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HOUSE OF REPRESENTATIVES
REPORT
108–271

TO AMEND THE IMMIGRATION AND NATIONALITY ACT TO EXTEND FOR AN ADDITIONAL 5 YEARS THE SPECIAL IMMIGRANT RELIGIOUS WORKER PROGRAM

SEPTEMBER 16, 2003.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

R E P O R T

[To accompany H.R. 2152]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 2152) to amend the Immigration and Nationality Act to extend for an additional 5 years the special immigrant religious worker program, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

CONTENTS

	Page
Purpose and Summary	1
Background and Need for the Legislation	2
Hearings	3
Committee Consideration	3
Vote of the Committee	3
Committee Oversight Findings	3
New Budget Authority and Tax Expenditures	4
Congressional Budget Office Cost Estimate	4
Performance Goals and Objectives	5
Constitutional Authority Statement	5
Section-by-Section Analysis and Discussion	5
Changes in Existing Law Made by the Bill, as Reported	5
Markup Transcript	6

PURPOSE AND SUMMARY

H.R. 2152 extends the authorization for the special immigrant religious worker visa until October 1, 2008.

BACKGROUND AND NEED FOR THE LEGISLATION

I. IMMIGRANT RELIGIOUS WORKER VISAS

"Special immigrant" visas are available for a number of different categories of aliens. One such category is for religious workers. An alien (along with spouse and children) can qualify for a special immigrant visa if the alien has been a member, for the immediately preceding 2 years, of a religious denomination having a bona fide nonprofit, religious organization in the United States, seeks to enter the United States to—

- serve as a minister,
- serve in a professional capacity in a religious vocation or occupation at the request of the organization, or
- serve in a religious vocation or occupation at the request of the organization,

and has been carrying out such work continuously for at least the prior 2 years.

INS regulations define "religious occupation" as meaning——

> an activity which relates to a traditional religious function. Examples of individuals in religious occupations include, but are not limited to, liturgical workers, religious instructors, religious counselors, cantors, catechists, workers in religious hospitals or religious health care facilities, missionaries, religious translators, or religious broadcasters. This group does not include janitors, maintenance workers, clerks, fund raisers, or persons solely involved in the solicitation of donations. [1]

INS regulations define "religious vocation" as meaning "a calling to religious life evidenced by the demonstration of commitment practiced in the religious denomination, such as the taking of vows. Examples of individuals with a religious vocation include, but are not limited to, nuns, monks, and religious brothers and sisters." [2]

The two non-minister categories (professional religious occupation/vocation; religious occupation/vocation) were created by the Immigration Act of 1990. Because of the fear of fraudulent or excessive use of these categories, a maximum of 5,000 visas a year was allowed for the two categories. [3] In addition, the categories were set to sunset in 1994. In 1994, the categories were extended to October 1, 1997. In 1997, the categories were extended to October 1, 2000. In 2000, the categories were extended to October 1, 2003. [4]

In fiscal year 2002, 1,413 religious workers became permanent residents through the special immigrant category (as did 1,714 spouses and children).

II. H.R. 2152

H.R. 2152 would extend the special immigrant visas for religious workers (other than ministers) until October 1, 2008.

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[1] 8 C.F.R. sec. 204.5(m)(2).
[2] *Id.*
[3] Section 203(b)(4) of the Immigration and Nationality Act.
[4] *See* Pub. L. No. 106–409.

The Committee has received a letter from many major religious denominations supporting an extension of these visas. [5]

The letter provided a number of examples of how religious denominations rely on the religious worker visas. For example, "Catholic dioceses rely heavily upon religious sisters, brothers, and lay missionaries from abroad, who are sponsored and qualify for these permanent residency visas. Some fill a growing need in the Catholic Church for those called to religious vocations. Others provide critical services to local communities in areas including religious education, and care for vulnerable populations such as elderly, immigrants, refugees, abused and neglected children, adolescents and families at risk."

In addition, "Jewish congregations, particularly in remote areas with small Jewish communities, rely on rabbis, cantors, kosher butchers, Hebrew school teachers, and other religious workers who come from abroad through the religious worker program. Without them, many Jewish communities would be unable to sustain the institutions and practices that are essential to Jewish religious and communal life."

