

Calendar No. 338

111TH CONGRESS
2^D SESSION

S. 2974

To establish the Return of Talent Program to allow aliens who are legally present in the United States to return temporarily to the country of citizenship of the alien if that country is engaged in post-conflict or natural disaster reconstruction, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 2, 2010

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

MARCH 26 (legislative day, MARCH 25), 2010

Reported by Mr. LEAHY, with an amendment and an amendment to the title
[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To establish the Return of Talent Program to allow aliens who are legally present in the United States to return temporarily to the country of citizenship of the alien if that country is engaged in post-conflict or natural disaster reconstruction, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Return of Talent Act”.

3 **SEC. 2. RETURN OF TALENT PROGRAM.**

4 (a) **IN GENERAL.**—Title III of the Immigration and
5 Nationality Act (8 U.S.C. 1401 et seq.) is amended by
6 inserting after section 317 the following:

7 “TEMPORARY ABSENCE OF PERSONS PARTICIPATING IN
8 THE RETURN OF TALENT PROGRAM

9 “SEC. 317A. (a) **IN GENERAL.**—The Secretary of
10 Homeland Security, in consultation with the Secretary of
11 State, shall establish the Return of Talent Program to
12 permit eligible aliens to temporarily return to the alien’s
13 country of citizenship to make a material contribution to
14 that country if the country is engaged in post-conflict or
15 natural disaster reconstruction activities, for a period not
16 exceeding 24 months, unless an extension of time is grant-
17 ed under subsection (d).

18 “(b) **ELIGIBLE ALIEN.**—An alien is eligible to partici-
19 pate in the Return of Talent Program established under
20 subsection (a) if the alien meets the requirements for a
21 special immigrant under section 101(a)(27)(N).

22 “(c) **FAMILY MEMBERS.**—The spouse, parents, sib-
23 lings, and any minor children of an alien who participates
24 in the Return of Talent Program established under sub-
25 section (a) may return to such alien’s country of citizen-

1 ship with the alien and reenter the United States with the
2 alien.

3 “(d) **EXTENSION OF TIME.**—The Secretary of Home-
4 land Security may extend the 24-month period referred
5 to in subsection (a) upon a showing that circumstances
6 warrant that an extension is necessary for post-conflict or
7 natural disaster reconstruction efforts.

8 “(e) **RESIDENCY REQUIREMENTS.**—A special immi-
9 grant described in section 101(a)(27)(N) who participates
10 in the Return of Talent Program, and the spouse, parents,
11 siblings, and any minor children who accompany such im-
12 migrant to that immigrant’s country of citizenship, shall
13 be considered, during such period of participation in the
14 program—

15 “(1) to be physically present and residing in the
16 United States for purposes of naturalization under
17 section 316(a); and

18 “(2) to meet the continuous residency require-
19 ments under section 316(b).

20 “(f) **OVERSIGHT AND ENFORCEMENT.**—The Sec-
21 retary of Homeland Security, in consultation with the Sec-
22 retary of State, shall oversee and enforce the requirements
23 of this section.”.

24 (b) **TABLE OF CONTENTS.**—The table of contents for
25 the Immigration and Nationality Act (8 U.S.C. 1101 et

1 seq.) is amended by inserting after the item relating to
 2 section 317 the following:

“317A. Temporary absence of persons participating in the Return of Talent
 Program.”.

3 **SEC. 3. ELIGIBLE IMMIGRANTS.**

4 Section 101(a)(27) of the Immigration and Nation-
 5 ality Act (8 U.S.C. 1101(a)(27)) is amended—

6 (1) in subparagraph (L), by inserting a semi-
 7 colon after “Improvement Act of 1998”;

8 (2) in subparagraph (M), by striking the period
 9 and inserting “; or”; and

10 (3) by adding at the end the following:

11 “(N) an immigrant who—

12 “(i) has been lawfully admitted to the
 13 United States for permanent residence;

14 “(ii) demonstrates an ability and willing-
 15 ness to make a material contribution to the
 16 post-conflict or natural disaster reconstruction
 17 in the alien’s country of citizenship; and

18 “(iii) has been determined by the Secretary
 19 of State, in consultation with the Secretary of
 20 Homeland Security, to be a citizen of—

21 “(I) a country in which the Armed
 22 Forces of the United States are engaged,
 23 or have been engaged during the 10-year

1 period preceding such determination, in
2 combat or peacekeeping operations;

3 “(II) a country in which authorization
4 for United Nations peacekeeping oper-
5 ations was initiated by the United Nations
6 Security Council during the 10-year period
7 preceding such determination; or

8 “(III) a country which received, dur-
9 ing the preceding 2 years, financial assist-
10 ance from the Office of Foreign Disaster
11 Assistance of the United States Agency for
12 International Development in response to a
13 disaster in such country that is beyond the
14 ability of such country’s response capacity
15 and warrants a response by the United
16 States Government.”.

