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.

IN THE SENATE OF THE UNITED STATES

MAY 11, 2011

Mr. DURBIN (for himself, Mr. REID, Mr. LEAHY, Mr. SCHUMER, Mr. MENENDEZ, Mr. LEVIN, Mr. LIEBERMAN, Mr. AKAKA, Mr. BEGICH, Mr. BENNET, Mr. BINGAMAN, Mr. BLUMENTHAL, Mrs. BOXER, Ms. CANTWELL, Mr. CARDIN, Mr. CARPER, Mr. COONS, Mrs. FEINSTEIN, Mr. FRANKEN, Mrs. GILLIBRAND, Mr. HARKIN, Mr. KERRY, Ms. KLOBUCAR, Mr. KOHL, Mr. LAUTENBERG, Mr. MERKLEY, Ms. MIKULSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. REED, Mr. SANDERS, Mr. UDALL of Colorado, and Mr. WHITEHOUSE) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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.

Be it enacted by the Senate and House of Representa-
SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Development, Relief, and Education for Alien Minors Act of 2011” or the “DREAM Act of 2011”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
Sec. 3. Conditional permanent resident status for certain long-term residents who entered the United States as children.
Sec. 4. Terms of conditional permanent resident status.
Sec. 5. Removal of conditional basis of permanent resident status.
Sec. 6. Regulations.
Sec. 7. Penalties for false statements.
Sec. 8. Confidentiality of information.
Sec. 9. Higher education assistance.

SEC. 2. 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) 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)).

(3) 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.

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

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

SEC. 3. CONDITIONAL PERMANENT RESIDENT STATUS FOR CERTAIN LONG-TERM RESIDENTS WHO ENTERED THE UNITED STATES AS CHILDREN.

(a) CONDITIONAL BASIS FOR STATUS.—Notwithstanding any other provision of law, an alien shall be considered, at the time of obtaining the status of an alien lawfully admitted for permanent residence under this section, to have obtained such status on a conditional basis subject to the provisions of this Act.

(b) REQUIREMENTS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may cancel removal of, and adjust to the status of an alien lawfully admitted for permanent residence on a conditional basis, an alien who is inadmissible or deportable from the United States or is in temporary protected
status under section 244 of the Immigration and Nationality Act (8 U.S.C. 1254a), if the alien demonstrates by a preponderance of the evidence that—

(A) the alien has been continuously physically present in the United States since the date that is 5 years before the date of the enactment of this Act;

(B) the alien was 15 years of age or younger on the date the alien initially entered the United States;

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

(D) subject to paragraph (2), the alien—

(i) is not inadmissible under paragraph (2), (3), (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) has not ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion; and

(iii) 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 imprisoned for an aggregate of 90 days or more;

(E) 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; and

(F) the alien was 35 years of age or younger on the date of the enactment of this Act.

(2) WAIVER.—With respect to any benefit under this Act, the Secretary may waive the grounds of inadmissibility under paragraph (6)(E), (6)(G), or (10)(D) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) for humanitarian
purposes or family unity or when it is otherwise in the public interest.

(3) Submission of Biometric and Biographic Data.—The Secretary may not grant permanent resident status on a conditional basis to 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.

(4) Background Checks.—

(A) Requirement for Background Checks.—The Secretary 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 permanent resident status on a conditional basis under this section; and

(ii) to determine whether there is any criminal, national security, or other factor that would render the alien ineligible for such status.
(B) Completion of background checks.—The security and law enforcement background checks required by subparagraph (A) for an alien shall be completed, to the satisfaction of the Secretary, prior to the date the Secretary grants permanent resident status on a conditional basis to the alien.

(5) Medical examination.—An alien applying for permanent resident status on a conditional basis under this section shall undergo a medical examination. The Secretary, with the concurrence of the Secretary of Health and Human Services, shall prescribe policies and procedures for the nature and timing of such examination.

(6) Military selective service.—An alien applying for permanent resident status on a conditional basis under this section 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.

(c) Determination of continuous presence.—

(1) Termination of continuous period.—Any period of continuous physical presence in the United States of an alien who applies for permanent resident status on a conditional basis under this sec-
tion shall not terminate when the alien is served a
notice to appear under section 239(a) of the Immi-
grantion and Nationality Act (8 U.S.C. 1229(a)).

(2) Treatment of Certain Breaks in Presence.—

(A) In General.—An alien shall be con-
sidered to have failed to maintain continuous
physical presence in the United States under
subsection (b)(1)(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.

(B) Extensions for Extenuating Circumstances.—The Secretary may extend the
time periods described in subparagraph (A) for
an alien if the alien demonstrates that the fail-
ure to timely return to the United States was
due to extenuating circumstances beyond the
alien’s control.

