

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 2820
OFFERED BY M . _____

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Dream Act of 2019”.

3 **TITLE I—TREATMENT OF CER-**
4 **TAIN LONG-TERM RESIDENTS**
5 **WHO ENTERED THE UNITED**
6 **STATES AS CHILDREN**

7 **SEC. 101. PERMANENT RESIDENT STATUS ON A CONDI-**
8 **TIONAL BASIS FOR CERTAIN LONG-TERM**
9 **RESIDENTS WHO ENTERED THE UNITED**
10 **STATES AS CHILDREN.**

11 (a) **CONDITIONAL BASIS FOR STATUS.**—Notwith-
12 standing any other provision of law, and except as pro-
13 vided in section 103(c)(2), an alien shall be considered,
14 at the time of obtaining the status of an alien lawfully
15 admitted for permanent residence under this section, to
16 have obtained such status on a conditional basis subject
17 to the provisions of this Act.

18 (b) **REQUIREMENTS.**—

1 (1) IN GENERAL.—Notwithstanding any other
2 provision of law, the Secretary or the Attorney Gen-
3 eral shall cancel the removal of, and adjust to the
4 status of an alien lawfully admitted for permanent
5 residence on a conditional basis, or without the con-
6 ditional basis as provided in section 103(c)(2), an
7 alien who is inadmissible or deportable from the
8 United States (or is under a grant of Deferred En-
9 forced Departure or has temporary protected status
10 under section 244 of the Immigration and Nation-
11 ality Act (8 U.S.C. 1254a)) if—

12 (A) the alien has been continuously phys-
13 ically present in the United States since the
14 date that is 4 years before the date of the en-
15 actment of this Act;

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

20 (C) the alien—

21 (i) subject to section 203(d), is not in-
22 admissible under paragraph (1), (6)(E),
23 (6)(G), (8), or (10) of section 212(a) of
24 the Immigration and Nationality Act (8
25 U.S.C. 1182(a));

1 (ii) has not ordered, incited, assisted,
2 or otherwise participated in the persecution
3 of any person on account of race, religion,
4 nationality, membership in a particular so-
5 cial group, or political opinion; and

6 (iii) is not barred from adjustment of
7 status under this Act based on the crimi-
8 nal and national security grounds de-
9 scribed under subsection (c), subject to the
10 provisions of such subsection; and

11 (D) the alien—

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

14 (ii) has been admitted to an area ca-
15 reer and technical education school at the
16 postsecondary level;

17 (iii) in the United States, has ob-
18 tained—

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

22 (II) a General Education Devel-
23 opment credential, a high school
24 equivalency diploma recognized under

1 State law, or another similar State-
2 authorized credential;

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

7 (IV) a recognized postsecondary
8 credential; or

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

12 (I) obtaining a high school di-
13 ploma or its recognized equivalent
14 under State law;

15 (II) passing the General Edu-
16 cation Development test, a high school
17 equivalence diploma examination, or
18 other similar State-authorized exam;

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

23 (IV) obtaining a recognized post-
24 secondary credential.

25 (2) APPLICATION FEE.—

1 (A) IN GENERAL.—The Secretary may,
2 subject to an exemption under section 203(c),
3 require an alien applying under this section to
4 pay a reasonable fee that is commensurate with
5 the cost of processing the application but does
6 not exceed \$495.00.

7 (B) SPECIAL PROCEDURE FOR APPLICANTS
8 WITH DACA.—The Secretary shall establish a
9 streamlined procedure for aliens who have been
10 granted DACA and who meet the requirements
11 for renewal (under the terms of the program in
12 effect on January 1, 2017) to apply for can-
13 cellation of removal and adjustment of status to
14 that of an alien lawfully admitted for perma-
15 nent residence on a conditional basis under this
16 section, or without the conditional basis as pro-
17 vided in section 103(c)(2). Such procedure shall
18 not include a requirement that the applicant
19 pay a fee, except that the Secretary may re-
20 quire an applicant who meets the requirements
21 for lawful permanent residence without the con-
22 ditional basis under section 103(c)(2) to pay a
23 fee that is commensurate with the cost of pro-
24 cessing the application, subject to the exemption
25 under section 203(c).

1 (3) BACKGROUND CHECKS.—The Secretary
2 may not grant an alien permanent resident status on
3 a conditional basis under this section until the re-
4 quirements of section 202 are satisfied.

5 (4) MILITARY SELECTIVE SERVICE.—An alien
6 applying for permanent resident status on a condi-
7 tional basis under this section, or without the condi-
8 tional basis as provided in section 103(c)(2), shall
9 establish that the alien has registered under the
10 Military Selective Service Act (50 U.S.C. 3801 et
11 seq.), if the alien is subject to registration under
12 such Act.

13 (c) CRIMINAL AND NATIONAL SECURITY BARS.—

14 (1) GROUNDS OF INELIGIBILITY.—Except as
15 provided in paragraph (2), an alien is ineligible for
16 adjustment of status under this Act (whether on a
17 conditional basis or without the conditional basis as
18 provided in section 103(c)(2)) if any of the following
19 apply:

20 (A) The alien is inadmissible under para-
21 graph (2) or (3) of section 212(a) of the Immi-
22 gration and Nationality Act (8 U.S.C. 1182(a)).

