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(Original Signature of Member)

115TH CONGRESS
1ST SESSION

H. R.

To amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine State residency for higher education purposes and to authorize the cancellation of removal and adjustment of status of certain aliens who are United States residents and who entered the United States as children, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M__ . _____ introduced the following bill; which was referred to the
Committee on _____

A BILL

To amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine State residency for higher education purposes and to authorize the cancellation of removal and adjustment of status of certain aliens who are United States residents and who entered the United States as children, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “American Hope Act
3 of 2017”.

4 **SEC. 2. DEFINITIONS.**

5 In this Act:

6 (1) **ELIGIBLE NONPROFIT ORGANIZATION.**—The
7 term “eligible nonprofit organization” shall mean a
8 nonprofit, tax-exempt organization, including a com-
9 munity, educational, faith-based or other immigrant-
10 serving organization, whose staff has demonstrated
11 qualifications, experience, or expertise in providing
12 quality services to immigrants, refugees, persons
13 granted asylum, or persons applying for such
14 statuses.

15 (2) **INSTITUTION OF HIGHER EDUCATION.**—The
16 term “institution of higher education” has the
17 meaning given that term in section 101 of the High-
18 er Education Act of 1965 (20 U.S.C. 1001), and
19 any other educational institutions that the Secretary
20 of Homeland Security or Secretary of Education
21 may designate as such an institution of higher edu-
22 cation for purposes of this Act.

23 (3) **SECRETARY.**—Except as otherwise specifi-
24 cally provided, the term “Secretary” means the Sec-
25 retary of Homeland Security.

1 **SEC. 3. RESTORATION OF STATE OPTION TO DETERMINE**
2 **RESIDENCY FOR PURPOSES OF HIGHER EDU-**
3 **CATION BENEFITS.**

4 (a) IN GENERAL.—Section 505 of the Illegal Immi-
5 gration Reform and Immigrant Responsibility Act of 1996
6 (8 U.S.C. 1623) is repealed.

7 (b) EFFECTIVE DATE.—The repeal under subsection
8 (a) shall take effect as if included in the enactment of the
9 Illegal Immigration Reform and Immigrant Responsibility
10 Act of 1996 (division C of Public Law 104–208; 110 Stat.
11 3009–546).

12 **SEC. 4. CANCELLATION OF REMOVAL AND ADJUSTMENT OF**
13 **STATUS OF CERTAIN RESIDENTS WHO EN-**
14 **TERED THE UNITED STATES AS CHILDREN.**

15 (a) SPECIAL RULE FOR CERTAIN RESIDENTS WHO
16 ENTERED THE UNITED STATES AS CHILDREN.—

17 (1) IN GENERAL.—Notwithstanding any other
18 provision of law and except as otherwise provided in
19 this Act, the Secretary of Homeland Security shall
20 cancel removal of, and adjust to the status of an
21 alien lawfully admitted for permanent residence,
22 subject to the conditional basis described in section
23 5, an alien who is inadmissible or deportable from
24 the United States, if the alien demonstrates that—

25 (A) the alien has been continuously present
26 in the United States since December 31, 2016,

1 and was younger than 18 years of age on the
2 date the alien initially entered the United
3 States; and

4 (B) the alien is not inadmissible under
5 paragraph (2), (3), (8), (10)(A), (10)(C), or
6 (10)(E) of section 212(a) of the Immigration
7 and Nationality Act (8 U.S.C. 1182(a)).

8 (2) WAIVER.—Notwithstanding paragraph (1),
9 the Secretary of Homeland Security may waive the
10 application of section 212(a)(2) of the Immigration
11 and Nationality Act where the ground of inadmis-
12 sibility pertains to an offense for which immigration
13 status is an essential element, a misdemeanor of-
14 fense (or its equivalent), or any other offense that
15 is not a crime of violence, when such waiver serves
16 humanitarian purposes or family unity or is other-
17 wise in the public interest.

18 (3) PROCEDURES.—The Secretary of Homeland
19 Security shall by rule establish a procedure allowing
20 eligible individuals to apply for the relief available
21 under this subsection without requiring placement in
22 removal proceedings. Such procedure shall provide
23 for the ability of a minor to apply for such relief, in-
24 cluding through a legal guardian or counsel. An in-
25 dividual shall not be considered ineligible to apply

1 for such relief because the individual is in removal
2 proceedings or has previously been ordered removed.

