

RELIGIOUS WORKER VISA EXTENSION ACT OF 2008

APRIL 14, 2008.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

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

R E P O R T

[To accompany H.R. 5570]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill
(H.R. 5570) to amend the Immigration and Nationality Act to
eliminate the sunset in the special immigrant nonminister religious
worker visa program, having considered the same, report favorably
thereon with amendments and recommend that the bill as amend-
ed do pass.

CONTENTS

	Page
The Amendments	1
Purpose and Summary	2
Background and Need for the Legislation	2
Hearings	3
Committee Consideration	3
Committee Votes	3
Committee Oversight Findings	3
New Budget Authority and Tax Expenditures	3
Congressional Budget Office Cost Estimate	3
Performance Goals and Objectives	5
Constitutional Authority Statement	5
Advisory on Earmarks	5
Section-by-Section Analysis	5
Changes in Existing Law Made by the Bill, as Reported	6

THE AMENDMENTS

The amendments are as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Religious Worker Visa Extension Act of 2008”.

SEC. 2. SPECIAL IMMIGRANT NONMINISTER RELIGIOUS WORKER PROGRAM.

(a) **REGULATIONS.**—Not later than December 31, 2008, the Secretary of Homeland Security shall issue final regulations to eliminate or reduce fraud in the special immigrant categories described in subclauses (II) and (III) of section 101(a)(27)(C)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(C)(ii)).

(b) **EXTENSIONS.**—

(1) **IN GENERAL.**—Section 101(a)(27)(C)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(C)(ii)) is amended by striking “October 1, 2008,” each place such term appears and inserting “January 1, 2010,”.

(2) **CONDITIONAL FURTHER EXTENSION.**—

(A) **IN GENERAL.**—Section 101(a)(27)(C)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(C)(ii)), as amended by paragraph (1), is further amended by striking “January 1, 2010,” each place such term appears and inserting “January 1, 2016,”.

(B) **CONDITIONAL EFFECTIVE DATE.**—The amendment made by subparagraph (A) shall take effect on March 1, 2009, but only if the Secretary of Homeland Security has complied with subsection (a).

(c) **REPORT.**—Not later than September 30, 2010, the Inspector General of the Department of Homeland Security shall submit to the Congress a report containing the results of a study of the effectiveness of the regulations described in subsection (a).

Amend the title so as to read:

A bill to amend the Immigration and Nationality Act with respect to the special immigrant nonminister religious worker program, and for other purposes.

PURPOSE AND SUMMARY

H.R. 5570, the Religious Worker Visa Extension Act of 2008, would reauthorize the Special Immigrant Non-Minister Religious Worker Program that will sunset on September 30, 2008. The bill would reauthorize the Program for 7 years, if the Department of Homeland Security issues regulations to eliminate or reduce fraud in the Religious Worker Program by December 31, 2008; but if not, the reauthorization would expire after 15 months. In addition, H.R. 5570 would require that the Inspector General of the Department of Homeland Security issue a report on the effectiveness of the regulations by September 30, 2010.

BACKGROUND AND NEED FOR THE LEGISLATION

Non-Minister religious workers are individuals who are called to a vocation or who are in a traditional religious occupation with a bona fide nonprofit religious organization in the United States. Examples of those who are called to a vocation include nuns, monks, and sisters. Examples of those in religious occupations include missionaries, counselors, translators, religious instructors, cantors, and other pastoral care providers. Some non-minister religious workers may qualify if they are pursuing studies in a seminary or are otherwise in formation.

Non-Minister religious workers may enter the United States on either a non-immigrant visa, known as an “R visa,” or an immigrant visa, known as the “Special Immigrant Religious Worker Visa.” The “R visa” is a permanent provision in the Immigration and Nationality Act.

The Special Immigrant Non-Minister Religious Worker Visa Program provides for up to 5,000 Special Immigrant visas per year that religious denominations or organizations in the United States may use to sponsor foreign nationals to perform religious service in the United States. Once granted, this type of visa allows religious workers to immigrate permanently to the United States.

Since its initial enactment in 1990, the Special Immigrant Non-Minister Religious Worker Visa Program has been extended four times, first in 1994, again in 1997 and 2000, and most recently in 2003. It is currently due to expire on September 30, 2008.

To address concerns about potential use of the Program for fraudulent purposes, the bill, as amended, requires the Department of Homeland Security to issue final regulations by December 31, 2008 for the purpose of eliminating or reducing fraud in the Program. H.R. 5570 limits the reauthorization period for the Special Immigrant Non-Minister Religious Worker Program to only 15 additional months, until January 1, 2010, if the Department of Homeland Security fails to issue final regulations by December 31, 2008. If the Department of Homeland Security does issue such regulations, the Program would be reauthorized until January 1, 2016. The bill further requires the Inspector General to issue a report assessing the effectiveness of these regulations by September 30, 2010.

HEARINGS

The Committee on the Judiciary held no hearings on H.R. 5570.

