

118TH CONGRESS
1ST SESSION

S. _____

To modify the procedures for designating foreign states under section 244 of the Immigration and Nationality Act and granting temporary protected status to nationals of such foreign states.

IN THE SENATE OF THE UNITED STATES

Mr. LANKFORD introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To modify the procedures for designating foreign states under section 244 of the Immigration and Nationality Act and granting temporary protected status to nationals of such foreign states.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Temporary Protected Status Reform and Integrity Act”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Designation of a foreign state for temporary protected status.
- Sec. 3. Travel abroad by a registrant with temporary protected status.

Sec. 4. Procedures upon termination of a temporary protected status designation.

Sec. 5. Clarification of temporary protected status.

Sec. 6. Filing of requests for temporary protected status.

Sec. 7. Technical amendments.

Sec. 8. Severability.

Sec. 9. Effective date.

1 **SEC. 2. DESIGNATION OF A FOREIGN STATE FOR TEM-**
2 **PORARY PROTECTED STATUS.**

3 (a) IN GENERAL.—Section 244(b) of the Immigra-
4 tion and Nationality Act (8 U.S.C. 1254a(b)) is amend-
5 ed—

6 (1) by striking “Attorney General” each place
7 such term appears and inserting “Secretary of
8 Homeland Security”;

9 (2) in paragraph (1), in the undesignated mat-
10 ter following subparagraph (C), by inserting “the
11 Secretary of Homeland Security, not later than 30
12 days before such effective date, submits a report to
13 Congress that contains all of the matters described
14 in paragraph (3)(C)(ii) with respect to such designa-
15 tion and” after “unless”; and

16 (3) in paragraph (3)—

17 (A) by amending subparagraph (A) to read
18 as follows:

19 “(A) REVIEWS.—

20 “(i) INITIAL REVIEW.—Not later than
21 90 days before the end of the initial period
22 of designation of a foreign state (or part of

1 a foreign state) under this subsection, the
2 Secretary of Homeland Security, after con-
3 sultation with the appropriate Federal
4 agencies—

5 “(I) shall review the conditions in
6 the foreign state (or part of the for-
7 eign state) for which such designation
8 is in effect; and

9 “(II) may extend such designa-
10 tion for a period not to exceed 18
11 months if the Secretary—

12 “(aa) determines that the
13 conditions for such designation
14 continue to be met; and

15 “(bb) submits the informa-
16 tion described in subparagraph
17 (C)(ii) to Congress.

18 “(ii) PERIODIC REVIEWS.—Not later
19 than 90 days before the end of any ex-
20 tended period of designation beyond the
21 first designation of a foreign state (or part
22 of a foreign state) under this subsection,
23 the Secretary of Homeland Security, after
24 consultation with the appropriate Federal
25 agencies—

1 “(I) shall review the conditions in
2 the foreign state (or part of the for-
3 eign state) for which such designation
4 is in effect; and

5 “(II) may make a determination
6 as to whether the conditions for such
7 designation continue to be met.”;

8 (B) in subparagraph (B)—

9 (i) by striking “If the Attorney Gen-
10 eral” and inserting the following:

11 “(i) AUTOMATIC TERMINATION.—A
12 designation shall terminate on the date on
13 which such designation, or the most recent
14 extension of such designation, is scheduled
15 to expire if—

16 “(I) the Secretary of Homeland
17 Security does not make a determina-
18 tion under clause (i)(II) or (ii)(II) of
19 subparagraph (A) that the conditions
20 for such designation continue to be
21 met; or

22 “(II)(aa) the Secretary of Home-
23 land Security submits a recommenda-
24 tion to extend such designation pursu-
25 ant to subparagraph (C)(i); and

1 “(bb) such extension is not ex-
2 pressly authorized by an Act of Con-
3 gress that is enacted not later than 90
4 days after the date on which such rec-
5 ommendation is submitted.

