116TH CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPORT
116–97

AMERICAN PROMISE ACT OF 2019

MAY 30, 2019.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. NADLER, from the Committee on the Judiciary, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 2821]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 2821) to authorize the cancellation of removal and adjustment of status of certain nationals of certain countries designated for temporary protected status or deferred enforced departure, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

The amendment is as follows:

89–006

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "American Promise Act of 2019".

TITLE I—TREATMENT OF CERTAIN NATIONALS OF CERTAIN COUNTRIES DESIGNATED FOR TEMPORARY PROTECTED STATUS OR DEFERRED ENFORCED DEPARTURE

SEC. 101. ADJUSTMENT OF STATUS FOR CERTAIN NATIONALS OF CERTAIN COUNTRIES DESIGNATED FOR TEMPORARY PROTECTED STATUS OR DEFERRED ENFORCED DEPARTURE.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary or the Attorney General shall cancel the removal of, and adjust to the status of an alien lawfully admitted for permanent residence, an alien described in subsection (b) if the alien—

(1) applies for such adjustment, including submitting any required documents under section 207, not later than 3 years after the date of the enactment of this Act;

(2) has been continuously physically present in the United States for a period of not less than 3 years before the date of the enactment of this Act; and

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

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—An alien shall be eligible for adjustment of status under this section if the alien is an individual—

(1) who—

(A) is a national of a foreign state (or part thereof) (or in the case of an alien having no nationality, is a person who last habitually resided in such state) with a designation under subsection (b) of section 244 of the Immigration and Nationality Act (8 U.S.C. 1254a(b)) on January 1, 2017, who had or was otherwise eligible for temporary protected status on such date notwithstanding subsections (c)(1)(A)(iv) and (c)(3)(C) of such section; and

(B) has not engaged in conduct since such date that would render the alien ineligible for temporary protected status under section 244(c)(2) of the Immigration and Nationality Act (8 U.S.C. 1245a(c)(2)); or

(2) who was eligible for Deferred Enforced Departure as of January 1, 2017, and has not engaged in conduct since that date that would render the alien ineligible for Deferred Enforced Departure.

(c) APPLICATION.—

(1) FEE.—The Secretary shall, subject to an exemption under section 203(c), require an alien applying for adjustment of status under this section to pay a reasonable fee that is commensurate with the cost of processing the application, but does not exceed $1,140.

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

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

TITLE II—GENERAL PROVISIONS

SEC. 201. DEFINITIONS.

(a) IN GENERAL.—In this Act:

(1) IN GENERAL.—Except as otherwise specifically provided, any term used in this Act that is used in the immigration laws shall have the meaning given such term in the immigration laws.

(2) DISABILITY.—The term "disability" has the meaning given such term in section 3(1) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(1)).

(3) FEDERAL POVERTY LINE.—The term "Federal poverty line" has the meaning given such term in section 213A(h) of the Immigration and Nationality Act (8 U.S.C. 1183a).

(4) IMMIGRATION LAWS.—The term "immigration laws" has the meaning given such term in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)).

(5) SECRETARY.—Except as otherwise specifically provided, the term "Secretary" means the Secretary of Homeland Security.

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

(b) TREATMENT OF EXPUNGED CONVICTIONS.—For purposes of adjustment of status under this Act, the terms "convicted" and "conviction", as used in sections 212 and 244 of the Immigration and Nationality Act (8 U.S.C. 1182, 1254a), do not include a judgment that has been expunged or set aside, that resulted in a rehabilitative disposition, or the equivalent.

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

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

(b) BACKGROUND CHECKS.—The Secretary shall use biometric, biographic, and other data that the Secretary determines appropriate to conduct security and law enforcement background checks and to determine whether there is any criminal, national security, or other factor that would render the alien ineligible for adjustment of status under this Act. The status of an alien may not be adjusted unless security and law enforcement background checks are completed to the satisfaction of the Secretary.

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

(a) LIMITATION ON REMOVAL.—An alien who appears to be prima facie eligible for relief under this Act shall be given a reasonable opportunity to apply for such relief and may not be removed until, subject to section 206(c), a final decision establishing ineligibility for relief is rendered.

(b) APPLICATION.—An alien present in the United States who has been ordered removed or has been permitted to depart voluntarily from the United States may, notwithstanding such order or permission to depart, apply for adjustment of status under this Act. Such alien shall not be required to file a separate motion to reopen, reconsider, or vacate the order of removal. If the Secretary approves the application, the Secretary shall cancel the order of removal. If the Secretary renders a final administrative decision to deny the application, the order of removal or permission to depart shall be effective and enforceable to the same extent as if the application had not been made, only after all available administrative and judicial remedies have been exhausted.

(c) FEE EXEMPTION.—An applicant may be exempted from paying an application fee required under this Act if the applicant—

(1) is younger than 18 years of age;

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

(3) is in foster care or otherwise lacks any parental or other familial support; or

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

(d) WAIVER OF GROUNDS OF INADMISSIBILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), with respect to any benefit under this Act, and in addition to any waivers that are otherwise available, the Secretary may waive the grounds of inadmissibility under paragraph (1), subparagraphs (A), (C), and (D) of paragraph (2), subparagraphs (D) through (G) of paragraph (6), or paragraph (10)(D) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) for humanitarian purposes, for family unity, or because the waiver is otherwise in the public interest.

(2) EXCEPTION.—The Secretary may not waive a ground described in paragraph (1) if such inadmissibility is based on a conviction or convictions, and such conviction or convictions would otherwise render the alien ineligible under section 244(c)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1254a(c)(2)(B)).

(e) ADVANCE PAROLE.—During the period beginning on the date on which an alien applies for adjustment of status under this Act and ending on the date on which the Secretary makes a final decision regarding such application, the alien shall be eligible to apply for advance parole. Section 101(g) of the Immigration and Nationality Act (8 U.S.C. 1101(g)) shall not apply to an alien granted advance parole under this section.

(f) EMPLOYMENT.—An alien whose removal is stayed pursuant to this Act, or who has pending an application under this Act, shall, upon application to the Secretary, be granted an employment authorization document.

SEC. 204. DETERMINATION OF CONTINUOUS PRESENCE.

(a) EFFECT OF NOTICE TO APPEAR.—Any period of continuous physical presence in the United States of an alien who applies for adjustment of status under this Act shall not terminate when the alien is served a notice to appear under section 239(a) of the Immigration and Nationality Act (8 U.S.C. 1229(a)).

(b) TREATMENT OF CERTAIN BREAKS IN PRESENCE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), an alien shall be considered to have failed to maintain continuous physical presence in the United States under this Act if the alien has departed from the United States for any period exceeding 90 days or for any periods, in the aggregate, exceeding 180 days.

(2) EXTENSIONS FOR EXTENUATING CIRCUMSTANCES.—The Secretary may extend the time periods described in paragraph (1) for an alien who demonstrates that the failure to timely return to the United States was due to extenuating circumstances beyond the alien's control, including the serious illness of the alien, or death or serious illness of a parent, grandparent, sibling, or child of the alien.

(3) TRAVEL AUTHORIZED BY THE SECRETARY.—Any period of travel outside of the United States by an alien that was authorized by the Secretary may not be counted toward any period of departure from the United States under paragraph (1).