And, "[o]ther religious denominations, such as the Baptist Church, the Church of Christ Scientist, the Church of Jesus Christ of Latter Day Saints, the Lutheran Church, and the Seventh Day Adventist Church, also rely on the visas to bring in non-minister religious workers, who, in addition to providing some of the same services mentioned above, also work in areas as diverse as teaching in church schools, producing religious publications, sustaining prison ministries, training health care professionals to provide religiously appropriate health care, and performing other work related to a traditional religious function."

HEARINGS

No hearings were held on H.R. 2152.

COMMITTEE CONSIDERATION

On July 15, 2003, the Subcommittee on Immigration, Border Security, and Claims met in open session and ordered favorably reported the bill H.R. 2152, by a voice vote, a quorum being present. On September 10, 2003, the Committee met in open session and ordered favorably reported the bill H.R. 2152 without amendment by voice vote, a quorum being present.

VOTE OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the House of Representatives, the Comittee notes that there were no recorded votes during its consideration of H.R. 2152.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports that the findings

[5] *See* letter from Agudath Israel of America, the Baptist Joint Committee, Bruderhof Communities, the Catholic Legal Immigration Network, the Conference of Major Superiors of Men, the First Church of Christ, Scientist (Boston), the General Council of Seventh Day Adventists, the Hebrew Immigrant Aid Society, the Lutheran Immigration and Refugee Service, and the United States Conference of Catholic Bishops to F. James Sensenbrenner, Jr. (April 11, 2003).

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. 2152, 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, September 15, 2003.

Hon. F. JAMES SENSENBRENNER, 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. 2152, a bill to amend the Immigration and Nationality Act to extend for an additional 5 years the special immigrant religious worker program.

If you wish further details on this estimate, we will be pleased to provide them. The principal CBO staff contact for this estimate is Mark Grabowicz, who can be reached at 226–2860.

Sincerely,

DOUGLAS HOLTZ-EAKIN.

Enclosure

cc: Honorable John Conyers, Jr.
Ranking Member

H.R. 2152—A bill to amend the Immigration and Nationality Act to extend for an additional 5 years the special immigrant religious worker program.

H.R. 2152 would affect Federal collections and spending related to visas and services for certain immigrants, with effects on both direct spending and revenues. CBO estimates that the net effect on direct spending would not be significant in any year, and that revenues would increase by about $2 million a year. H.R. 2152 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no significant costs on State, local, or tribal governments.

H.R. 2152 would extend, through October 1, 2008, the authorization for special immigrant visas for persons who work in certain religious vocations. Under current law, such workers and their families are eligible for special immigrant visas if they apply by October 1, 2003. No more than 5,000 of these visas may be granted in each fiscal year.

Because the Bureau of Citizenship and Immigration Services (BCIS) would charge a fee of $130 for each person that applies for the special immigrant visa, we estimate that the BCIS would collect no more than $650,000 annually in additional fees, which are recorded as offsets against the agency's spending. The agency is authorized to spend such fees without further appropriation, and we expect that most of the money would be spent in the year in which it is collected. Thus, the net impact on BCIS spending would be negligible.

Increasing the number of visas issued also would increase the amount of fees collected by the Department of State. Under current law, a fee of $335 per person is charged by the department and deposited in the Treasury as revenue. CBO estimates that, under the bill, the Treasury would collect about $2 million a year from such fees. In addition, depending on the type of petition, the department may charge additional fees for fingerprinting or affidavits of support. Those fees are classified as offsetting collections and are retained by the department to pay for its consular programs. CBO estimates the net budgetary effect of increases in those fees would be less than $500,000 a year.

Finally, some of the additional immigrants could become eligible for certain Federal benefits, but CBO expects that any increase in direct spending for benefit programs would not be significant.

The CBO staff contacts for this estimate are Mark Grabowicz (for BCIS costs), who can be reached at 226–2860, and Sunita D'Monte (for State Department costs), who can be reached at 226–2840. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

H.R. 2152 does not authorize funding. Therefore, clause 3(c)(4) of Rule XIII of the Rules of the House of Representatives is inapplicable.

