



## Kriss Worthington

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### CONSENT CALENDAR

September 16, 2003

To: Honorable Mayor and  
Members of the City Council

From: Councilmembers Margaret Breland, Dona Spring, and Kriss Worthington

Subject: Support for H.R. 1684, and S 1545, to permit Access to Higher Education and legalization for immigrant students, and adopting a resolution affirming Berkeley's support.

#### RECOMMENDATION:

That the Berkeley City Council support H.R. 1684, and S 1545, to permit Access to Higher Education and legalization for immigrant students, and adopt a resolution affirming Berkeley's support.

#### BACKGROUND:

The United States Supreme Court has determined that every state has a constitutional obligation to provide free public primary and secondary education to all children residing within their boundaries regardless of their immigration status.

Support for these bills will help increase access to higher education, which will allow these students to break the bonds of poverty, and make fuller contributions to our country's civic, political and economic well being.

On July 8, 2003, the S.F Board of Supervisors unanimously endorsed a virtually identical resolution. Our support will add us to a growing coalition.

#### FINANCIAL IMPLICATIONS:

NONE

#### CONTACT PERSON:

Councilmember Kriss Worthington 981-7170.

**STUDENT ADJUSTMENT ACT  
(H.R. 1684)**

**REINTRODUCED  
APRIL 9, 2003**

**This bill, which is still in the House of Representatives, would repeal section 505 of IIRIRA of 1996 – restoring State's Right to determine residency for higher education benefits. The bill would grant Legal Permanent Residency to immigrant students who meet the following requirements:**

**Age**

- Under 21 at time of application for relief
- Some individuals over 21 are included if they qualified within the last 4 years, if currently enrolled or have graduated from college

**Scholastic Requirement**

- Enrolled at the 7<sup>th</sup> grade level or above

**Long-term U.S. Residence**

- Have lived in the U.S. for at least 5 years preceding the date of application for immigration relief

**Good Moral Character**

- Must demonstrate good moral character as defined currently by immigration law

**Confidentiality** - information provided in application for legalization will remain confidential.

**ACTION NEEDED TO PASS THIS BILL:**

- Both individuals and organizations can write letters in support of the Student Adjustment Act to members of Congress. Send your letters to PULS c/o NNIRR, 310-8<sup>th</sup> Street, Suite 303, Oakland, CA 94607. A sample letter is attached. You can also call your representatives in Congress to urge them to support the Student Adjustment Act. To find out how to contact your representative, call 202-224-3121 or go to: <http://www.congress.org/congressorg/dbq/officials/directory/directory.dbq?command=conmdir>
- You can help pass a resolution in your city's board of supervisors or city council supporting the Student Adjustment Act. See the attached sample resolution.

**[Resolution Unanimously Passed July 8, 2003 by the San Francisco Board of Supervisors]**

**Resolution urging United States Congress to pass H.R. 1684 Student Adjustment Act, which authorizes the cancellation of removal and the adjustment of status for certain immigrant youths who are college bound and are long term United States residents and permit states to determine state residency for purposes of higher education without regard to immigration status.**

WHEREAS, The United States Supreme Court has determined that every state has a constitutional obligation to provide free public, primary and secondary education to all children residing within their borders regardless of their immigration status; and,

WHEREAS, Federal standards and accountability requirements imposed on elementary and secondary education institutions necessarily entail a federal commitment to education, including the assurance of meaningful access to higher education; and,

WHEREAS, California, on average, invests upward of \$7,000 each year for each of its public school students; and,

WHEREAS, Each year, 65,000 undocumented students who have lived in the United States for over five years graduate from American high schools; and

WHEREAS, Most of these children, having been raised and educated in the United States, view themselves as “Americans” and have the same dreams, goals and aspirations as other American children; and,

WHEREAS, A high school diploma and the lack of legal immigration status condemn undocumented students to a life of underemployment, instability and unfulfilled potential; and,