(c) WAIVER OF PHYSICAL PRESENCE.—With respect to aliens who were removed or departed the United States on or after January 20, 2017, and who were continuously physically present in the United States for at least 3 years prior to such removal or departure, the Secretary may, as a matter of discretion, waive the physical presence requirement under section 101(a)(2) for humanitarian purposes, for family unity, or because a waiver is otherwise in the public interest. The Secretary, in consultation with the Secretary of State, shall establish a procedure for such aliens to apply for relief under section 101 from outside the United States if they would have been eligible for relief under such section, but for their removal or departure.

SEC. 205. EXEMPTION FROM NUMERICAL LIMITATIONS.

Nothing in this Act or in any other law may be construed to apply a numerical limitation on the number of aliens who may be granted permanent resident status under this Act.

SEC. 206. AVAILABILITY OF ADMINISTRATIVE AND JUDICIAL REVIEW.

(a) ADMINISTRATIVE REVIEW.—Not later than 30 days after the date of the enactment of this Act, the Secretary shall provide to aliens who have applied for adjustment of status under this Act a process by which an applicant may seek administrative appellate review of a denial of an application for adjustment of status, or a revocation of such status.

(b) JUDICIAL REVIEW.—Notwithstanding any other provision of law, an alien may seek judicial review of a denial of an application for adjustment of status, or a revocation of such status, under this Act in the United States district court with jurisdiction over the alien's residence.

(c) STAY OF REMOVAL.—

(1) IN GENERAL.—Except as provided in paragraph (2), an alien seeking administrative or judicial review under this Act may not be removed from the United States until a final decision is rendered establishing that the alien is ineligible for adjustment of status under this Act.

(2) EXCEPTION.—The Secretary may remove an alien described in paragraph (1) pending judicial review if such removal is based on criminal or national security grounds. Such removal does not affect the alien's right to judicial review under this Act. The Secretary shall promptly return a removed alien if a decision to deny an application for adjustment of status under this Act, or to revoke such status, is reversed.

SEC. 207. DOCUMENTATION REQUIREMENTS.

(a) DOCUMENTS ESTABLISHING IDENTITY.—An alien's application for permanent resident status under this Act may include, as evidence of identity, the following:

(1) A passport or national identity document from the alien's country of origin that includes the alien's name and the alien's photograph or fingerprint.

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

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

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

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

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

(7) Any other evidence determined to be credible by the Secretary.

(b) DOCUMENTS ESTABLISHING CONTINUOUS PHYSICAL PRESENCE.—An alien's application for permanent resident status under this Act may include, as evidence that the alien has been continuously physically present in the United States, as required under section 101(a)(2), the following:

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

(2) Any document from the Department of Justice or the Department of Homeland Security noting the alien's date of entry into the United States.

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

(4) Employment records of the alien that include the employer's name and contact information.

(5) Records of service from the Uniformed Services.

(6) Official records from a religious entity confirming the alien's participation in a religious ceremony.

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

(8) Hospital or medical records showing medical treatment or hospitalization, the name of the medical facility or physician, and the date of the treatment or hospitalization.

(9) Automobile license receipts or registration.

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

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

(12) Tax receipts;

(13) Insurance policies.

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

(15) Travel records.

(16) Dated bank transactions.

(17) Two or more sworn affidavits from individuals who are not related to the alien who have direct knowledge of the alien's continuous physical presence in the United States, that contain—

(A) the name, address, and telephone number of the affiant; and

(B) the nature and duration of the relationship between the affiant and the alien.

(18) Any other evidence determined to be credible by the Secretary.

(c) DOCUMENTS ESTABLISHING EXEMPTION FROM APPLICATION FEES.—An alien's application for permanent resident status under this Act may include, as evidence that the alien is exempt from an application fee under section 203(c), the following:

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

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

(A) employment records or other records of earned income, including records that have been maintained by the Social Security Administration, the Internal Revenue Service, or any other Federal, State, or local government agency;

(B) bank records; or

(C) at least 2 sworn affidavits from individuals who are not related to the alien and who have direct knowledge of the alien's work and income that contain—

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

(ii) the nature and duration of the relationship between the affiant and the alien.

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

(A) a statement that the alien is in foster care, otherwise lacks any parental or other familiar support, or has a serious, chronic disability, as appropriate;

(B) the name, address, and telephone number of the affiant; and

(C) the nature and duration of the relationship between the affiant and the alien.

(d) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—If the Secretary determines, after publication in the Federal Register and an opportunity for public comment, that any document or class of documents does not reliably establish identity or that permanent resident status under this Act is being obtained fraudulently to an unacceptable degree, the Secretary may prohibit or restrict the use of such document or class of documents.

SEC. 208. RULE MAKING.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall publish in the Federal Register interim final rules implementing this Act, which shall allow eligible individuals to immediately apply for relief under section 101. Notwithstanding section 553 of title 5, United States Code, the regulation 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. The Secretary shall finalize such rules not later than 180 days after the date of publication.

(b) PAPERWORK REDUCTION ACT.—The requirements under chapter 35 of title 44, United States Code, (commonly known as the "Paperwork Reduction Act") shall not apply to any action to implement this Act.

SEC. 209. CONFIDENTIALITY OF INFORMATION.

(a) IN GENERAL.—The Secretary may not disclose or use information provided in applications filed under this Act (including information provided during administrative or judicial review) for the purpose of immigration enforcement.

(b) REFERRALS PROHIBITED.—The Secretary, based solely on information provided in an application for adjustment of status under this Act (including information provided during administrative or judicial review), may not refer an applicant to U.S. Immigration and Customs Enforcement, U.S. Customs and Border Protection, or any designee of either such entity .

(c) LIMITED EXCEPTION.—Notwithstanding subsections (a) and (b), information provided in an application for adjustment of status under this Act may be shared with Federal security and law enforcement agencies—

(1) for assistance in the consideration of an application for adjustment of status under this Act;

(2) to identify or prevent fraudulent claims;

(3) for national security purposes; or

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

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

SEC. 210. GRANT PROGRAM TO ASSIST ELIGIBLE APPLICANTS.

(a) ESTABLISHMENT.—The Secretary of Homeland Security shall 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 shall be used for the design and implementation of programs that provide—

(1) information to the public regarding the eligibility and benefits of permanent resident status 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 adjustment of status under this Act, 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; and

(C) providing any other assistance that the Secretary or grantee considers useful or necessary to apply for adjustment of status under this Act; 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 test; and

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

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) AMOUNTS AUTHORIZED.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2020 through 2030 to carry out this section.

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

SEC. 211. PROVISIONS AFFECTING ELIGIBILITY FOR ADJUSTMENT OF STATUS.

An alien's eligibility to be lawfully admitted for permanent residence under this Act shall not preclude the alien from seeking any status under any other provision of law for which the alien may otherwise be eligible.

Purpose and Summary

H.R. 2821, the "American Promise Act of 2019," addresses an immediate humanitarian crisis potentially affecting hundreds of thousands of immigrants who fled to the United States to escape war, famine, natural disasters, and other life-threatening calamities. The bill accomplishes this goal by establishing a program for certain individuals who qualified for Temporary Protected Status (TPS) or Deferred Enforced Departure (DED) on January 1, 2017 to apply for lawful permanent resident (LPR) status. Derived from Title II of H.R. 6, the "American Dream and Promise Act," H.R. 2821 requires the Secretary of Homeland Security or the Attorney General to grant LPR status to individuals who apply for such status not later than three years after the date of enactment of the Act and who meet the eligibility criteria specified in the bill. H.R. 2821 also prohibits the Secretary from granting LPR status to individuals who are inadmissible to the United States under specified provisions of section 212(a) of the Immigration and Nationality Act (8 U.S.C. § 1182(a)), as well as individuals who have engaged in conduct since January 1, 2017 that would render them ineligible for TPS or DED.

