approval under this Act after seeking ju-
dicial review.