23 (B) Excluding any offense under State law
24 for which an essential element is the alien's im-

1 migration status, and any minor traffic offense,
2 the alien has been convicted of—

3 (i) any felony offense;

4 (ii) 3 or more misdemeanor offenses
5 (excluding simple possession of cannabis or
6 cannabis-related paraphernalia, any offense
7 involving cannabis or cannabis-related par-
8 aphernalia which is no longer prosecutable
9 in the State in which the conviction was
10 entered, and any offense involving civil dis-
11 obedience without violence) not occurring
12 on the same date, and not arising out of
13 the same act, omission, or scheme of mis-
14 conduct; or

15 (iii) a misdemeanor offense of domes-
16 tic violence, unless the alien demonstrates
17 that such crime is related to the alien hav-
18 ing been—

19 (I) a victim of domestic violence,
20 sexual assault, stalking, child abuse or
21 neglect, abuse or neglect in later life,
22 or human trafficking;

23 (II) battered or subjected to ex-
24 treme cruelty; or

1 (III) a victim of criminal activity
2 described in section 101(a)(15)(U)(iii)
3 of the Immigration and Nationality
4 Act (8 U.S.C. 1101(a)(15)(U)(iii)).

5 (2) WAIVERS FOR CERTAIN MISDEMEANORS.—
6 For humanitarian purposes, family unity, or if oth-
7 erwise in the public interest, the Secretary may—

8 (A) waive the grounds of inadmissibility
9 under subparagraphs (A), (C), and (D) of sec-
10 tion 212(a)(2) of the Immigration and Nation-
11 ality Act (8 U.S.C. 1182(a)(2)), unless the con-
12 viction forming the basis for inadmissibility
13 would otherwise render the alien ineligible
14 under paragraph (1)(B) (subject to subpara-
15 graph (B)); and

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

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

23 (ii) up to two misdemeanor offenses if
24 the alien has not been convicted of any of-
25 fense in the 10-year period preceding the

1 date on which the alien applies for adjust-
2 ment of status under this Act.

3 (3) AUTHORITY TO CONDUCT SECONDARY RE-
4 VIEW.—

5 (A) IN GENERAL.—Notwithstanding an
6 alien’s eligibility for adjustment of status under
7 this Act, and subject to the procedures de-
8 scribed in this paragraph, the Secretary of
9 Homeland Security may, as a matter of non-
10 delegable discretion, provisionally deny an appli-
11 cation for adjustment of status (whether on a
12 conditional basis or without the conditional
13 basis as provided in section 103(c)(2)) if the
14 Secretary, based on clear and convincing evi-
15 dence, which shall include credible law enforce-
16 ment information, determines that the alien is
17 described in subparagraph (B) or (D).

18 (B) PUBLIC SAFETY.—An alien is de-
19 scribed in this subparagraph if—

20 (i) excluding simple possession of can-
21 nabis or cannabis-related paraphernalia,
22 any offense involving cannabis or cannabis-
23 related paraphernalia which is no longer
24 prosecutable in the State in which the con-
25 viction was entered, any offense under

1 State law for which an essential element is
2 the alien's immigration status, any offense
3 involving civil disobedience without vio-
4 lence, and any minor traffic offense, the
5 alien—

6 (I) has been convicted of a mis-
7 demeanor offense punishable by a
8 term of imprisonment of more than
9 30 days; or

10 (II) has been adjudicated delin-
11 quent in a State or local juvenile court
12 proceeding that resulted in a disposi-
13 tion ordering placement in a secure
14 facility; and

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

18 (C) PUBLIC SAFETY DETERMINATION.—

19 For purposes of subparagraph (B)(ii), the Sec-
20 retary shall consider the recency of the convic-
21 tion or adjudication; the length of any imposed
22 sentence or placement; the nature and serious-
23 ness of the conviction or adjudication, including
24 whether the elements of the offense include the
25 unlawful possession or use of a deadly weapon

1 to commit an offense or other conduct intended
2 to cause serious bodily injury; and any miti-
3 gating factors pertaining to the alien's role in
4 the commission of the offense.

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

14 (E) EVIDENTIARY LIMITATION.—For pur-
15 poses of subparagraph (D), allegations of gang
16 membership obtained from a State or Federal
17 in-house or local database, or a network of
18 databases used for the purpose of recording and
19 sharing activities of alleged gang members
20 across law enforcement agencies, shall not es-
21 tablish the participation described in such para-
22 graph.

23 (F) NOTICE.—

24 (i) IN GENERAL.—Prior to rendering
25 a discretionary decision under this para-

1 graph, the Secretary of Homeland Security
2 shall provide written notice of the intent to
3 provisionally deny the application to the
4 alien (or the alien's counsel of record, if
5 any) by certified mail and, if an electronic
6 mail address is provided, by electronic mail
7 (or other form of electronic communica-
8 tion). Such notice shall—

9 (I) articulate with specificity all
10 grounds for the preliminary deter-
11 mination, including the evidence relied
12 upon to support the determination;
13 and

14 (II) provide the alien with not
15 less than 90 days to respond.

16 (ii) SECOND NOTICE.—Not more than
17 30 days after the issuance of the notice
18 under clause (i), the Secretary of Home-
19 land Security shall provide a second writ-
20 ten notice that meets the requirements of
21 such clause.

22 (iii) NOTICE NOT RECEIVED.—Not-
23 withstanding any other provision of law, if
24 an applicant provides good cause for not
25 contesting a provisional denial under this

1 paragraph, including a failure to receive
2 notice as required under this subpara-
3 graph, the Secretary of Homeland Security
4 shall, upon a motion filed by the alien, re-
5 open an application for adjustment of sta-
6 tus under this Act and allow the applicant
7 an opportunity to respond, consistent with
8 clause (i)(II).

9 (G) JUDICIAL REVIEW.—An alien is enti-
10 tled to judicial review of the Secretary’s deci-
11 sion to provisionally deny an application under
12 this paragraph in accordance with the proce-
13 dures described in section 206(c).

