

VENEZUELA TPS ACT OF 2019

—————
JULY 23, 2019.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed
—————

Mr. NADLER, from the Committee on the Judiciary,
submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 549]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 549) to designate Venezuela under section 244 of the Immigration and Nationality Act to permit nationals of Venezuela to be eligible for temporary protected status under such section, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike all that follows after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Venezuela TPS Act of 2019”.

SEC. 2. DESIGNATION FOR PURPOSES OF GRANTING TEMPORARY PROTECTED STATUS.

(a) DESIGNATION.—

(1) IN GENERAL.—For purposes of section 244 of the Immigration and Nationality Act (8 U.S.C. 1254a), Venezuela shall be treated as if it had been designated under subsection (b)(1)(C) of that section, subject to the provisions of this section.

(2) PERIOD OF DESIGNATION.—The initial period of the designation referred to in paragraph (1) shall be for the 18-month period beginning on the date of the enactment of this Act.

(b) ALIENS ELIGIBLE.—As a result of the designation made under subsection (a), an alien who is a national of Venezuela is deemed to satisfy the requirements under paragraph (1) of section 244(c) of the Immigration and Nationality Act (8 U.S.C. 1254a(c)), subject to paragraph (3) of such section, if the alien—

(1) has been continuously physically present in the United States since the date of the enactment of this Act;

(2) is admissible as an immigrant, except as otherwise provided in paragraph (2)(A) of such section, and is not ineligible for temporary protected status under paragraph (2)(B) of such section; and

(3) registers for temporary protected status in a manner established by the Secretary of Homeland Security.

(c) CONSENT TO TRAVEL ABROAD.—

(1) IN GENERAL.—The Secretary of Homeland Security shall give prior consent to travel abroad, in accordance with section 244(f)(3) of the Immigration and Nationality Act (8 U.S.C. 1254a(f)(3)), to an alien who is granted temporary protected status pursuant to the designation made under subsection (a) if the alien establishes to the satisfaction of the Secretary of Homeland Security that emergency and extenuating circumstances beyond the control of the alien require the alien to depart for a brief, temporary trip abroad.

(2) TREATMENT UPON RETURN.—An alien returning to the United States in accordance with an authorization described in paragraph (1) shall be treated as any other returning alien provided temporary protected status under section 244 of the Immigration and Nationality Act (8 U.S.C. 1254a).

Purpose and Summary

H.R. 549, the “Venezuela TPS Act of 2019,” designates Venezuela for Temporary Protected Status (TPS) under section 244(b) of the Immigration and Nationality Act (8 U.S.C. § 1254a(b)) for a period of 18 months beginning on the date of the enactment of the Act. Nationals of Venezuela are deemed eligible for TPS under H.R. 549 if they: (1) have been continuously physically present in the United States since the date of enactment; (2) are admissible to the United States and not ineligible for TPS as provided in section 244(c)(2) of the Immigration and Nationality Act (8 U.S.C. § 1254a(c)(2)); and (3) register for TPS in a manner established by the Secretary of Homeland Security. H.R. 549 also requires the Secretary to give prior consent to travel abroad to individuals granted TPS under the Act if emergency and extenuating circumstances require a brief, temporary trip abroad.

Background and Need for the Legislation

I. TEMPORARY PROTECTED STATUS

The Immigration and Nationality Act (INA) authorizes the Secretary of Homeland Security to designate a country for TPS if armed conflict, natural disaster, or other extraordinary cir-

cumstances prevent the safe return of its nationals.¹ Once designated, nationals of the country may register for permission to live and work lawfully in the United States and are protected from removal during the designated period. A country may be designated for TPS for an initial period of six to 18 months, and the designation may be extended if the country continues to experience conditions warranting the designation. TPS applicants are subject to most grounds of inadmissibility and may not be granted TPS if they have been convicted of an inadmissible offense, or any felony or two misdemeanors in the United States. Applicants are also ineligible if they are deemed a threat to national security or have engaged in the persecution of others.

Since 1990, when the TPS provisions were enacted, a total of 21 countries (or parts of countries) have been designated for TPS. At present, ten countries hold TPS designations: El Salvador, Haiti, Honduras, Nepal, Nicaragua, Somalia, South Sudan, Sudan, Syria, and Yemen.² An estimated 320,000 individuals from these ten countries are currently in the United States in TPS status.³

II. CONDITIONS IN VENEZUELA WARRANTING A TPS DESIGNATION

A. *Economic and political situation*

Much of the political and economic turmoil that is unfolding in Venezuela today can be traced back to April 2013, when Nicolás Maduro was elected President by a narrow margin after the death of Hugo Chávez.⁴ Oil prices crashed shortly after the election and Venezuela's economy went into freefall, which critics blamed on Maduro and his government.⁵ In the years since, hundreds of thousands of anti-government protesters have poured into the streets demanding new leadership. Support for opposition parties have grown alongside the protests, with the opposition gaining a super majority of parliamentary seats in the 2015 National Assembly election, the first major shift in power since Hugo Chávez took office in 1999.⁶ Nevertheless, the Maduro regime, supported by the military establishment, arrested many opposition leaders in March 2017.⁷

In May 2018, opposition parties boycotted the presidential election, deeming it fraudulent and corrupt, and Maduro ostensibly won the majority of votes.⁸ Most Venezuelans and much of the

¹See generally INA 244; 8 U.S.C. § 1254 (2019).