3 (4) BACKGROUND CHECKS.—The Secretary of
4 Homeland Security, in coordination with other de-
5 partments and agencies as appropriate, shall con-
6 duct background checks on all aliens under this sub-
7 section.

8 (b) TERMINATION OF CONTINUOUS PERIOD.—For
9 purposes of this section, any period of continuous presence
10 in the United States of an alien who applies for cancella-
11 tion of removal under this section shall not be considered
12 to have terminated when the alien is served a notice to
13 appear under section 239(a) of the Immigration and Na-
14 tionality Act (8 U.S.C. 1229(a)).

15 (c) TREATMENT OF CERTAIN BREAKS IN PRES-
16 ENCE.—

17 (1) IN GENERAL.—An alien shall be considered
18 to have failed to maintain continuous presence in the
19 United States under subsection (a) if the alien has
20 departed from the United States for any period in
21 excess of 90 days or for any periods in the aggregate
22 exceeding 180 days, unless such departure was au-
23 thorized by the Secretary of Homeland Security.

24 (2) EXCEPTION.—An alien who departed from
25 the United States after the date of enactment of this

1 Act shall not be considered to have failed to main-
2 tain continuous presence in the United States if the
3 alien's absences from the United States are brief,
4 casual, and innocent, whether or not such absences
5 were authorized by the Secretary.

6 (3) EXTENSIONS FOR EXCEPTIONAL CIR-
7 CUMSTANCES.—The Secretary of Homeland Security
8 may extend the time periods described in paragraph
9 (1) if the alien demonstrates that the failure to time-
10 ly return to the United States was due to excep-
11 tional circumstances. Exceptional circumstances suf-
12 ficient to justify an extension may include the seri-
13 ous illness of the alien, or death or serious illness of
14 a spouse, parent, grandparent, sibling, or child.

15 (d) EXEMPTION FROM NUMERICAL LIMITATIONS.—
16 Nothing in this section may be construed to apply a nu-
17 merical limitation on the number of aliens who may be
18 eligible for cancellation of removal or adjustment of status
19 under this section.

20 (e) REGULATIONS.—

21 (1) PROPOSED REGULATIONS.—Not later than
22 180 days after the date of enactment of this Act, the
23 Secretary of Homeland Security shall publish pro-
24 posed regulations implementing this section. Such
25 regulations shall be effective immediately on an in-

1 terim basis, but are subject to change and revision
2 after public notice and opportunity for a period for
3 public comment.

4 (2) INTERIM, FINAL REGULATIONS.—Within a
5 reasonable time and no later than 180 days after
6 publication of the interim regulations in accordance
7 with paragraph (1), the Secretary of Homeland Se-
8 curity shall publish final regulations implementing
9 this section.

10 (f) ADMINISTRATIVE REVIEW.—Any alien receiving
11 an adverse determination on the application for cancella-
12 tion of removal and conditional lawful permanent resident
13 status under this section may request review of such deter-
14 mination by the Secretary of Homeland Security.

15 (g) REMOVAL OF ALIEN.—Notwithstanding any
16 other provision of law, the Secretary of Homeland Security
17 may not remove any alien who has a pending application
18 for conditional permanent resident status, or is prima
19 facie eligible for such status, under section 5 of this Act.

20 **SEC. 5. CONDITIONAL PERMANENT RESIDENT STATUS.**

21 (a) IN GENERAL.—

22 (1) CONDITIONAL BASIS FOR STATUS.—Not-
23 withstanding any other provision of law, and except
24 as provided in section 6, an alien whose status has
25 been adjusted under section 4 to that of an alien

1 lawfully admitted for permanent residence shall be
2 considered to have obtained such status on a condi-
3 tional basis subject to the provisions of this section.
4 Such conditional permanent resident status shall be
5 valid for a period of 8 years, subject to termination
6 under subsection (b).

7 (2) NOTICE OF REQUIREMENTS.—

8 (A) AT TIME OF OBTAINING PERMANENT
9 RESIDENCE.—At the time an alien obtains per-
10 manent resident status on a conditional basis
11 under paragraph (1), the Secretary of Home-
12 land Security shall provide for notice to the
13 alien regarding the provisions of this section
14 and the requirements of subsection (c) to have
15 the conditional basis of such status removed.

