

110TH CONGRESS  
2D SESSION

# S. 3453

To authorize the adjustment of status for immediate family members of aliens who served honorably in the Armed Forces of the United States during the Afghanistan and Iraq conflicts.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 8, 2008

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

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## A BILL

To authorize the adjustment of status for immediate family members of aliens who served honorably in the Armed Forces of the United States during the Afghanistan and Iraq conflicts.

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. PERMANENT RESIDENT STATUS FOR IMME-**  
4                               **DIATE FAMILY MEMBERS OF ACTIVE DUTY**  
5                               **MILITARY SERVICE PERSONNEL.**

6       (a) IN GENERAL.—The Secretary of Homeland Secu-  
7       rity or the Attorney General may adjust the status of an

1 alien described in subsection (b) to that of an alien law-  
2 fully admitted for permanent residence if the alien—

3 (1) applies for such adjustment;

4 (2) is admissible to the United States as an im-  
5 migrant, except as provided in subsection (d);

6 (3) pays a fee in an amount determined by the  
7 Secretary for the processing of such application (un-  
8 less such fee is waived by the Secretary); and

9 (4) is physically present in the United States.

10 (b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STA-  
11 TUS.—The benefits provided under subsection (a) shall  
12 only apply to an alien who is—

13 (1) a parent, spouse, child, son or daughter  
14 (and their spouse, child, son, or daughter, if any)  
15 of—

16 (A) a living Armed Forces member de-  
17 scribed in subsection (c); or

18 (B) a deceased Armed Forces member de-  
19 scribed in subsection (c) if—

20 (i) the Armed Forces member died as  
21 a result of injury or disease incurred in or  
22 aggravated by his or her service; and

23 (ii) the alien applies for such adjust-  
24 ment not later than 2 years after the death  
25 of the Armed Forces member; or

1           (2) a son or daughter described in paragraph  
2           (1) or (3) of section 203(a) of the Immigration and  
3           Nationality Act (8 U.S.C. 1153(a)) who has a Fili-  
4           pino parent who was naturalized pursuant to section  
5           405 of the Immigration Act of 1990 (8 U.S.C. 1440  
6           note).

7           (c) ARMED FORCES MEMBER DEFINED.—In this sec-  
8           tion, the term “Armed Forces member” means any person  
9           who—

10           (1) is, or was at the time of the person’s death  
11           described in subsection (b)(1)(B), a United States  
12           citizen or lawful permanent resident;

13           (2) is serving, or has served honorably on or  
14           after October 7, 2001, as a member of the National  
15           Guard or the Selected Reserve of the Ready Reserve,  
16           or in an active-duty status in the military, air, or  
17           naval forces of the United States; and

18           (3) if separated from the service described in  
19           paragraph (2), was separated under honorable condi-  
20           tions.

21           (d) WAIVER OF CERTAIN GROUNDS OF INADMIS-  
22           SIBILITY.—

23           (1) IN GENERAL.—The provisions of para-  
24           graphs (4), (5), (6)(A), (7)(A), and (9)(B) of section  
25           212(a) of the Immigration and Nationality Act (8

1 U.S.C. 1182(a)) shall not apply to adjustment of  
2 status under this Act.

3 (2) ADDITIONAL WAIVERS.—The Secretary of  
4 Homeland Security or the Attorney General may  
5 waive any other provision of section 212(a) of such  
6 Act (other than paragraph (2)(C) and subpara-  
7 graphs (A), (B), (C), (E), and (F) of paragraph (3))  
8 with respect to an adjustment of status under this  
9 Act—

10 (A) for humanitarian purposes;

11 (B) to assure family unity; or

12 (C) if such waiver is otherwise in the pub-  
13 lic interest.

14 (e) DATE OF APPROVAL.—Upon the approval of an  
15 application for adjustment of status under this Act, the  
16 Secretary of Homeland Security shall create a record of  
17 the alien's admission as a lawful permanent resident.

18 (f) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—

19 (1) IN GENERAL.—If an alien is granted lawful  
20 permanent resident status under this Act, the Sec-  
21 retary of State shall not reduce the number of immi-  
22 grant visas authorized to be issued under the Immi-  
23 gration and Nationality Act (8 U.S.C. 1101 et seq.).

24 (2) EXEMPTION FROM DIRECT NUMERICAL LIM-  
25 ITATIONS.—Section 201(b)(1) of the Immigration

1 and Nationality Act (8 U.S.C. 1151(b)(1)) is  
2 amended by adding at the end the following:

3 “(F) Aliens who are described in paragraph (1)  
4 or (3) of section 203(a) and have a Filipino parent  
5 who was naturalized pursuant to section 405 of the  
6 Immigration Act of 1990 (8 U.S.C. 1440 note).”.

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