17 **SEC. 4. REPORT TO CONGRESS.**

18 Not later than 2 years after the date of the enact-
19 ment of this Act, the Secretary of Homeland Security, in
20 consultation with the Secretary of State, shall submit a
21 report to Congress that describes—

22 (1) the countries of citizenship of the partici-
23 pants in the Return of Talent Program established
24 under section 317A of the Immigration and Nation-
25 ality Act, as added by section 2;

1 (2) the post-conflict or natural disaster recon-
2 struction efforts that benefitted, or were made pos-
3 sible, through participation in the program; and

4 (3) any other information that the Secretary of
5 Homeland Security determines to be appropriate.

6 **SEC. 5. REGULATIONS.**

7 Not later than 6 months after the date of the enact-
8 ment of this Act, the Secretary of Homeland Security shall
9 promulgate regulations to carry out this Act and the
10 amendments made by this Act.

11 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

12 There are authorized to be appropriated to United
13 States Citizenship and Immigration Services such sums as
14 may be necessary for fiscal year 2011 to carry out this
15 Act and the amendments made by this Act.

16 **SECTION 1. SHORT TITLE.**

17 *This Act may be cited as the “Return of Talent Act”.*

18 **SEC. 2. RETURN OF TALENT PROGRAM.**

19 (a) *IN GENERAL.*—*Title III of the Immigration and*
20 *Nationality Act (8 U.S.C. 1401 et seq.) is amended by in-*
21 *serting after section 317 the following:*

22 “*TEMPORARY ABSENCE OF PERSONS PARTICIPATING IN*

23 *THE RETURN OF TALENT PROGRAM*

24 “*SEC. 317A. (a) IN GENERAL.*—*The Secretary of*
25 *Homeland Security, in consultation with the Secretary of*
26 *State, shall establish the Return of Talent Program to per-*

1 *mit a lawful permanent resident (if such status has not been*
2 *terminated, rescinded, abandoned, or challenged in removal*
3 *proceedings) to temporarily return to the lawful permanent*
4 *resident’s country of citizenship or nationality to make a*
5 *material contribution to that country if the country is en-*
6 *gaged in post-conflict or natural disaster reconstruction ac-*
7 *tivities, or to temporarily provide medical services in a*
8 *country pursuant to subsection (b)(1)(B), for a period not*
9 *exceeding 1 year, unless an extension of time is granted*
10 *under subsection (d).*

11 “(b) *ELIGIBILITY REQUIREMENTS.—(1) A lawful per-*
12 *manent resident may be considered as being physically*
13 *present and residing in the United States for the purposes*
14 *of naturalization under section 316(a), notwithstanding a*
15 *temporary absence from the United States, if—*

16 “(A)(i) *such temporary absence was solely for the*
17 *purpose of engaging in post-conflict or natural dis-*
18 *aster reconstruction and rebuilding activities or to*
19 *provide medical services in the lawful permanent resi-*
20 *dent’s country of citizenship or nationality; and*

21 “(ii) *the Secretary of Homeland Security, in*
22 *consultation with the Secretary of State, determines*
23 *that the alien is a citizen or national of a country*
24 *in which—*

1 “(I) the Armed Forces of the United States
2 are engaged, or have been engaged, in combat or
3 peacekeeping operations, during the 5-year pe-
4 riod preceding such determination;

5 “(II) authorization for United Nations
6 peacekeeping operations was initiated by the
7 United Nations Security Council during the 5-
8 year period preceding the determination; or

9 “(III) financial assistance from the Office of
10 Foreign Disaster Assistance of the United States
11 Agency for International Development was
12 issued, during the 2-year period preceding such
13 determination, in response to a disaster in such
14 country that is beyond the ability of such coun-
15 try’s response capacity and warrants a response
16 by the United States Government; or

17 “(B)(i) the lawful permanent resident is a physi-
18 cian or other health care worker; and

19 “(ii) such temporary absence was solely for the
20 purpose of providing medical services in a country
21 that—

22 “(I) is described in paragraph (1)(A)(ii); or

23 “(II) the Secretary of State has determined
24 to be eligible for assistance from the Inter-
25 national Development Association because its per

