

TO ALLOW OTHERWISE ELIGIBLE ISRAELI NATIONALS TO RECEIVE E-2
NONIMMIGRANT VISAS IF SIMILARLY SITUATED UNITED STATES NA-
TIONALS ARE ELIGIBLE FOR SIMILAR NONIMMIGRANT STATUS IN
ISRAEL

MARCH 8, 2012.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. SMITH of Texas, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany H.R. 3992]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill
(H.R. 3992) to allow otherwise eligible Israeli nationals to receive
E-2 nonimmigrant visas if similarly situated United States nation-
als are eligible for similar nonimmigrant status in Israel, having
considered the same, reports favorably thereon without amendment
and recommends that the bill do pass.

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Purpose and Summary

H.R. 3992 makes Israeli nationals eligible to receive E-2 non-
immigrant visas.

Background and Need for the Legislation

“E-2” visas are nonimmigrant visas available for treaty investors. Under the Immigration and Nationality Act, a visa is available to an alien who is:

entitled to enter the United States under and in pursuance of the provisions of a treaty of commerce and navigation between the United States and the foreign state of which he is a national, and the spouse and children of any such alien if accompanying or following to join him . . . solely to develop and direct the operations of an enterprise in which he has invested . . . a substantial amount of capital. . . .¹

Alien employees of a treaty investor may receive E-2 visas if they are coming to the U.S. “to engage in duties of an executive or supervisory character, or, if employed in a lesser capacity, if the employee has special qualifications that make the services to be rendered essential to the efficient operation of the enterprise.”² There is no numerical cap on E-2 visas. In fiscal year 2010, 25,500 aliens (including dependents) were granted E-2 visas. An alien may be admitted initially for a period of 2 years, and can apply for extensions in 2-year increments.³

The U.S. has entered into treaties of commerce containing language similar to the E-2 visas since at least 1815, when we entered into a Convention to Regulate Commerce with the United Kingdom. Currently, the nationals of more than 75 countries are eligible for E-2 status, including Albania, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahrain, Bangladesh, Belgium, Bolivia, Bosnia & Herzegovina, Bulgaria, Cameroon, Canada, Chile, Taiwan, Columbia, Congo (Brazzaville), Congo (Kinshasa), Costa Rica, Croatia, Czech Republic, Denmark, Ecuador, Egypt, Estonia, Ethiopia, Finland, France, Georgia, Germany, Grenada, Honduras, Iran, Ireland, Italy, Jamaica, Japan, Jordan, Kazakhstan, South Korea, Kyrgyzstan, Latvia, Liberia, Lithuania, Luxembourg, Macedonia, Mexico, Moldova, Mongolia, Morocco, the Netherlands, Norway, Oman, Pakistan, Panama, Paraguay, the Philippines, Poland, Romania, Senegal, Singapore, the Slovak Republic, Slovenia, Spain, Sri Lanka, Suriname, Sweden, Switzerland, Thailand, Togo, Trinidad & Tobago, Tunisia, Turkey, the Ukraine and the United Kingdom.⁴

In the past, countries became eligible for the E-2 program through treaties signed with the U.S. However, in 2003 the Judiciary Committee reached an understanding with the U.S. Trade Representative (USTR) that no immigration provisions were to be included in future trade agreements.⁵ Thus, henceforth, legislation would be required to add countries to the E-2 program. In 2005, Chairman Sensenbrenner introduced legislation (H.R. 3647) to make Denmark eligible for the E-2 program. The Judiciary Com-

¹ Section 101(a)(15)(E) of the Immigration and Nationality Act.

² 22 C.F.R. sec. 41.51(b)(2).

³ See 8 C.F.R. sec. 214.2(e)(19)–(20).

⁴ See Foreign Affairs Manual sec. 41.51 Exhibit 1.

⁵ See letter from F. James Sensenbrenner, Jr., Chairman, House Judiciary Committee and John Conyers, Jr., Ranking Member, House Judiciary Committee, to Robert Zoellick, Ambassador, United States Trade Representative, July 10, 2003, *found at* H.R. Rep. No. 108–224, pt. 2, at 46–47 (2003).

mittee passed the bill by voice vote, as did the House. The Senate never acted. However, in 2008, the USTR agreed to add Denmark to the E-2 program based on a treaty signed before the agreement between USTR and the Judiciary Committee was reached.

H.R. 3992 would add Israel to the E-2 program (Israelis are already eligible for “E-1” (treaty trader) visas pursuant to a 1954 treaty).

Hearings

The Committee on the Judiciary held no hearings on H.R. 3992.

Committee Consideration

On February 28, 2012, the Committee met in open session and ordered the bill H.R. 3992 favorably reported without amendment, 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. 3992.

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. 3992, 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, March 7, 2012.

Hon. LAMAR SMITH, 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. 3992, a bill “To allow otherwise eligible Israeli nationals to receive E-2 nonimmigrant visas if similarly situated United States nationals are eligible for similar nonimmigrant status in Israel”.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Sunita D'Monte, who can be reached at 226–2840.

Sincerely,

DOUGLAS W. ELMENDORF,
DIRECTOR.

Enclosure

cc: Honorable John Conyers, Jr.
Ranking Member

H.R. 3992—a bill “To allow otherwise eligible Israeli nationals to receive E-2 nonimmigrant visas if similarly situated United States nationals are eligible for similar nonimmigrant status in Israel”

As ordered reported by the House Committee on the Judiciary on
February 28, 2012

H.R. 3992 would permit nationals of Israel to enter the United States temporarily under the E-2 visa program if Israel extends reciprocal treatment to U.S. nationals. Enacting H.R. 3992 would affect direct spending; therefore, pay-as-you-go procedures apply. However, CBO estimates that the net effects would be insignificant for each year and over the 2012–2022 period. Enacting the bill would not affect revenues.

The E-2 visa allows nonimmigrant investors to enter the United States temporarily to oversee a business in which they have made a significant investment. Under the bill, if an Israeli national applied for the E-2 visa, the Department of State would charge a \$390 fee to cover the cost of adjudicating the application and processing the visa. Israeli nationals are already eligible for a similar visa category—the E-1 visa for nonimmigrant traders. Based on information from the Department of State about the number of Israeli citizens who received E-1 visas and the ratio of E-2 to E-1 visas in countries comparable to Israel, CBO expects that under the bill the department would issue about 500 additional E-2 visas each year and collect about \$200,000 in additional fees annually. The department is authorized to collect and spend such fees without further appropriation, so the net impact on Federal spending would not be significant.

H.R. 3992 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on State, local, or tribal governments.

The CBO staff contact for this estimate is Sunita D'Monte. The estimate was approved by Theresa Gullo, Deputy 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, H.R. 3992 makes Israeli nationals eligible to receive E-2 nonimmigrant visas.

Advisory on Earmarks

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 3992 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of Rule XXI.

Section-by-Section Analysis

The following discussion describes the bill as reported by the Committee.

Sec. 1. Nonimmigrant Traders and Investor from Israel

Section 1 of the bill deems Israel to be a foreign state described in section 101(a)(15)(E) of the Immigration and Nationality Act for purposes of clauses (i) and (ii) of the section if the government of Israel provides similar nonimmigrant status to nationals of the United States.