²See U.S. Citizenship and Immigration Services, *Temporary Protected Status* (identifying countries currently designated for TPS), <https://www.uscis.gov/humanitarian/temporary-protected-status>.

³Nicole Prchal Svajlenka, Angie Bautista-Chavez, & Laura Muñoz Lopez, *TPS Holders Are Integral Members of the U.S. Economy and Society*, Center for American Progress (Oct. 20, 2017), <https://www.americanprogress.org/issues/immigration/news/2017/10/20/440400/tps-holders-are-integral-members-of-the-u-s-economy-and-society/>.

⁴Jonathan Watts, *Nicolas Maduro Narrowly Wins Venezuelan Presidential Election*, Associated Press (Apr. 15, 2013), <https://www.theguardian.com/world/2013/apr/15/nicolas-maduro-wins-venezuelan-election>.

⁵Zeeshan Aleen, *How Venezuela Went from a Rich Democracy to a Dictatorship on the Brink of Collapse*, Vox (Sep. 19, 2017), <https://www.vox.com/world/2017/9/19/16189742/venezuela-maduro-dictator-chavez-collapse>.

⁶Brian Walker & Tiffany Ap, *Venezuela's Opposition Party Wins Parliament in a Blow to Maduro*, CNN (Dec. 7, 2015), <https://www.cnn.com/2015/12/07/americas/venezuela-oelections/>.

⁷Diego Oré, *Venezuela Arrests Anti-Maduro Politicians in Sweep*, Reuters (Jan. 12, 2017), <https://www.reuters.com/article/us-venezuela-politics-idUSKBN14W2QP>.

⁸Zeeshan Aleen, *Venezuela just had a Rigged Election. It's One Step Closer to Becoming a Failed State*, Vox (May 22, 2018), <https://www.vox.com/world/2018/5/22/17379674/venezuela-election-results-maduro-won-sanctions>.

international community considered Maduro's reelection illegitimate.⁹ On January 5, 2019, the National Assembly elected Juan Guaidó of the Political Will party as its parliamentary president.¹⁰ A few days later, Maduro was sworn in to a new six-year presidential term.¹¹ Violent protests and demonstrations escalated, and the government responded in force, arresting, teargassing, and beating protestors.¹² Over the course of seven days in January, for example, approximately 40 Venezuelans were killed and 850 were detained, including 77 children.¹³ Human rights groups have documented hundreds of extrajudicial killings under Maduro's rule.¹⁴

In mid-January, Guaidó announced that he was willing to serve as the interim president until free and fair elections could take place, and he took the oath of office on January 23, 2019.¹⁵ Almost immediately, more than 50 countries, including the United States and most of the European Union, recognized Guaidó as the legitimate interim president of Venezuela and called for speedy new elections.¹⁶

Since then, the National Assembly has enacted resolutions declaring Maduro's mandate illegitimate, establishing a framework for a transition government, and creating a strategy for accepting cross-border humanitarian assistance.¹⁷ As of this time, however, no agreement for a peaceful transition of power exists between Maduro and Guaidó. On February 23, 2019, Venezuelan security forces killed four Guaidó supporters and injured hundreds more when they attempted to bring convoys with emergency supplies across the border.¹⁸ When Guaidó and Leopoldo López, a former political prisoner and head of the VP [what is this?] opposition party, called for a civil-military rebellion against the Maduro regime on April 30, 2019, military forces violently dismantled the demonstrations, attacking journalists in the process and removing several media outlets from the air.¹⁹ In the aftermath, Maduro ordered the arrest and torture of individuals perceived to be a threat to the government, including military officers and opposition politicians.²⁰

Venezuela's political stalemate is expected to continue, with both Guaidó and Maduro claiming to be the rightful leader of the nation. Many observers regard the military's defection from Maduro as key to the transfer of power.²¹ For now, however, aside from the former

⁹ Clare Ribando Seelke, *Venezuela: Political Crisis and U.S. Policy*, Cong. Res. Serv. (May 24, 2019), <https://fas.org/sgp/crs/row/IF10230.pdf>.

¹⁰ *Id.*

¹¹ *Id.*

¹² Human Rights Watch, *Venezuela: Arrests, Killings in Anti-Government Protests* (Jan. 25, 2019), <https://www.hrw.org/news/2019/01/25/venezuela-arrests-killings-anti-government-protests>.

¹³ UN: *Nearly 700 Venezuela Arrests in a Day Mark 20-Year High*, Associated Press (Jan. 29, 2019), <https://www.apnews.com/c904a5b3c1984866a356e55a3993b9e1>.

¹⁴ Amnesty Int'l, *Venezuela: Authorities Must Stop Criminalizing and Killing Young People Living in Poverty* (Sep. 20, 2018), <https://www.amnesty.org/en/latest/news/2018/09/venezuela-authorities-must-stop-criminalizing-and-killing-young-people-living-in-poverty/>.

¹⁵ Ribando Seelke, *supra*, note 9, at 1.

