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.
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.

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

SECTION 1. SHORT TITLE.

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

SEC. 2. DEFINITIONS.

In this Act:

(1) ELIGIBLE NONPROFIT ORGANIZATION.—The term “eligible nonprofit organization” shall mean a nonprofit, tax-exempt organization, including a community, educational, faith-based or other immigrant-serving organization, whose staff has demonstrated qualifications, experience, or expertise in providing quality services to immigrants, refugees, persons
granted asylum, or persons applying for such statuses.

(2) INSTITUTION OF HIGHER EDUCATION.—The term “institution of higher education” has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001), and any other educational institutions that the Secretary of Homeland Security or Secretary of Education may designate as such an institution of higher education for purposes of this Act.

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

SEC. 3. RESTORATION OF STATE OPTION TO DETERMINE RESIDENCY FOR PURPOSES OF HIGHER EDUCATION BENEFITS.

(a) IN GENERAL.—Section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1623) is repealed.

(b) EFFECTIVE DATE.—The repeal under subsection (a) 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).
SEC. 4. CANCELLATION OF REMOVAL AND ADJUSTMENT OF
STATUS OF CERTAIN RESIDENTS WHO EN-
TERED THE UNITED STATES AS CHILDREN.

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

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

(A) the alien has been continuously present
in the United States since December 31, 2016,
and was younger than 18 years of age on the
date the alien initially entered the United
States; and

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

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

(3) PROCEDURES.—The Secretary of Homeland Security shall by rule establish a procedure allowing eligible individuals to apply for the relief available under this subsection without requiring placement in removal proceedings. Such procedure shall provide for the ability of a minor to apply for such relief, including through a legal guardian or counsel. An individual shall not be considered ineligible to apply for such relief because the individual is in removal proceedings or has previously been ordered removed.

(4) BACKGROUND CHECKS.—The Secretary of Homeland Security, in coordination with other departments and agencies as appropriate, shall conduct background checks on all aliens under this subsection.

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

(c) Treatment of Certain Breaks in Presence.—

(1) In General.—An alien shall be considered to have failed to maintain continuous presence in the United States under subsection (a) if the alien has departed from the United States for any period in excess of 90 days or for any periods in the aggregate exceeding 180 days, unless such departure was authorized by the Secretary of Homeland Security.

(2) Exception.—An alien who departed from the United States after the date of enactment of this Act shall not be considered to have failed to maintain continuous presence in the United States if the alien’s absences from the United States are brief, casual, and innocent, whether or not such absences were authorized by the Secretary.

(3) Extensions for Exceptional Circumstances.—The Secretary of Homeland Security may extend the time periods described in paragraph (1) if the alien demonstrates that the failure to timely return to the United States was due to exceptional circumstances. Exceptional circumstances suf-
ficient to justify an extension may include the seri-
ous illness of the alien, or death or serious illness of
a spouse, parent, grandparent, sibling, or child.

(d) **Exemption From Numerical Limitations.**—
Nothing in this section may be construed to apply a nu-
merical limitation on the number of aliens who may be
eligible for cancellation of removal or adjustment of status
under this section.

(e) **Regulations.**—

(1) **Proposed Regulations.**—Not later than
180 days after the date of enactment of this Act, the
Secretary of Homeland Security shall publish pro-
posed regulations implementing this section. Such
regulations shall be effective immediately on an in-
terim basis, but are subject to change and revision
after public notice and opportunity for a period for
public comment.

(2) **Interim, Final Regulations.**—Within a
reasonable time and no later than 180 days after
publication of the interim regulations in accordance
with paragraph (1), the Secretary of Homeland Se-
curity shall publish final regulations implementing
this section.

(f) **Administrative Review.**—Any alien receiving
an adverse determination on the application for cancella-
tion of removal and conditional lawful permanent resident status under this section may request review of such determination by the Secretary of Homeland Security.

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

SEC. 5. CONDITIONAL PERMANENT RESIDENT STATUS.

(a) In General.—

(1) Conditional basis for status.—Notwithstanding any other provision of law, and except as provided in section 6, an alien whose status has been adjusted under section 4 to that of an alien lawfully admitted for permanent residence shall be considered to have obtained such status on a conditional basis subject to the provisions of this section. Such conditional permanent resident status shall be valid for a period of 8 years, subject to termination under subsection (b).