WHEREAS, These students face overwhelming obstacles in accessing higher education due to their immigration status, which makes them ineligible for federal financial aid and requires them to pay out-of-state tuition for those attending state universities despite their long-term residency within our country; and,

WHEREAS, Undocumented immigrants make vital contributions to the economic stability and cultural richness of the United States, yet remain vulnerable to exploitation, victimization, and stigmatization as long as they are denied legal immigration status and meaningful access to higher education; and,

WHEREAS, Access to higher education will allow these students to break the bonds of poverty, to raise the level of esteem in which they are held by our society and to make full contribution to our country's civic, political, and economic well-being; and,

WHEREAS, The Student Adjustment Act (HR 1684) would remedy this situation by allowing undocumented students who have lived in the United States for at least five years, are enrolled in the 7<sup>th</sup> grade or above, and are under 21 years of age, to legalize their immigration status, thereby making them eligible for Federal financial aid, and allow states to consider these students as state residents for tuition purposes at state universities; and,

WHEREAS, The City and County of San Francisco has declared and reaffirmed itself as a "City of Refuge" for peoples from all nations regardless of their race, religion or immigration status; and,

WHEREAS, The Immigrant Rights Commission passed a resolution urging the Board of Supervisors to support the Student Adjustment Act (H.R. 1684) on April 14, 2003; now, therefore, be it

RESOLVED, That the Board of Supervisors fully supports the passage of the Student Adjustment Act (H.R. 1684); and be it

FURTHER RESOLVED, That the Board of Supervisors urges the California Congressional delegation to support the passage of the Student Adjustment Act (H.R. 1684).

**Student Adjustment Act of 2003 (Introduced in House)**

HR 1684 IH

108th CONGRESS  
1st Session  
**H. R. 1684**

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 amend the Immigration and Nationality Act to cancel the removal and adjust the status of certain alien college-bound students who are long-term U.S. residents.

**IN THE HOUSE OF REPRESENTATIVES**

April 9, 2003

Mr. CANNON (for himself, Mr. BERMAN, Ms. ROYBAL-ALLARD, Mr. BONILLA, Mr. DREIER, Mr. GEORGE MILLER of California, Ms. ROS-LEHTINEN, Mr. HOYER, Mr. LINCOLN DIAZ-BALART of Florida, Mr. GUTIERREZ, Mr. MARIO DIAZ-BALART of Florida, Mr. WU, Mr. NUNES, Ms. JACKSON-LEE of Texas, Mrs. WILSON of New Mexico, Mr. RODRIGUEZ, Mr. WELLER, Mr. DOOLEY of California, Ms. HART, Mr. MENENDEZ, Mr. KING of New York, Mr. PASTOR, Mr. TIAHRT, Mr. MATHESON, Mr. SMITH of New Jersey, Mr. MCNULTY, Mr. RENZI, Ms. LINDA T. SANCHEZ of California, Mr. SHAYS, and Ms. SOLIS) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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**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 amend the Immigration and Nationality Act to cancel the removal and adjust the status of certain alien college-bound students who are long-term U.S. residents.

*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 'Student Adjustment Act of 2003'.

**SEC. 2. 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 (division C of Public Law 104-208; 110 Stat 3009-672; 8 U.S.C. 1623) is repealed.

(b) EFFECTIVE DATE- The repeal made by subsection (a) shall take effect as if included in the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

### SEC. 3. ADJUSTMENT OF STATUS OF CERTAIN LONG-TERM RESIDENT STUDENTS.

(a) IN GENERAL- Section 240A of the Immigration and Nationality Act (8 U.S.C. 1229b) is amended--

(1) in paragraph (3) of subsection (b)--

(A) by striking 'paragraph (1) or (2)' and inserting 'paragraph (1), (2), or (3)' each place it appears;

(B) by redesignating such paragraph as paragraph (5); and

(C) by moving such paragraph to follow paragraph (4);

(2) by inserting after paragraph (2) of subsection (b) the following new paragraph:

