

S. 3737

At the request of Mr. BARRASSO, his name was added as a cosponsor of S. 3737, a bill to amend the Public Health Service Act and title XVIII of the Social Security Act to make the provision of technical services for medical imaging examinations and radiation therapy treatments safer, more accurate, and less costly.

S. 3819

At the request of Mrs. LINCOLN, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 3819, a bill to amend the Internal Revenue Code of 1986 to reduce the mileage threshold for the deduction for National Guard and Reservists overnight travel expenses.

S. 3981

At the request of Mr. BAUCUS, the names of the Senator from New York (Mrs. GILLIBRAND) and the Senator from Oregon (Mr. MERKLEY) were added as cosponsors of S. 3981, a bill to provide for a temporary extension of unemployment insurance provisions.

S. 3984

At the request of Mr. REED, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 3984, a bill to amend and extend the Museum and Library Services Act, and for other purposes.

S. RES. 680

At the request of Mr. KERRY, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. Res. 680, a resolution supporting international tiger conservation efforts and the upcoming Global Tiger Summit in St. Petersburg, Russia.

AMENDMENT NO. 4618

At the request of Mr. NELSON of Florida, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of amendment No. 4618 intended to be proposed to S. 3454, an original bill to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 4697

At the request of Mr. JOHANNES, his name was added as a cosponsor of amendment No. 4697 intended to be proposed to S. 510, a bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of the food supply.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WYDEN (for himself, Mr. SESSIONS, Mrs. McCASKILL, and Mr. THUNE):

S. 3989. A bill to amend the Internal Revenue Code of 1986 to allow an offset against income tax refunds to pay for restitution and other State judicial

debts that are past-due; to the Committee on Finance.

Mr. WYDEN. Mr. President, today, along with my colleagues Senators SESSIONS, McCASKILL, and THUNE, I am introducing a bill to help crime victims and state courts recover the restitution and fees that are owed to them. This bipartisan bill would accomplish this worthy goal by intercepting tax refunds of deadbeat debtors who've failed to pay restitution or court fees. If enacted, this bill would essentially allow state courts to cross-reference outstanding debts with the IRS and use existing procedures to withhold tax refunds in order to satisfy past due debts.

This bill would not only deliver justice to crime victims who are owed restitution, but would also provide much-needed resources to help keep court rooms open and court programs operating. At a time when our State and local governments are struggling to find funding for vital programs—including keeping courthouse doors open—unpaid court fees represent an important source of revenue that should be captured. This bill would help close budget gaps and provide additional revenue without raising taxes or imposing any new costs or burdens. In fact, participation in the program would be optional for states, but I expect most states to participate and to benefit greatly from this bill.

This bill would operate the same way as the very successful child support debt collection system. The bill will allow states to share information on outstanding restitution owed and court debts with the IRS, which would then be required to intercept any Federal tax refunds of debtors and send that money to the victim or court owed that debt.

It has been estimated by the National Center for State Courts that outstanding court debts across the country total approximately \$15 billion. In my home State of Oregon alone, the outstanding restitution and court fee debt amount is \$987 million. Only a portion of outstanding debts are owed by individuals who will receive Federal tax refunds, so a portion of court debts would not be collected immediately. Nonetheless, the State of Oregon estimates that passage of this bill would allow the state to collect \$30 million per year.

Without this straight-forward and efficient mechanism, the collection of victim restitution and court debts is a costly and time-consuming process. Enactment of this bill would reduce the fiscal cost and administrative burden that victims and courts bear in attempting to collect those debts. Again, in the midst of a challenging fiscal crisis, it only makes common sense to collect revenues that are already owed—through an efficient and convenient method.

Because this bill would benefit both the court system, and those who rely upon it, the Court Fee Tax Intercept Act is endorsed by a broad array of

court, government, law enforcement, and crime victims organizations. The bill is supported by the National Center for Victims of Crime, the National District Attorneys Association, the American Probation and Parole Association, the Conference of Chief Justices, the Conference of State Court Administrators, the National Association for Court Managers, the National Conference of State Legislatures, the National Association of Counties, and the Government Finance Officers Association.

I urge all colleagues to support this bipartisan legislation.

By Mr. REID:

S. 3991. A bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions; read the first time.

Mr. REID. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3991

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Public Safety Employer-Employee Cooperation Act of 2010".

SEC. 2. DECLARATION OF PURPOSE AND POLICY.

The Congress declares that the following is the policy of the United States:

(1) Labor-management relationships and partnerships are based on trust, mutual respect, open communication, bilateral consensual problem solving, and shared accountability. Labor-management cooperation fully utilizes the strengths of both parties to best serve the interests of the public, operating as a team, to carry out the public safety mission in a quality work environment. In many public safety agencies, it is the union that provides the institutional stability as elected leaders and appointees come and go.

(2) State and local public safety officers play an essential role in the efforts of the United States to detect, prevent, and respond to terrorist attacks, and to respond to natural disasters, hazardous materials, and other mass casualty incidents. State and local public safety officers, as first responders, are a component of our Nation's National Incident Management System, developed by the Department of Homeland Security to coordinate response to and recovery from terrorism, major natural disasters, and other major emergencies. Public safety employer-employee cooperation is essential in meeting these needs and is, therefore, in the National interest.

(3) The Federal Government needs to encourage conciliation, mediation, and voluntary arbitration to aid and encourage employers and the representatives of their employees to reach and maintain agreements concerning rates of pay, hours, and working conditions, and to make all reasonable efforts through negotiations to settle their differences by mutual agreement reached through collective bargaining or by such methods as may be provided for in any applicable agreement for the settlement of disputes.