Background and Need for the Legislation

I. TEMPORARY PROTECTED STATUS

The Immigration and Nationality Act (INA) authorizes the Secretary of Homeland Security to grant TPS to foreign nationals in the United States from countries that have experienced armed conflict, natural disaster, or other extraordinary circumstances that prevent the safe return of its nationals.[1] A country can be designated for TPS for an initial period of six to 18 months, and the designation can be extended if the country continues to experience conditions warranting the designation. TPS applicants are subject to most grounds of inadmissibility and may not be granted TPS if they have been convicted of an inadmissible offense, any felony offense, or any two misdemeanor offenses in the United States. Applicants are also ineligible if they are deemed a threat to national security or have engaged in the persecution of others. Individuals

[1] *See generally* INA § 244; 8 U.S.C. § 1254 (2019).

granted TPS are eligible for work authorization and are not subject to removal if they maintain TPS status.

Since 1990, when the TPS provisions were enacted, a total of 21 countries (or parts of countries) have been designated for TPS. At present, ten countries hold TPS designations: El Salvador, Haiti, Honduras, Nepal, Nicaragua, Somalia, South Sudan, Sudan, Syria, and Yemen.[2] An estimated 320,000 individuals from these ten countries are currently in the United States in TPS status.[3] In a number of these nations, conditions have remained deteriorated for so long that many TPS holders have lawfully remained in the United States for decades.

Notwithstanding compelling evidence that conditions in these countries remain dire, the Trump Administration terminated TPS designations for six of them over the past year, throwing the lives and futures of more than 300,000 people into turmoil.[4] In doing so, the Administration ignored warnings from senior U.S. diplomats that termination would destabilize Central America and the Caribbean, which could potentially trigger a new surge of unauthorized immigration.[5] Through cables to Administration officials, diplomats explained that TPS recipients send remittances home that spur job creation and reduce pressure to emigrate.[6]

Last year, a federal court in Ramos v. Nielsen granted a preliminary injunction preventing the Administration from proceeding with the termination of TPS for El Salvador, Haiti, Nicaragua, and Sudan, finding that the plaintiffs had made a substantial showing that the Administration's decisions had violated the Administrative Procedure Act.[7] On October 31, 2018, DHS announced that affected TPS beneficiaries would retain TPS status and its associated benefits for the duration of the preliminary injunction, unless an individual's TPS status was withdrawn due to ineligibility.[8] On March 12, 2019, in accordance with a court-approved stipulation to stay proceedings, DHS also extended TPS for Nepal and Honduras, pending a final disposition or other court order in Ramos.[9]

II. DEFERRED ENFORCEMENT DEPARTURE

In accordance with his constitutional authority to conduct foreign relations, the President has the discretion to grant DED to foreign nationals for foreign policy reasons.[10] DED is a temporary and dis-

---

[2] *See* U.S. Citizenship and Immigration Services, *Temporary Protected Status,* Dep't of Homeland Security (identifying countries currently designated for TPS), https://www.uscis.gov/humanitarian/temporary-protected-status.

[3] Nicole Prchal Svajlenka, Angie Bautista-Chavez, & Laura Muñoz Lopez, TPS Holders Are Integral Members of the U.S. Economy and Society, Center for American Progress (Oct. 20, 2017), https://www.americanprogress.org/issues/immigration/news/2017/10/20/440400/tps-holders-are-integral-members-of-the-u-s-economy-and-society/.

[4] Nick Miroff et al., *U.S. Embassy Cables Warned Against Expelling 300,000 Immigrants. Trump Officials Did it Anyway,* WASH. POST (May 8, 2018), https://www.washingtonpost.com/world/national-security/us-embassy-cables-warned-against-expelling-300000-immigrants-trump-officials-did-it-anyway/2018/05/08/065e5702-4fe5-11e8-b966-bfb0da2dad62_story.html?utm_term=.bbdbfea9dcb1.

[5] *Id.*

[6] *Id.*

[7] Ramos v. Nielsen, Case No. 18–cv–01554–EMC (N.D. Cal. 2017).

[8] U.S. Dep't of Homeland Security, *Continuation of Documentation for Beneficiaries of Temporary Protected Status Designations for Sudan, Nicaragua, Haiti, and El Salvador,* 83 Fed. Reg. 54764 (Oct. 31, 2018). On April 11, 2019, a second court enjoined the termination of TPS for Haiti. Saget v. Trump, Case No. 18–cv–01599 (E.D.N.Y 2018).

[9] Bhattarai v. Nielsen, No. 19–cv–731 (N.D. Cal Mar. 12, 2019).

[10] *See* Jill H. Wilson, *Temporary Protected Status: Overview and Current Issues,* Cong. Res. Serv. (Oct. 10, 2018), https://fas.org/sgp/crs/homesec/RS20844.pdf.

cretionary stay of removal that is similar in many respects to TPS except that it lacks explicit statutory basis.[11] In 1992, President George H. W. Bush granted DED to approximately 190,000 people following the expiration of El Salvador's initial TPS designation.[12] In 2007, President George W. Bush granted DED to Liberian nationals following the termination of TPS for Liberia, and this designation was extended several times by President Barack Obama.[13]

On March 27, 2018, President Trump announced the termination of DED for Liberia, effective March 31, 2019.[14] Subsequently, the President on March 28, 2019 signed a last-minute reprieve for Liberia, granting an additional extension of the "wind-down" period until March 30, 2020.[15] An estimated 840 Liberians are living in the United States with DED and work authorization, with many having lived here for almost three decades.[16]

III. THE ECONOMIC BENEFITS OF PROVIDING PERMANENT RELIEF TO TPS AND DED RECIPIENTS

In addition to the humanitarian effects, the failure to permanently protect TPS and DED holders would destabilize the economy and local communities by removing a long-term and reliable workforce from key industries. TPS recipients have lived in the United States for an average of 19 years, are employed at high rates, and have family relationships in the United States that include nearly 275,000 U.S. citizen children.[17] TPS holders live in every region of the United States, with the largest populations in California, Texas, Florida, New York, Virginia, and Maryland.[18]

The Center for Migration Studies has found that TPS recipients from El Salvador, Honduras, and Haiti are employed at very high rates (81 to 88 percent) in a variety of industries that often struggle to find sufficient U.S. workers.[19] Indeed, TPS holders are filling critical workforce gaps in industries central to economic growth and community development, including construction, food service, and landscaping.[20] An additional 11 percent of TPS holders are self-employed and have likely created jobs for American workers as a result.[21]