'(3) SPECIAL RULE FOR CHILDREN IN MIDDLE OR SECONDARY SCHOOL-

'(A) AUTHORITY- Subject to subparagraph (B), the Secretary of Homeland Security shall cancel removal of, and adjust to the status of an alien lawfully admitted for permanent residence, an alien who is inadmissible or deportable from the United States if the alien demonstrates that--

'(i) the alien has not, at the time of application, attained the age of 21;

'(ii) the alien was physically present in the United States on the date of the enactment of the Student Adjustment Act of 2003 and has been physically present in the United States for a continuous period of not less than five years immediately preceding the date of such application;

'(iii) the alien has been a person of good moral character during such period; and

'(iv) the alien, at the time of application, is enrolled at or above the 7th grade level in a school in the United States or is enrolled in or actively pursuing admission to an institution of higher education in the United States as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

The Secretary of Homeland Security shall provide a procedure by regulation allowing eligible individuals to apply affirmatively for the relief available under this paragraph without being placed in removal proceedings. An alien shall not be considered to have failed to maintain continuous physical presence in the United States for purposes of clause (ii) by virtue of brief, casual, and innocent absences from the United States.

'(B) RESTRICTIONS ON AUTHORITY- The provisions of this paragraph shall not apply to any of the following aliens:

'(i) An alien who is inadmissible under section 212(a)(2)(A)(i)(I) or is deportable under section 237(a)(2)(A)(i) (relating to crimes of moral turpitude), unless the Secretary of Homeland Security determines that the alien's removal would result

in extreme hardship to the alien, the alien's child, or (in the case of an alien who is a child) to the alien's parent.

'(ii) An alien who is inadmissible under section 212(a)(3) or is deportable under section 237(a)(2)(D)(i) or 237(a)(2)(D)(ii) (relating to security and related grounds); and

(3) in subsection (d)(1)(A), by inserting '(b)(3)' after 'subsection (b)(2)'.

(b) EXEMPTION FROM NUMERICAL LIMITATIONS- Section 240A(e)(3) of such Act (8 U.S.C. 1229b(e)(3)) is amended by adding at the end the following new subparagraph:

'(C) Aliens described in subsection (b)(3)'.

(c) GRANDFATHER PROVISIONS- For purpose of applying section 240A(b)(3) of the Immigration and Nationality Act (as inserted by subsection (a)) with respect to an application filed under such section not later than 120 days after the effective date of regulations implementing this section--

(1) an individual shall be considered to be under the age of 21 if the individual's 21st birthday occurs after the date of the enactment of this Act but no more than 120 days after the effective date of such regulations; and

(2) an individual shall be treated as meeting the requirements of clauses (i), (ii), and (iv) of subparagraph (A) of such section if--

(A) the individual would have met such requirements based upon an application filed at any time during the 4-year period ending on the date of the enactment of this Act; and

(B) the individual has graduated from, or is at the time of application enrolled in, an accredited institution of higher education in the United States (described in clause (iv) of such subparagraph).

(d) CONFIDENTIALITY OF INFORMATION- Neither the Secretary of Homeland Security, nor any other official or employee of the Department of Homeland Security or other Department, bureau, or agency of the United States, may--

- (1) use the information furnished by the applicant pursuant to an application filed under the amendments made by this section for any purpose other than to make a determination on the application;
- (2) make any publication whereby the information furnished by any particular individual can be identified; or
- (3) permit anyone other than the sworn officers and employees of the Department of Homeland Security or bureau or agency or, with respect to applications filed with a designated entity, that designated entity, to examine individual applications.

Whoever knowingly uses, publishes, or permits information to be examined in violation of this subsection shall be fined not more than \$10,000.

(e) ELIGIBILITY OF CANCELLATION APPLICANTS FOR FEDERAL EDUCATIONAL ASSISTANCE- Section 431(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641(b)) is amended--

- (1) by striking `; or' at the end of paragraph (6) and inserting a comma;
- (2) by striking the period at the end of paragraph (7) and inserting `, or'; and
- (3) by adding at the end the following new paragraph:  
`(8) an alien who has been granted relief under section 240A(b)(3) of the Immigration and Nationality Act, or with respect to whom an application under such section has been filed but not finally been adjudicated.'