(d) Application.—

(1) In General.—An alien seeking lawful per-
manent resident status on a conditional basis shall
file an application for such status in such manner as
the Secretary may require.
(2) Deadline for submission of application.—An alien shall submit an application for relief under this section not later than the date that is 1 year after the later of—

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

(B) the effective date of the final regulations issued pursuant to section 6.

(c) Limitation on removal of certain aliens.—

(1) in general.—The Secretary or the Attorney General may not remove an alien who—

(A) has a pending application for relief under this section; and

(B) establishes prima facie eligibility for relief under this section.

(2) Certain aliens enrolled in primary or secondary school.—

(A) stay of removal.—The Attorney General shall stay the removal proceedings of an alien who—

(i) meets all the requirements of subparagraphs (A), (B), (C), (D), and (F) of subsection (b)(1);
(ii) is at least 5 years of age; and

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

(B) ALIENS NOT IN REMOVAL PROCEEDINGS.—If an alien is not in removal proceedings, the Secretary shall not commence such proceedings with respect to the alien if the alien is described in clauses (i) through (iii) of subparagraph (A).

(C) EMPLOYMENT.—An alien whose removal is stayed pursuant to subparagraph (A) or who may not be placed in removal proceedings pursuant to subparagraph (B) shall, upon application to the Secretary, be granted an employment authorization document.

(D) LIFT OF STAY.—The Secretary or Attorney General may lift the stay granted to an alien under subparagraph (A) if the alien—

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

(ii) ceases to meet the requirements of such paragraph.

(f) 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 Act.

SEC. 4. TERMS OF CONDITIONAL PERMANENT RESIDENT STATUS.

(a) Period of Status.—Permanent resident status on a conditional basis granted under this Act is—

(1) valid for a period of 6 years, unless such period is extended by the Secretary; and

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

(b) Notice of Requirements.—

(1) At time of obtaining status.—At the time an alien obtains permanent resident status on a conditional basis under this Act, the Secretary shall provide for notice to the alien regarding the provisions of this Act and the requirements to have the conditional basis of such status removed.

(2) Effect of failure to provide notice.—The failure of the Secretary to provide a notice under this subsection—

(A) shall not affect the enforcement of the provisions of this Act with respect to the alien; and

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

(c) Termination of Status.—
(1) **IN GENERAL.**—The Secretary shall terminate the conditional permanent resident status of an alien, if the Secretary determines that the alien—

(A) ceases to meet the requirements of subparagraph (C) or (D) of section 3(b)(1); or

(B) was discharged from the Uniformed Services and did not receive an honorable discharge.

(d) **RETURN TO PREVIOUS IMMIGRATION STATUS.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), an alien whose permanent resident status on a conditional basis expires under subsection (a)(1) or is terminated under subsection (c) or whose application for such status is denied shall return to the immigration status the alien had immediately prior to receiving permanent resident status on a conditional basis or applying for such status, as appropriate.

(2) **SPECIAL RULE FOR TEMPORARY PROTECTED STATUS.**—In the case of an alien whose permanent resident status on a conditional basis expires under subsection (a)(1) or is terminated under subsection (c) or whose application for such status is denied and who had temporary protected status immediately prior to receiving or applying for such sta-
status, as appropriate, the alien may not return to temporary protected status if—

(A) the relevant designation under section 244(b) of the Immigration and Nationality Act (8 U.S.C. 1254a(b)) has been terminated; or

(B) the Secretary determines that the reason for terminating the permanent resident status on a conditional basis renders the alien ineligible for temporary protected status.

(e) INFORMATION SYSTEMS.—The Secretary shall use the information systems of the Department of Homeland Security to maintain current information on the identity, address, and immigration status of aliens granted permanent resident status on a conditional basis under this Act.

SEC. 5. REMOVAL OF CONDITIONAL BASIS OF PERMANENT RESIDENT STATUS.

(a) ELIGIBILITY FOR REMOVAL OF CONDITIONAL BASIS.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may remove the conditional basis of an alien’s permanent resident status granted under this Act if the alien demonstrates by a preponderance of the evidence that—
(A) the alien has been a person of good moral character during the entire period of conditional permanent resident status;

(B) the alien is described in section 3(b)(1)(D);

(C) the alien has not abandoned the alien’s residence in the United States;

(D) the alien—

(i) 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; or

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

(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 may, in the Secretary’s discretion, remove the condi-
tional basis of an alien’s permanent resident status if the alien—

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

(ii) demonstrates compelling circumstances for the inability to satisfy the requirements of subparagraph (D) of such paragraph; and

(iii) demonstrates that the alien’s removal from the United States would result in extreme 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 may extend the period of permanent resident status on a conditional basis for an alien so that the alien may complete the requirements of subparagraph (D) of paragraph (1).