(4) The absence of adequate cooperation between public safety employers and employees has implications for the security of employees and can affect interstate and intrastate commerce. The lack of such labor-management cooperation can detrimentally impact the upgrading of police and fire services of local communities, the health and well-being of public safety officers, and the morale of the fire and police departments. Additionally, these factors could have significant commercial repercussions. Moreover, providing minimal standards for collective bargaining negotiations in the public safety sector can prevent industrial strife between labor and management that interferes with the normal flow of commerce.

(5) Many States and localities already provide public safety officers with collective bargaining rights comparable to or greater than the rights and responsibilities set forth in this Act, and such State and local laws should be respected.

SEC. 3. DEFINITIONS.

In this Act:

(1) **AUTHORITY.**—The term “Authority” means the Federal Labor Relations Authority.

(2) **CONFIDENTIAL EMPLOYEE.**—The term “confidential employee” has the meaning given such term under applicable State law on the date of enactment of this Act. If no such State law is in effect, the term means an individual, employed by a public safety employer, who—

(A) is designated as confidential; and

(B) is an individual who routinely assists, in a confidential capacity, supervisory employees and management employees.

(3) **EMERGENCY MEDICAL SERVICES PERSONNEL.**—The term “emergency medical services personnel” means an individual who provides out-of-hospital emergency medical care, including an emergency medical technician, paramedic, or first responder.

(4) **EMPLOYER; PUBLIC SAFETY AGENCY.**—The terms “employer” and “public safety agency” mean any State, or political subdivision of a State, that employs public safety officers.

(5) **FIREFIGHTER.**—The term “firefighter” has the meaning given the term “employee engaged in fire protection activities” in section 3(y) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(y)).

(6) **LABOR ORGANIZATION.**—The term “labor organization” means an organization composed in whole or in part of employees, in which employees participate, and which represents such employees before public safety agencies concerning grievances, conditions of employment, and related matters.

(7) **LAW ENFORCEMENT OFFICER.**—The term “law enforcement officer” has the meaning given such term in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b).

(8) **MANAGEMENT EMPLOYEE.**—The term “management employee” has the meaning given such term under applicable State law in effect on the date of enactment of this Act. If no such State law is in effect, the term means an individual employed by a public safety employer in a position that requires or authorizes the individual to formulate, determine, or influence the policies of the employer.

(9) **PERSON.**—The term “person” means an individual or a labor organization.

(10) **PUBLIC SAFETY OFFICER.**—The term “public safety officer”—

(A) means an employee of a public safety agency who is a law enforcement officer, a firefighter, or an emergency medical services personnel;

(B) includes an individual who is temporarily transferred to a supervisory or management position; and

(C) does not include a permanent supervisory, management, or confidential employee.

(11) **STATE.**—The term “State” means each of the several States of the United States, the District of Columbia, and any territory or possession of the United States.

(12) **SUBSTANTIALLY PROVIDES.**—The term “substantially provides”, when used with respect to the rights and responsibilities described in section 4(b), means compliance with each right and responsibility described in such section.

(13) **SUPERVISORY EMPLOYEE.**—The term “supervisory employee” has the meaning given such term under applicable State law in effect on the date of enactment of this Act. If no such State law is in effect, the term means an individual, employed by a public safety employer, who—

(A) has the authority in the interest of the employer to hire, direct, assign, promote, reward, transfer, furlough, lay off, recall, suspend, discipline, or remove public safety officers, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment; and

(B) devotes a majority of time at work to exercising such authority.

SEC. 4. DETERMINATION OF RIGHTS AND RESPONSIBILITIES.

(a) **DETERMINATION.**—

(1) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Authority shall make a determination as to whether a State substantially provides for the rights and responsibilities described in subsection (b).

(2) **CONSIDERATION OF ADDITIONAL OPINIONS.**—In making the determination described in paragraph (1), the Authority shall consider the opinions of affected employers and labor organizations. In the case where the Authority is notified by an affected employer and labor organization that both parties agree that the law applicable to such employer and labor organization substantially provides for the rights and responsibilities described in subsection (b), the Authority shall give such agreement weight to the maximum extent practicable in making the Authority’s determination under this subsection.

(3) **LIMITED CRITERIA.**—In making the determination described in paragraph (1), the Authority shall be limited to the application of the criteria described in subsection (b) and shall not require any additional criteria.

(4) **SUBSEQUENT DETERMINATIONS.**—

(A) **IN GENERAL.**—A determination made pursuant to paragraph (1) shall remain in effect unless and until the Authority issues a subsequent determination, in accordance with the procedures set forth in subparagraph (B).

(B) **PROCEDURES FOR SUBSEQUENT DETERMINATIONS.**—Upon establishing that a material change in State law or its interpretation has occurred, an employer or a labor organization may submit a written request for a subsequent determination. If satisfied that a material change in State law or its interpretation has occurred, the Authority shall issue a subsequent determination not later than 30 days after receipt of such request.

(5) **JUDICIAL REVIEW.**—Any person or employer aggrieved by a determination of the Authority under this section may, during the 60-day period beginning on the date on which the determination was made, petition any United States Court of Appeals in the circuit in which the person or employer resides or transacts business or in the District of Columbia circuit, for judicial review. In any judicial review of a determination by the Authority, the procedures contained in sub-

sections (c) and (d) of section 7123 of title 5, United States Code, shall be followed.

(b) **RIGHTS AND RESPONSIBILITIES.**—In making a determination described in subsection (a), the Authority shall consider a State’s law to substantially provide the required rights and responsibilities unless such law fails to provide rights and responsibilities comparable to or greater than the following:

(1) Granting public safety officers the right to form and join a labor organization, which may exclude management employees, supervisory employees, and confidential employees, that is, or seeks to be, recognized as the exclusive bargaining representative of such employees.

(2) Requiring public safety employers to recognize the employees’ labor organization (freely chosen by a majority of the employees), to agree to bargain with the labor organization, and to commit any agreements to writing in a contract or memorandum of understanding.