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

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

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

24 (C) the term “crime of domestic violence”
25 means any offense that has as an element the

1 use, attempted use, or threatened use of phys-
2 ical force against a person committed by a cur-
3 rent or former spouse of the person, by an indi-
4 vidual with whom the person shares a child in
5 common, by an individual who is cohabiting
6 with or has cohabited with the person as a
7 spouse, by an individual similarly situated to a
8 spouse of the person under the domestic or
9 family violence laws of the jurisdiction where
10 the offense occurs, or by any other individual
11 against a person who is protected from that in-
12 dividual's acts under the domestic or family vio-
13 lence laws of the United States or any State,
14 Indian tribal government, or unit of local gov-
15 ernment; and

16 (D) the term “convicted” or “conviction”
17 does not include a judgment that has been ex-
18 punged or set aside, that resulted in a rehabili-
19 tative disposition, or the equivalent.

20 (d) LIMITATION ON REMOVAL OF CERTAIN ALIEN
21 MINORS.—An alien who is under 18 years of age and
22 meets the requirements under subparagraphs (A), (B),
23 and (C) of subsection (b)(1) shall be provided a reasonable
24 opportunity to meet the educational requirements under
25 subparagraph (D) of such subsection. The Attorney Gen-

1 eral or the Secretary may not commence or continue with
2 removal proceedings against such an alien.

3 (e) **WITHDRAWAL OF APPLICATION.**—The Secretary
4 of Homeland Security shall, upon receipt of a request to
5 withdraw an application for adjustment of status under
6 this section, cease processing of the application, and close
7 the case. Withdrawal of the application under this sub-
8 section shall not prejudice any future application filed by
9 the applicant for any immigration benefit under this Act
10 or under the Immigration and Nationality Act (8 U.S.C.
11 1101 et seq.).

12 **SEC. 102. TERMS OF PERMANENT RESIDENT STATUS ON A**
13 **CONDITIONAL BASIS.**

14 (a) **PERIOD OF STATUS.**—Permanent resident status
15 on a conditional basis is—

16 (1) valid for a period of 10 years, unless such
17 period is extended by the Secretary; and

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

19 (b) **NOTICE OF REQUIREMENTS.**—At the time an
20 alien obtains permanent resident status on a conditional
21 basis, the Secretary shall provide notice to the alien re-
22 garding the provisions of this Act and the requirements
23 to have the conditional basis of such status removed.

1 (c) REVOCATION OF STATUS.—The Secretary may
2 revoke the permanent resident status on a conditional
3 basis of an alien only if the Secretary—

4 (1) determines that the alien ceases to meet the
5 requirements under section 101(b)(1)(C); and

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

7 (A) notice of the proposed revocation; and

8 (B) the opportunity for a hearing to pro-
9 vide evidence that the alien meets such require-
10 ments or otherwise to contest the proposed rev-
11 ocation.

12 (d) RETURN TO PREVIOUS IMMIGRATION STATUS.—

13 An alien whose permanent resident status on a conditional
14 basis expires under subsection (a)(1) or is revoked under
15 subsection (c), shall return to the immigration status that
16 the alien had immediately before receiving permanent resi-
17 dent status on a conditional basis.

18 **SEC. 103. REMOVAL OF CONDITIONAL BASIS OF PERMA-**
19 **NENT RESIDENT STATUS.**

20 (a) ELIGIBILITY FOR REMOVAL OF CONDITIONAL
21 BASIS.—

22 (1) IN GENERAL.—Subject to paragraph (2),
23 the Secretary shall remove the conditional basis of
24 an alien's permanent resident status granted under

1 this Act and grant the alien status as an alien law-
2 fully admitted for permanent residence if the alien—

3 (A) is described in section 101(b)(1)(C);

4 (B) has not abandoned the alien's resi-
5 dence in the United States during the period in
6 which the alien has permanent resident status
7 on a conditional basis; and

8 (C)(i) has obtained a degree from an insti-
9 tution of higher education, or has completed at
10 least 2 years, in good standing, of a program in
11 the United States leading to a bachelor's degree
12 or higher degree or a recognized postsecondary
13 credential from an area career and technical
14 education school providing education at the
15 postsecondary level;

16 (ii) has served in the Uniformed Services
17 for at least 2 years and, if discharged, received
18 an honorable discharge; or

19 (iii) demonstrates earned income for peri-
20 ods totaling at least 3 years and at least 75
21 percent of the time that the alien has had a
22 valid employment authorization, except that, in
23 the case of an alien who was enrolled in an in-
24 stitution of higher education, an area career
25 and technical education school to obtain a rec-

1 ognized postsecondary credential, or an edu-
2 cation program described in section
3 101(b)(1)(D)(iii), the Secretary shall reduce
4 such total 3-year requirement by the total of
5 such periods of enrollment.

6 (2) HARDSHIP EXCEPTION.—

7 (A) IN GENERAL.—The Secretary shall re-
8 move the conditional basis of an alien’s perma-
9 nent resident status and grant the alien status
10 as an alien lawfully admitted for permanent
11 residence if the alien—

12 (i) satisfies the requirements under
13 subparagraphs (A) and (B) of paragraph
14 (1);

15 (ii) demonstrates compelling cir-
16 cumstances for the inability to satisfy the
17 requirements under subparagraph (C) of
18 such paragraph; and

19 (iii) demonstrates that—

20 (I) the alien has a disability;

21 (II) the alien is a full-time care-
22 giver; or

23 (III) the removal of the alien
24 from the United States would result
25 in hardship to the alien or the alien’s

1 spouse, parent, or child who is a na-
2 tional of the United States or is law-
3 fully admitted for permanent resi-
4 dence.

5 (3) CITIZENSHIP REQUIREMENT.—

6 (A) IN GENERAL.—Except as provided in
7 subparagraph (B), the conditional basis of an
8 alien's permanent resident status granted under
9 this Act may not be removed unless the alien
10 demonstrates that the alien satisfies the re-
11 quirements under section 312(a) of the Immi-
12 gration and Nationality Act (8 U.S.C. 1423(a)).