¹⁶ *More than 50 Countries Support Venezuela's Juan Guaido*, Share America (Feb. 15, 2019), <https://share.america.gov/support-for-venezuelas-juan-guaido-grows-infographic/>.

¹⁷ Ribando Seelke, *supra*, note 9, at 1.

¹⁸ Emma Graham-Harrison and Joe Parkin Daniels, *Venezuela: At Least Four Dead and Hundreds Injured in Border Standoff*, The Guardian (Feb. 23, 2019), <https://www.theguardian.com/world/2019/feb/23/venezuela-border-latest-maduro-guaido>.

¹⁹ *Venezuela: Violent Response to Demonstrators*, Human Rights Watch (May 3, 2019), <https://www.hrw.org/news/2019/05/03/venezuela-violent-response-demonstrators>.

²⁰ Ribando Seelke, *supra*, note 9.

²¹ *Id.*

head of the national intelligence agency, the military high command appears to remain loyal to Maduro.²²

Meanwhile, Venezuela's economy continues to plummet, due to mismanagement of the country's oil sector, and a dramatic drop in oil prices emptying the coffers of the government and families alike.²³ In 2018, inflation in Venezuela stood at 1.7 million percent.²⁴ The International Monetary Fund estimates that in 2019, the annual inflation rate will reach 10 million percent—making basics like milk and bread far too expensive for most Venezuelans to afford.²⁵

B. Humanitarian crisis

Millions of Venezuelans are malnourished and lack access to safe water and basic medicine.²⁶ In 2017, an estimated 87 percent of Venezuelans were living in poverty, with seven million in need of humanitarian assistance.²⁷ Infant and maternal mortality rates are increasing, and previously eradicated diseases like diphtheria and measles have returned.²⁸ These challenges go beyond the border and pose a threat to the entire region.

Since 2015, more than 3.7 million people have fled Venezuela, constituting the largest exodus in recent Latin American history.²⁹ During 2018, an average of 5,500 people left the country every day, with the vast majority seeking refuge in Colombia, Brazil, Ecuador, and Peru.³⁰ Venezuelans have filed more than 414,000 asylum claims in the region, with 248,000 filed in 2018 alone.³¹ Neighboring countries have provided 1.3 million Venezuelans with residency permits or other forms of lawful status that give access to health and education, and, in most countries, the right to work.³²

A recent report found that if oil prices and oil production in Venezuela continue to collapse—which is expected following new U.S. sanctions—the crisis could cause the total number of refugees and migrants to spike to more than eight million.³³ That would far out-

²² Clare Ribando Seelke, *Venezuela: Political Crisis and U.S. Policy*, Cong. Res. Serv. (May 3, 2019), <https://fas.org/sgp/crs/row/IF10230.pdf>.

²³ *Id.*

²⁴ *10 Things You Need to Know About Venezuela's Human Rights Crisis*, Amnesty International (Feb. 18, 2019), <https://www.amnesty.org/en/latest/news/2019/02/10-things-you-need-to-know-about-venezuelas-human-rights-crisis/>.

²⁵ *World Economic Outlook 2019: Inflation Rate, Average Consumer Prices*, International Monetary Fund (Apr. 2019), https://www.imf.org/external/datamapper/PCPIPCH@WEO/WEO_WORLD/VEN.

²⁶ Clare Ribando Seelke, *Venezuela: Political Crisis and U.S. Policy*, Cong. Res. Serv. (May 3, 2019), <https://fas.org/sgp/crs/row/IF10230.pdf>.

²⁷ Laura Silver, Courtney Johnson, & Kyle Taylor, *Venezuelans Have Little Trust in National Government, say Economy is in Poor Shape*, Pew Research Center (Jan. 25, 2019), <https://www.pewresearch.org/fact-tank/2019/01/25/venezuelans-have-little-trust-in-national-government-say-economy-is-in-poor-shape/>.

²⁸ *Id.*

²⁹ *Majority Fleeing Venezuela in Need of Refugee Protection—UNHCR*, UNHCR (May 21, 2019), <https://www.unhcr.org/en-us/news/briefing/2019/5/5ce3bb734/majority-fleeing-venezuela-need-refugee-protection-unhcr.html>.

³⁰ *Displaced Colombians Open Their Doors to Venezuelan Refugees and Migrants*, UNHCR (Dec. 14, 2019), <https://www.unhcr.org/news/stories/2018/12/5c12bbae4/displaced-colombians-open-doors-venezuelan-refugees-migrants.html>.

³¹ *Asylum Applications by Venezuelans Soar to Over 400,000*, UNHCR (Mar. 8, 2019), <https://www.unhcr.org/en-us/news/press/2019/3/5c826efe2e9/asylum-applications-venezuelans-soar-400000.html>.

³² *Venezuela Situation Update—March 2019*, UNHCR (Mar. 12, 2019), <https://reliefweb.int/report/venezuela-bolivarian-republic/unhcr-venezuela-situation-update-march-2019>.