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 of the Constitution.

SECTION-BY-SECTION ANALYSIS AND DISCUSSION

Section 1. Extension of Special Immigrant Religious Worker Program.

Section 1(a) of the bill amends section 101(a)(27)(C)(ii) of the Immigration and Nationality Act to extend the authorization until October 1, 2008, for special immigrant visas for aliens who will work for religious organizations in religious vocations or occupations.

Section 1(b) specifies that the changes to law made by the bill shall take effect on October 1, 2003.

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 omit-

ted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECTION 101 OF THE IMMIGRATION AND NATIONALITY ACT

DEFINITIONS

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) solely for the purpose of carrying on the vocation of a minister of that religious denomination,
(II) before October 1, [2003,] *2008,* 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, [2003,] *2008,* 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

* * * * * * *

MARKUP TRANSCRIPT

BUSINESS MEETING

WEDNESDAY, SEPTEMBER 10, 2003

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Committee met, pursuant to notice, at 10:07 a.m., in Room 2141, Rayburn House Office Building, Hon. F. James Sensenbrenner, Jr. [Chairman of the Committee] presiding.

[Intervening business.]

Chairman SENSENBRENNER. The next item on the agenda is the adoption of H.R. 2152 to amend the Immigration and Nationality Act to extend for an additional 5 years the Special Immigrant Religious Worker Program.

[The bill, H.R. 2152, follows:]

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108TH CONGRESS
1ST SESSION

H. R. 2152

To amend the Immigration and Nationality Act to extend for an additional 5 years the special immigrant religious worker program.

IN THE HOUSE OF REPRESENTATIVES

MAY 19, 2003

Mr. FRANK of Massachusetts introduced the following bill; which was referred to the Committee on the Judiciary

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A BILL

To amend the Immigration and Nationality Act to extend for an additional 5 years the special immigrant religious worker program.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF SPECIAL IMMIGRANT RELIGIOUS WORKER PROGRAM.

(a) 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 "2003," each place it appears and inserting "2008,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2003.

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Chairman SENSENBRENNER. The chair recognizes the gentleman from Indiana, Mr. Hostettler, the Chairman of the Subcommittee on Immigration, Border Security, and Claims.

Mr. HOSTETTLER. Thank you, Mr. Chairman.

The Religious Worker, Immigrant and Visa——

Chairman SENSENBRENNER. Does the gentleman have a motion first?

Mr. HOSTETTLER. Yes. Mr. Chairman, the Subcommittee on Immigration, Border Security, and Claims reports favorably the bill H.R. 2152 and moves its favorable recommendation to the full House.

Chairman SENSENBRENNER. Without objection, the bill will be considered as read and open for amendment at any point.

The chair recognizes the gentleman from Indiana, Mr. Hostettler, to strike the last word.

Mr. HOSTETTLER. Thank you, once again, Mr. Chairman.

The Religious Worker Immigrant Visa program allows American religious denominations, large and small, to benefit from committed religious workers from overseas. The visa program for nonminister religious workers expires at the end of this fiscal year and needs to be reauthorized.

An alien, along with spouse and children, can qualify for a special immigrant visa if the alien has been a member, for the immediately preceding 2 years, of a religious denomination having a bona fide, nonprofit religious organization in the United States, seeks to enter the United States to serve as a minister, serve in a professional capacity in religious vocation or occupation at the request of the organization, or serve in a religious vocation or occupation at the request of the organization, and has been carrying out such work continuously for at least the prior 2 years.

The two nonminister religious worker categories were added by the 1990 immigration bill. Because of the fear of fraudulent or excessive use of these categories, a maximum of 5,000 visas a year was allowed for the two categories. In fiscal year 2001, 1,546 religious workers, along with 1,782 spouses and children, received these visas.

The nonminister categories were originally set to sunset in 1994. After two extensions, the categories now expire on October 1. H.R. 2152, introduced by Representative Barney Frank, would extend the special immigrant visas for religious workers until October 1, 2008.