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

17 (4) APPLICATION FEE.—The Secretary may,
18 subject to an exemption under section 203(c), re-
19 quire aliens applying for removal of the conditional
20 basis of an alien's permanent resident status under
21 this section to pay a reasonable fee that is commensurate with the cost of processing the application.

22 (5) BACKGROUND CHECK.—The Secretary may
23 not remove the conditional basis of an alien's perma-
24

1 nent resident status until the requirements of sec-
2 tion 202 are satisfied.

3 (b) TREATMENT FOR PURPOSES OF NATURALIZA-
4 TION.—

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

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

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

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

23 (2) APPROVAL WITH REGARD TO INITIAL APPLI-
24 CATIONS.—

1 (A) IN GENERAL.—Notwithstanding any
2 other provision of law, the Secretary or the At-
3 torney General shall cancel the removal of, and
4 adjust to the status of an alien lawfully admit-
5 ted for permanent resident status without con-
6 ditional basis, any alien who—

7 (i) demonstrates eligibility for lawful
8 permanent residence status on a condi-
9 tional basis under section 101(b); and

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

17 (B) BACKGROUND CHECKS.—Subsection
18 (a)(5) shall apply to an alien seeking lawful
19 permanent resident status without conditional
20 basis in an initial application in the same man-
21 ner as it applies to an alien seeking removal of
22 the conditional basis of an alien's permanent
23 resident status. Section 101(b)(3) shall not be
24 construed to require the Secretary to conduct

1 more than one identical security or law enforce-
2 ment background check on such an alien.

3 (C) APPLICATION FEES.—In the case of an
4 alien seeking lawful permanent resident status
5 without conditional basis in an initial applica-
6 tion, the alien shall pay the fee required under
7 subsection (a)(4), subject to the exemption al-
8 lowed under section 203(c), but shall not be re-
9 quired to pay the application fee under section
10 101(b)(2).

11 **TITLE II—GENERAL PROVISIONS**

12 **SEC. 201. DEFINITIONS.**

13 In this Act:

14 (1) IN GENERAL.—Except as otherwise specifi-
15 cally provided, any term used in this Act that is
16 used in the immigration laws shall have the meaning
17 given such term in the immigration laws.

18 (2) APPROPRIATE UNITED STATES DISTRICT
19 COURT.—The term “appropriate United States dis-
20 trict court” mean the United States District Court
21 for the District of Columbia or the United States
22 district court with jurisdiction over the alien’s prin-
23 cipal place of residence.

24 (3) AREA CAREER AND TECHNICAL EDUCATION
25 SCHOOL.—The term “area career and technical edu-

1 cation school” has the meaning given such term in
2 section 3 of the Carl D. Perkins Career and Tech-
3 nical Education Act of 2006 (20 U.S.C. 2302).

4 (4) DACA.—The term “DACA” means de-
5 ferred action granted to an alien pursuant to the
6 Deferred Action for Childhood Arrivals policy an-
7 nounced by the Secretary of Homeland Security on
8 June 15, 2012.

9 (5) DISABILITY.—The term “disability” has the
10 meaning given such term in section 3(1) of the
11 Americans with Disabilities Act of 1990 (42 U.S.C.
12 12102(1)).

13 (6) FEDERAL POVERTY LINE.—The term “Fed-
14 eral poverty line” has the meaning given such term
15 in section 213A(h) of the Immigration and Nation-
16 ality Act (8 U.S.C. 1183a).

17 (7) HIGH SCHOOL; SECONDARY SCHOOL.—The
18 terms “high school” and “secondary school” have
19 the meanings given such terms in section 8101 of
20 the Elementary and Secondary Education Act of
21 1965 (20 U.S.C. 7801).

22 (8) IMMIGRATION LAWS.—The term “immigra-
23 tion laws” has the meaning given such term in sec-
24 tion 101(a)(17) of the Immigration and Nationality
25 Act (8 U.S.C. 1101(a)(17)).

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

3 (A) except as provided in subparagraph
4 (B), has the meaning given such term in section
5 102 of the Higher Education Act of 1965 (20
6 U.S.C. 1002); and

7 (B) does not include an institution of high-
8 er education outside of the United States.

9 (10) RECOGNIZED POSTSECONDARY CREDEN-
10 TIAL.—The term “recognized postsecondary creden-
11 tial” has the meaning given such term in section 3
12 of the Workforce Innovation and Opportunity Act
13 (29 U.S.C. 3102).

14 (11) SECRETARY.—Except as otherwise specifi-
15 cally provided, the term “Secretary” means the Sec-
16 retary of Homeland Security.

17 (12) UNIFORMED SERVICES.—The term “Uni-
18 formed Services” has the meaning given the term
19 “uniformed services” in section 101(a) of title 10,
20 United States Code.

21 **SEC. 202. SUBMISSION OF BIOMETRIC AND BIOGRAPHIC**
22 **DATA; BACKGROUND CHECKS.**

23 (a) SUBMISSION OF BIOMETRIC AND BIOGRAPHIC
24 DATA.—The Secretary may not grant an alien adjustment
25 of status under this Act, on either a conditional or perma-

1 nent basis, unless the alien submits biometric and bio-
2 graphic data, in accordance with procedures established
3 by the Secretary. The Secretary shall provide an alter-
4 native procedure for aliens who are unable to provide such
5 biometric or biographic data because of a physical impair-
6 ment.