16 (B) EFFECT OF FAILURE TO PROVIDE NO-
17 TICE.—The failure of the Secretary of Home-
18 land Security to provide a notice under this
19 paragraph—

20 (i) shall not affect the enforcement of
21 the provisions of this Act with respect to
22 the alien; and

23 (ii) shall not give rise to any private
24 right of action by the alien.

25 (b) TERMINATION OF STATUS.—

1 (1) IN GENERAL.—The Secretary of Homeland
2 Security shall terminate the conditional permanent
3 resident status of any alien who obtained such sta-
4 tus under this Act, if the Secretary determines that
5 the alien has since engaged in conduct that renders
6 the alien deportable under section 237(a) of the Im-
7 migration and Nationality Act.

8 (2) RETURN TO PREVIOUS IMMIGRATION STA-
9 TUS.—Any alien whose conditional permanent resi-
10 dent status is terminated under paragraph (1) shall
11 revert to the immigration status the alien had imme-
12 diately prior to receiving conditional permanent resi-
13 dent status under this Act.

14 (3) ADMINISTRATIVE REVIEW.—Any alien
15 whose conditional permanent resident status is ter-
16 minated under paragraph (1) may request review of
17 such determination in a proceeding to remove the
18 alien. In such proceeding, the burden of proof shall
19 be on the Secretary of Homeland Security to estab-
20 lish, by a preponderance of the evidence, that a con-
21 dition described in paragraph (1) is met.

22 (c) REQUIREMENTS OF TIMELY PETITION FOR RE-
23 MOVAL OF CONDITION.—

24 (1) IN GENERAL.—In order for the conditional
25 basis of permanent resident status obtained by an

1 alien under subsection (a) to be removed, the alien
2 must file with the Secretary of Homeland Security,
3 in accordance with paragraph (3) of this subsection,
4 a petition which requests the removal of such condi-
5 tional basis and which provides, under penalty of
6 perjury, the facts and information so that the Sec-
7 retary may make the determination described in
8 paragraph (2)(A) of this subsection.

9 (2) ADJUDICATION OF PETITION TO REMOVE
10 CONDITION.—

11 (A) IN GENERAL.—If a petition is filed for
12 an alien in accordance with paragraph (1) of
13 this subsection, the Secretary of Homeland Se-
14 curity shall make a determination as to whether
15 the alien meets the requirements set out in sub-
16 paragraphs (A) through (C) of subsection
17 (d)(1).

18 (B) REMOVAL OF CONDITIONAL BASIS IF
19 FAVORABLE DETERMINATION.—If the Secretary
20 determines that the alien meets such require-
21 ments, the Secretary shall notify the alien of
22 such determination and immediately remove the
23 conditional basis of the status of the alien.

24 (C) TERMINATION IF ADVERSE DETER-
25 MINATION.—If the Secretary determines that

1 the alien does not meet such requirements, the
2 Secretary shall notify the alien of such deter-
3 mination and terminate the conditional perma-
4 nent resident status of the alien.

5 (D) ADMINISTRATIVE REVIEW.—An alien
6 whose conditional permanent resident status is
7 terminated under subparagraph (C) may re-
8 quest review of such determination in a pro-
9 ceeding to remove the alien. In such proceeding,
10 the burden of proof shall be on the Secretary of
11 Homeland Security to establish, by a prepon-
12 derance of the evidence, that the alien has not
13 met the requirements of subparagraph (A).

14 (3) TIME TO FILE PETITION.—Except as pro-
15 vided in subsection (d)(3), an alien may petition to
16 remove the conditional basis to lawful resident sta-
17 tus beginning six months before the date on which
18 the alien is expected to satisfy the requirement of
19 subsection (d)(1)(C). The alien shall be deemed in
20 conditional permanent resident status in the United
21 States during the period in which the petition is
22 pending.

23 (d) DETAILS OF PETITION.—

24 (1) CONTENTS OF PETITION.—Each petition
25 for an alien under subsection (c)(1) shall contain in-

1 formation to permit the Secretary of Homeland Se-
2 curity to determine whether each of the following re-
3 quirements is met:

4 (A) The alien has complied with section
5 4(a)(1)(B) throughout the period of conditional
6 permanent resident status.