6 “(ii) EFFECT OF DETERMINATION.—
7 If the Secretary of Homeland Security”;
8 and

9 (ii) by striking “the Attorney Gen-
10 eral” and inserting “the Secretary”; and
11 (C) by striking subparagraph (C) and in-
12 serting the following:

13 “(C) RECOMMENDATION TO CONGRESS ON
14 EXTENSIONS OF DESIGNATION.—

15 “(i) RECOMMENDATION.—If the Sec-
16 retary of Homeland Security determines,
17 pursuant to subparagraph (A)(ii), that a
18 foreign state (or part of a foreign state)
19 continues to meet the conditions for des-
20 ignation under paragraph (1) and that
21 such designation should receive a second or
22 subsequent extension, the Secretary shall
23 submit a recommendation to Congress to
24 extend, by an Act of Congress, the period
25 of designation of the foreign state (or part

1 of the foreign state) for a period not to ex-
2 ceed 18 months.

3 “(ii) MATTERS TO BE INCLUDED.—A
4 recommendation under clause (i) shall in-
5 clude—

6 “(I) a justification for the exten-
7 sion, including a description of—

8 “(aa) the humanitarian con-
9 cern in the foreign state (or part
10 of a foreign state); or

11 “(bb) the reason for which
12 the extension is otherwise in the
13 national interest of the United
14 States; and

15 “(II) a report to the appropriate
16 congressional committees that in-
17 cludes—

18 “(aa) a summary of the
19 country conditions information
20 assessed by the Secretary of
21 Homeland Security and the ap-
22 propriate Federal agencies that
23 with which the Secretary has
24 consulted;

1 “(bb) copies of all sources
2 from which the country condi-
3 tions information described in
4 item (aa) originated;

5 “(cc) an unredacted copy of
6 the signed decision memo to des-
7 ignate or extend temporary pro-
8 tected status for the foreign state
9 (or part of a foreign state);

10 “(dd) a justification for why
11 the entire foreign state (rather
12 than a part of the foreign state)
13 merits such designation, if appli-
14 cable;

15 “(ee) the analysis used to
16 reach the decision described in
17 item (dd);

18 “(ff) any local or regional
19 variations in the country condi-
20 tions which differ from the prior
21 designation or requested redesign-
22 nation; and

23 “(gg) the estimated or ac-
24 tual population of aliens from the
25 foreign state (or part of such for-

1 eign state) residing in the United
2 States—

3 “(AA) who have valid
4 nonimmigrant status;

5 “(BB) who have been
6 granted a discretionary re-
7 prieve from removal;

8 “(CC) who have over-
9 stayed any type of lawful
10 status in the United States;

11 “(DD) who have never
12 held lawful status in the
13 United States;

14 “(EE) who have any
15 sort of criminal record, with
16 a description of the nature
17 of such criminal record;

18 “(FF) who have trav-
19 eled abroad during the pe-
20 riod of designation, with the
21 prior approval of the Sec-
22 retary of Homeland Secu-
23 rity;

24 “(GG) who have trav-
25 eled abroad during the pe-

1 riod of designation without
2 the prior approval from the
3 Secretary of Homeland Se-
4 curity;

5 “(HH) whose tem-
6 porary protected status has
7 been terminated for any rea-
8 son; or

9 “(II) who have pre-
10 viously been ordered re-
11 moved from the United
12 States.

13 “(iii) CONSULTATION.—

14 “(I) IN GENERAL.—Not later
15 than 30 days after submitting a rec-
16 ommendation described in clause (i)
17 to Congress, the Secretary of Home-
18 land Security shall provide a briefing
19 to the appropriate congressional com-
20 mittees.

21 “(II) CONSULTATION DE-
22 SCRIBED.—Each consultation required
23 under subclause (I) shall involve an
24 in-person appearance by a designated
25 cabinet-level representative of the

1 President with members of the appro-
2 priate congressional committees to re-
3 view the justification extending a des-
4 ignation under this subparagraph, in-
5 cluding a discussion of the elements
6 described in clause (ii).

7 “(D) PROHIBITION AGAINST NEW DES-
8 IGNATIONS.—

9 “(i) IN GENERAL.—Subject to clauses
10 (ii) and (iii), the Secretary of Homeland
11 Security may not designate a foreign state
12 (or part of a foreign state) for which a des-
13 ignation has terminated pursuant to sub-
14 paragraph (B)(i) during the 18-month pe-
15 riod beginning on the date of such termi-
16 nation.

17 “(ii) APPLICABILITY.—Clause (i) shall
18 not apply to a designation that is expressly
19 authorized by an Act of Congress.