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

18 **SEC. 203. LIMITATION ON REMOVAL; APPLICATION AND**
19 **FEE EXEMPTION; WAIVER OF GROUNDS FOR**
20 **INADMISSIBILITY AND OTHER CONDITIONS**
21 **ON ELIGIBLE INDIVIDUALS.**

22 (a) **LIMITATION ON REMOVAL.**—An alien who ap-
23 pears to be prima facie eligible for relief under this Act
24 shall be given a reasonable opportunity to apply for such
25 relief and may not be removed until, subject to section

1 206(c), a final decision establishing ineligibility for relief
2 is rendered.

3 (b) APPLICATION.—An alien present in the United
4 States who has been ordered removed or has been per-
5 mitted to depart voluntarily from the United States may,
6 notwithstanding such order or permission to depart, apply
7 for adjustment of status under this Act. Such alien shall
8 not be required to file a separate motion to reopen, recon-
9 sider, or vacate the order of removal. If the Secretary ap-
10 proves the application, the Secretary shall cancel the order
11 of removal. If the Secretary renders a final administrative
12 decision to deny the application, the order of removal or
13 permission to depart shall be effective and enforceable to
14 the same extent as if the application had not been made,
15 only after all available administrative and judicial rem-
16 edies have been exhausted.

17 (c) FEE EXEMPTION.—An applicant may be exempt-
18 ed from paying an application fee required under this Act
19 if the applicant—

20 (1) is younger than 18 years of age;

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

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

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

5 (d) WAIVER OF GROUNDS OF INADMISSIBILITY.—

6 With respect to any benefit under this Act, and in addition
7 to the waivers under section 101(e)(2), the Secretary may
8 waive the grounds of inadmissibility under paragraph (1),
9 (6)(E), (6)(G), or (10)(D) of section 212(a) of the Immi-
10 gration and Nationality Act (8 U.S.C. 1182(a)) for hu-
11 manitarian purposes, for family unity, or because the
12 waiver is otherwise in the public interest.

13 (e) ADVANCE PAROLE.—During the period beginning
14 on the date on which an alien applies for adjustment of
15 status under this Act and ending on the date on which
16 the Secretary makes a final decision regarding such appli-
17 cation, the alien shall be eligible to apply for advance pa-
18 role. Section 101(g) of the Immigration and Nationality
19 Act (8 U.S.C. 1101(g)) shall not apply to an alien granted
20 advance parole under this section.

21 (f) EMPLOYMENT.—An alien whose removal is stayed
22 pursuant to this Act, who may not be placed in removal
23 proceedings pursuant to this Act, or who has pending an
24 application under this Act, shall, upon application to the

1 Secretary, be granted an employment authorization docu-
2 ment.

3 **SEC. 204. DETERMINATION OF CONTINUOUS PRESENCE**
4 **AND RESIDENCE.**

5 (a) EFFECT OF NOTICE TO APPEAR.—Any period of
6 continuous physical presence or continuous residence in
7 the United States of an alien who applies for permanent
8 resident status under this Act (whether on a conditional
9 basis or without the conditional basis as provided in sec-
10 tion 103(c)(2)) shall not terminate when the alien is
11 served a notice to appear under section 239(a) of the Im-
12 migration and Nationality Act (8 U.S.C. 1229(a)).

13 (b) TREATMENT OF CERTAIN BREAKS IN PRESENCE
14 OR RESIDENCE.—

15 (1) IN GENERAL.—Except as provided in para-
16 graphs (2) and (3), an alien shall be considered to
17 have failed to maintain—

18 (A) continuous physical presence in the
19 United States under this Act if the alien has
20 departed from the United States for any period
21 exceeding 90 days or for any periods, in the ag-
22 gregate, exceeding 180 days; and

23 (B) continuous residence in the United
24 States under this Act if the alien has departed
25 from the United States for any period exceeding

1 180 days, unless the alien establishes to the
2 satisfaction of the Secretary of Homeland Secu-
3 rity that the alien did not in fact abandon resi-
4 dence in the United States during such period.

5 (2) EXTENSIONS FOR EXTENUATING CIR-
6 CUMSTANCES.—The Secretary may extend the time
7 periods described in paragraph (1) for an alien who
8 demonstrates that the failure to timely return to the
9 United States was due to extenuating circumstances
10 beyond the alien’s control, including the serious ill-
11 ness of the alien, or death or serious illness of a par-
12 ent, grandparent, sibling, or child of the alien.

13 (3) TRAVEL AUTHORIZED BY THE SEC-
14 RETARY.—Any period of travel outside of the United
15 States by an alien that was authorized by the Sec-
16 retary may not be counted toward any period of de-
17 parture from the United States under paragraph
18 (1).

19 (c) WAIVER OF PHYSICAL PRESENCE.—With respect
20 to aliens who were removed or departed the United States
21 on or after January 20, 2017, and who were continuously
22 physically present in the United States for at least 4 years
23 prior to such removal or departure, the Secretary may,
24 as a matter of discretion, waive the physical presence re-
25 quirement under section 101(b)(1)(A) for humanitarian

1 purposes, for family unity, or because a waiver is other-
2 wise in the public interest. The Secretary, in consultation
3 with the Secretary of State, shall establish a procedure
4 for such aliens to apply for relief under section 101 from
5 outside the United States if they would have been eligible
6 for relief under such section, but for their removal or de-
7 parture.

8 **SEC. 205. EXEMPTION FROM NUMERICAL LIMITATIONS.**

9 Nothing in this Act or in any other law may be con-
10 strued to apply a numerical limitation on the number of
11 aliens who may be granted permanent resident status
12 under this Act (whether on a conditional basis, or without
13 the conditional basis as provided in section 103(c)(2)).

14 **SEC. 206. AVAILABILITY OF ADMINISTRATIVE AND JUDI-**
15 **CIAL REVIEW.**

16 (a) **ADMINISTRATIVE REVIEW.**—Not later than 30
17 days after the date of the enactment of this Act, the Sec-
18 retary shall provide to aliens who have applied for adjust-
19 ment of status under this Act a process by which an appli-
20 cant may seek administrative appellate review of a denial
21 of an application for adjustment of status, or a revocation
22 of such status.