7 (B) The alien has not abandoned the
8 alien's residence in the United States. The Sec-
9 retary shall presume that the alien has aban-
10 doned such residence if the alien is absent from
11 the United States for more than 365 days, in
12 the aggregate, during the period of conditional
13 residence, unless the alien demonstrates that
14 alien has not abandoned the alien's residence.
15 An alien who is absent from the United States
16 due to active service in the uniformed services
17 has not abandoned the alien's residence in the
18 United States during the period of such service.

19 (C) The alien has maintained the condi-
20 tional permanent resident status for at least 3
21 years.

22 (2) SPECIAL RULE FOR DACA RECIPIENTS.—
23 Any period of time in which the alien was granted
24 deferred action pursuant to the Deferred Action for
25 Childhood Arrivals policy established in the June 15,

1 2012 memorandum from the Secretary of Homeland
2 Security, titled *Exercising Prosecutorial Discretion*
3 with Respect to Individuals Who Came to the United
4 States as Children, shall count toward the 3-year pe-
5 riod described in paragraph (1)(C).

6 (e) TREATMENT OF PERIOD FOR PURPOSES OF NAT-
7 URALIZATION.—For purposes of title III of the Immigra-
8 tion and Nationality Act (8 U.S.C. 1401 et seq.), in the
9 case of an alien who is in the United States as a lawful
10 permanent resident on a conditional basis under this sec-
11 tion, the alien shall be considered to have been admitted
12 as an alien lawfully admitted for permanent residence and
13 to be present in the United States as an alien lawfully
14 admitted to the United States for permanent residence.
15 The alien may not apply for naturalization until the condi-
16 tional basis for permanent residency has been removed,
17 except for naturalization pursuant to sections 328 and 329
18 of the Immigration and Nationality Act (8 U.S.C. 1439
19 and 1440).

20 (f) RENEWED BACKGROUND CHECKS.—The Sec-
21 retary of Homeland Security, in coordination with other
22 departments and agencies as appropriate, shall conduct
23 new background checks on all aliens filing petitions under
24 this subsection.

1 **SEC. 6. EXCLUSIVE JURISDICTION.**

2 The Secretary of Homeland Security shall have exclu-
3 sive jurisdiction to determine eligibility for relief under
4 this Act, except where the alien has been placed into de-
5 portation, exclusion, or removal proceedings either prior
6 to or after filing an application for relief under this Act,
7 in which case the Attorney General shall have exclusive
8 jurisdiction and shall assume all the powers and duties
9 of the Secretary until proceedings are terminated, or if
10 a final order of deportation, exclusion, or removal is en-
11 tered the Secretary shall resume all powers and duties del-
12 egated to the Secretary under this Act.

13 **SEC. 7. CONFIDENTIALITY OF INFORMATION.**

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

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

20 (2) make any publication whereby the informa-
21 tion furnished by any particular individual pursuant
22 to an application under this Act can be identified; or

23 (3) permit anyone other than an officer or em-
24 ployee of the United States Government or, in the
25 case of applications filed under this Act with a des-

1 eligible applicants under this Act by providing them with
2 the services described in subsection (b).

3 (b) USE OF FUNDS.—Grant funds awarded under
4 this section may be used for the design and implementa-
5 tion of programs that provide—

6 (1) information to the public regarding the eli-
7 gibility and benefits of conditional lawful permanent
8 residence authorized under this Act, particularly to
9 individuals potentially eligible for such status;

10 (2) assistance, within the scope of authorized
11 practice of immigration law, to individuals submit-
12 ting applications for conditional lawful permanent
13 residence, including—

14 (A) screening prospective applicants to as-
15 sess their eligibility for such status;

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

19 (C) applying for any waivers for which ap-
20 plicants and qualifying family members may be
21 eligible; and

22 (D) providing any other assistance that the
23 Secretary or grantee considers useful or nec-
24 essary to apply for conditional lawful perma-
25 nent residence.