³³ Dany Bahar and Douglas Barrios, *How Many More Migrants and Refugees Can We Expect out of Venezuela?*, Brookings Institute (Dec. 10, 2018), <https://www.brookings.edu/blog/up-front/2018/12/10/how-many-more-migrants-and-refugees-can-we-expect-out-of-venezuela/>.

number the estimated five million refugees who left Syria during its civil war and would likely overwhelm the region.

C. The Venezuelan-born community in the United States

In 2017, about 350,000 Venezuelan immigrants lived in the United States, with the largest population residing in south Florida.³⁴ Approximately 50 percent of Venezuelan immigrants are English proficient, and 80 percent are of working age.³⁵ More than half of Venezuelan immigrants are college graduates, and the median income of Venezuelan households is \$51,900.³⁶

For the past three years, Venezuelans have requested asylum in higher numbers than any other population in the United States, including almost 28,000 new applications in 2018.³⁷ At the same time, the number of visas issued to Venezuelans is plummeting, from almost 240,000 visas granted in fiscal year 2015 to less than 30,000 granted in fiscal year 2018.³⁸ Despite the catastrophe unfolding in Venezuela, the United States deported more Venezuelans in late 2018 than were resettled as refugees over the previous five years.³⁹

Hearings

For the purposes of section 103(i) of H. Res. 6 of the 116th Congress, the following hearing was used to develop H.R. 549: “Protecting Dreamers and TPS Recipients,” held before the Judiciary Committee on March 6, 2019. Among others, the witnesses who testified at the hearing included: Jose Palma, a Salvadoran national TPS recipient who is married to another TPS recipient, has 4 U.S. citizen children, and serves as the National Coordinator of the National TPS Alliance; Donald Graham, former owner of The Washington Post and co-founder of TheDream.US, which provides scholarships to thousands of highly motivated Dreamers and TPS recipients; Catholic Bishop Mario Dorsonville, Auxiliary Bishop of the Archdiocese of Washington, a naturalized immigrant from Colombia, and the incoming Migration Chairman of the U.S. Conference of Catholic Bishops; and Andrew R. Arthur, Resident Fellow at the Center for Immigration Studies.

Committee Consideration

On May 22, 2019, the Committee met in open session and ordered the bill, H.R. 549, favorably reported with an amendment in the nature of a substitute, by a rollcall vote of 20 to 9, a quorum being present.

³⁴Tim Henderson, *Venezuelan Immigrants Get Trump Sympathy but Not Status*, Pew Charitable Trusts (Oct. 2, 2018), <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2018/10/02/venezuelan-immigrants-get-trump-sympathy-but-not-status>.

³⁵Jie Zong and Jeanne Batalova, *South American Immigrants in the United States*, Migration Policy Institute (Nov. 7, 2018), <https://www.migrationpolicy.org/article/south-american-immigrants-united-states>.

³⁶*Id.*

³⁷Manuel Madrid, *Trump Is Tough on Venezuela—but Won’t Let Fleeing Venezuelans Into the U.S.*, The American Prospect (Feb. 12, 2019), <https://prospect.org/article/trump-tough-on-venezuela-wont-let-fleeing-venezuelans-us>.

³⁸U.S. Department of State, *FY 2018 Annual Report of the Visa Office: Nonimmigrant Visas Issued by Nationality*, <https://travel.state.gov/content/dam/visas/Statistics/AnnualReports/FY2018AnnualReport/FY18AnnualReport%20-%20TableXVIII.pdf>.

³⁹Madrid, *supra*, note 36.

Committee Votes

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that the following rollcall vote occurred during the Committee's consideration of H.R. 549.

1. The motion to report H.R. 549, as amended, favorably was agreed to by a rollcall vote of 20 to 9.

Roll Call No. 14

Date: 5/22/14

COMMITTEE ON THE JUDICIARY

House of Representatives

116th Congress

Final Passage on H.R. 549, as amended

PASSED

FAILED

	AYES	NOS	PRES.
Jerrold Nadler (NY-10)	✓		
Zoe Lofgren (CA-19)	✓		
Sheila Jackson Lee (TX-18)	✓		
Steve Cohen (TN-09)	✓		
Hank Johnson (GA-04)	✓		
Ted Deutch (FL-02)	✓		
Karen Bass (CA-37)			
Cedric Richmond (LA-02)			
Hakeem Jeffries (NY-08)			
David Cicilline (RI-01)	✓		
Eric Swalwell (CA-15)	✓		
Ted Lieu (CA-33)	✓		
Jamie Raskin (MD-08)	✓		
Pramila Jayapal (WA-07)	✓		
Val Demings (FL-10)	✓		
Lou Correa (CA-46)	✓		
Mary Gay Scanlon (PA-05)	✓		
Sylvia Garcia (TX-29)	✓		
Joseph Neguse (CO-02)	✓		
Lucy McBath (GA-06)	✓		
Greg Stanton (AZ-09)	✓		
Madeleine Dean (PA-04)	✓		
Debbie Mucarsel-Powell (FL-26)	✓		
Veronica Escobar (TX-16)	✓		
	AYES	NOS	PRES.
Doug Collins (GA-27)		✓	
James F. Sensenbrenner (WI-05)		✓	
Steve Chabot (OH-01)		✓	
Louie Gohmert (TX-01)		✓	
Jim Jordan (OH-04)		✓	
Ken Buck (CO-04)		✓	
John Ratcliffe (TX-04)			
Martha Roby (AL-02)			
Matt Gaetz (FL-01)			
Mike Johnson (LA-04)			
Andy Biggs (AZ-05)			
Tom McClintock (CA-04)		✓	
Debbie Lesko (AZ-08)		✓	
Guy Reschenthaler (PA-14)		✓	
Ben Cline (VA-06)		✓	
Kelly Armstrong (ND-AL)		✓	
Greg Steube (FL-17)		✓	
	AYES	NOS	PRES.
TOTAL	20	9	