23 (b) **JUDICIAL REVIEW.**—Except as provided in sub-
24 section (c), and notwithstanding any other provision of
25 law, an alien may seek judicial review of a denial of an

1 application for adjustment of status, or a revocation of
2 such status, under this Act in an appropriate United
3 States district court.

4 (c) JUDICIAL REVIEW OF A PROVISIONAL DENIAL.—

5 (1) IN GENERAL.—Notwithstanding any other
6 provision of law, if, after notice and the opportunity
7 to respond under section 101(c)(3)(E), the Secretary
8 provisionally denies an application for adjustment of
9 status under this Act, the alien shall have 60 days
10 from the date of the Secretary's determination to
11 seek review of such determination in an appropriate
12 United States district court.

13 (2) SCOPE OF REVIEW AND DECISION.—Not-
14 withstanding any other provision of law, review
15 under paragraph (1) shall be de novo and based
16 solely on the administrative record, except that the
17 applicant shall be given the opportunity to supple-
18 ment the administrative record and the Secretary
19 shall be given the opportunity to rebut the evidence
20 and arguments raised in such submission. Upon
21 issuing its decision, the court shall remand the mat-
22 ter, with appropriate instructions, to the Depart-
23 ment of Homeland Security to render a final deci-
24 sion on the application.

1 (3) APPOINTED COUNSEL.—Notwithstanding
2 any other provision of law, an applicant seeking ju-
3 dicial review under paragraph (1) shall be rep-
4 resented by counsel. Upon the request of the appli-
5 cant, counsel shall be appointed for the applicant, in
6 accordance with procedures to be established by the
7 Attorney General within 90 days of the date of the
8 enactment of this Act, and shall be funded in ac-
9 cordance with fees collected and deposited in the Im-
10 migration Counsel Account under section 212.

11 (d) STAY OF REMOVAL.—

12 (1) IN GENERAL.—Except as provided in para-
13 graph (2), an alien seeking administrative or judicial
14 review under this Act may not be removed from the
15 United States until a final decision is rendered es-
16 tablishing that the alien is ineligible for adjustment
17 of status under this Act.

18 (2) EXCEPTION.—The Secretary may remove
19 an alien described in paragraph (1) pending judicial
20 review if such removal is based on criminal or na-
21 tional security grounds described in this Act. Such
22 removal shall not affect the alien's right to judicial
23 review under this Act. The Secretary shall promptly
24 return a removed alien if a decision to deny an ap-

1 plication for adjustment of status under this Act, or
2 to revoke such status, is reversed.

3 **SEC. 207. DOCUMENTATION REQUIREMENTS.**

4 (a) DOCUMENTS ESTABLISHING IDENTITY.—An
5 alien’s application for permanent resident status under
6 this Act (whether on a conditional basis, or without the
7 conditional basis as provided in section 103(c)(2)) may in-
8 clude, as evidence of identity, the following:

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

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

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

19 (4) A Uniformed Services identification card
20 issued by the Department of Defense.

21 (5) Any immigration or other document issued
22 by the United States Government bearing the alien’s
23 name and photograph.

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

1 (7) Any other evidence determined to be cred-
2 ible by the Secretary.

3 (b) DOCUMENTS ESTABLISHING ENTRY, CONTIN-
4 UOUS PHYSICAL PRESENCE, LACK OF ABANDONMENT OF
5 RESIDENCE.—To establish that an alien was younger than
6 18 years of age on the date on which the alien entered
7 the United States, and has continuously resided in the
8 United States since such entry, as required under section
9 101(b)(1)(B), that an alien has been continuously phys-
10 ically present in the United States, as required under sec-
11 tion 101(b)(1)(A), or that an alien has not abandoned res-
12 idence in the United States, as required under section
13 103(a)(1)(B), the alien may submit the following forms
14 of evidence:

15 (1) Passport entries, including admission
16 stamps on the alien's passport.

17 (2) Any document from the Department of Jus-
18 tice or the Department of Homeland Security noting
19 the alien's date of entry into the United States.

20 (3) Records from any educational institution
21 the alien has attended in the United States.

22 (4) Employment records of the alien that in-
23 clude the employer's name and contact information,
24 or other records demonstrating earned income.

1 (5) Records of service from the Uniformed
2 Services.

3 (6) Official records from a religious entity con-
4 firming the alien's participation in a religious cere-
5 mony.

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

8 (8) Hospital or medical records showing med-
9 ical treatment or hospitalization, the name of the
10 medical facility or physician, and the date of the
11 treatment or hospitalization.

12 (9) Automobile license receipts or registration.

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

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

18 (12) Tax receipts.

19 (13) Insurance policies.

20 (14) Remittance records, including copies of
21 money order receipts sent in or out of the country.

22 (15) Travel records.

23 (16) Dated bank transactions.

24 (17) Two or more sworn affidavits from individ-
25 uals who are not related to the alien who have direct

1 knowledge of the alien's continuous physical pres-
2 ence in the United States, that contain—

3 (A) the name, address, and telephone num-
4 ber of the affiant; and

5 (B) the nature and duration of the rela-
6 tionship between the affiant and the alien.

7 (18) Any other evidence determined to be cred-
8 ible by the Secretary.