(2) Notice of requirements.—

(A) At time of obtaining permanent residence.—At the time an alien obtains permanent resident status on a conditional basis under paragraph (1), the Secretary of Home-
land Security shall provide for notice to the alien regarding the provisions of this section and the requirements of subsection (c) to have the conditional basis of such status removed.

(B) Effect of failure to provide notice.—The failure of the Secretary of Homeland Security to provide a notice under this paragraph—

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

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

(b) Termination of Status.—

(1) In general.—The Secretary of Homeland Security shall terminate the conditional permanent resident status of any alien who obtained such status under this Act, if the Secretary determines that the alien has since engaged in conduct that renders the alien deportable under section 237(a) of the Immigration and Nationality Act.

(2) Return to previous immigration status.—Any alien whose conditional permanent resident status is terminated under paragraph (1) shall revert to the immigration status the alien had imme-
diately prior to receiving conditional permanent resi-
dent status under this Act.

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

(c) Requirements of Timely Petition for Re-
moval of Condition.—

(1) In General.—In order for the conditional
basis of permanent resident status obtained by an
alien under subsection (a) to be removed, the alien
must file with the Secretary of Homeland Security,
in accordance with paragraph (3) of this subsection,
a petition which requests the removal of such condi-
tional basis and which provides, under penalty of
perjury, the facts and information so that the Sec-
retary may make the determination described in
paragraph (2)(A) of this subsection.

(2) Adjudication of Petition to Remove
Condition.—
(A) IN GENERAL.—If a petition is filed for an alien in accordance with paragraph (1) of this subsection, the Secretary of Homeland Security shall make a determination as to whether the alien meets the requirements set out in subparagraphs (A) through (C) of subsection (d)(1).

(B) REMOVAL OF CONDITIONAL BASIS IF FAVORABLE DETERMINATION.—If the Secretary determines that the alien meets such requirements, the Secretary shall notify the alien of such determination and immediately remove the conditional basis of the status of the alien.

(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 terminate the conditional permanent resident status of the alien.

(D) ADMINISTRATIVE REVIEW.—An alien whose conditional permanent resident status is terminated under subparagraph (C) may request review of such determination in a proceeding to remove the alien. In such proceeding, the burden of proof shall be on the Secretary of
Homeland Security to establish, by a preponderance of the evidence, that the alien has not met the requirements of subparagraph (A).

(3) **Time to File Petition.**—Except as provided in subsection (d)(3), an alien may petition to remove the conditional basis to lawful resident status beginning six months before the date on which the alien is expected to satisfy the requirement of subsection (d)(1)(C). The alien shall be deemed in conditional permanent resident status in the United States during the period in which the petition is pending.

(d) **Details of Petition.**—

(1) **Contents of Petition.**—Each petition for an alien under subsection (c)(1) shall contain information to permit the Secretary of Homeland Security to determine whether each of the following requirements is met:

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

(B) The alien has not abandoned the alien’s residence in the United States. The Secretary shall presume that the alien has abandoned such residence if the alien is absent from
the United States for more than 365 days, in
the aggregate, during the period of conditional
residence, unless the alien demonstrates that
alien has not abandoned the alien’s residence.
An alien 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.

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

(2) Special rule for DACA recipients.—
Any period of time in which the alien was granted
deferred action pursuant to the Deferred Action for
Childhood Arrivals policy established in the June 15,
2012, memorandum from the Secretary of Home-
land Security, titled Exercising Prosecutorial Discre-
tion with Respect to Individuals Who Came to the
United States as Children, shall count toward the 3-
year period described in paragraph (1)(C).

(e) Treatment of period for purposes of Nat-
uralization.—For purposes of title III of the Immigra-
tion and Nationality Act (8 U.S.C. 1401 et seq.), in the
case of an alien who is in the United States as a lawful
permanent resident on a conditional basis under this sec-
tion, the alien shall be considered to have been admitted as an alien lawfully admitted for permanent residence and to be present in the United States as an alien lawfully admitted to the United States for permanent residence. The alien may not apply for naturalization until the conditional basis for permanent residency has been removed, except for naturalization pursuant to sections 328 and 329 of the Immigration and Nationality Act (8 U.S.C. 1439 and 1440).