(f) REGULATIONS-

- (1) PROPOSED REGULATIONS- Not later than 60 days after the date of the enactment of this Act, the Secretary of Homeland Security shall publish proposed regulations implementing this section.
- (2) INTERIM, FINAL REGULATIONS- Not later than 120 days after the date of the enactment of this Act, the Secretary of Homeland Security shall publish final regulations implementing this section. Such regulations shall be effective immediately on an interim basis, but are subject to change and revision after public notice and opportunity for a period for public comment.

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**DREAM Act (Introduced in Senate)**

S 1545 IS

108th CONGRESS  
1st Session  
**S. 1545**

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 alien students who are long-term United States residents.

**IN THE SENATE OF THE UNITED STATES**

July 31 (legislative day, JULY 21), 2003

Mr. HATCH (for himself, Mr. DURBIN, Mr. LUGAR, Mr. LEAHY, Mr. CRAIG, Mr. FEINGOLD, Mr. CRAPO, and Mr. GRASSLEY) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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**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 alien students who are long-term United States residents.

*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 'Development, Relief, and Education for Alien Minors Act of 2003' or 'DREAM Act'.

#### SEC. 2. DEFINITION OF INSTITUTION OF HIGHER EDUCATION.

In this Act, the term 'institution of higher education' has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

#### 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 described in subsection (a) shall take effect as if included in the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

#### SEC. 4. CANCELLATION OF REMOVAL AND ADJUSTMENT OF STATUS OF CERTAIN LONG-TERM RESIDENTS WHO ENTERED THE UNITED STATES AS CHILDREN.

##### (a) SPECIAL RULE FOR ALIENS IN QUALIFIED INSTITUTIONS OF HIGHER EDUCATION-

(1) IN GENERAL- Notwithstanding any other provision of law and except as otherwise provided in this Act, the Secretary of Homeland Security may 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 physically present in the United States for a continuous period of not less than 5 years immediately preceding the date of enactment of this Act, and had not yet reached the age of 16 years at the time of initial entry;

(B) the alien has been a person of good moral character since the time of application;

(C) the alien--

(i) is not inadmissible under paragraph (2), (3), (6)(B), (6)(C), (6)(E), (6)(F), or (6)(G) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)), or, if inadmissible solely under subparagraphs (C) and (F) of paragraph (6) of such section by reason of a false representation of United States citizenship, the alien was under the age of 16 years when the representation was made and was not the principal applicant in the fraudulent or false application for benefit under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); and

(ii) is not deportable under paragraph (1)(E), (1)(G), (2), (3)(B), (3)(C), (3)(D), (4), or (6) of section 237(a) of the Immigration and Nationality Act (8 U.S.C. 1227(a));

(D) the alien, at the time of application, has been admitted to an institution of higher education, or has earned a high school diploma or obtained a general education development certificate; and

(E) the alien has never been under a final administrative or judicial order of exclusion, deportation, or removal, unless the alien has remained in the United States under color of law or received the order before attaining the age of 16 years.

(F) The Secretary of Homeland Security may waive the grounds of ineligibility under section 212(a)(6) of the Immigration and Nationality Act and the grounds of deportability under paragraphs (1), (3), and (6) of section 237(a) of that Act for humanitarian purposes or family unity or when it is otherwise in the public interest.

(2) PROCEDURES- The Secretary of Homeland Security shall provide a procedure by regulation allowing eligible individuals to apply affirmatively for the relief available under this subsection without being placed in removal proceedings.

(b) TERMINATION OF CONTINUOUS PERIOD- For purposes of this section, any period of continuous residence or continuous physical presence in the United States of an alien who applies for cancellation of removal under this section 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)).

(c) TREATMENT OF CERTAIN BREAKS IN PRESENCE-

(1) IN GENERAL- An alien shall be considered to have failed to maintain continuous physical 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.