---

[11] *Id.*
[12] *Id.*
[13] *Id.*
[14] *Id.*
[15] President Donald J. Trump, *Extension of Deferred Enforced Departure For Liberians,* Presidential Memorandum (Mar. 28, 2019), https://www.whitehouse.gov/presidential-actions/memorandum-extension-deferred-enforced-departure-liberians/.
[16] *See* Jill H. Wilson, *Temporary Protected Status: Overview and Current Issues*, Cong. Res. Serv. (Oct. 10, 2018), https://fas.org/sgp/crs/homesec/RS20844.pdf.
[17] Nicole Prchal Svajlenka et al., *TPS Holders are Integral Members of the U.S. Economy and Society,* Center for American Progress (Oct. 20, 2017), https://www.americanprogress.org/issues/immigration/news/2017/10/20/440400/tps-holders-are-integral-members-of-the-u-s-economy-and-society/.
[18] Robert Warren et al., *A Statistical and Demographic Profile of the U.S. Temporary Protected Status Populations from El Salvador, Honduras, and Haiti, Center for Migration Studies,* Journal on Migration and Human Security (rev. Aug. 2017), https://journals.sagepub.com/doi/pdf/10.1177/233150241700500302.
[19] *Id.*
[20] For example, with a low 4.1 percent unemployment rate, the construction industry had roughly 278,000 job openings in September 2018. The accommodation and food services industry, with a 5.3 percent unemployment rate, had nearly 961,000 job openings. American Immigration Council, *Workers with Temporary Protected Status in Key Industries and States* (Jan. 9, 2019), https://www.americanimmigrationcouncil.org/research/workers-temporary-protected-status-key-industries-and-states.
[21] Robert Warren and Donald Kerwin, *A Statistical and Demographic Profile of the U.S. Temporary Protected Status Populations from El Salvador, Honduras, and Haiti,* Center for Migra-

Continued

TPS holders make significant contributions to the U.S. economy not only through their participation in the workforce, but also through consumer spending and tax revenue. For example, one third of the 206,000 TPS households from El Salvador, Honduras, and Haiti have mortgages.[22] More broadly, according to one report, losing TPS workers would result in a $4.5 billion loss to GDP annually.[23] Social Security and Medicare would take a $6.9 billion loss, the cost of deportation would be $3.1 billion, and the loss of TPS workers would cost industries $967 million.[24]

Hearings

For the purposes of section 103(i) of H. Res. 6 of the 116th Congress, the following hearing was used to develop H.R. 6 and H.R. 2821: "Protecting Dreamers and TPS Recipients," held before the full Committee on March 6. 2019. The Committee heard testimony from: Jin Park, a Korean national DACA recipient, Harvard graduate, and Rhodes Scholar who came to the United States at the age of seven; Yazmin Irazoqui Ruiz, a Mexican national DACA recipient and *summa cum laude* graduate of the University of New Mexico who came to the United States at the age of three and is currently attending medical school; Yatta Kiazolu, a Liberian national DED holder who has lived in the United States for 22 years and is currently enrolled in a PhD program at the University of California, Los Angeles; Jose Palma, a Salvadoran national TPS recipient who is married to another TPS recipient, has four U.S. citizen children, and serves as the National Coordinator of the National TPS Alliance; Donald Graham, former owner of *The Washington Post* and co-founder of TheDream.US, which provides scholarships to thousands of highly motivated Dreamers and TPS recipients; Catholic Bishop Mario Dorsonville, Auxiliary Bishop of the Archdiocese of Washington, a naturalized immigrant from Colombia, and the incoming Migration Chairman of the U.S. Conference of Catholic Bishops; Hilario Yanez, a DACA recipient and a graduate of the University of Houston; and Andrew R. Arthur, a former immigration judge and a Resident Fellow at the Center for Immigration Studies.

Witnesses shared their personal stories and highlighted the need for a legislative solution by exploring the critical contributions of TPS and DED recipients, many of whom have lived lawfully in the United States for more than 20 years while building their lives, raising their families, and contributing to our economy. Witnesses also noted the personal and community-based impacts resulting from the Administration's decision to terminate the TPS and DED designations of numerous countries.

---

tion Studies, JMHS Volume 5 Number 3 (2017), https://journals.sagepub.com/doi/pdf/10.1177/233150241700500302.

[22] *Id.*

[23] Amanda Baran, Jose Magana-Salgado, Tom K. Wong, *Economic Contributions by Salvadoran, Honduran, and Haitian TPS Holders,* Immigrant Legal Resource Center (Apr. 2017), https://www.ilrc.org/sites/default/files/resources/2017-04-18_economic_contributions_by_salvadoran_honduran_and_haitian_tps_holders.pdf.

[24] American Immigration Council, *Workers with Temporary Protected Status in Key Industries and States* (Jan. 9, 2019), https://www.americanimmigrationcouncil.org/research/workers-temporary-protected-status-key-industries-and-states.

Committee Consideration

On May 22, 2019, the Committee met in open session and ordered the bill, H.R. 2821, favorably reported with an amendment in the nature of a substitute, by a rollcall vote of 20 to 9, a quorum being present.

Committee Votes

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that the following rollcall votes occurred during the Committee's consideration of H.R. 2821:

1. An amendment by Mr. Cline to amend section 101 to change the date on which individuals must have been eligible for TPS or DED from "January 1, 2017" to "January 1, 2010," was defeated by a rollcall vote of 9 to 20.

Roll Call No. 12 **Date:** 5/22/19

COMMITTEE ON THE JUDICIARY

House of Representatives
116th Congress

Amendment # 2 ( ) to ANS to HR 2517 offered by Rep. Cline

☐ PASSED

☑ FAILED

	AYES	NOS	PRES.
Jerrold Nadler (NY-10)		✓	
Zoe Lofgren (CA-19)		✓	
Sheila Jackson Lee (TX-18)		✓	
Steve Cohen (TN-09)		✓	
Hank Johnson (GA-04)		✓	
Ted Deutch (FL-02)		✓	
Karen Bass (CA-37)			
Cedric Richmond (LA-02)			
Hakeem Jeffries (NY-08)			
David Cicilline (RI-01)		✓	
Eric Swalwell (CA-15)			
Ted Lieu (CA-33)		✓	
Jamie Raskin (MD-08)		✓	
Pramila Jayapal (WA-07)		✓	
Val Demings (FL-10)		✓	
Lou Correa (CA-46)		✓	
Mary Gay Scanlon (PA-05)		✓	
Sylvia Garcia (TX-29)		✓	
Joseph Neguse (CO-02)		✓	
Lucy McBath (GA-06)		✓	
Greg Stanton (AZ-09)		✓	
Madeleine Dean (PA-04)		✓	
Debbie Mucarsel-Powell (FL-26)		✓	
Veronica Escobar (TX-16)		✓	
	AYES	NOS	PRES
Doug Collins (GA-27)	✓		
James F. Sensenbrenner (WI-05)			
Steve Chabot (OH-01)	✓		
Louie Gohmert (TX-01)	✓		
Jim Jordan (OH-04)			
Ken Buck (CO-04)	✓		
John Ratcliffe (TX-04)			
Martha Roby (AL-02)			
Matt Gaetz (FL-01)			
Mike Johnson (LA-04)			
Andy Biggs (AZ-05)			
Tom McClintock (CA-04)	✓		
Debbie Lesko (AZ-08)	✓		
Guy Reschenthaler (PA-14)	✓		
Ben Cline (VA-06)	✓		
Kelly Armstrong (ND-AL)			
Greg Steube (FL-17)	✓		
	AYES	NOS	PRES.
TOTAL	9	20	