(f) **Renewed Background Checks.**—The Secretary of Homeland Security, in coordination with other departments and agencies as appropriate, shall conduct new background checks on all aliens filing petitions under this subsection.

**SEC. 6. EXCLUSIVE JURISDICTION.**

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

SEC. 7. 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 the alien
pursuant to an application filed under this Act to
initiate removal proceedings against any person
identified in the application;

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

(3) permit anyone other than an officer or em-
ployee of the United States Government or, in the
case of applications filed under this Act with a des-
ignated entity, that designated entity, to examine
applications filed under this Act.

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

(1) a duly recognized law enforcement entity in
connection with an investigation or prosecution of an
offense described in paragraph (2) or (3) of section
212(a) of the Immigration and Nationality Act (8
U.S.C. 1182(a)), when such information is requested in writing by such entity; 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) Penalty.—Whoever knowingly uses, publishes, or permits information to be examined in violation of this section shall be fined not more than $50,000.

SEC. 8. GRANT PROGRAM TO ASSIST ELIGIBLE APPLICANTS.

(a) Establishment.—The Secretary may establish, within U.S. Citizenship and Immigration Services, a program to award grants, on a competitive basis, to eligible nonprofit organizations that will use the funding to assist eligible applicants under this Act by providing them with the services described in subsection (b).

(b) Use of Funds.—Grant funds awarded under this section may be used for the design and implementation of programs that provide—

(1) information to the public regarding the eligibility and benefits of conditional lawful permanent residence authorized under this Act, particularly to individuals potentially eligible for such status;
(2) assistance, within the scope of authorized practice of immigration law, to individuals submitting applications for conditional lawful permanent residence, including—

(A) screening prospective applicants to assess their eligibility for such status;

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

(C) applying for any waivers for which applicants and qualifying family members may be eligible; and

(D) providing any other assistance that the Secretary or grantee considers useful or necessary to apply for conditional lawful permanent residence; and

(3) assistance, within the scope of authorized practice of immigration law, and instruction, to individuals—

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

(B) in civics and English as a second language;

(C) in preparation for the General Education Development exam; and
(D) in applying for adjustment of status
and United States citizenship.

(c) Authorization of Appropriations.—

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

(2) Availability.—Any amounts appropriated
pursuant to paragraph (1) shall remain available
until expended.

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

(a) Establishment.—There is established the Pres-
idential Award for Business Leadership in Promoting
American Citizenship, which shall be awarded to compa-
nies and other organizations that make extraordinary ef-
forts in assisting their employees and members to learn
English, attain General Education Development prepara-
tion and certification, and increase their understanding of
American history and civics.

(b) Selection and Presentation of Award.—

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

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

SEC. 10. ENGLISH LEARNING PROGRAM.

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

(1) provides instruction on the English language (including instruction on how to pass the Test of English as a Foreign Language) to individuals whose primary language is a language other than English and who are at various levels of proficiency with respect to the English language, including individuals with the ability to pass the Test of English as a Foreign Language;

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

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

(4) is fully accessible, at a minimum, to speakers of the top 6 foreign languages spoken by immigrants to the United States.
(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Education such sums as are necessary to carry out the purposes of this section.

SEC. 11. HIGHER EDUCATION ASSISTANCE.

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

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

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

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

(4) Services not otherwise covered under paragraphs (1) through (3).

(5) Need analysis and refunds calculated under parts F and G (20 U.S.C. 1087kk et seq.; 1088 et seq.).
(b) Other Requirements.—An individual described in subsection (a) may only receive the assistance described in subsection (a) for which such individual would be otherwise eligible (but for such individual’s immigration status).

SEC. 12. GAO REPORT.

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

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

(2) the number of aliens who applied for adjustment of status under this Act;

(3) the number of aliens who were granted adjustment of status under this Act; and

(4) the number of aliens whose conditional permanent resident status was removed under this Act.