1 (3) assistance, within the scope of authorized
2 practice of immigration law, and instruction, to indi-
3 viduals—

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

6 (B) in civics and English as a second lan-
7 guage;

8 (C) in preparation for the General Edu-
9 cation Development exam; and

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

12 (c) AUTHORIZATION OF APPROPRIATIONS.—

13 (1) AMOUNTS AUTHORIZED.—There are author-
14 ized to be appropriated such sums as may be nec-
15 essary for each of the fiscal years 2017 through
16 2027 to carry out this section.

17 (2) AVAILABILITY.—Any amounts appropriated
18 pursuant to paragraph (1) shall remain available
19 until expended.

20 **SEC. 9. PRESIDENTIAL AWARD FOR BUSINESS LEADERSHIP**
21 **IN PROMOTING AMERICAN CITIZENSHIP.**

22 (a) ESTABLISHMENT.—There is established the Pres-
23 idential Award for Business Leadership in Promoting
24 American Citizenship, which shall be awarded to compa-
25 nies and other organizations that make extraordinary ef-

1 forts in assisting their employees and members to learn
2 English, attain General Education Development prepara-
3 tion and certification, and increase their understanding of
4 American history and civics.

5 (b) SELECTION AND PRESENTATION OF AWARD.—

6 (1) SELECTION.—The President, upon rec-
7 ommendations from the Secretary, the Secretary of
8 Labor, and the Secretary of Education, shall periodi-
9 cally award the Citizenship Education Award to
10 large and small companies and other organizations
11 described in subsection (a).

12 (2) PRESENTATION.—The presentation of the
13 award shall be made by the President, or designee
14 of the President, in conjunction with an appropriate
15 ceremony.

16 **SEC. 10. ENGLISH LEARNING PROGRAM.**

17 (a) IN GENERAL.—The Secretary of Education shall
18 develop an open source electronic program that is useable
19 on personal computers and through the Internet, which—

20 (1) provides instruction on the English lan-
21 guage (including instruction on how to pass the Test
22 of English as a Foreign Language) to individuals
23 whose primary language is a language other than
24 English and who are at various levels of proficiency
25 with respect to the English language, including indi-

1 viduals with the ability to pass the Test of English
2 as a Foreign Language;

3 (2) is available to the public for free, including
4 on the website of the Department of Education;

5 (3) is readily accessible to public libraries
6 throughout the United States; and

7 (4) is fully accessible, at a minimum, to speak-
8 ers of the top 6 foreign languages spoken by immi-
9 grants to the United States.

10 (b) **AUTHORIZATION OF APPROPRIATIONS.**—There is
11 authorized to be appropriated to the Secretary of Edu-
12 cation such sums as are necessary to carry out the pur-
13 poses of this section.

14 **SEC. 11. HIGHER EDUCATION ASSISTANCE.**

15 (a) **IN GENERAL.**—Notwithstanding subsections
16 (a)(5) and (g) of section 484 of the Higher Education Act
17 of 1965 (20 U.S.C. 1091) or any other provision of the
18 Higher Education Act of 1965 (20 U.S.C. 1001 et seq.),
19 and subject to subsection (b) of this section, an alien who
20 adjusts status to that of a conditional lawful permanent
21 resident under this Act may be eligible only for the fol-
22 lowing assistance under title IV of such Act (20 U.S.C.
23 1070 et seq.):

24 (1) Federal grants under part A (20 U.S.C.
25 1070 et seq.).

1 (2) Federal work-study programs under part C
2 (42 U.S.C. 2751 et seq.).

3 (3) Federal student loans under parts D and E
4 (20 U.S.C. 1087a et seq.).

5 (4) Services not otherwise covered under para-
6 graphs (1) though (3).

7 (5) Need analysis and refunds calculated under
8 parts F and G (20 U.S.C. 1087kk et seq.; 1088et
9 seq.).

10 (b) **OTHER REQUIREMENTS.**—An individual de-
11 scribed in subsection (a) may only receive the assistance
12 described in subsection (a) for which such individual would
13 be otherwise eligible (but for such individual’s immigration
14 status).

15 **SEC. 12. GAO REPORT.**

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

21 (1) the number of aliens who were eligible for
22 cancellation of removal and adjustment of status
23 under this Act;

24 (2) the number of aliens who applied for adjust-
25 ment of status under this Act;

1 (3) the number of aliens who were granted ad-
2 justment of status under this Act; and

3 (4) the number of aliens whose conditional per-
4 manent resident status was removed under this Act.