(2) 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. The exceptional circumstances determined sufficient to justify an extension should be no less compelling than serious illness of the alien, or death or serious illness of a parent, grandparent, sibling, or child.

(d) EXEMPTION FROM NUMERICAL LIMITATIONS- Nothing in this section may be construed to apply a numerical 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 proposed regulations implementing this section. Such regulations shall be effective immediately on an interim 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 after publication of the interim regulations in accordance with paragraph (1), the Secretary of Homeland Security shall publish final regulations implementing this section.

(f) REMOVAL OF ALIEN- The Secretary of Homeland Security shall not remove any alien who has a pending application for conditional status under 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 resident status shall be valid for a period of 6 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 Homeland Security shall provide for notice to the alien regarding the provisions of this section and the requirements of subsection (c)(1) 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--

(A) has violated any provision of subparagraph (B) or (C) of section 4(a)(1);

- (B) has become a public charge; or
- (C) in the case of an alien who received conditional permanent resident status under section 4(a)(1)(B), has received a dishonorable or other than honorable discharge from the Armed Forces of the United States.

(2) RETURN TO PREVIOUS IMMIGRATION STATUS- Any alien whose permanent resident status is terminated under paragraph (1) shall return to the immigration status the alien had immediately prior to receiving conditional permanent resident status under this Act.

(c) REQUIREMENTS OF TIMELY PETITION FOR REMOVAL 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), a petition which requests the removal of such conditional basis and which states, under penalty of perjury, the facts and information described in subsection (d)(1).

(2) ADJUDICATION OF PETITION TO REMOVE CONDITION-

(A) IN GENERAL- If a petition is filed in accordance with paragraph (1), the Secretary of Homeland Security shall make a determination as to whether the facts and information described in subsection (d)(1) and alleged in the petition are true with respect to the eligibility of the alien.

(B) REMOVAL OF CONDITIONAL BASIS IF FAVORABLE DETERMINATION- If the Secretary of Homeland Security determines that the facts and information alleged in the petition are true, the Secretary of Homeland Security shall so notify the alien and shall immediately remove the conditional basis of the status of the alien.

(C) TERMINATION IF ADVERSE DETERMINATION- If the Secretary of Homeland Security determines that such facts and information alleged in the petition are not true, the Secretary of Homeland Security shall so notify the alien and shall terminate the permanent resident status of the alien as of the date of the determination.

(3) TIME TO FILE PETITION- An alien may petition to remove the conditional basis to lawful resident status during the period beginning 180 days before and ending 2 years after either the date that is 6 years after the date of the granting of conditional resident status or any other expiration date of the conditional resident status as extended by the Secretary of Homeland Security in accordance with this Act. The alien shall be deemed in lawful status

in the United States during the period in which the petition is pending.

(d) DETAILS OF PETITION-

(1) CONTENTS OF PETITION- Each petition under subsection (c)(1) shall contain the following facts and information:

(A) The alien maintained good moral character during the entire period the alien has been a conditional permanent resident.

(B) The alien continues to be in compliance with subparagraphs (B) and (C) of section 4(a)(1).

(C) The alien has maintained continuous physical residence in the United States since adjustment of status to that of a conditional permanent resident. For the purpose of determining continuous physical presence under this subparagraph, section 4(c) shall apply.

(D) The alien has completed at least 1 of the following:

(i) The alien has acquired a degree from an institution of higher education or has been a student in good standing for at least 2 years in a program for a bachelor's degree or higher degree.

(ii) The alien has served in the Armed Forces of the United States for at least 2 years and, if discharged, has received an honorable discharge.

(iii) The alien has performed at least 910 hours of volunteer community service in a program of an organization that has been determined to be eligible to receive funds from the Combined Federal Campaign administered by the United States Office of Personnel Management or a program approved by the Secretary of Homeland Security in consultation with the Director of U.S.A. Freedom Corps.