Committee Oversight Findings

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

Committee Estimate of Budgetary Effects

In compliance with clause 3(d) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the bill, H.R. 549, as reported. The Committee agrees with the estimate prepared by the Congressional Budget Office, which is included below.

New Budget Authority, Entitlement Authority, and Tax Expenditures

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

Congressional Budget Office Cost Estimate

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 549, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

At a Glance			
H.R. 549, Venezuela TPS Act of 2019			
As ordered reported by the House Committee on the Judiciary on May 22, 2019			
By Fiscal Year, Millions of Dollars	2019	2019-2024	2019-2029
Direct Spending (Outlays)	0	649	940
Revenues	0	259	437
Deficit Effect	0	390	503
Spending Subject to Appropriation (Outlays)	0	0	0
Statutory pay-as-you-go procedures apply?	Yes	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

The bill would

- Allow Venezuelans in the United States to apply for temporary protected status (TPS) for 18 months
- Estimated budgetary effects would primarily stem from

- Changes in revenues and outlays for refundable tax credits when individuals who receive TPS become eligible to work legally and receive Social Security numbers
- Subsidies for health insurance purchased through the marketplaces established under the Affordable Care Act by individuals receiving TPS

Areas of significant uncertainty include

- Estimating the number of Venezuelans who are in the United States in nonimmigrant status or without legal status
- Estimating the number of those Venezuelans who would apply for TPS
- Projecting the employment and tax-paying behavior of those Venezuelans if they did not receive TPS

Bill summary: H.R. 549 would allow Venezuelans in the United States to apply for and receive temporary protected status for 18 months. Aliens with TPS may work legally, receive Social Security numbers (SSNs), and claim the earned income and child tax credits. Additionally, they are eligible for subsidies for health insurance purchased through the marketplaces established under the Affordable Care Act (ACA), provided that they meet the other eligibility requirements for those subsidies.

Estimated Federal cost: The estimated budgetary effect of H.R. 549 is shown in Table 1. The costs of the legislation fall within budget functions 550 (health), 600 (income security), and 750 (administration of justice).

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF H.R. 549

	By fiscal year, millions of dollars—												
	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2019-2024	2019-2029
Increases in Direct Spending													
Estimated Budget Authority	0	239	204	63	73	70	69	66	53	51	52	649	940
Estimated Outlays	0	239	204	63	73	70	69	66	53	51	52	649	940
Increases or Decreases (–) in Revenues													
Estimated Revenues	0	35	60	59	54	51	44	35	34	33	32	259	437
On-Budget	0	–71	–94	–72	–67	–63	–54	–54	–50	–50	–49	–367	–624
Off-Budget	0	106	154	131	121	114	98	89	84	83	81	626	1,061
Net Increases or decreases (–) in the Deficit From Changes in Direct Spending and Revenues													
Effect on the Deficit	0	204	144	4	19	19	25	31	19	18	20	390	503
On-Budget	0	310	298	135	140	133	123	120	103	101	101	1,016	1,564
Off-Budget	0	–106	–154	–131	–121	–114	–98	–89	–84	–83	–81	–626	–1,061

Sources: Congressional Budget Office, staff of the Joint Committee on Taxation.
All off-budget effects would come from changes in Social Security revenues.

Basis of estimate: For this estimate, CBO assumes that H.R. 549 will be enacted near the start of fiscal year 2020. CBO expects that the Department of Homeland Security (DHS) would receive and process TPS applications during the first half of fiscal year 2020.

CBO assumes that under current law, most of the Venezuelan nationals who would be affected by the bill will remain in the United States, either in legal nonimmigrant status or without legal status.¹ Spending in CBO's baseline reflects the expectation that resources available to DHS to remove aliens without legal status are constant in inflation-adjusted terms over the 2019–2029 period and that DHS's policies—notably its enforcement priorities—remain the same over that period.

CBO anticipates that under H.R. 549, most of the Venezuelan nationals who would be affected by the bill would remain in the United States after the expiration of the 18-month period of temporary protected status. The staff of the Joint Committee on Taxation (JCT) expects that some of the individuals who would receive TPS would continue to work, pay taxes, and receive tax credits after that status expires. Thus, some budgetary effects of the bill would continue after that 18-month period.

The President could extend the TPS designation for Venezuela at the end of that 18-month period. The budgetary effects of any such decision are not attributable to this legislation.

People affected by the legislation: H.R. 549 would allow Venezuelans to receive TPS if they were physically present in the United States continuously between enactment of the bill and adjudication of their application, if they apply for such status, and if they are not inadmissible on certain grounds (related to crime and national security). Venezuelans who receive TPS would retain it during the 18-month period following enactment.