(3) Providing for the right to bargain over hours, wages, and terms and conditions of employment.

(4) Making available an interest impasse resolution mechanism, such as fact-finding, mediation, arbitration, or comparable procedures.

(5) Requiring enforcement of all rights, responsibilities, and protections provided by State law and enumerated in this section, and of any written contract or memorandum of understanding between a labor organization and a public safety employer, through—

(A) a State administrative agency, if the State so chooses; and

(B) at the election of an aggrieved party, the State courts.

(c) **COMPLIANCE WITH REQUIREMENTS.**—If the Authority determines, acting pursuant to its authority under subsection (a), that a State substantially provides rights and responsibilities described in subsection (b), then this Act shall not preempt State law.

(d) **FAILURE TO MEET REQUIREMENTS.**—

(1) **IN GENERAL.**—If the Authority determines, acting pursuant to its authority under subsection (a), that a State does not substantially provide for the rights and responsibilities described in subsection (b), then such State shall be subject to the regulations and procedures described in section 5 beginning on the later of—

(A) the date that is 2 years after the date of enactment of this Act;

(B) the date that is the last day of the first regular session of the legislature of the State that begins after the date of the enactment of this Act; or

(C) in the case of a State receiving a subsequent determination under subsection (a)(4), the date that is the last day of the first regular session of the legislature of the State that begins after the date the Authority made the determination.

(2) **PARTIAL FAILURE.**—If the Authority makes a determination that a State does not substantially provide for the rights and responsibilities described in subsection (b) solely because the State law substantially provides for such rights and responsibilities for certain categories of public safety officers covered by the Act but not others, the Authority shall identify those categories of public safety officers that shall be subject to the regulations and procedures described in section 5, pursuant to section 8(b)(3) and beginning on the appropriate date described in paragraph (1), and those categories of public safety officers that shall remain subject to State law.

SEC. 5. ROLE OF FEDERAL LABOR RELATIONS AUTHORITY.

(a) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the

Authority shall issue regulations in accordance with the rights and responsibilities described in section 4(b) establishing collective bargaining procedures for employers and public safety officers in States which the Authority has determined, acting pursuant to section 4(a), do not substantially provide for such rights and responsibilities.

(b) **ROLE OF THE FEDERAL LABOR RELATIONS AUTHORITY.**—The Authority, to the extent provided in this Act and in accordance with regulations prescribed by the Authority, shall—

(1) determine the appropriateness of units for labor organization representation;

(2) supervise or conduct elections to determine whether a labor organization has been selected as an exclusive representative by a voting majority of the employees in an appropriate unit;

(3) resolve issues relating to the duty to bargain in good faith;

(4) conduct hearings and resolve complaints of unfair labor practices;

(5) resolve exceptions to the awards of arbitrators;

(6) protect the right of each employee to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and protect each employee in the exercise of such right; and

(7) take such other actions as are necessary and appropriate to effectively administer this Act, including issuing subpoenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United States, and administering oaths, taking or ordering the taking of depositions, ordering responses to written interrogatories, and receiving and examining witnesses.

(c) **ENFORCEMENT.**—

(1) **AUTHORITY TO PETITION COURT.**—The Authority may petition any United States Court of Appeals with jurisdiction over the parties, or the United States Court of Appeals for the District of Columbia Circuit, to enforce any final orders under this section, and for appropriate temporary relief or a restraining order. Any petition under this section shall be conducted in accordance with subsections (c) and (d) of section 7123 of title 5, United States Code.

(2) **PRIVATE RIGHT OF ACTION.**—Unless the Authority has filed a petition for enforcement as provided in paragraph (1), any party has the right to file suit in any appropriate district court of the United States to enforce compliance with the regulations issued by the Authority pursuant to subsection (b), and to enforce compliance with any order issued by the Authority pursuant to this section. The right provided by this subsection to bring a suit to enforce compliance with any order issued by the Authority pursuant to this section shall terminate upon the filing of a petition seeking the same relief by the Authority.

SEC. 6. STRIKES AND LOCKOUTS PROHIBITED.

(a) **IN GENERAL.**—Subject to subsection (b), an employer, public safety officer, or labor organization may not engage in a lockout, sickout, work slowdown, strike, or any other organized job action that will measurably disrupt the delivery of emergency services and is designed to compel an employer, public safety officer, or labor organization to agree to the terms of a proposed contract.

(b) **NO PREEMPTION.**—Nothing in this section shall be construed to preempt any law of any State or political subdivision of any State with respect to strikes by public safety officers.

SEC. 7. EXISTING COLLECTIVE BARGAINING UNITS AND AGREEMENTS.

A certification, recognition, election-held, collective bargaining agreement or memo-

randum of understanding which has been issued, approved, or ratified by any public employee relations board or commission or by any State or political subdivision or its agents (management officials) and is in effect on the day before the date of enactment of this Act shall not be invalidated by the enactment of this Act.

SEC. 8. CONSTRUCTION AND COMPLIANCE.