(2) HARDSHIP EXCEPTION-

(A) IN GENERAL- The Secretary of Homeland Security may, in the Secretary's discretion, remove the conditional status of an alien if the alien--

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

(ii) demonstrates compelling circumstances for the inability to complete the requirements described in paragraph (1)(D); and

(iii) demonstrates that the alien's removal from the United States would result in exceptional and extremely unusual hardship to the alien or the alien's spouse, parent, or child who is a citizen or a lawful permanent resident of the United States.

(D) EXTENSION- Upon a showing of good cause, the Secretary of Homeland Security may also extend the validity period of the conditional resident status for the purpose of completing the requirements described in paragraph (1)(D).

(e) TREATMENT OF PERIOD FOR PURPOSES OF NATURALIZATION- For purposes of title III of the Immigration 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 section, the alien shall be considered to have been admitted as an alien lawfully admitted for permanent residence and to be in the United States as an alien lawfully admitted to the United States for permanent residence. However, the conditional basis must be removed before the alien may apply for naturalization.

#### **SEC. 6. RETROACTIVE BENEFITS UNDER THIS ACT.**

An alien who, prior to the date of enactment of this Act, has satisfied all the requirements of both sections 4 and 5, may petition the Secretary of Homeland Security for permanent resident status without first becoming a conditional resident.

#### **SEC. 7. EXCLUSIVE JURISDICTION.**

(a) IN GENERAL- 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 of Homeland Security until proceedings are terminated, or if a final order of deportation, exclusion, or removal is entered the Secretary of Homeland Security shall resume all powers and duties delegated to the Secretary of Homeland Security under this Act.

(b) STAY OF REMOVAL OF CERTAIN ALIENS ENROLLED IN PRIMARY OR SECONDARY SCHOOL- The Attorney General shall stay the removal proceedings of any alien who--

- (1) meets all the requirements for relief under this Act, except that the alien has not yet graduated from high school;
- (2) is at least 12 years of age; and
- (3) is enrolled full-time in a primary or secondary school.

(c) EMPLOYMENT- An alien whose removal is stayed pursuant to subsection (b) may be engaged in employment in the United States.

(d) LIFT OF STAY- The Attorney General shall lift the stay granted pursuant to subsection (b) if the alien--

- (1) is no longer enrolled in a primary or secondary school; and
- (2) fails to maintain prima facie eligibility for relief under this Act.

#### **SEC. 8. PENALTIES FOR FALSE STATEMENTS IN APPLICATION.**

Whoever files an application for relief under this Act and willfully and knowingly falsifies, misrepresents, or conceals a material fact or makes any false or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any false or fraudulent statement or entry, shall be fined in accordance with title 18, United States Code, or imprisoned not more than 5 years, or both.

#### **SEC. 9. CONFIDENTIALITY OF INFORMATION.**

(a) PROHIBITION- No officer or employee of the United States may--

- (1) use the information furnished by the applicant pursuant to an application filed under this Act for any purpose other than to make a determination on the application;
- (2) make any publication whereby the information furnished by any particular individual pursuant to an application under this Act can be identified; or

(3) permit anyone other than an officer or employee of the Department of Justice or, in the case of applications filed under this Act with a designated entity, that designated entity, to examine applications filed under this Act.

(b) PENALTY- Whoever knowingly uses, publishes, or permits information to be examined in violation of this section shall be fined not more than \$10,000.

**SEC. 10. EXPEDITED PROCESSING OF APPLICATIONS; PROHIBITION ON FEES.**

Regulations promulgated under this Act shall provide that applications under this Act will be considered on an expedited basis and without a requirement for the payment by the applicant of any additional fee for such expedited processing.

**SEC. 11. GAO REPORT.**

Seven years after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Committees on the Judiciary of the Senate and the House of Representatives setting forth--

- (1) the number of aliens who were eligible for cancellation of removal and adjustment of status during the application period described in section 4(a)(1)(A);
- (2) the number of aliens who applied for adjustment of status under section 4(a);
- (3) the number of aliens who were granted adjustment of status under section 4(a); and
- (4) the number of aliens with respect to whom the conditional basis of their status was removed under section 5.