20 “(iii) SAME OR SIMILAR DESIGNA-
21 TION.—The Secretary of Homeland Secu-
22 rity may not redesignate a foreign state (or
23 part of a foreign state) for which a des-
24 ignation has terminated pursuant to sub-

1 paragraph (B)(i) based on the same or a
2 similar criteria, event, or justification.

3 “(E) CLARIFICATION REGARDING ELIGI-
4 BILITY FOR TEMPORARY PROTECTED STATUS.—

5 “(i) TREATMENT OF PRIOR STATUS.—

6 Any alien who has been admitted and held
7 valid nonimmigrant status shall not be
8 considered eligible for temporary protected
9 status under this subsection unless such
10 status is terminated not later than 180
11 days before the termination of a designa-
12 tion or an extension of a designation of
13 temporary protected status.

14 “(ii) TREATMENT OF CRIMINAL CON-
15 VICTIONS.—Any alien who has been con-
16 victed of 2 or more misdemeanors or 1 or
17 more felonies is not eligible for temporary
18 protected status under this section.

19 “(iii) UNLAWFUL ENTRY OR VISA
20 OVERSTAY ELIGIBILITY.—Any alien who
21 has entered the United States without in-
22 spection, has overstayed the period for
23 which the alien has been lawfully admitted,
24 has been issued a final order of removal, or
25 otherwise is not lawfully present in the

1 United States is not eligible for temporary
2 protected status under this section.

3 “(iv) PROHIBITION ON APPROVAL OF
4 REQUESTS FOR ALIENS WHO ENTERED
5 THE UNITED STATES AFTER THE DATE OF
6 DESIGNATION.—

7 “(I) LATE ARRIVALS.—Notwith-
8 standing any other provision of law,
9 an alien who enters the United States
10 after the date on which the Secretary
11 designates a foreign state (or part of
12 a foreign state) pursuant to para-
13 graph (1) shall be considered ineli-
14 gible to register for temporary pro-
15 tected status under this section.

16 “(II) CONTINUATION OF INELIGI-
17 BILITY.—Any alien who is determined
18 to be ineligible for temporary pro-
19 tected status under this section is not
20 eligible to receive such status during
21 any extension of a designation of the
22 foreign state (or part of a foreign
23 state) of which such alien is a na-
24 tional.

1 “(III) CONTINUOUS PRESENCE
2 REQUIREMENT.—Any alien who failed
3 to meet the continuous presence re-
4 quirement as of the date on which the
5 Secretary of Homeland Security des-
6 ignated the foreign state (or the part
7 of a foreign state) of which the alien
8 is national is not eligible to register
9 for temporary protected status under
10 this section. The date of the Secretary
11 of Homeland Security’s designation
12 shall be deemed to be the date on
13 which the Secretary announces such
14 decision, rather than the date on
15 which such decision was published in
16 the Federal Register.”.

17 (b) CONFORMING AMENDMENT.—Section 244(a) of
18 the Immigration and Nationality Act (8 U.S.C. 1254a(a))
19 is amended by striking paragraph (5).

20 **SEC. 3. TRAVEL ABROAD BY A REGISTRANT WITH TEM-**
21 **PORARY PROTECTED STATUS.**

22 (a) IN GENERAL.—Section 244(c) of the Immigration
23 and Nationality Act (8 U.S.C. 1254a(c)) is amended—

1 (1) in paragraph (3)(B), by striking “except
2 as” and all that follows through “permitted in sub-
3 section (f)(3),”; and

4 (2) by amending paragraph (4) to read as fol-
5 lows:

6 “(4) PROHIBITION OF TRAVEL ABROAD BY A
7 REGISTRANT WITH TEMPORARY PROTECTED STA-
8 TUS.—

9 “(A) EFFECT OF FAILURE TO MAINTAIN
10 CONTINUOUS RESIDENCE.—Except as provided
11 in subparagraph (B), any alien who fails to
12 maintain continuous residence for the duration
13 of his or her temporary protected status in ac-
14 cordance with paragraph (1)(A)(i) shall have
15 such status withdrawn immediately upon depar-
16 ture from the United States.

17 “(B) EXCEPTION FOR PREAPPROVED AB-
18 SENCES.—

19 “(i) IN GENERAL.—An alien shall not
20 be considered to have failed to maintain
21 continuous residence in the United States
22 under paragraph (1)(A)(ii) due to a brief
23 absence from the United States that was
24 approved by the Secretary of Homeland
25 Security in advance.