9 (c) DOCUMENTS ESTABLISHING ADMISSION TO AN
10 INSTITUTION OF HIGHER EDUCATION.—To establish that
11 an alien has been admitted to an institution of higher edu-
12 cation, the alien may submit to the Secretary a document
13 from the institution of higher education certifying that the
14 alien—

15 (1) has been admitted to the institution; or

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

18 (d) DOCUMENTS ESTABLISHING RECEIPT OF A DE-
19 GREE FROM AN INSTITUTION OF HIGHER EDUCATION.—
20 To establish that an alien has acquired a degree from an
21 institution of higher education in the United States, the
22 alien may submit to the Secretary a diploma or other doc-
23 ument from the institution stating that the alien has re-
24 ceived such a degree.

1 (e) DOCUMENTS ESTABLISHING RECEIPT OF A HIGH
2 SCHOOL DIPLOMA, GENERAL EDUCATIONAL DEVELOP-
3 MENT CREDENTIAL, OR A RECOGNIZED EQUIVALENT.—

4 To establish that in the United States an alien has earned
5 a high school diploma or a commensurate alternative
6 award from a public or private high school, has obtained
7 the General Education Development credential, or other-
8 wise has satisfied section 101(b)(1)(D)(iii), the alien may
9 submit to the Secretary the following:

10 (1) A high school diploma, certificate of comple-
11 tion, or other alternate award.

12 (2) A high school equivalency diploma or certifi-
13 cate recognized under State law.

14 (3) Evidence that the alien passed a State-au-
15 thorized exam, including the General Education De-
16 velopment test, in the United States.

17 (4) Evidence that the alien successfully com-
18 pleted an area career and technical education pro-
19 gram, such as a certification, certificate, or similar
20 alternate award.

21 (5) Evidence that the alien obtained a recog-
22 nized postsecondary credential.

23 (6) Any other evidence determined to be cred-
24 ible by the Secretary.

1 (f) DOCUMENTS ESTABLISHING ENROLLMENT IN AN
2 EDUCATIONAL PROGRAM.—To establish that an alien is
3 enrolled in any school or education program described in
4 section 101(b)(1)(D)(iv) or 103(a)(1)(C), the alien may
5 submit school records from the United States school that
6 the alien is currently attending that include—

7 (1) the name of the school; and

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

10 (g) DOCUMENTS ESTABLISHING EXEMPTION FROM
11 APPLICATION FEES.—To establish that an alien is exempt
12 from an application fee under section 203(c), the alien
13 may submit to the Secretary the following relevant docu-
14 ments:

15 (1) DOCUMENTS TO ESTABLISH AGE.—To es-
16 tablish that an alien meets an age requirement, the
17 alien may provide proof of identity, as described in
18 subsection (a), that establishes that the alien is
19 younger than 18 years of age.

20 (2) DOCUMENTS TO ESTABLISH INCOME.—To
21 establish the alien’s income, the alien may provide—

22 (A) employment records or other records of
23 earned income, including records that have been
24 maintained by the Social Security Administra-

1 tion, the Internal Revenue Service, or any other
2 Federal, State, or local government agency;

3 (B) bank records; or

4 (C) at least 2 sworn affidavits from indi-
5 viduals who are not related to the alien and
6 who have direct knowledge of the alien's work
7 and income that contain—

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

10 (ii) the nature and duration of the re-
11 lationship between the affiant and the
12 alien.

13 (3) DOCUMENTS TO ESTABLISH FOSTER CARE,
14 LACK OF FAMILIAL SUPPORT, OR SERIOUS, CHRONIC
15 DISABILITY.—To establish that the alien is in foster
16 care, lacks parental or familial support, or has a se-
17 rious, chronic disability, the alien may provide at
18 least 2 sworn affidavits from individuals who are not
19 related to the alien and who have direct knowledge
20 of the circumstances that contain—

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

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

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

5 (h) DOCUMENTS ESTABLISHING QUALIFICATION FOR
6 HARDSHIP EXEMPTION.—To establish that an alien satis-
7 fies one of the criteria for the hardship exemption set forth
8 in section 103(a)(2)(A)(iii), the alien may submit to the
9 Secretary at least 2 sworn affidavits from individuals who
10 are not related to the alien and who have direct knowledge
11 of the circumstances that warrant the exemption, that
12 contain—

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

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

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

22 (1) a Department of Defense form DD-214;

23 (2) a National Guard Report of Separation and
24 Record of Service form 22;

1 (3) personnel records for such service from the
2 appropriate Uniformed Service; or

3 (4) health records from the appropriate Uni-
4 formed Service.

5 (j) DOCUMENTS ESTABLISHING EARNED INCOME.—

6 (1) IN GENERAL.—An alien may satisfy the
7 earned income requirement under section
8 103(a)(1)(C)(iii) by submitting records that—

9 (A) establish compliance with such require-
10 ment; and

11 (B) have been maintained by the Social Se-
12 curity Administration, the Internal Revenue
13 Service, or any other Federal, State, or local
14 government agency.

15 (2) OTHER DOCUMENTS.—An alien who is un-
16 able to submit the records described in paragraph
17 (1) may satisfy the earned income requirement by
18 submitting at least 2 types of reliable documents
19 that provide evidence of employment or other forms
20 of earned income, including—

21 (A) bank records;

22 (B) business records;

23 (C) employer or contractor records;

1 (D) records of a labor union, day labor
2 center, or organization that assists workers in
3 employment;

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

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

9 (ii) the nature and duration of the re-
10 lationship between the affiant and the
11 alien;

12 (F) remittance records; or

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

15 (k) AUTHORITY TO PROHIBIT USE OF CERTAIN DOC-
16 UMENTS.—If the Secretary determines, after publication
17 in the Federal Register and an opportunity for public com-
18 ment, that any document or class of documents does not
19 reliably establish identity or that permanent resident sta-
20 tus under this Act (whether on a conditional basis, or
21 without the conditional basis as provided in section
22 103(c)(2)) is being obtained fraudulently to an unaccept-
23 able degree, the Secretary may prohibit or restrict the use
24 of such document or class of documents.