2. Motion to report H.R. 2821, as amended, favorably was agreed to by a rollcall vote of 20 to 9.

Roll Call No. 13 **Date:** 5/22/19

COMMITTEE ON THE JUDICIARY

House of Representatives
116th Congress

Final Passage on H.R. 2821 as amended

☑ PASSED

☐ FAILED

	AYES	NOS	PRES.	
Jerrold Nadler (NY-10)	✓			
Zoe Lofgren (CA-19)	✓			
Sheila Jackson Lee (TX-18)	✓			
Steve Cohen (TN-09)	✓			
Hank Johnson (GA-04)	✓			
Ted Deutch (FL-02)	✓			
Karen Bass (CA-37)				
Cedric Richmond (LA-02)				
Hakeem Jeffries (NY-08)				
David Cicilline (RI-01)	✓			
Eric Swalwell (CA-15)				
Ted Lieu (CA-33)	✓			
Jamie Raskin (MD-08)	✓			
Pramila Jayapal (WA-07)	✓			
Val Demings (FL-10)	✓			
Lou Correa (CA-46)	✓			
Mary Gay Scanlon (PA-05)	✓			
Sylvia Garcia (TX-29)	✓			
Joseph Neguse (CO-02)	✓			
Lucy McBath (GA-06)	✓			
Greg Stanton (AZ-09)	✓			
Madeleine Dean (PA-04)	✓			
Debbie Mucarsel-Powell (FL-26)	✓			
Veronica Escobar (TX-16)	✓			
	AYES	NOS	PRES	
Doug Collins (GA-27)		✓		
James F. Sensenbrenner (WI-05)				
Steve Chabot (OH-01)		✓		
Louie Gohmert (TX-01)		✓		
Jim Jordan (OH-04)				
Ken Buck (CO-04)		✓		
John Ratcliffe (TX-04)				
Martha Roby (AL-02)				
Matt Gaetz (FL-01)				
Mike Johnson (LA-04)				
Andy Biggs (AZ-05)				
Tom McClintock (CA-04)		✓		
Debbie Lesko (AZ-08)		✓		
Guy Reschenthaler (PA-14)		✓		
Ben Cline (VA-06)		✓		
Kelly Armstrong (ND-AL)				
Greg Steube (FL-17)		✓		
	AYES	NOS	PRES.	
TOTAL	20	9		

Committee Oversight Findings

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

Committee Estimate of Budgetary Effects

In compliance with clause 3(d) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the bill, H.R. 2821, as reported. The Committee agrees with the estimate prepared by the Congressional Budget Office, which is included below.

New Budget Authority, Entitlement Authority, and Tax Expenditures

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

Congressional Budget Office Cost Estimate

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 2821, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 30, 2019.

Re H.R. 2821 the American Promise Act of 2019.

Hon. JERROLD NADLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office and staff of the Joint Committee on Taxation (JCT) have completed an estimate of the direct spending and revenue effects of H.R. 2821, the American Promise Act of 2019, as ordered reported by the House Committee on the Judiciary on May 22, 2019. On net, CBO and JCT estimate that enacting H.R. 2821 would increase budget deficits by $8.3 billion over the 2020–2029 period; on-budget deficits would increase by $7.9 billion, and off-budget deficits would increase by $0.4 billion over that period. Because enacting the bill would affect direct spending and revenues, pay-as-you-go proce-

dures apply.[1] The pay-as-you-go effects are equal to the change in on-budget deficits (see Table 1).

H.R. 2821 would allow aliens who, as of January 1, 2017, had or were otherwise eligible for Temporary Protected Status (TPS) or were eligible for Deferred Enforced Departure (DED) to receive lawful permanent resident (LPR) status under certain conditions.

CBO estimates that H.R. 2821 would provide lawful immigration status and work authorization to nearly half a million people who otherwise would be physically present in the United States without such legal authority.[2]

Enacting the bill would affect direct spending because LPR status confers eligibility for federal benefits—health insurance subsidies and benefits under Medicaid and also under the Supplemental Nutrition Assistance Program, among others—provided that those applicants meet the other eligibility requirements for those programs.

Enacting H.R. 2821 also would affect federal revenues because the increase in the number of workers with employment authorization would affect payroll taxes and individual and corporate income taxes. Some newly authorized workers also would become eligible for refundable tax credits (included in the spending total below). In addition, some of the fees established under the bill would be classified as revenues in the budget.

CBO and JCT estimate that enacting H.R. 2821 would increase direct spending by $8.8 billion over the 2020–2029 period. Over that same period, CBO and JCT estimate that the bill would increase revenues, on net, by $0.5 billion—a decline in on-budget revenues of $0.4 billion and an increase in off-budget revenues of $1.0 billion.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is David Rafferty.

Sincerely,

KEITH HALL,
Director.

Enclosure.

---

[1] A relatively small number of people would be eligible for LPR status under both H.R. 2820 (the Dream Act) and H.R. 2821 (the American Promise Act), both of which were ordered reported by the House Committee on the Judiciary on May 22, 2019. Consequently, if the provisions of the two bills were enacted as a single bill, the budgetary effects for that combined bill would be smaller than the sum of the budgetary effects of the two bills. CBO has not estimated the budgetary effects of a combined bill.

[2] The Administration has proposed to terminate TPS and DED for nationals of several countries. That policy is currently subject to a nationwide injunction. Spending and revenues in CBO's baseline reflect the expectation that the injunction will eventually be lifted and the Administration will implement its proposed policy.

TABLE 1.—H.R. 2821, THE AMERICAN PROMISE ACT OF 2019

	By fiscal year, millions of dollars—												
	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2019–2024	2019–2029
Changes In Direct Spending (Outlays)													
On-Budget:													
Health Insurance Subsidies [a]	0	0	0	0	565	625	585	520	535	605	640	1,190	4,075
Medicaid and CHIP	0	0	0	0	−5	10	90	205	255	270	210	5	1,035
Refundable Tax Credits [b]	0	0	0	0	50	75	95	105	115	115	110	125	665
Medicare	0	0	0	0	10	30	50	80	115	160	210	40	655
SNAP	0	*	5	5	5	5	45	115	130	130	130	20	570
DHS Fees and Spending	0	165	230	−25	−25	*	−5	−5	5	*	*	345	340
Supplemental Security Income	0	0	0	0	*	*	5	20	25	35	35	*	120
Higher Education Assistance	0	*	*	1	3	3	2	2	2	1	*	7	14
Subtotal	0	165	235	−19	603	748	867	1,042	1,182	1,316	1,335	1,732	7,474
Off-Budget:													
Social Security	0	0	0	0	70	100	135	180	230	285	345	170	1,345
Total	0	165	235	−19	673	848	1,002	1,222	1,412	1,601	1,680	1,902	8,819
Changes in Revenues													
On-Budget:													
Income and Medicare Taxes	0	0	0	0	−40	−35	−15	−85	−85	−85	−85	−75	−430
Health Insurance Subsidies [a]	0	0	0	0	−35	−40	−40	−50	−60	−65	−65	−75	−355
DHS Revenues	0	115	190	40	0	0	0	0	0	0	0	345	345
Subtotal	0	115	190	40	−75	−75	−55	−135	−145	−150	−150	195	−440
Off-Budget:													
Social Security	0	0	0	0	80	115	140	150	155	155	155	195	950
Total	0	115	190	40	5	40	85	15	10	5	5	390	510
Changes in Deficits (Negatives Indicate Increases in Deficits)													
Total	0	−50	−45	59	−668	−808	−917	−1,207	−1,402	−1,596	−1,675	−1,512	−8,309
On-Budget	0	−50	−45	59	−678	−823	−922	−1,177	−1,327	−1,466	−1,485	−1,537	−7,914
Off-Budget	0	0	0	0	10	15	5	−30	−75	−130	−190	25	−395

The change in direct spending would affect budget authority by similar amounts; CHIP = Children's Health Insurance Program; DHS = Department of Homeland Security; SNAP = Supplemental Nutrition Assistance Program; * = between −$500,000 and $500,000.