(a) **CONSTRUCTION.**—Nothing in this Act shall be construed—

(1) to preempt or limit the remedies, rights, and procedures of any law of any State or political subdivision of any State that provides greater or comparable rights and responsibilities than the rights and responsibilities described in section 4(b);

(2) to prevent a State from enforcing a right-to-work law that prohibits employers and labor organizations from negotiating provisions in a labor agreement that require union membership or payment of union fees as a condition of employment;

(3) to preempt or limit any State law in effect on the date of enactment of this Act that provides for the rights and responsibilities described in section 4(b) solely because such State law permits an employee to appear on the employee's own behalf with respect to the employee's employment relations with the public safety agency involved;

(4) to preempt or limit any State law in effect on the date of enactment of this Act that provides for the rights and responsibilities described in section 4(b) solely because such State law excludes from its coverage employees of a State militia or national guard;

(5) to permit parties in States subject to the regulations and procedures described in section 5 to negotiate provisions that would prohibit an employee from engaging in part-time employment or volunteer activities during off-duty hours;

(6) to prohibit a State from exempting from coverage under this Act a political subdivision of the State that has a population of less than 5,000 or that employs less than 25 full-time employees;

(7) to prohibit a State from exempting from coverage under this Act individuals employed by the office of the sheriff in States that do not provide the rights and responsibilities described in section 4(b) for law enforcement officers prior to the date of enactment of this Act; or

(8) to preempt or limit the laws or ordinances of any State or political subdivision of a State that provide for the rights and responsibilities described in section 4(b) solely because such law or ordinance does not require bargaining with respect to pension, retirement, or health benefits.

For purposes of paragraph (6), the term “employee” includes each and every individual employed by the political subdivision except any individual elected by popular vote or appointed to serve on a board or commission.

(b) **COMPLIANCE.**—

(1) **ACTIONS OF STATES.**—Nothing in this Act or the regulations promulgated under this Act shall be construed to require a State to rescind or preempt the laws or ordinances of any of the State's political subdivisions if such laws provide rights and responsibilities for public safety officers that are comparable to or greater than the rights and responsibilities described in section 4(b).

(2) **ACTIONS OF THE AUTHORITY.**—Nothing in this Act or the regulations promulgated under this Act shall be construed to preempt—

(A) the laws or ordinances of any State or political subdivision of a State, if such laws provide collective bargaining rights for public safety officers that are comparable to or greater than the rights enumerated in section 4(b);

(B) the laws or ordinances of any State or political subdivision of a State that provide for the rights and responsibilities described in section 4(b) with respect to certain categories of public safety officers covered by this Act solely because such rights and responsibilities have not been extended to other categories of public safety officers covered by this Act; or

(C) the laws or ordinances of any State or political subdivision of a State that provide for the rights and responsibilities described in section 4(b), solely because such laws or ordinances provide that a contract or memorandum of understanding between a public safety employer and a labor organization must be presented to a legislative body as part of the process for approving such contract or memorandum of understanding.

(3) **LIMITED ENFORCEMENT POWER.**—In the case of a law described in paragraph (2)(B), the Authority shall only exercise the powers provided in section 5 with respect to those categories of public safety officers who have not been afforded the rights and responsibilities described in section 4(b).

(4) **EXCLUSIVE ENFORCEMENT PROVISION.**—Notwithstanding any other provision of the Act, and in the absence of a waiver of a State's sovereign immunity, the Authority shall have the exclusive power to enforce the provisions of this Act with respect to employees of a State.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. DURBIN:

S. 3992. A bill to authorize the cancellation of removal and adjustment of status of certain alien students who are long-term United States residents and who entered the United States as children and for other purposes; read the first time.

Mr. DURBIN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3992

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Development, Relief, and Education for Alien Minors Act of 2010” or the “DREAM Act of 2010”.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Definitions.
- Sec. 4. Cancellation of removal of certain long-term residents who entered the United States as children.
- Sec. 5. Conditional nonimmigrant status.
- Sec. 6. Adjustment of status.
- Sec. 7. Retroactive benefits.
- Sec. 8. Exclusive jurisdiction.
- Sec. 9. Penalties for false statements.
- Sec. 10. Confidentiality of information.
- Sec. 11. Higher education assistance.
- Sec. 12. Treatment of aliens with adjusted status for certain purposes.
- Sec. 13. Military enlistment.
- Sec. 14. GAO report.

SEC. 3. DEFINITIONS.

In this Act:

(1) **IN GENERAL.**—Except as otherwise specifically provided, a term used in this Act

that is used in the immigration laws shall have the meaning given such term in the immigration laws.

(2) **ARMED FORCES.**—The term “Armed Forces” has the meaning given the term “armed forces” in section 101(a) of title 10, United States Code.

(3) **CONDITIONAL NONIMMIGRANT.**—

(A) **DEFINITION.**—The term “conditional nonimmigrant” means an alien who is granted conditional nonimmigrant status under this Act.

(B) **DESCRIPTION.**—A conditional nonimmigrant—

(i) shall be considered to be an alien within a nonimmigrant class for purposes of the immigration laws;

(ii) may have the intention permanently to reside in the United States; and

(iii) is not required to have a foreign residence which the alien has no intention of abandoning.

(4) **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)).

(5) **INSTITUTION OF HIGHER EDUCATION.**—The term “institution of higher education” has the meaning given such term in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002), except that the term does not include an institution of higher education outside the United States.

SEC. 4. CANCELLATION OF REMOVAL OF CERTAIN LONG-TERM RESIDENTS WHO ENTERED THE UNITED STATES AS CHILDREN.

(a) **SPECIAL RULE FOR CERTAIN LONG-TERM RESIDENTS WHO ENTERED THE UNITED STATES AS CHILDREN.**—

(1) **IN GENERAL.**—Notwithstanding any other provision of law and except as otherwise provided in this Act, the Secretary of Homeland Security may cancel removal of an alien who is inadmissible or deportable from the United States, and grant the alien conditional nonimmigrant status, if the alien demonstrates by a preponderance of the evidence that—

(A) the alien has been physically present in the United States for a continuous period of not less than 5 years immediately preceding the date of the enactment of this Act and was younger than 16 years of age on the date the alien initially entered the United States;

(B) the alien has been a person of good moral character since the date the alien initially entered the United States;

(C) the alien—

(i) is not inadmissible under paragraph (1), (2), (3), (4), (6)(E), (6)(G), (8), (10)(A), (10)(C), or (10)(D) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a));

(ii) is not deportable under paragraph (1)(E), (1)(G), (2), (4), (5), or (6) of section 237(a) of the Immigration and Nationality Act (8 U.S.C. 1227(a));

(iii) 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

(iv) has not been convicted of—

(I) any offense under Federal or State law punishable by a maximum term of imprisonment of more than 1 year; or

(II) 3 or more offenses under Federal or State law, for which the alien was convicted on different dates for each of the 3 offenses and sentenced to imprisonment for an aggregate of 90 days or more;

(D) the alien—

(i) has been admitted to an institution of higher education in the United States; or

(ii) has earned a high school diploma or obtained a general education development certificate in the United States;

(E) the alien has never been under a final administrative or judicial order of exclusion, deportation, or removal, unless the alien—

(i) has remained in the United States under color of law after such order was issued; or

(ii) received the order before attaining the age of 16 years; and

(F) the alien was younger than 30 years of age on the date of the enactment of this Act.