1 *capita income is equal to or less than the thresh-*
2 *old established by the International Development*
3 *Association for the applicable fiscal year; and*

4 “(C)(i) *prior to such temporary absence, the law-*
5 *ful permanent resident has established, to the satisfac-*
6 *tion of the Secretary of Homeland Security, that his*
7 *or her absence from the United States will be solely*
8 *for the purpose of performing the activities or services*
9 *described in subparagraph (A)(i) or (B)(ii); and*

10 “(ii) *after the conclusion of such temporary ab-*
11 *sence, the person proves, to the satisfaction of the Sec-*
12 *retary of Homeland Security, that his or her absence*
13 *from the United States has been solely for such pur-*
14 *pose.*

15 “(2) *The lawful permanent resident has the burden to*
16 *prove, to the satisfaction of the Secretary, that his or her*
17 *absence from the United States will be and has been solely*
18 *for the purpose of performing the activities or services de-*
19 *scribed in subparagraph (A)(i) or (B)(ii) of paragraph (1).*

20 “(3) *The Secretary of Homeland Security, in consulta-*
21 *tion with the Secretary of State, may prescribe, by regula-*
22 *tion, the form and manner for lawful permanent residents*
23 *seeking preservation of residence to demonstrate eligibility*
24 *under this section.*

1 “(4) *The Secretary may authorize up to 1,000 aliens*
2 *in any fiscal year to obtain preservation of residence and*
3 *physical presence under this subsection for purposes of nat-*
4 *uralization under section 316(a).*

5 “(c) *FAMILY MEMBERS.—(1) The spouse and any*
6 *minor, dependent unmarried son or daughter who resides*
7 *in the same household as the lawful permanent resident who*
8 *participates in the Return of Talent Program may return*
9 *to such alien’s country of citizenship or nationality with*
10 *the lawful permanent resident, or accompany such alien*
11 *providing medical services pursuant to subsection (b)(1)(B),*
12 *and reenter the United States with such lawful permanent*
13 *resident, if otherwise admissible.*

14 “(2) *The spouse and minor, dependent, and unmarried*
15 *sons and daughters who are members of the household of*
16 *a lawful permanent resident who qualifies for preservation*
17 *of residence under this section are entitled to the same ben-*
18 *efit during the period for which they are residing outside*
19 *the United States as dependent members of the household*
20 *of such lawful permanent resident.*

21 “(d) *EXTENSION OF TIME.—The Secretary of Home-*
22 *land Security may extend the 1-year period referred to in*
23 *subsection (a) for an additional 6 months upon a showing*
24 *that an extension is necessary for post-conflict or natural*

1 *disaster reconstruction efforts or for the provision of med-*
2 *ical services.”.*

3 (b) *TABLE OF CONTENTS.—The table of contents for*
4 *the Immigration and Nationality Act (8 U.S.C. 1101 et*
5 *seq.) is amended by inserting after the item relating to sec-*
6 *tion 317 the following:*

“317A. Temporary absence of persons participating in the Return of Talent Pro-
gram.”.

7 **SEC. 3. REPORT TO CONGRESS.**

8 *Not later than 2 years after the date of the enactment*
9 *of this Act, the Secretary of Homeland Security, in con-*
10 *sultation with the Secretary of State, shall submit a report*
11 *to Congress that describes—*

12 (1) *the countries of citizenship of the partici-*
13 *pants in the Return of Talent Program established*
14 *under section 317A of the Immigration and Nation-*
15 *ality Act, as added by section 2;*

16 (2) *the post-conflict or natural disaster recon-*
17 *struction efforts that benefitted, or were made possible,*
18 *through participation in the program;*

19 (3) *the medical services provided pursuant to*
20 *section 317A(b)(1) of the Immigration and Nation-*
21 *ality Act, as added by section 2(a); and*

22 (4) *any other information that the Secretary of*
23 *Homeland Security determines to be appropriate.*

1 **SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

2 *There are authorized to be appropriated to United*
3 *States Citizenship and Immigration Services such sums as*
4 *may be necessary for fiscal year 2011 to carry out this Act*
5 *and the amendments made by this Act.*

Amend the title so as to read: “A bill to establish the Return of Talent Program to allow lawful permanent residents who return temporarily to their country of citizenship or nationality for the purpose of making a material contribution to reconstruction efforts in his or her country to have the time spent in such country count towards the naturalization physical presence requirement, if the country is engaged in post-conflict or natural disaster reconstruction activities.”.

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title