1 “(ii) EFFECT ON ELIGIBILITY FOR PA-
2 ROLE.—Any alien who receives prior ap-
3 proval from the Secretary of Homeland Se-
4 curity for a brief absence from the United
5 States is ineligible for parole under section
6 212(d)(5) upon returning to the United
7 States.

8 “(C) EFFECT OF RETURN TO COUNTRY OF
9 NATIONALITY.—Any alien who receives prior
10 approval from the Secretary of Homeland Secu-
11 rity for a brief absence from the United
12 States—

13 “(i) shall have his or her temporary
14 protected status withdrawn upon entering
15 any country which is designated under sub-
16 section (b); and

17 “(ii) does not have a right to rein-
18 statement or appeal of such withdrawal
19 upon termination of temporary protected
20 status under clause (i).”.

21 (b) DISQUALIFICATION OF APPROVED TRAVEL DOC-
22 UMENTS QUALIFYING TEMPORARY PROTECTED STATUS
23 REGISTRANT FOR ADJUSTMENT OF STATUS.—Section
24 304(c)(1) of the Miscellaneous and Technical Immigration

1 and Naturalization Amendments of 1991 (8 U.S.C. 1254a
2 note) is amended to read as follows:

3 “(1) Notwithstanding any other provision of law, an
4 alien described in paragraph (2) who has been authorized
5 by the Secretary of Homeland Security to travel abroad
6 temporarily and who returns to the United States in ac-
7 cordance with such authorization is not eligible for adjust-
8 ment of status under section 245(a) of the Immigration
9 and Nationality Act (8 U.S.C. 1255(a)).”.

10 **SEC. 4. PROCEDURES UPON TERMINATION OF A TEM-**
11 **PORARY PROTECTED STATUS DESIGNATION.**

12 Section 244 of the Immigration and Nationality Act,
13 as amended by sections 2 and 3, is further amended—

14 (1) in subsection (b)—

15 (A) by redesignating paragraphs (4) and
16 (5) as paragraphs (5) and (6), respectively;

17 (B) by inserting after paragraph (3) the
18 following:

19 “(4) DEPARTURE TIMELINE.—If a designation
20 of a foreign state (or part of a foreign state) is ter-
21 minated pursuant to paragraph (3)(B)—

22 “(A) the Secretary of Homeland Security
23 shall permit aliens granted temporary protected
24 status as a result of such designation to remain

1 in the United States for 180 days after the ter-
2 mination of such designation;

3 “(B) aliens who received employment au-
4 thorization pursuant to such designation may
5 not have such employment authorization ex-
6 tended beyond the earlier of—

7 “(i) the last day of the 180-day period
8 described in subparagraph (A); and

9 “(ii) the date on which such employ-
10 ment authorization was previously sched-
11 uled to terminate;

12 “(C) aliens may not be shielded from re-
13 moval to the country of designation upon con-
14 clusion of the 180-day period described in sub-
15 paragraph (A); and

16 “(D) any alien who has not departed or
17 obtained another lawful status within 180 days
18 after the termination date described in subpara-
19 graph (A) shall be considered an enforcement
20 priority by the Department of Homeland Secu-
21 rity.”; and

22 (C) in paragraph (6), as redesignated, by
23 amending subparagraph (A) to read as follows:

24 “(A) JUDICIAL REVIEW.—There shall be
25 no judicial review of any determination of the

1 Secretary of Homeland Security with respect to
2 the designation, the termination or extension of
3 a designation, or any collateral matters relating
4 to the designation, termination, or extension of
5 a foreign state (or part of a foreign state)
6 under this subsection.”; and

7 (2) in subsection (d), by amending paragraph
8 (3) to read as follows:

9 “(3) EFFECTIVE DATE OF TERMINATION.—

10 “(A) IN GENERAL.—Upon the termination
11 of a designation pursuant to subsection
12 (b)(3)(B), any alien granted temporary pro-
13 tected status as a result of such designation
14 shall have 180 days to depart the United
15 States. All benefits received by the alien as a
16 result of such status shall be terminated not
17 later than the last day of such 180-day period.

18 “(B) NO NEW BENEFITS APPROVED.—The
19 Secretary of Homeland Security may not grant
20 any new benefits to aliens based on the designa-
21 tion of a foreign state (or part of a foreign
22 state) under subsection (b) on or after the date
23 on which such designation is terminated.”.