(2) **WAIVER.**—Notwithstanding paragraph (1), the Secretary of Homeland Security may waive the ground of ineligibility under paragraph (1), (4), or (6) of section 212(a) of the Immigration and Nationality Act and the ground of deportability under paragraph (1) of section 237(a) of that Act for humanitarian purposes or family unity or when it is otherwise in the public interest.

(3) **PROCEDURES.**—The Secretary of Homeland Security shall provide a procedure by regulation allowing eligible individuals to apply affirmatively for the relief available under this subsection without being placed in removal proceedings.

(4) **DEADLINE FOR SUBMISSION OF APPLICATION.**—An alien shall submit an application for cancellation of removal and conditional nonimmigrant status under this subsection no later than the date that is 1 year after the later of—

(A) the date the alien was admitted to an institution of higher education in the United States;

(B) the date the alien earned a high school diploma or obtained a general education development certificate in the United States; or

(C) the date of the enactment of this Act.

(5) **SUBMISSION OF BIOMETRIC AND BIOGRAPHIC DATA.**—The Secretary of Homeland Security may not cancel the removal of an alien or grant conditional nonimmigrant status to the alien under this subsection unless the alien submits biometric and biographic data, in accordance with procedures established by the Secretary. The Secretary shall provide an alternative procedure for applicants who are unable to provide such biometric or biographic data because of a physical impairment.

(6) **BACKGROUND CHECKS.**—

(A) **REQUIREMENT FOR BACKGROUND CHECKS.**—The Secretary of Homeland Security shall utilize biometric, biographic, and other data that the Secretary determines is appropriate—

(i) to conduct security and law enforcement background checks of an alien seeking relief available under this subsection; and

(ii) to determine whether there is any criminal, national security, or other factor that would render the alien ineligible for such relief.

(B) **COMPLETION OF BACKGROUND CHECKS.**—The security and law enforcement background checks required by subparagraph (A)(i) shall be completed, to the satisfaction of the Secretary, prior to the date the Secretary cancels the removal of the alien under this subsection.

(7) **MEDICAL EXAMINATION.**—An alien applying for relief available under this subsection shall undergo a medical observation and examination. The Secretary of Homeland Security, with the concurrence of the Secretary of Health and Human Services, shall prescribe policies and procedures for the nature, frequency, and timing of such observation and examination.

(8) **MILITARY SELECTIVE SERVICE.**—An alien applying for relief available under this subsection shall establish that the alien has registered under the Military Selective Service Act (50 U.S.C. App. 451 et seq.), if the alien is subject to such registration under that Act.

(b) **TERMINATION OF CONTINUOUS PERIOD.**—For purposes of this section, any period of continuous residence or continuous physical

presence in the United States of an alien who applies for cancellation of removal under subsection (a) 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)).

(c) **TREATMENT OF CERTAIN BREAKS IN PRESENCE.**—

(1) **IN GENERAL.**—An alien shall be considered to have failed to maintain continuous physical presence in the United States under subsection (a) if the alien has departed from the United States for any period in excess of 90 days or for any periods in the aggregate exceeding 180 days.

(2) **EXTENSIONS FOR EXCEPTIONAL CIRCUMSTANCES.**—The Secretary of Homeland Security may extend the time periods described in paragraph (1) if the alien demonstrates that the failure to timely return to the United States was due to exceptional circumstances. The exceptional circumstances determined sufficient to justify an extension should be no less compelling than serious illness of the alien, or death or serious illness of a parent, grandparent, sibling, or child.

(d) **EXEMPTION FROM NUMERICAL LIMITATIONS.**—Nothing in this section may be construed to apply a numerical limitation to the number of aliens who may be eligible for cancellation of removal under subsection (a).

(e) **REGULATIONS.**—

(1) **INITIAL PUBLICATION.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall publish regulations implementing this section.

(2) **INTERIM REGULATIONS.**—Notwithstanding section 553 of title 5, United States Code, the regulations required by paragraph (1) 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.

(3) **FINAL REGULATIONS.**—Within a reasonable time after publication of the interim regulations in accordance with paragraph (1), the Secretary of Homeland Security shall publish final regulations implementing this section.

(f) **REMOVAL OF ALIEN.**—The Secretary of Homeland Security may not remove any alien who—

(1) has a pending application for conditional nonimmigrant status under this Act; and

(2) establishes prima facie eligibility for cancellation of removal and conditional nonimmigrant status under subsection (a).

SEC. 5. CONDITIONAL NONIMMIGRANT STATUS.

(a) **LENGTH OF STATUS.**—Conditional nonimmigrant status granted under section 4 shall be valid for a period of 10 years, subject to termination under subsection (c) of this section.

(b) **TERMS OF CONDITIONAL NONIMMIGRANT STATUS.**—

(1) **EMPLOYMENT.**—A conditional nonimmigrant shall be authorized to be employed in the United States incident to conditional nonimmigrant status.