The actual number of aliens present in the United States at any time is not known. The Department of State tracks the visas it has issued that allow aliens to travel to a U.S. port of entry to seek admission into the country. DHS records aliens' admissions into the United States, as well as their departures from most air and sea ports of entry. However, DHS generally does not collect information about aliens' departures to Mexico via land ports of entry. DHS and a variety of immigration researchers estimate the number of aliens without legal status in the United States using census data and comparing that survey information with administrative data.

On the basis of that research and data, CBO estimates that around 300,000 Venezuelans will be in the United States either in legal nonimmigrant status or without legal status upon enactment. (Venezuelans with lawful permanent resident status would have no need to apply for TPS.) CBO estimates that 10,000 to 20,000 of those Venezuelans would remain in their current nonimmigrant status (such as H-1B temporary workers) or would acquire another status (such as asylee) during the 18 months after enactment and thus also would have no need to apply for TPS. Finally, CBO anticipates that about 75 percent of the remaining Venezuelans

¹8 U.S.C. 1101(a)(15) defines many classes of nonimmigrant aliens who are permitted to reside in the United States temporarily and for specified purposes. Examples of nonimmigrant classifications include F-1 students and H-1B temporary workers, named for their authorizing provisions, 8 U.S.C. 1101(a)(15)(F)(i) and 8 U.S.C. 1101(a)(15)(H)(i)(b), respectively.

would apply for and be granted TPS. In total, about 200,000 people would receive TPS under the bill, CBO estimates.

Direct spending: CBO and JCT estimate that H.R. 549 would increase net direct spending for refundable tax credits, for health benefits, and for DHS processing costs and collections of application fees by \$940 million over the 2020–2029 period.

Refundable tax credits: JCT estimates that H.R. 549 would increase outlays for the earned income and child tax credits, which are refundable, by about \$640 million over the 2020–2029 period. Refundable tax credits reduce a taxpayer’s overall income tax liability; if those credits exceed other tax liabilities, the taxpayer may receive the excess in a refund. Such refunds are classified as outlays in the federal budget.

JCT estimates that the increase in outlays for refundable credits projected for the 2020–2029 period would be mostly attributable to earned income tax credits. H.R. 549 would increase the number of people with valid SSNs, which taxpayers and their dependents must have to qualify for those credits. (That effect is also discussed below under the heading “Revenues.”)

Health benefits: People who are lawfully present in the United States, including aliens with TPS, generally can receive subsidies for health insurance purchased through the marketplaces established under the ACA provided that they meet other criteria: they cannot have access to affordable health insurance coverage through certain other sources and their household income must be between 100 percent and 400 percent of the federal poverty guidelines. If their income is below 100 percent of the guidelines, they also must be ineligible for Medicaid because of their immigration status.

CBO and JCT estimate that about 20,000 people who receive TPS under H.R. 549 would purchase health insurance through the marketplaces in 2020 and would have income that was low enough to qualify for the subsidies. That coverage would end when their TPS expired during 2021. The agencies estimate that the average cost of those subsidies would be about \$10,600 per person in 2020 and about \$11,300 in 2021. In total, those subsidies would increase direct spending by \$300 million.

DHS application fees and processing costs: DHS collects fees of between \$50 and \$545 to process an initial application for TPS. The fees are classified as offsetting receipts (that is, as reductions in direct spending) and are available for spending by DHS upon collection under current law. Enacting the bill would increase the number of applicants for temporary protected status and employment authorization. CBO estimates that fee collections also would increase and that additional collections and spending would total about \$85 million each over the 2020–2022 period. Because the collections and spending offset, the net effect on direct spending would be insignificant.

Revenues: H.R. 549 would both increase and decrease revenues. CBO and JCT estimate that H.R. 549 would increase net revenues by about \$440 million over the 2020–2029 period. On-budget revenues would decline by about \$620 million, and off-budget revenues (Social Security payroll taxes) would increase by about \$1,060 million.

Higher revenues, according to JCT’s estimates, would largely stem from increased reporting of employment income by people

who would gain work authorization and SSNs under the bill. Those workers would continue to possess SSNs in their own name after TPS expires. Thus, JCT estimates that some of those individuals would continue to earn and report income after the 18-month period of temporary protected status. That increase in reported wages would increase revenues, mostly in the form of Social Security taxes.

Slightly more than half of the increase in revenues from workers would be offset for two reasons. First, increased reporting of employment income would increase tax deductions by businesses for labor compensation, including those businesses' contributions to payroll taxes. As a result, corporations would report lower taxable profits and pay less in income taxes. Noncorporate businesses, such as partnerships and sole proprietorships, also would report lower taxable income, which would decrease individual income taxes paid by their partners and owners. (Some of those effects also would persist after the 18-month period of temporary protected status.)

Second, CBO and JCT estimate revenues would decrease by \$22 million over the 2020–2022 period because tax credits for health insurance purchased through the marketplaces established under the ACA would reduce individuals' tax liability.