1 **SEC. 208. RULE MAKING.**

2 (a) IN GENERAL.—Not later than 90 days after the
3 date of the enactment of this Act, the Secretary shall pub-
4 lish in the Federal Register interim final rules imple-
5 menting this Act, which shall allow eligible individuals to
6 immediately apply for relief under section 101 or
7 103(c)(2). Notwithstanding section 553 of title 5, United
8 States Code, the regulation shall be effective, on an in-
9 terim basis, immediately upon publication, but may be
10 subject to change and revision after public notice and op-
11 portunity for a period of public comment. The Secretary
12 shall finalize such rules not later than 180 days after the
13 date of publication.

14 (b) PAPERWORK REDUCTION ACT.—The require-
15 ments under chapter 35 of title 44, United States Code,
16 (commonly known as the “Paperwork Reduction Act”)
17 shall not apply to any action to implement this Act.

18 **SEC. 209. CONFIDENTIALITY OF INFORMATION.**

19 (a) IN GENERAL.—The Secretary may not disclose
20 or use information (including information provided during
21 administrative or judicial review) provided in applications
22 filed under this Act or in requests for DACA for the pur-
23 pose of immigration enforcement.

24 (b) REFERRALS PROHIBITED.—The Secretary, based
25 solely on information provided in an application for adjust-
26 ment of status under this Act (including information pro-

1 vided during administrative or judicial review) or an appli-
2 cation for DACA, may not refer an applicant to U.S. Im-
3 migration and Customs Enforcement, U.S. Customs and
4 Border Protection, or any designee of either such entity.

5 (c) LIMITED EXCEPTION.—Notwithstanding sub-
6 sections (a) and (b), information provided in an applica-
7 tion for adjustment of status under this Act may be
8 shared with Federal security and law enforcement agen-
9 cies—

10 (1) for assistance in the consideration of an ap-
11 plication for adjustment of status under this Act;

12 (2) to identify or prevent fraudulent claims;

13 (3) for national security purposes; or

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

16 (d) PENALTY.—Any person who knowingly uses, pub-
17 lishes, or permits information to be examined in violation
18 of this section shall be fined not more than \$10,000.

19 **SEC. 210. GRANT PROGRAM TO ASSIST ELIGIBLE APPLI-**
20 **CANTS.**

21 (a) ESTABLISHMENT.—The Secretary of Homeland
22 Security shall establish, within U.S. Citizenship and Immi-
23 gration Services, a program to award grants, on a com-
24 petitive basis, to eligible nonprofit organizations that will
25 use the funding to assist eligible applicants under this Act

1 by providing them with the services described in sub-
2 section (b).

3 (b) USE OF FUNDS.—Grant funds awarded under
4 this section shall 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 permanent resident status
8 under this Act (whether on a conditional basis, or
9 without the conditional basis as provided in section
10 103(c)(2)), particularly to individuals potentially eli-
11 gible for such status;

12 (2) assistance, within the scope of authorized
13 practice of immigration law, to individuals submit-
14 ting applications for adjustment of status under this
15 Act (whether on a conditional basis, or without the
16 conditional basis as provided in section 103(c)(2)),
17 including—

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

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

24 (C) providing any other assistance that the
25 Secretary or grantee considers useful or nec-

1 essary to apply for adjustment of status under
2 this Act (whether on a conditional basis, or
3 without the conditional basis as provided in sec-
4 tion 103(e)(2)); and

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

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

10 (B) in civics and English as a second lan-
11 guage;

12 (C) in preparation for the General Edu-
13 cation Development test; and

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

16 (c) AUTHORIZATION OF APPROPRIATIONS.—

17 (1) AMOUNTS AUTHORIZED.—There are author-
18 ized to be appropriated such sums as may be nec-
19 essary for each of the fiscal years 2020 through
20 2030 to carry out this section.

21 (2) AVAILABILITY.—Any amounts appropriated
22 pursuant to paragraph (1) shall remain available
23 until expended.

1 **SEC. 211. PROVISIONS AFFECTING ELIGIBILITY FOR AD-**
2 **JUSTMENT OF STATUS.**

3 An alien's eligibility to be lawfully admitted for per-
4 manent residence under this Act (whether on a conditional
5 basis, or without the conditional basis as provided in sec-
6 tion 103(c)(2)) shall not preclude the alien from seeking
7 any status under any other provision of law for which the
8 alien may otherwise be eligible.

9 **SEC. 212. SUPPLEMENTARY SURCHARGE FOR APPOINTED**
10 **COUNSEL.**

11 (a) IN GENERAL.—Except as provided in section 202
12 and in cases where the applicant is exempt from paying
13 a fee under section 203(c), in any case in which a fee is
14 charged pursuant to this Act, an additional surcharge of
15 \$25 shall be imposed and collected for the purpose of pro-
16 viding appointed counsel to applicants seeking judicial re-
17 view of the Secretary's decision to provisionally deny an
18 application under section 206(c)(3).

19 (b) IMMIGRATION COUNSEL ACCOUNT.—There is es-
20 tablished in the general fund of the Treasury a separate
21 account which shall be known as the "Immigration Coun-
22 sel Account". Fees collected under subsection (a) shall be
23 deposited into the Immigration Counsel Account and shall
24 to remain available until expended for purposes of pro-
25 viding appointed counsel as required under this Act.

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

10 **SEC. 213. ANNUAL REPORT ON PROVISIONAL DENIAL AU-**
11 **THORITY.**

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

- 16 (1) a provisional denial under this Act;
17 (2) a final denial under this Act without seek-
18 ing judicial review;
19 (3) a final denial under this Act after seeking
20 judicial review; and
21 (4) an approval under this Act after seeking ju-
22 dicial review.