(2) **TRAVEL.**—A conditional nonimmigrant may travel outside the United States and may be admitted (if otherwise admissible) upon return to the United States without having to obtain a visa if—

(A) the alien is the bearer of valid, unexpired documentary evidence of conditional nonimmigrant status; and

(B) the alien's absence from the United States was not for a period exceeding 180 days.

(c) **TERMINATION OF STATUS.**—

(1) **IN GENERAL.**—The Secretary of Homeland Security shall terminate the conditional nonimmigrant status of any alien if the Secretary determines that the alien—

(A) ceases to meet the requirements of subparagraph (B) or (C) of section 4(a)(1);

(B) has become a public charge; or

(C) has received a dishonorable or other than honorable discharge from the Armed Forces.

(2) RETURN TO PREVIOUS IMMIGRATION STATUS.—Any alien whose conditional nonimmigrant status is terminated under paragraph (1) shall return to the immigration status the alien had immediately prior to receiving conditional nonimmigrant status.

SEC. 6. ADJUSTMENT OF STATUS.

(a) IN GENERAL.—A conditional nonimmigrant may file with the Secretary of Homeland Security, in accordance with subsection (c), an application to have the alien's status adjusted to that of an alien lawfully admitted for permanent residence. The application shall provide, under penalty of perjury, the facts and information so that the Secretary may make the determination described in paragraph (b)(1).

(b) ADJUDICATION OF APPLICATION FOR ADJUSTMENT OF STATUS.—

(1) IN GENERAL.—If an application is filed in accordance with subsection (a) for an alien, the Secretary of Homeland Security shall make a determination as to whether the alien meets the requirements set out in subparagraphs (A) through (E) of subsection (d)(1).

(2) ADJUSTMENT OF STATUS IF FAVORABLE DETERMINATION.—If the Secretary determines that the alien meets such requirements, the Secretary shall notify the alien of such determination and adjust the alien's status to that of an alien lawfully admitted for permanent residence, effective as of the date of approval of the application.

(3) TERMINATION IF ADVERSE DETERMINATION.—If the Secretary determines that the alien does not meet such requirements, the Secretary shall notify the alien of such determination and terminate the conditional nonimmigrant status of the alien as of the date of the determination.

(c) TIME TO FILE APPLICATION.—An alien shall file an application for adjustment of status during the period beginning 1 year before and ending on either the date that is 10 years after the date of the granting of conditional nonimmigrant status or any other expiration date of the conditional nonimmigrant status as extended by the Secretary of Homeland Security in accordance with this Act. The alien shall be deemed to be in conditional nonimmigrant status in the United States during the period in which such application is pending.

(d) DETAILS OF APPLICATION.—

(1) CONTENTS OF APPLICATION.—Each application for an alien under subsection (a) shall contain information to permit the Secretary of Homeland Security to determine whether each of the following requirements is met:

(A) The alien has demonstrated good moral character during the entire period the alien has been a conditional nonimmigrant.

(B) The alien is in compliance with section 4(a)(1)(C).

(C) The alien has not abandoned the alien's residence in the United States. The Secretary shall presume that the alien has abandoned such residence if the alien is absent from the United States for more than 365 days, in the aggregate, during the period of conditional nonimmigrant status, unless the alien demonstrates that the alien has not abandoned the alien's residence. An alien who is absent from the United States due to active service in the Armed Forces has not abandoned the alien's residence in the United States during the period of such service.

(D) The alien has completed at least 1 of the following:

(i) The alien has acquired a degree from an institution of higher education in the United States or has completed at least 2 years, in good standing, in a program for a bachelor's degree or higher degree in the United States.

(ii) The alien has served in the Armed Forces for at least 2 years and, if discharged, has received an honorable discharge.

(E) The alien has provided a list of each secondary school (as that term is defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)) that the alien attended in the United States.

(2) HARDSHIP EXCEPTION.—

(A) IN GENERAL.—The Secretary of Homeland Security may, in the Secretary's discretion, adjust the status of an alien if the alien—

(i) satisfies the requirements of subparagraphs (A), (B), and (C) of paragraph (1);

(ii) demonstrates compelling circumstances for the inability to complete the requirements described in paragraph (1)(D); and

(iii) demonstrates that the alien's removal from the United States would result in exceptional and extremely unusual hardship to the alien or the alien's spouse, parent, or child who is a citizen or a lawful permanent resident of the United States.

(B) EXTENSION.—Upon a showing of good cause, the Secretary of Homeland Security may extend the period of conditional nonimmigrant status for the purpose of completing the requirements described in paragraph (1)(D).

(e) CITIZENSHIP REQUIREMENT.—

(1) IN GENERAL.—Except as provided in paragraph (2), the status of a conditional nonimmigrant shall not be adjusted to permanent resident status unless the alien demonstrates that the alien satisfies the requirements of section 312(a) of the Immigration and Nationality Act (8 U.S.C. 312(a)).

(2) EXCEPTION.—Paragraph (1) shall not apply to an alien who is unable because of a physical or developmental disability or mental impairment to meet the requirements of such paragraph.

(f) PAYMENT OF FEDERAL TAXES.—

(1) IN GENERAL.—Not later than the date on which an application is filed under subsection (a) for adjustment of status, the alien shall satisfy any applicable Federal tax liability due and owing on such date.

(2) APPLICABLE FEDERAL TAX LIABILITY.—For purposes of paragraph (1), the term "applicable Federal tax liability" means liability for Federal taxes imposed under the Internal Revenue Code of 1986, including any penalties and interest thereon.

(g) SUBMISSION OF BIOMETRIC AND BIOGRAPHIC DATA.—The Secretary of Homeland Security may not adjust the status of an alien under this section unless the alien submits biometric and biographic data, in accordance with procedures established by the Secretary. The Secretary shall provide an alternative procedure for applicants who are unable to provide such biometric or biographic data because of a physical impairment.