1 **SEC. 5. CLARIFICATION OF TEMPORARY PROTECTED STA-**
2 **TUS.**

3 Section 244 of the Immigration and Nationality Act
4 (8 U.S.C. 1254a), as amended by sections 2, 3, and 4,
5 is further amended—

6 (1) in subsection (c), by amending paragraph
7 (2) to read as follows:

8 “(2) ELIGIBILITY STANDARDS AND RELATION
9 OF TEMPORARY PROTECTED STATUS TO OTHER IM-
10 MIGRATION BENEFITS.—

11 “(A) CHANGING OR ADJUSTING STATUS.—

12 Any alien who registers under paragraph
13 (1)(A)(iv) is ineligible, during the validity pe-
14 riod of his or her temporary protected status
15 registration—

16 “(i) to adjust his or her status under
17 section 245; or

18 “(ii) to change his or her non-
19 immigrant classification under section 248.

20 “(B) WAIVER OF GROUNDS OF INADMIS-
21 SIBILITY.—The Secretary of Homeland Security
22 may not waive any provision under section
23 212(a) when considering an alien’s eligibility for
24 temporary protected status. If an alien who is
25 in temporary protected status on the date of
26 the enactment of the Temporary Protected Sta-

tus Reform and Integrity Act received a permanent waiver of any such provision before such date of enactment, such waiver shall remain in effect after such date of enactment.

“(C) SEPARATE REGISTRATION.—Notwithstanding any other provision of law, an alien’s registration for temporary protected status is separate and distinct from the conditions regarding inspection and admission described in any other section of this chapter”; and

(2) in subsection (f)—

(A) in the subsection heading, by striking “BENEFITS AND”;

(B) by striking “section—” and all that follows through “(2)” and inserting “section,”; and

(C) by striking paragraphs (3) and (4).

SEC. 6. FILING OF REQUESTS FOR TEMPORARY PROTECTED STATUS.

Section 244 of the Immigration and Nationality Act, as amended by sections 2, 3, 4, and 5, is further amended—

(1) in subsection (c)(1)(B)—

(A) by striking “The amount of any such fee shall not exceed \$50.”; and

1 (B) by striking “fee for providing” and in-
2 serting “fees for biometrics (including
3 fingerprinting), re-registration, and providing”;
4 (2) by redesignating subsection (i) as subsection
5 (j); and

6 (3) by inserting after subsection (h) the fol-
7 lowing:

8 “(i) FILING AND PROCESSING OF REQUESTS FOR
9 TEMPORARY PROTECTED STATUS.—

10 “(1) IN GENERAL.—Not later than 180 days
11 after the date of the enactment of the Temporary
12 Protected Status Reform and Integrity Act, the Sec-
13 retary of Homeland Security shall require all appli-
14 cations or requests for benefits related to a designa-
15 tion under subsection (b) to be filed and processed
16 electronically.

17 “(2) TIMELY FILING REQUIRED.—No applica-
18 tion or request for a benefit related to a designation
19 under subsection (b) shall be considered properly
20 filed and adjudicated if such application or request
21 was filed not later than 90 days after the date on
22 which the notice of such designation was published
23 in the Federal Register.

24 “(3) PROHIBITION ON FEE WAIVERS.—Notwith-
25 standing any other provision of law, no alien who

1 applies for or requests temporary protected status
2 shall be eligible for a waiver of the fee required
3 under subsection (c)(1)(B).”.

4 **SEC. 7. TECHNICAL AMENDMENTS.**

5 Section 244 of the Immigration and Nationality Act,
6 as amended by this Act, is further amended by striking
7 “Attorney General” each place such term appears and in-
8 serting “Secretary of Homeland Security”.

9 **SEC. 8. SEVERABILITY.**

10 If any provision of this Act or any amendment made
11 by this Act, or the application of such provision to any
12 person or circumstance, is held to be unconstitutional, the
13 remainder of this Act, the amendments made by this Act,
14 and the application of the remaining provisions of this Act,
15 to any person or circumstance, shall not be affected.

16 **SEC. 9. EFFECTIVE DATE.**

17 This Act and the amendments made by this Act shall
18 take effect on the date that is 180 days after the date
19 of the enactment of this Act.