Uncertainty: A significant source of uncertainty is the number of Venezuelans who are in the United States in nonimmigrant status or without legal status. Uncertainty about the number of Venezuelans who enter without inspection (that is, who cross the border without legal permission), the number of Venezuelans who leave the United States to enter Mexico via a land port of entry, and the number of Venezuelans who are not counted by census surveys could affect CBO's estimate.

Another source of uncertainty is the number of those Venezuelans who would apply for TPS. Some could become eligible for other legal immigration statuses—removing the need to apply for TPS—at higher or lower rates than CBO estimates. Additionally, they could return to Venezuela or depart for another country, or otherwise decline to apply for TPS while within the United States, at different rates than reflected in this estimate.

The estimated change in revenues and refundable tax credits also includes uncertainty about whether affected Venezuelans would work without authorization and whether and how they would pay taxes—both under current law and after the expiration of TPS authorized in the bill. Aliens without work authorization might choose to work outside of the tax system, to pay taxes under their own previously received SSN, or to pay taxes under a false or stolen SSN.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays and revenues that are subject to those pay-as-you-go procedures are shown in Table 2. Only on-budget changes to outlays or revenues are subject to pay-as-you-go procedures.

TABLE 2.—CBO'S ESTIMATE OF PAY-AS-YOU-GO EFFECTS OF H.R. 549

	By fiscal year, millions of dollars—												
	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2019– 2024	2019– 2029
Net Increase in the On-Budget Deficit													
Statutory Pay-As-You-Go Effect	0	310	298	135	140	133	123	120	103	101	101	1,016	1,564
Memorandum:													
Changes in Outlays	0	239	204	63	73	70	69	66	53	51	52	649	940
Changes in Revenues ...	0	-71	-94	-72	-67	-63	-54	-54	-50	-50	-49	-367	-624

Increase in long-term deficits: None.

Mandates: None.

Estimate prepared by: Population: David Rafferty; Federal Costs: Kate Fritzsche, Mark Grabowicz, Lisa Ramirez-Branum, and the staff of the Joint Committee on Taxation; Federal Revenues: Kate Fritzsche and the staff of the Joint Committee on Taxation; Mandates: Rachel Austin.

Estimate reviewed by: David Newman, Chief, Defense, International Affairs, and Veterans' Affairs Cost Estimates Unit; H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis; Theresa Gullo, Assistant Director for Budget Analysis.

Duplication of Federal Programs

No provision of H.R. 549 establishes or reauthorizes a program of the federal government known to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

Performance Goals and Objectives

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 549 designates Venezuela for Temporary Protected Status under section 244 of the Immigration and Nationality Act (8 U.S.C. 1254a) and permits qualified individuals to apply for such status.

Advisory on Earmarks

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 549 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

Section-by-Section Analysis

The following discussion describes the bill as reported by the Committee.

Sec. 1. Short title. Section 1 sets forth the short title of the bill as the “Venezuela TPS Act of 2019”.

Sec. 2. Designation for purposes of granting temporary protected status. Section 2(a) designates Venezuela for TPS for an initial pe-

riod of 18 months, beginning on the date of enactment of the Act. Section 2(b) states that TPS will be available to individuals who:

(1) are nationals of Venezuela who have been continuously physically present in the United States since the date of enactment of the Act;

(2) are admissible and not ineligible for TPS in accordance with the TPS eligibility standards (including waivers of certain grounds of inadmissibility) described in section 244(c)(2) of the Immigration and Nationality Act (8 U.S.C. 1254a(c)(2)); and

(3) register for TPS in the manner established by the Secretary of Homeland Security.

Section 2(c)(1) requires the Secretary to provide advance consent to travel abroad to individuals granted TPS under the Act if there are emergency and extenuating circumstances beyond the individual's control that require a brief, temporary trip abroad.

Section 2(c)(2) states that an individual with consent to travel abroad shall be treated the same as any other individual with TPS upon return.

Additional Views

H.R. 549¹ statutorily designates Venezuela for Temporary Protected Status (“TPS”) under section 244 of the Immigration and Nationality Act. Venezuelans present in the United States on the date of enactment—regardless of legal status—would be eligible to apply for TPS and allowed to stay in the United States with employment authorization. The Department of Homeland Security (“DHS”) estimates around 270,000 Venezuelans currently in the United States would benefit from TPS, 123,000 of whom are here illegally. Republicans are concerned without reforms to the TPS statute, this designation of TPS will not truly be “temporary.”

Ordinarily, the Secretary of DHS designates a country for TPS if there are circumstances that would prevent the safe return of aliens to that country, or if a country is temporarily unable to adequately handle the return of its nationals.² These conditions include ongoing armed conflict, an earthquake, flood, drought, epidemic, or other environmental disaster.³ The effect of a TPS designation is nationals of the designated country who are inside the United States on the date of such designation, whether legally or illegally, are allowed to apply to stay here and receive employment authorization.

At least 60 days before the expiration of the TPS designation, or any extension thereof, the Secretary, after consultations with appropriate agencies of the Government, must review the conditions in a foreign state designated for TPS to determine whether the conditions for the TPS designation continue to be met and, if so, the length of an extension.⁴ If the Secretary determines that the foreign state no longer meets the conditions for the TPS designation, the Secretary is *required* under law to terminate the designation.⁵ Such termination may not take effect “earlier than 60 days after

¹ Amendment in the Nature of a Substitute to H.R. 549, 116th Cong. (Venezuela TPS Act of 2019).