(h) BACKGROUND CHECKS.—

(1) REQUIREMENT FOR BACKGROUND CHECKS.—The Secretary of Homeland Security shall utilize biometric, biographic, and other data that the Secretary determines appropriate—

(A) to conduct security and law enforcement background checks of an alien applying for adjustment of status under this section; and

(B) to determine whether there is any criminal, national security, or other factor that would render the alien ineligible for such adjustment of status.

(2) COMPLETION OF BACKGROUND CHECKS.—The security and law enforcement back-

ground checks required by paragraph (1)(A) shall be completed, to the satisfaction of the Secretary, prior to the date the Secretary grants adjustment of status.

(i) EXEMPTION FROM NUMERICAL LIMITATIONS.—Nothing in this section or in any other law may be construed to apply a numerical limitation on the number of aliens who may be eligible for adjustment of status under this section.

(j) CONDITIONAL NONIMMIGRANTS OTHERWISE ELIGIBLE FOR ADJUSTMENT.—Nothing in this section may be construed to limit the eligibility of a conditional nonimmigrant for adjustment of status, issuance of an immigrant visa, or admission as a lawful permanent resident alien at any time, if the conditional nonimmigrant is otherwise eligible for such benefit under the immigration laws.

(k) ELIGIBILITY FOR NATURALIZATION.—An alien whose status is adjusted under this section to that of an alien lawfully admitted for permanent residence may be naturalized upon compliance with all the requirements of the immigration laws except the provisions of paragraph (1) of section 316(a) of the Immigration and Nationality Act (8 U.S.C. 1427(a)), if such person immediately preceding the date of filing the application for naturalization has resided continuously, after being lawfully admitted for permanent residence, within the United States for at least 3 years, and has been physically present in the United States for periods totaling at least half of that time and has resided within the State or the district of U.S. Citizenship and Immigration Services in the United States in which the applicant filed the application for at least 3 months. An alien described in this subsection may file the application for naturalization as provided in the second sentence of subsection (a) of section 344 of the Immigration and Nationality Act (8 U.S.C. 1445).

SEC. 7. RETROACTIVE BENEFITS.

If, on the date of the enactment of this Act, an alien has satisfied all the requirements of section 4(a)(1) and section 6(d)(1)(D), the Secretary of Homeland Security may cancel removal and grant conditional nonimmigrant status in accordance with section 4. The alien may apply for adjustment of status in accordance with section 6(a) if the alien has met the requirements of subparagraphs (A), (B), and (C) of section 6(d)(1) during the entire period of conditional nonimmigrant status.

SEC. 8. EXCLUSIVE JURISDICTION.

(a) IN GENERAL.—The Secretary of Homeland Security shall have exclusive jurisdiction to determine eligibility for relief under this Act, except where the alien has been placed into deportation, exclusion, or removal proceedings either prior to or after filing an application for cancellation of removal and conditional nonimmigrant status or adjustment of status under this Act, in which case the Attorney General shall have exclusive jurisdiction and shall assume all the powers and duties of the Secretary until proceedings are terminated, or if a final order of deportation, exclusion, or removal is entered the Secretary shall resume all powers and duties delegated to the Secretary under this Act.

(b) STAY OF REMOVAL OF CERTAIN ALIENS ENROLLED IN PRIMARY OR SECONDARY SCHOOL.—The Attorney General shall stay the removal proceedings of any alien who—

(1) meets all the requirements of subparagraphs (A), (B), (C), and (E) of section 4(a)(1);

(2) is at least 12 years of age; and

(3) is enrolled full time in a primary or secondary school.

(c) EMPLOYMENT.—An alien whose removal is stayed pursuant to subsection (b) may be engaged in employment in the United States

consistent with the Fair Labor Standards Act (29 U.S.C. 201 et seq.) and State and local laws governing minimum age for employment.

(d) LIFT OF STAY.—The Attorney General shall lift the stay granted pursuant to subsection (b) if the alien—

(1) is no longer enrolled in a primary or secondary school; or

(2) ceases to meet the requirements of subsection (b)(1).

SEC. 9. PENALTIES FOR FALSE STATEMENTS.

Whoever files an application for any benefit under this Act and willfully and knowingly falsifies, misrepresents, or conceals a material fact or makes any false or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any false or fraudulent statement or entry, shall be fined in accordance with title 18, United States Code, imprisoned not more than 5 years, or both.

SEC. 10. CONFIDENTIALITY OF INFORMATION.

(a) PROHIBITION.—Except as provided in subsection (b), no officer or employee of the United States may—

(1) use the information furnished by an individual pursuant to an application filed under this Act to initiate removal proceedings against any person identified in the application;

(2) make any publication whereby the information furnished by any particular individual pursuant to an application under this Act can be identified; or

(3) permit anyone other than an officer or employee of the United States Government or, in the case of an application filed under this Act with a designated entity, that designated entity, to examine such application filed under this Act.

(b) REQUIRED DISCLOSURE.—The Attorney General or the Secretary of Homeland Security shall provide the information furnished under this Act, and any other information derived from such furnished information, to—

(1) a Federal, State, tribal, or local law enforcement agency, intelligence agency, national security agency, component of the Department of Homeland Security, court, or grand jury in connection with a criminal investigation or prosecution, a background check conducted pursuant to the Brady Handgun Violence Protection Act (Public Law 103-159; 107 Stat. 1536) or an amendment made by that Act, or for homeland security or national security purposes, if such information is requested by such entity or consistent with an information sharing agreement or mechanism; or

(2) an official coroner for purposes of affirmatively identifying a deceased individual (whether or not such individual is deceased as a result of a crime).