The Committee has received a letter, signed by organizations representing many religious denominations, supporting an extension of these visas. The letter provided a number of examples of how religious denominations rely on the religious worker visas.

For example, "Catholic dioceses rely heavily upon religious sisters, brothers and lay missionaries from abroad. Some fill a growing need in the Catholic Church for those called to religious vocations. Others provide critical services to local communities in areas including religious education and care for vulnerable populations, such as the elderly, immigrants, refugees, abused and neglected children, adolescents and families at risk."

In addition, "Jewish congregations, particularly in remote areas, with small Jewish communities, rely on rabbis, cantors, kosher butchers, Hebrew school teachers and other religious workers who

come from abroad through the religious worker program. Without them, many Jewish communities would be unable to sustain the institutions and practices that are essential to Jewish religious and communal life."

And, "other religious denominations, such as the Baptist Church, the Church of Christ Scientists, the Church of Jesus Christ of Latter Day Saints, the Lutheran Church, and the Seventh Day Adventist Church, also rely on the visas to bring in nonminister religious workers who work in areas as diverse as teaching in church schools, producing religious publications, sustaining prison ministries, training health care professionals to provide religiously appropriate health care, and performing other work related to a traditional religious function."

These visas serve a valuable role and contribute to America's vibrant religious life. I urge my colleagues to support this legislation and yield back the balance of my time.

Chairman SENSENBRENNER. The gentlewoman from Texas, Ms. Jackson Lee, Ranking Member?

Ms. JACKSON LEE. Thank you very much, Mr. Chairman. I would like to join the Chairman of the Committee to ask my colleagues to support this legislation that seeks to extend the provisions to allow for Special Immigrant Religious Workers program, to extend it for an additional 5 years.

Let me congratulate Mr. Frank for his initiative on this legislation and to say that we have found ourselves in a different climate post-9/11, but I have maintained the premise that immigration does not equate to terrorism. This is a very singular and important part of our immigration laws that seeks to help people.

The special immigrant classification of the Immigration and National Act allows religious organizations to sponsor both ministers and nonminister religious workers from abroad to perform service in the United States. The nonminister religious workers' category includes a variety of occupations, such as nuns, religious brothers, cantors, postoral service workers, missionaries and religious broadcasters.

We are considering this legislation today which would amend the Immigration and Nationality Act to extend it for 5 years because it is about to expire on October 1, 2003. This bill, which I co-sponsor and support, would extend it, as I have indicated.

Religious workers provide a very important spiritual function in the American communities in which they work and live. And in addition to performing activities in furtherance of a vocation or religious occupation, often possessing characteristics unique from those found general labor market.

Historically, religious workers have staffed hospitals, orphanages, senior care homes, and other charitable institutions that provide benefits to society without public funding. They also are very helpful, if you will, with respect to new refugees, by knowing their cultures and their language. And so they can be comforting, as well as helping to explain the new society that these refugees will come into because religious workers may have had the experience of living in the United States.

According to the Department of Homeland Security, the term "religious worker" does not include janitors, maintenance workers, clerks, fundraisers, solicitors of donations or similar occupations.

The activity of a layperson who will be engaged in a religious occupation must relate to a traditional religious function. Thereby, we are protected that this particular provision will not be subject to abuse. The activity must embody the tenets of the religion and have religious significance related primarily, if not exclusively, to the matters of the spirit as they apply to the religion.

Prior to the enactment of the Immigration Act of 1990, nonprofit religious organizations that requested the services of foreign-born, nonminister religious workers were forced to fit their needs into the business, student or missionary visas.

This was problematic for religious organizations as the established visa categories were created primarily for the needs of profit-making businesses. As a result, religious organizations were frequently unable to sponsor foreign, nonminister religious workers. We clearly can say that this will go to the spirit and not to the profit.

The Catholic Church in the United States has needed this program to respond to the increasing diversity of its membership, which includes parishioners from countries throughout the world.

Religious workers from abroad assist the church here in a variety of ways. They come as religious brothers, counseling members of the ethnic communities, religious sisters, providing social services, care to the poor and ill, and laypersons assisting with religious education. While supporting her church in her spiritual mission, these workers also mend the spirit of those in need in our local communities by working in schools, hospitals, homes for the aged and homeless shelters.