[a] Includes cost-sharing subsidies and the outlays portion of premium assistance tax credits.

[b] Refundable tax credits include the outlay portion of the earned income and child tax credits,

Duplication of Federal Programs

No provision of H.R. 2821 establishes or reauthorizes a program of the federal government known to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

Performance Goals and Objectives

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 2821 establishes a program for certain individuals who qualified for TPS or DED on January 1, 2017 to apply for lawful permanent residence.

Advisory on Earmarks

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 2821 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of Rule XXI.

Section-by-Section Analysis

The following discussion describes the bill as reported by the Committee.

Sec. 1. Short Title. Section 1 sets forth the short title of the bill as the "American Promise Act of 2019".

Title I. Treatment of Certain Nationals of Certain Countries Designated for Temporary Protected Status or Deferred Enforcement Departure.

Sec. 101. Adjustment of Status for Certain Nationals of Certain Countries Designated for Temporary Protected Status or Deferred Enforced Departure. Sections 101(a) and 101(b) direct the Secretary of Homeland Security or the Attorney General to cancel the removal and adjust the status of individuals who:

(1) are nationals of a foreign state with a TPS or DED designation on January 1, 2017;

(2) had or were otherwise eligible for TPS or DED relief on that date and have not since engaged in conduct that would render them ineligible for such relief; and

(3) have been continuously physically present for three years before the date enactment.

Such individuals must also demonstrate that they are not inadmissible on the following grounds under section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. § 1182(a)(2)): having health-related concerns; having engaged in criminal activity; posing a threat to national security; having been a stowaway; having engaged in alien smuggling; being subject to certain civil penalties; having engaged in student visa abuse; being ineligible for citizenship; having engaged in polygamy, international child abduction, or unlawful voting; or renouncing U.S. citizenship to avoid taxation. In addition to the criminal inadmissibility bars, TPS and DED eligibility requires that individuals not be convicted of any felony offense or any two misdemeanor offenses. Individuals who are eligi-

ble for adjustment of status under the Act must apply within three years of the date of enactment.

Section 101(c)(1) allows the Secretary to impose a reasonable fee on applications for adjustment of status under the Act, not to exceed $1,140.

Section 101(c)(2) prohibits the granting of an adjustment of status application under the Act until background check requirements are satisfied.

Section 101(c)(3) allows an applicant to withdraw an application without prejudice.

Title II. General Provisions.

Sec. 201. Definitions. Section 201 defines the following terms: "Disability"; "Federal Poverty Line"; "Immigration Laws"; "Secretary"; "Uniformed Services"; and "Treatment of Expunged Convictions".

Sec. 202. Submission of Biometric and Biographic Data; Background Checks. Section 202 requires all applicants to provide biometric and biographic data and prohibits approval of an application unless security and background checks are completed to the Secretary of Homeland Security's satisfaction.

Sec. 203. Limitation on Removal; Application and Fee Exemption; Waiver of Grounds for Inadmissibility and Other Conditions on Eligible Individuals. Section 203(a) prohibits the removal of an individual who appears to be prima facie eligible for relief under the Act until a final decision establishing ineligibility for relief is rendered.

Section 203(b) allows an individual who has been ordered removed or granted voluntary departure to apply for adjustment of status under the Act without having to file a motion to reopen or other pleading with the immigration court. If the application is approved, the Secretary shall cancel the order of removal. If the Secretary renders a final decision to deny the application, the removal or voluntary departure order shall remain in effect.

Section 203(c) provides for a fee exemption for applicants who: (1) are younger than 18 years of age; (2) demonstrate income at less than 150 percent of the federal poverty line; (3) are in foster care or lack familial support; or (4) cannot care for themselves due to a serious, chronic disability.

Section 203(d) provides the Secretary with discretionary authority to waive the following grounds of inadmissibility under section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. § 1182(a)(2)) for humanitarian purposes, family unity, or because a waiver is otherwise in the public interest: health-related grounds, certain criminal offenses, being a stowaway, alien smuggling, student visa abuse, or unlawful voting. The Secretary cannot waive the grounds described in this paragraph if it was based on a conviction that would make the individual ineligible for TPS under other provisions of the Act.

Section 203(e) allows applicants for adjustment of status under the Act to apply for advance parole (advance permission to return to the United States after travel abroad).

Section 203(f) allows individuals to apply for work authorization if their removal is stayed or if they have an application pending.

Sec. 204. Determination of Continuous Presence. Section 204(a) states that any period of continuous presence does not terminate when an individual is served with a notice to appear pursuant to section 239(a) of the Immigration and Nationality Act (8 U.S.C. 1229(a)).

Section 204(b) states that an individual will have failed to maintain continuous physical presence if the individual departed the United States for any period exceeding 90 days or 180 days in the aggregate. Travel authorized by the Secretary is excluded from consideration, and time spent outside the United States that exceeds these limitations may be excused for extenuating circumstances.

Section 204(c) allows the Secretary to waive—for humanitarian purposes, family unity, or if otherwise in the public interest—the physical presence requirement for an individual who was removed or departed the United States on or after January 20, 2017, and was continuously physically present in the United States for three years prior to the removal or departure. The Secretary is required to consult with the Department of State and establish a procedure for individuals to apply for relief from outside the United States if they would have been eligible for adjustment of status but for their removal or departure.

Sec. 205. Exemption from Numerical Limitations Section 205 states that there is no numerical limitation on the number of people who may be granted permanent resident status under the Act.

Sec. 206. Availability of Administrative and Judicial Review. Section 206(a) directs the Secretary to create an administrative review procedure within 30 days of enactment for individuals whose applications are denied or whose status is revoked.

Section 206(b) provides for judicial review in federal district court for applicants who are denied or have had their status revoked.

Section 206(c) states that applicants seeking administrative or judicial review may not be removed until a final decision on the application is rendered, except that an individual may be removed on criminal or national security grounds pending judicial review. An individual removed who prevails on judicial review must be promptly returned to the United States.

Sec. 207. Documentation Requirements. Section 207 sets forth the types of documentation that applicants may submit as proof of eligibility for relief under the Act in the following categories: Documents Establishing Identity; Documents Establishing Continuous Physical Presence; and Documents Establishing Exemption from Application Fees.

Section 207(d) allows the Secretary to prohibit or restrict the use of documents that are deemed unreliable for purposes of establishing identity, as well as other documents if the Secretary determines that relief under the Act is being obtained fraudulently to an unacceptable degree.

Sec. 208. Rulemaking. Section 208 requires the Secretary to publish interim regulations not later than 90 days after enactment. Final regulations must be published 180 days after the interim regulations are published.