(c) FRAUD IN APPLICATION PROCESS OR CRIMINAL CONDUCT.—Notwithstanding any other provision of this section, information concerning whether an alien seeking relief under this Act has engaged in fraud in an application for such relief or at any time committed a crime may be used or released for immigration enforcement, law enforcement, or national security purposes.

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

SEC. 11. HIGHER EDUCATION ASSISTANCE.

Notwithstanding any provision of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), with respect to assistance provided under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), an alien who is granted conditional nonimmigrant status or lawful permanent resident status under this Act shall be eligible only for the following assistance under such title:

(1) Student loans under parts B, D, and E of such title IV (20 U.S.C. 1071 et seq., 1087a et seq., 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.

SEC. 12. TREATMENT OF ALIENS WITH ADJUSTED STATUS FOR CERTAIN PURPOSES.

(a) IN GENERAL.—An individual granted conditional nonimmigrant status under this Act shall, while such individual remains in such status, be considered lawfully present for all purposes except—

(1) section 36B of the Internal Revenue Code of 1986 (concerning premium tax credits), as added by section 1401 of the Patient Protection and Affordable Care Act (Public Law 111-148); and

(2) section 1402 of the Patient Protection and Affordable Care Act (concerning reduced cost sharing; 42 U.S.C. 18071).

(b) FOR PURPOSES OF THE 5-YEAR ELIGIBILITY WAITING PERIOD UNDER PRWORA.—An individual who has met the requirements under this Act for adjustment from conditional nonimmigrant status to lawful permanent resident status shall be considered, as of the date of such adjustment, to have completed the 5-year period specified in section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613).

SEC. 13. MILITARY ENLISTMENT.

Section 504(b)(1) of title 10, United States Code, is amended by adding at the end the following new subparagraph:

“(D) An alien who is a conditional nonimmigrant (as that term is defined in section 3 of the DREAM Act of 2010).”.

SEC. 14. GAO REPORT.

Not later than 7 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report setting forth—

(1) the number of aliens who were eligible for cancellation of removal and grant of conditional nonimmigrant status under section 4(a);

(2) the number of aliens who applied for cancellation of removal and grant of conditional nonimmigrant status under section 4(a);

(3) the number of aliens who were granted conditional nonimmigrant status under section 4(a); and

(4) the number of aliens whose status was adjusted to that of an alien lawfully admitted for permanent residence under section 6.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 690—COMMEMORATING THE 175TH ANNIVERSARY OF THE BIRTH OF MARK TWAIN

Mrs. MCCASKILL (for herself and Mr. BOND) submitted the following resolution; which was considered and agreed to:

S. RES. 690

Whereas Mark Twain was born with the name Samuel Langhorne Clemens on November 30, 1835, in Florida, Missouri, the 6th child of John Marshall and Jane Lampton Clemens;

Whereas in 1839, the Clemens family moved to Hannibal, Missouri, the inspiration for the

fictional town of St. Petersburg depicted in the novels “The Adventures of Tom Sawyer” and “Adventures of Huckleberry Finn”, where the Clemens family lived until 1853, including several years of residence at 206 Hill Street, known as the boyhood home of Mark Twain;

Whereas in 1848, Samuel Clemens left school to become a printer’s apprentice at the Missouri Courier newspaper, his first in a series of occupations that include, most notably, author, but also, printer, typesetter, steamboat pilot, journalist, lecturer, publisher, editor, prospector, and political activist;

Whereas while working at the Virginia City newspaper, the Territorial Enterprise, Clemens first used the pen name “Mark Twain” in 1863;

Whereas with the publication of the short story “Jim Smiley and His Jumping Frog” in The Saturday Press in 1865, Mark Twain experienced his first significant success as an author;

Whereas in 1869, Twain’s first book, “The Innocents Abroad”, was published, detailing Twain’s adventures through Europe and the Middle East;

Whereas Samuel Clemens, known for the love and affection he demonstrated for his wife and family and to whom the quote, “What is a home without a child?”, is attributed, in 1870 married Olivia Langdon, with whom he had 4 children, Langdon, Olivia Susan, Clara Langdon, and Jane Lampton;

Whereas the book “Roughing It”, part autobiography and part tall tale, chronicling Twain’s adventures in the early American West and critiquing society’s treatment of Chinese Americans, was published in 1872;

Whereas “The Gilded Age: A Tale of Today”, a novel Twain wrote in collaboration with Charles Dudley Warner satirizing political corruption and greed in American life, was published in 1873;

Whereas Twain’s novel, “The Adventures of Tom Sawyer”, through which he sought “to pleasantly remind adults of what they once were themselves, and of how they felt and thought and talked, and what queer enterprises they sometimes engaged in”, was published in 1876;

Whereas in 1881, Twain addressed class issues and attacked injustice and hypocrisy in English society with the publication of his novel, “The Prince and the Pauper”;

Whereas in 1883, “Life on the Mississippi”, Twain’s book exploring the history and lore of the Mississippi River and detailing his time spent as a Mississippi River steamboat pilot, was published;

Whereas Mark Twain’s most famous work, “Adventures of Huckleberry Finn”, which attacked the institution of slavery, the failures of Reconstruction, and the continued mistreatment of African Americans in American society, and which is considered a masterpiece of American fiction and is widely known as one of the Great American Novels, was published in 1884;

Whereas Twain’s powerful social critique, “A Connecticut Yankee in King Arthur’s Court”, was published in 1889;

Whereas “The Tragedy of Pudd’nhead Wilson”, Twain’s strongest critique of racism and the institution of slavery, was published in 1894;

Whereas on April 21, 1910, Samuel Clemens died at the age of 74; and

Whereas the 175th anniversary of the birth of Mark Twain is an historic occasion: Now, therefore, be it

Resolved, That the Senate commemorates the 175th anniversary of the birth of Mark Twain on November 30, 2010, and his enduring legacy as one of our Nation’s greatest authors and humorists.