COMMITTEE CONSIDERATION

On March 12, 2008, the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law met in open session and ordered the bill, H.R. 5570, favorably reported, as amended, by a vote of 8 to 1, a quorum being present. On April 2, 2008, the Committee met in open session and ordered the bill, H.R. 5570, favorably reported, as amended, by voice vote, 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 there were no recorded votes during the Committee's consideration of H.R. 5570.

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.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

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. 5570, 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, April 14, 2008.

Hon. JOHN CONYERS, Jr.,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5570, the “Religious Worker Visa Extension Act of 2008.”

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

Sincerely,

PETER R. ORSZAG,
Director.

Enclosure.

H.R. 5570—Religious Worker Visa Extension Act of 2008

CBO estimates that implementing H.R. 5570 would have no significant cost to the Federal Government. Enacting the bill could affect direct spending, but CBO estimates that any such effects would not be significant in any year. In addition, we estimate that enacting H.R. 5570 could increase revenues by less than \$500,000 a year in fiscal years 2009 through 2016. H.R. 5570 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

H.R. 5570 would extend until January 1, 2010, the authorization for special immigrant visas for persons who work in certain religious vocations. In addition, if the Department of Homeland Security (DHS) issues regulations by January 1, 2009, to reduce fraud related to these visas, then the bill would extend the authorization for those persons through January 1, 2016. No more than 5,000 of these visas may be granted in each fiscal year.

The Department of State collects fees from persons who apply for such visas from overseas. Under current law, an application fee of \$355 per person is charged by the department and deposited in the Treasury as a revenue. Based on historical data from the Department of State, CBO estimates that the department would process an additional 200 applications annually and that enacting H.R. 5570 would increase revenues by less than \$500,000 a year in fiscal years 2009 through 2016. (Based on information from DHS, CBO anticipates that the department would issue the regulations required by the bill by January 1, 2009.)

The Department of State also charges a \$45 security surcharge for such visas and, depending on the type of petition, may charge additional fees for fingerprinting or affidavits of support. In addition, DHS collects a fee of \$375 to process the visa applications submitted by religious workers and their dependents. All of those fees are classified as offsetting collections (for the Department of State) or offsetting receipts (for DHS) and are retained and spent by the departments. CBO estimates the net budgetary effect of those increased collections would be less than \$500,000 a year.

Finally, some of the additional immigrants admitted under this legislation could become eligible for certain Federal benefits, but CBO expects that any increase in direct spending for benefit programs would not be significant over the 2009–2018 period.

The CBO staff contacts for this estimate are Mark Grabowicz (for DHS’s costs) and Sunita D’Monte (for the Department of State’s costs). This estimate was approved by Peter H. Fontaine, Assistant Director for Budget Analysis.

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, the objectives of H.R. 5570 are: (1) to reauthorize the Special Immigrant Non-Minister Religious Worker Program; and (2) to reduce possible fraud presented by the Program.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article I, section 8, clause 4 of the Constitution.

ADVISORY ON EARMARKS

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 5570 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 “Religious Worker Visa Extension Act of 2008.”

Sec. 2. Special Immigrant Non-Minister Religious Worker Program. Subsection (a) of section 2 requires the Secretary of Homeland Security to issue final regulations to eliminate or reduce fraud in the religious worker program by December 31, 2008.

Section 2(b) reauthorizes the special immigrant program for non-minister religious workers until January 1, 2010. If the Secretary of Homeland Security complies with section (a) by issuing final regulations by December 31, 2008, then the Special Immigrant Non-Minister Religious Worker Program is automatically reauthorized until January 1, 2016.

Section 2(c) requires a report by the Inspector General of the Department of Homeland Security on the effectiveness of the regulations required by subsection (a).

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

IMMIGRATION AND NATIONALITY ACT

* * * * *

TITLE I—GENERAL

SECTION 101. (a) As used in this Act—

(1) * * *

* * * * *

(27) The term “special immigrant” means—

(A) * * *

* * * * *

(C) an immigrant, and the immigrant’s spouse and children if accompanying or following to join the immigrant, who—

(i) * * *

(ii) seeks to enter the United States—

(I) * * *

* * * * *

(II) before **【October 1, 2008,】** *January 1, 2010*, in order to work for the organization at the request of the organization in a professional capacity in a religious vocation or occupation, or

(III) before **【October 1, 2008,】** *January 1, 2010*, in order to work for the organization (or for a bona fide organization which is affiliated with the religious denomination and is exempt from taxation as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986) at the request of the organization in a religious vocation or occupation; and

* * * * *

[Note: Effective March 1, 2009, section 101(a)(27)(C)(ii) of the Immigration and Nationality Act is further amended by section 2(b)(2)(A) of H.R. 5570 as follows:]

(C) an immigrant, and the immigrant’s spouse and children if accompanying or following to join the immigrant, who—

(i) * * *

(ii) seeks to enter the United States—

(I) * * *

* * * * *

(II) before **【January 1, 2010,】** *January 1, 2016*, in order to work for the organization at the request of the organization in a professional capacity in a religious vocation or occupation, or

(III) before **【January 1, 2010,】** *January 1, 2016*, in order to work for the organization (or for a bona fide organization which is affiliated with the religious denomination and is exempt from taxation as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986) at the request of the organization in a religious vocation or occupation; and

* * * * *