Sec. 209. Confidentiality of Information. Section 209 prohibits the Secretary from: (1) disclosing or using application information (including information provided during administrative or judicial review) for immigration enforcement purposes; or (2) referring appli-

cants to U.S. Immigration and Customs Enforcement or U.S. Customs and Border Protection, or any designee of such agency, based solely on such information. Information may be shared with federal security and law enforcement agencies for assistance in the consideration of an application, to identify or prevent fraud, for national security purposes, or for the investigation or prosecution of any felony not related to immigration status. A fine of up to $10,000 shall be imposed upon any person who knowingly uses, publishes or permits information to be examined in violation of this section.

Sec. 210. Grant Program to Assist Eligible Applicants. Section 210 authorizes appropriations and directs the Secretary to establish a program to award competitive grants to nonprofit organizations to provide services to eligible applicants including but not limited to: providing information on eligibility, screening prospective applicants for eligibility, preparing and submitting applications and supporting documentation, providing information on the rights and responsibilities of U.S. citizenship, and providing instruction to individuals in civics and English as a second language.

Sec. 211. Provisions Affecting Eligibility for Adjustment of Status. Section 211 states that eligibility for relief under the Act does not preclude an individual from seeking any other status for which the individual might be eligible.

Dissenting Views

H.R. 2821 as reported by the Committee, takes what Congress intended to be a mechanism to allow aliens in the United States to remain in the U.S. when "conditions in the country *temporarily* prevent the country's nationals from returning safely, or in certain circumstances, where the country is unable to handle the return of its nationals adequately," [1] and turns it into a special path to citizenship for an unknown number of individuals who were at one time eligible in the United States for Temporaiy Protected Status (TPS). It also provides green cards for aliens who were at one time eligible for Deferred Enforced Departure (DED). Specifically, the groups of aliens include the following:

- The nearly 418,000 TPS holders currently in the United States pursuant to the ten TPS designations currently in effect; [2]
- Aliens currently inside the United States who were "eligible," but never applied, for TPS under one of the ten current designations;
- Aliens *outside* the United States who were "eligible," but never applied, for TPS under one of the ten current designations;
- Aliens inside the United States who received TPS under one of the three designations President Obama terminated (the terminations for Sierra Leone, Guinea, and Liberia took effect in May 2017);
- Aliens *outside* the United States who received TPS under one of the three designations President Obama terminated (the

[1] U.S. Citizenship and Immigration Services' website, https://www.uscis.gov/humanitarian/temporary-protected-status.
[2] See Chart 1.

terminations for Sierra Leone, Guinea, and Liberia took effect in May 2017);

- Aliens inside the United States who were "eligible," but never applied, for TPS under one of the three designations President Obama terminated (the terminations for Sierra Leone, Guinea, and Liberia took effect in May 2017);
- Aliens outside the United States who were "eligible," but never applied, for TPS under one of the three designations that President Obama terminated (the terminations for Sierra Leone, Guinea, and Liberia took effect in May 2017);
- Alien recipients, whether still in the United States or not, of Deferred Enforced Departure for Liberians; and
- Aliens, whether inside the United States or not, who would have been "eligible" for Deferred Enforced Departure for Liberians.

The Immigration and Nationality Act allows the DHS Secretary to designate a country for TPS if there are circumstances preventing the safe return of aliens to that country, or if a country is temporarily unable to adequately handle the return of its nationals.[3]

The effect of a TPS designation is that nationals of the designated country who are inside the United States on the date of such designation, whether legally or illegally, are allowed to apply to stay here and receive employment authorization. The Pew Research Center has noted all but "a small number" of TPS holders were in the country illegally at the time of their country's designation.[4]

TPS is usually initially designated for a period of 18 months and then redesignated in 18-month increments after the Secretary reviews the conditions in the country to determine whether the conditions for the TPS designation continue. If the Secretary determines the country no longer meets the conditions for the TPS designation, the Secretary is *required* by the statute to terminate the designation.[5]

At least 60 days before the expiration of the TPS designation, or any extension thereof, the Secretary, after consultations with appropriate Government agencies, must review the conditions in a foreign state designated for TPS to determine whether the conditions for the TPS designation continue to be met and, if so, the length of an extension.[6] If the Secretary determines the foreign state no longer meets the conditions for the TPS designation, the Secretary *must* terminate the designation. Such termination may not take effect "earlier than 60 days after the date the Notice [of termination] is published [in the Federal Register] or, if later, the expiration of the most recent previous extension. . . ."[7]

During the markup, Chairman Nadler stated, "The President opted to terminate these protections despite continuing political instability and compelling evidence that social and environmental

[3] 8 U.S.C. § 1254(b)(1).
[4] Pew Research Center, More than 100,000 Haitian and Central American Immigrants Face Decision on Their Status in the U.S., Nov. 18, 2017, at http://www.pewresearch.org/fact-tank/2017/11/08/more-than-100000-haitian-and-central-american-immigrants-face-decision-on-their-status-in-the-u-s/.
[5] 8 U.S.C. § 1254(b)(3)(B).
[6] 8 U.S.C. § 1254a(b)(3)(A), (C).
[7] 8 U.S.C. § 1254a(b)(3)(B).

conditions in those countries remain dire. . . .” Such a statement does not allow for the fact that the relevant statute (8 U.S.C. 1254) *requires* a termination when the conditions for designation are no longer in place. And it implies that once a country is designated for TPS, the designation can never be terminated unless the case is made that the country is a relative paradise.

Upon review of TPS status for certain countries in consultation with the State Department, DHS has indicated it will not renew the TPS designations of Nepal, Sudan, Nicaragua, Haiti, Honduras, and El Salvador, while extending the designations for Yemen and Somalia.[8] However, despite findings by DHS that the temporary conditions existing at the time of the designation are no longer in effect, nationwide federal court injunctions have prohibited DHS from ending TPS for nationals of these countries.[9]

Unfortunately, what was intended by Congress to be a *temporary* protection has, over time, become a permanent, automatically-renewed status, with some countries being rubber-stamped for redesignation for decades. For instance, Nicaragua was initially designated for TPS in 1999 due to Hurricane Mitch, which struck the country in October 1998. And El Salvador was initially designated in March 2001 based on a series of earthquakes.

DED is a purely discretionary grant the President can use based on his foreign policy powers to provide a deferral of enforced departure for certain aliens. In 2007, President George W. Bush provided DED for Liberians who had been in the country under a previously-terminated TPS designation. DED was subsequently extended by President Obama. On March 30, 2018, President Trump issued a directive stating,[10]

> . . . conditions in Liberia have improved. Liberia is no longer experiencing armed conflict and has made significant progress in restoring stability and democratic governance. Liberia has also concluded reconstruction from prior conflicts, which has contributed significantly to an environment that is able to handle adequately the return of its nationals. The 2014 outbreak of Ebola Virus Disease caused a tragic loss of life and economic damage to the country, but Liberia has made tremendous progress in its ability to diagnose and contain future outbreaks of the disease.
>
> Accordingly, I find that conditions in Liberia no longer warrant a further extension of DED. . . .

President Trump has since provided a one-year extension.[11] It is estimated there are anywhere between 840 and 3,600 DED recipients currently in the U.S.

---

[8] USCIS Website, at https://www.uscis.gov/humanitarian/temporary-protected-status.

[9] *Ramos, et al V. Nielsen, et al.,* No. 18–cv–01554 (N.D. Cal. Oct 3, 2018); *see also CASA de Maryland v. Trump,* No. 18–cv–00845 (D. Md. Nov. 29, 2018) (Enjoining the government from terminating TPS for El Salvador, Sudan, Nicaragua, and Haiti), *Bhattarai v. Nielsen,* No. 19–cv–731 (N.D. Cal) (preventing the government from terminating TPS for Nepal and Honduras).