² 8 U.S.C. § 1254(b)(1).

³ INA § 244(b)(1).

⁴ 8 U.S.C. § 1254a(b)(3)(A), (C).

⁵ 8 U.S.C. § 1254(b)(3)(B).

the date the Notice [of termination] is published [in the Federal Register] or, if later, the expiration of the most recent previous extension”⁶

Unfortunately, what was intended by Congress to be a *temporary* protection has, over time, become a permanent, automatically renewed status, with some countries being rubber-stamped for re-designation for decades. For instance, Nicaragua was initially designated for TPS in 1999 due to Hurricane Mitch which struck the country in October 1998. And El Salvador was initially designated in March 2001 based on a series of earthquakes.

Upon review of TPS status for certain countries, DHS has indicated it will not renew TPS status for nationals of Sudan, Nicaragua, Haiti, El Salvador, and Nepal while extending TPS for nationals of Yemen and Somalia.⁷ However, despite findings by DHS that the temporary conditions existing at the time of the initial designation are no longer in effect, multiple nationwide federal court injunctions and stipulations have prohibited the DHS from ending TPS for nationals of these countries.⁸

Chart 1:

Temporary Protected Status by Country				
Country of Citizenship:	Original Designation Date:	Reason	Extended through:	TPS beneficiaries:
El Salvador	March 9, 2001	Earthquakes	September 9, 2019 (Terminates) ^[8]	251,479
Haiti	January 21, 2010	Earthquake	July 22, 2019 (Terminates) ^[8]	56,658
Honduras	January 5, 1999	Hurricane Mitch	January 5, 2020 (Terminates)	80,847
Nepal	June 24, 2015	Earthquake	June 24, 2019 (Terminates) ^[8]	14,503
Nicaragua	January 5, 1999	Hurricane Mitch	January 5, 2019 (Terminates) ^[8]	4,524
Somalia	September 16, 1991	Armed Conflict	March 17, 2020	470
South Sudan	November 3, 2011	Armed Conflict	May 2, 2019	76
Sudan	November 4, 1997	Armed Conflict	November 2, 2018 (Terminates) ^[8]	816
Syria	March 29, 2012	Armed Conflict	September 30, 2019	6,980
Yemen	September 3, 2015	Armed Conflict	March 3, 2020	1,453
				Total: 417,806

⁶ 8 U.S.C. §1254a(b)(3)(B)

⁷ USCIS Website, at <https://www.uscis.gov/humanitarian/temporary-protected-status>

⁸ *Ramos, et al v. Nielsen, et al.*, No. 18-cv-01554 (N.D. Cal. Oct 3, 2018) (enjoining government from terminating TPS for Sudan, Nicaragua, Haiti, and El Salvador); *see also CASA de Maryland v. Trump*, No. 18-cv-00845 (D. Md. Nov. 29, 2018) (Enjoining the government from terminating TPS for Salvadorans); *Bhattarai v. Nielsen*, No. 19-cv-731 (N.D. Cal) (Stipulation for Honduras and Nepal to extend TPS while appeal is pending in *Ramos*); *Saget v. Trump*, No. 18-cv-01599 (E.D.N.Y.) (Haiti).

Republicans would prefer to ensure designations are temporary, and the statute is not abused to provide a *quasi*-permanent status. Republicans offered an amendment at the markup to require congressional approval of future re-designations of TPS designated countries but withdrew the amendment after indications from Democrats it would be found not to be germane.

It should be noted H.R. 549 was considered immediately after, and in the same markup as H.R. 2821, in which the Democrats voted to give green cards to all current TPS recipients and those eligible for TPS under prior designations. It would seem the Democrats do not intend this temporary status to be temporary.

In fact, Chairman Nadler stated at the markup for H.R. 2821, the “American Promise Act of 2019,” that “I should say that TPS is a temporary program and when the catastrophe abates, if it’s after a year or two or three, then it is proper to end the TPS and people can go home. But once people, have been here for fifteen or twenty years they’ve laid down roots here they’ve raised families here then to suddenly say they have to go home after fifteen or twenty years to go home to some place they haven’t seen in 15 years . . . that becomes cruel.”⁹ Without reforms to the TPS statute to ensure the temporary nature, the American people cannot be assured any TPS designation is in fact “temporary.”

Ranking Member Collins predicted in his opening remarks that without reforms, if H.R. 549 becomes law, future administrations will continue rubber stamping TPS re-designations for Venezuela and a bill will be brought in 20 years to give green cards for Venezuelans here on TPS. That prediction is based on how TPS has been used by administrations in the past and on Democrats’ own vision of what TPS is—merely a path to a green card. Republicans remain concerned without such reforms to the TPS statute, H.R. 549 would offer a status “temporary” in name only.

Sincerely,

DOUG COLLINS,
*Ranking Member, House Ju-
diciary Committee.*

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⁹Statement of Chairman Jerrold Nadler, Markup of H.R. 2821, the American Promise Act of 2019, House Judiciary Comm., 116th Cong. May 22, 2019.