(3) TREATMENT OF ABANDONMENT OR RESIDENCE.—For purposes of paragraph (1)(C), an alien—
(A) shall be presumed to have abandoned the alien’s residence in the United States if the alien is absent from the United States for more than 365 days, in the aggregate, during the alien’s period of conditional permanent resident status, unless the alien demonstrates to the satisfaction of the Secretary that the alien has not abandoned such residence; and

(B) who is absent from the United States due to active service in the Uniformed Services has not abandoned the alien’s residence in the United States during the period of such service.

(4) CITIZENSHIP REQUIREMENT.—

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

(B) EXCEPTION.—Subparagraph (A) shall not apply to an alien who is unable because of a physical or developmental disability or mental impairment to meet the requirements of such subparagraph.
(5) Submission of biometric and biographic data.—The Secretary may not remove the conditional basis of an alien’s permanent resident status 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 data because of a physical impairment.

(6) Background checks.—

(A) Requirement for background checks.—The Secretary shall utilize biometric, biographic, and other data that the Secretary determines appropriate—

(i) to conduct security and law enforcement background checks of an alien applying for removal of the conditional basis of the alien’s permanent resident status; and

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

(B) Completion of background checks.—The security and law enforcement
background checks required by subparagraph (A) for an alien shall be completed, to the satisfaction of the Secretary, prior to the date the Secretary removes the conditional basis of the alien’s permanent resident status.

(b) Application To Remove Conditional Basis.—

(1) In general.—An alien seeking to have the conditional basis of the alien’s lawful permanent resident status removed shall file an application for such removal in such manner as the Secretary may require.

(2) Deadline for submission of application.—

(A) In general.—An alien shall file an application under this subsection during the period beginning 6 months prior to and ending on the date that is later of—

(i) 6 years after the date the alien was initially granted conditional permanent resident status; or

(ii) any other expiration date of the alien’s conditional permanent resident status, as extended by the Secretary in accordance with this Act.
(B) **Status during pendency.**—An alien shall be deemed to have permanent resident status on a conditional basis during the period that the alien’s application submitted under this subsection is pending.

(3) **Adjudication of application.**—

(A) **In general.**—The Secretary shall make a determination on each application filed by an alien under this subsection as to whether the alien meets the requirements for removal of the conditional basis of the alien’s permanent resident status.

(B) **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 remove the conditional basis of the alien’s permanent resident status, effective as of the date of such determination.

(C) **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, if the period of the alien’s conditional permanent resident status under section
4(a)(1) has ended, terminate the conditional
permanent resident status granted the alien
under this Act as of the date of such deter-
mination.

(c) TREATMENT FOR PURPOSES OF NATURALIZA-
TION.—

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

(2) LIMITATION ON APPLICATION FOR NATU-
RALIZATION.—An alien may not apply for natu-
ralization during the period that the alien is in per-
manent resident status on a conditional basis under
this Act.

SEC. 6. REGULATIONS.

(a) INITIAL PUBLICATION.—Not later than 180 days
after the date of the enactment of this Act, the Secretary
shall publish regulations implementing this Act. Such reg-
ulations shall allow eligible individuals to apply affirma-
tively for the relief available under section 3 without being
placed in removal proceedings.

(b) **INTERIM REGULATIONS.**—Notwithstanding sec-
tion 553 of title 5, United States Code, the regulations
required by subsection (a) 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.

(e) **FINAL REGULATIONS.**—Within a reasonable time
after publication of the interim regulations in accordance
with subsection (b), the Secretary shall publish final regu-
lations implementing this Act.

(d) **PAPERWORK REDUCTION ACT.**—The require-
ments of chapter 35 of title 44, United States Code (com-
monly known as the “Paperwork Reduction Act”) shall
not apply to any action to implement this Act.

**SEC. 7. PENALTIES FOR FALSE STATEMENTS.**

Whoever files an application for any relief or benefit
under this Act and willfully and knowingly falsifies, mis-
represents, 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. 8. 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 in 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, employee or authorized contractor 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 such sections.

(b) Required Disclosure.—The Attorney General or the Secretary 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 section 103 of the
Brady Handgun Violence Protection Act (Public Law 103–159; 18 U.S.C. 922 note), 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. 9. HIGHER EDUCATION ASSISTANCE.**

(a) **In General.**—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 has permanent resident status on
a conditional basis under this Act shall be eligible only for the following assistance under such title:

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

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

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

(b) Restoration of State Option to Determine Residency for Purposes of Higher Education Benefits.—

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

(2) Effective Date.—The repeal under paragraph (1) shall take effect as if included in the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 110 Stat. 3009–546).