[10] Presidential Memorandum for the Secretary of State and the Secretary of Homeland Security, Mar. 27, 2019, https://www.whitehouse.gov/presidential-actions/memorandum-secretary-state-secretary-homeland-security/.

[11] Memorandum on Extension of Deferred Enforced Departure for Liberians, Mar. 28, 2019, https://www.whitehouse.gov/presidential-actions/presidential-memorandum-secretary-state-secretary-homeland-security/.

With H.R. 2821, the Democrats continue their assault on the rule of law in our immigration system by taking what were to be *temporary* protective measures and placing the recipients of those measures, *as well as those who never even applied for the measures,* on a path to U.S. citizenship.

Democrats claim this bill is necessary since TPS recipients have been in the United States for a long time. In fact, during the mark-up Chairman Nadler stated, "TPS recipients have lived in the United States for an average of 19 years."[12] And he went on to note, "Now they face the possibility of being removed to a country they have not known for decades."[13] But those statements do not reflect the actual repercussions of the legislation—that nationals of countries whose TPS designations are less than four years old, will be granted green cards; and that nationals of countries whose designations have ended—thus the aliens were to have left the U.S.—will be granted green cards. In addition, as noted above, the bill allows people who were "eligible" for TPS or DED, but who have already left the U.S., to be granted a green card.

Republicans offered an amendment to limit the availability of a green card to nationals of countries that had a valid designation on January 1, 2010, as opposed to January 1, 2017, in order to bring the bill's text in line with the proffered reason for the legislation. The amendment would have prevented those who have been here a short time and those whose TPS designations were terminated, from being granted a path to citizenship. No Democrats voted for the amendment and it failed.

H.R. 2821 will incentivize the filing of fraudulent applications. H.R. 2821 permits various categories of low-reliability evidence to be submitted in support of an application, including mere affidavits to establish continuous physical presence.[14] H.R. 2821 also contains an expansive confidentiality provision[15] that prevents information contained in an application from being used for law enforcement purposes. Similar confidentiality provisions in the 1986 Special Agricultural Worker amnesty program incentivized widespread fraud in the program and have hampered law enforcement efforts. Moreover, aliens found to be ineligible and removable are prohibited under H.R. 2821 from being referred to U.S. Immigration and Customs Enforcement for lawful enforcement actions.[16] Hundreds of thousands, if not over a million aliens have applied for TPS over the years notwithstanding more limited confidentiality requirements.[17]

H.R. 2821 also contains a provision expressly permitting an alien to withdraw their application at any time, merely by making a request, which the Secretary has no discretion to ignore.[18] The withdrawal "shall not prejudice any future application filed by the applicant for any immigration benefit under this Act or under the Immigration and Nationality Act . . ."[19] meaning an alien can file a

---

[12] Statement of Chairman Jerrold Nadler, Markup of H.R. 2821, the American Promise Act of 2019, House Judiciary Comm., 116th Cong. May 22, 2019.
[13] *Id.*
[14] Amendment in the Nature of a Substitute to H.R. 2821, 116th Cong. (American Promise Act of 2019) at § 207.
[15] *Id.* at § 209.
[16] *Id.* at § 209(b).
[17] 8 C.F.R. § 244.16.
[18] *Id.* at § 101(c)(3).
[19] *Id.*

fraudulent application, and once they are caught simply request to withdraw their application with no consequences—criminal or immigration-related. Where there are no consequences for filing a fraudulent application, H.R. 2821 incentivizes filing fraudulent applications on the chance that an alien could be granted a green card.

H.R. 2821 creates a taxpayer-funded grant program to support the filing of applications for benefits. It would permit taxpayer money to be obligated through 2030. Aliens applying for other immigration benefits through the normal process must find and pay for their own legal and technical assistance. The special path to citizenship that H.R. 2821 confers is a significant immigration benefit that treats certain immigrants better than others. There is no reason whatsoever that U.S. taxpayers—and not the aliens—should have to shoulder the monetary burden to adjudicate that special path to citizenship.

H.R. 2821 also treats its potential beneficiaries better than legal immigrants who have followed the law. As written, the bill does not permit the Secretary to consider discretionary factors when determining whether an alien with TPS or DED is eligible to receive lawful permanent residence. The vast majority of other immigration benefits provided through the Immigration and Nationality Act—including adjustment of status—are discretionary and the alien must demonstrate they merit the status in the exercise of discretion. But H R 2821 states the Secretary "shall" adjust the status of an alien, so the Secretary cannot consider discretionary factors that weigh in favor or against granting such a status. Under the bill as written, aliens arrested, but not yet convicted, for heinous crimes after they were granted TPS would get green cards. Aliens who commit heinous acts but who were not convicted for technical reasons would get green cards. If the alien is *technically* eligible, the Secretary *must* grant the benefit—the Secretary is powerless to deny it.

H.R. 2821 grants green cards to an untold number of aliens, whether or not they entered the country illegally, whether they have been here for many years or a few years, whether or not they were TPS or DED recipients, and whether or not they have already left the country.

As written, H.R. 2821 contains no enforcement provisions, and is simply a vehicle designed to give green cards to a great number of people. Meanwhile, the United States is witnessing a security and humanitarian crisis on the border, as each successive month we are seeing unprecedented numbers of family units and unaccompanied alien children encountered by Customs and Border Protection personnel. The sheer volume of people coming is overwhelming border infrastructure.

Yet in the midst of a true crisis, H.R. 2821 does nothing whatsoever to address the resource needs of our law enforcement personnel on the border, nor will it do anything to address the root causes of the legal loopholes in U.S. immigration law that act as pull factors and have created a *de facto* system of catch-and-release.

Chart 1:

Temporary Protected Status by Country				
Country of Citizenship:	**Original Designation Date:**	**Reason**	**Extended through:**	**TPS beneficiaries:**
El Salvador	March 9, 2001	Earthquakes	September 9, 2019 (Terminates)[9]	251,479
Haiti	January 21, 2010	Earthquake	July 22, 2019 (Terminates)[9]	56,658
Honduras	January 5, 1999	Hurricane Mitch	January 5, 2020 (Terminates)	80,847
Nepal	June 24, 2015	Earthquake	June 24, 2019 (Terminates)[9]	14,503
Nicaragua	January 5, 1999	Hurricane Mitch	January 5, 2019 (Terminates)[9]	4,524
Somalia	September 16, 1991	Armed Conflict	March 17, 2020	470
South Sudan	November 3, 2011	Armed Conflict	May 2, 2019	76
Sudan	November 4, 1997	Armed Conflict	November 2, 2018 (Terminates)[9]	816
Syria	March 29, 2012	Armed Conflict	September 30, 2019	6,980
Yemen	September 3, 2015	Armed Conflict	March 3, 2020	1,453
				Total: 417,806

We urge our colleagues to oppose this legislation.

Signed,

DOUG COLLINS,
Ranking Member.
MARTHA ROBY.
ANDY BIGGS.
STEVE CHABOT.
MATT GAETZ.
TOM MCCLINTOCK.
GUY RESCHENTHALER.
W. GREGORY STEUBE.
BEN CLINE.

○