I acknowledge that fraud is a concern with this program, but as I said earlier, I believe that this is narrowly drawn to protect us from abuse and from fraud. It reinforces the fact that we are a Nation of laws, and it also reinforces the fact that we do not cast a broad net that immigration and terrorism are equal.

This, again, reinforces the values of this Nation, and I ask my colleagues to support this legislation.

I yield back.

Chairman SENSENBRENNER. Without objection, all Members' opening statements will appear in the record, at this point.

[The prepared statement of Ms. Jackson Lee follows:]

PREPARED STATEMENT OF THE HONORABLE SHEILA JACKSON LEE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. Chairman and Ranking Member, thank you for having convened this markup session as to H.R. 2152 To Amend the Immigration and Nationality Act to Extend for an Additional 5 Years the Special Immigrant Religious Worker Program. As the Ranking Member of this Committee's Subcommittee on Immigration and Claims, this bill has much relevance to my ongoing immigration initiatives on a national and constituent-based scale.

The special immigrant classification of the Immigration and Nationality Act allows religious organizations to sponsor both ministers and non-minister religious workers from abroad to perform service in the United States. The non-minister religious workers category includes a variety of occupations, such as nuns, religious brothers, catechists, cantors, pastoral service workers missionaries, and religious broadcasters.

We are considering legislation today which would amend the Immigration and Nationality Act to extend the Special Immigrant provisions which otherwise are set to expire on October 1, 2003. This bill, H.R. 2152, which I cosponsor and support, would extend the special immigrant religious worker program for an additional 5 years.

Religious workers provide a very important spiritual function in the American communities in which they work and live, in addition to performing activities in furtherance of a vocation or religious occupation often possessing characteristics unique from those found in the general labor market. Historically, religious workers have staffed hospitals, orphanages, senior care homes and other charitable institutions that provide benefits to society without public funding.

According to the Department of Homeland Security, the term "religious worker" does not include janitors, maintenance workers, clerks, fund raisers, solicitors of donations, or similar occupations. The activity of a lay-person who will be engaged in a religious occupation must relate to a traditional religious function. The activity must embody the tenets of the religion and have religious significance, relating primarily, if not exclusively, to matters of the spirit as they apply to the religion.

Prior to the enactment of the Immigration Act of 1990, non-profit religious organizations that requested the services of foreign-born, non-minister religious workers were forced to fit their needs into the business, student, or missionary visa categories. This was problematic for religious organizations, as the established visa categories were created primarily for the needs of profit-making businesses. As a result, religious organizations were frequently unable to sponsor foreign non-minister religious workers.

The Catholic Church in the United States has needed this program to respond to the increasing diversity of its membership, which includes parishioners from countries throughout the world. Religious workers from abroad assist the Church here in a variety of ways. They come as religious brothers counseling members of ethnic communities, religious sisters providing social services and care to the poor and ill, and lay persons assisting with religious education. While supporting the Church in her spiritual mission, these workers also mend the spirit of those in need in our local communities by working in schools, hospitals, homes for the aged, and homeless shelters.

I acknowledge that fraud is a concern with this program. Nevertheless, restricting the religious worker provision is not the way to resolve this problem. The provision requires non-minister special immigrant religious workers to meet stringent qualifications before they enter the country. Any attempt to impose stricter criteria could hurt religious organizations.

A failure to extend this program in a timely fashion would be a disservice not only to religious organizations but to local communities and those in distress who depend on the religious workers that it provides.

Chairman SENSENBRENNER. Are there amendments?

[No response.]

Chairman SENSENBRENNER. If there are no amendments, the chair notes the presence of a reporting quorum.

The question occurs on the motion to report the bill H.R. 2152 favorably.

Those in favor will say aye.

Opposed, no.

The ayes appear to have it. The ayes have it. The motion to report favorably is agreed to.

Without objection, the Chairman is authorized to move to go to conference pursuant to House rules. Without objection, the staff is directed to make any technical and conforming changes, and all Members will be given 2 days, as provided by the rules, in which to submit additional dissenting, supplemental or minority views.

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