

NATO SPECIAL IMMIGRANT AMENDMENTS OF 1997

FEBRUARY 3, 1998.—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. 429]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 429) to amend the Immigration and Nationality Act to provide for special immigrant status for NATO civilian employees in the same manner as for employees of international organizations, 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. 429, introduced by U.S. Representative Owen Pickett, would add the North Atlantic Treaty Organization (“NATO”) to the list of organizations of which certain employees in the United States and their family members are eligible for special immigrant visas.

BACKGROUND AND NEED FOR THE LEGISLATION

I. Officers and Employees of International Organizations as Special Immigrants

The Immigration and Nationality Act makes available 9,940 immigrant visas a year for “special immigrants,” a category that includes many different types of aliens, including ministers and other religious workers, long-time employees and retired employees of the U.S. government abroad, long-time members of the U.S. Armed Forces, and long-time employees in the United States of certain international organizations.¹ There is currently no backlog of applicants for special immigrant visas (except for certain religious workers).

The category regarding international organizations encompasses officers and employees and certain immediate family members of organizations “entitled to enjoy privileges, exemptions, and immunities as . . . international organization[s] under the International Organizations Immunities Act”²

Currently qualifying individuals currently include:

¹ INA sec. 101(a)(27).

² INA sec. 101(a)(15)(G)(i). Currently qualifying organizations include the African Development Bank, the African Development Fund, the Asian Development Bank, the Border Environment Cooperation Commission, the Caribbean Organization, the Commission for Environmental Cooperation, the Commission for Labor Cooperation, the Commission for the Study of Alternatives to the Panama Canal, the Customs Cooperation Council, the European Bank for Reconstruction and Development, the European Space Agency, the Food and Agriculture Organization, the Great Lakes Fishery Commission, the Inter-American Defense Board, the Inter-American Development Bank, the Inter-American Institute for Cooperation on Agriculture, the Inter-American Investment Corporation, the Inter-American Statistical Institute, the Inter-American Tropical Tuna Commission, the International Atomic Energy Agency, the International Bank for Reconstruction and Development, the International Boundary and Water Commission, the International Center for Settlement of Investment Disputes, the International Civil Aviation Organization, the International Coffee Organization, the International Committee for the Red Cross, the International Cotton Advisory Committee, the International Criminal Police Organization (INTERPOL), the International Development Association, the International Development Law Institute, the International Fertilizer Development Center, the International Finance Corporation, the International Food Policy Research Institute, the International Fund for Agricultural Development, the International Hydrographic Bureau, the International Joint Commission—United States and Canada, the International Labor Organization, the International Maritime Organization, the International Maritime Satellite Organization, the International Monetary Fund, the International Organization for Migration, the International Pacific Halibut Commission, the International Secretariat for Volunteer Service, the International Telecommunications Satellite Organization, the International Telecommunication Union, the International Union for Conservation of Nature and Natural Resources, the International Wheat Advisory Committee, the Israel-United States Binational Industrial Research and Development Foundation, the Korean Peninsula Energy Development Organization, the Multinational Force and Observers, the Multilateral Investment Guarantee Agency, the North American Development Bank, the North Pacific Anadromous Fish Commission, the North Pacific Marine Science Organization, the Organization of African Unity, the Organization of American States, the Organization of Eastern Caribbean States, the Organization for Economic Cooperation and Development, the Pacific Salmon Commission, the Pan American Health Organization, the South Pacific Commission, the United International Bureau for the Protection of Intellectual Property, the United Nations, the United Nations Educational, Scientific, and Cultural Organization, the United Nations Industrial Development Organization, the Universal Postal Union, the World Health Organization, the World Intellectual Property Organization, the World Meteorological Organization, and the World Tourism Organization.

[1] an immigrant who is a retired officer or employee of such an international organization, and who (I) while maintaining status of a nonimmigrant under paragraph (15)(G)(iv),³ has resided and been physically present in the United States for periods totaling at least one-half of the seven years before the date of application for a visa or adjustment of status to a status under this subparagraph and for a period or periods aggregating at least 15 years before the date of the officer or employee's retirement from any such international organization, and (II) files a petition for status under this subparagraph no later than six months after the date of such retirement⁴

[2] an immigrant who is the spouse of a retired officer or employee accorded the status of special immigrant under [1], accompanying or following to join such retired officer or employee as a member of his immediate family⁵

[3] an immigrant who is the unmarried son or daughter of an officer or employee, or of a former officer or employee, of [such an organization], and who (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv) or paragraph (15)(N),⁶ has resided and been physically present in the United States for periods totaling at least one-half of the seven years before the date of application for a visa or for adjustment of status to a status under this subparagraph and for a period or periods aggregating at least seven years between the ages of five and 21 years, and (II) applies for a visa or adjustment of status under this subparagraph no later than his twenty-fifth birthday⁷

[4] an immigrant who is the surviving spouse of a deceased officer or employee of such an international organization, and who (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv) or paragraph (15)(N),⁸ has resided and been physically present in the United States for periods totaling at least one-half of the seven years before the date of application for a visa or for adjustment of status to a status under this subparagraph and for a period or periods aggregating at least 15 years before the date of the death of such officer or employee, and (II) files a petition for status under this subparagraph

³ Officers and employees of qualifying organizations, and their family members, come to the United States pursuant to section 101(a)(15)(G)(iv) of the INA and with "G-4" nonimmigrant visas. 22 C.F.R. sec. 41.12.

⁴ INA sec. 101(a)(27)(I)(iii).

⁵ INA sec. 101(a)(27)(I)(iv).

⁶ Children of officers and employees of qualifying international organizations can come to the United States pursuant to section 101(a)(15)(G)(iv) of the INA and with "G-4" nonimmigrant visas. 22 C.F.R. sec. 41.12. Children of special immigrants under clauses (ii)-(iv) of section 101(a)(27)(I) of the INA, and children of parents of such immigrants, can come to the United States pursuant to section 101(a)(15)(N)(ii) of the INA and with "N-9" nonimmigrant visas. 22 C.F.R. sec. 41.12.

⁷ INA sec. 101(a)(27)(I)(i).

⁸ Spouses of officers and employees of qualifying international organizations can come to the United States pursuant to section 101(a)(15)(G)(iv) of the INA and with "G-4" nonimmigrant visas. 22 C.F.R. sec. 41.12. Parents of special immigrants under section 101(a)(27)(I)(i) of the INA, while the special immigrants are still children, can come to the United States pursuant to section 101(a)(15)(N)(i) and with "N-8" visas. 22 C.F.R. sec. 41.12.

no later than six months after the date of such death. . . .⁹

II. H.R. 429

H.R. 429 would make civilian NATO employees and their immediate family members¹⁰ eligible for special immigrant visas on the same terms as are officers and employees and their immediate family members of qualifying international organizations.

NATO was established in 1949 to provide for the common defense of 16 nations, primarily against the Soviet Union and its satellite states. Original members were Belgium, Britain, Canada, Denmark, France, Iceland, Italy, Luxembourg, the Netherlands, Norway, Portugal, and the United States. Joining later were Greece, Turkey, West Germany (now Germany), and Spain. NATO played an integral role in the keeping of the peace in Europe in the decades after World War II and in the West's victory in the Cold War. Long-serving foreign employees of NATO in the United States provided dedicated service to the organization and they and their families deserve to be eligible for the same immigration benefits as are analogous employees of international organizations.

HEARINGS

The Committee's Subcommittee on Immigration and Claims held one day of hearings on H.R. 429 on May 13, 1997. Testimony was received from Owen Pickett, Paul Virtue, Acting Executive Commissioner for Programs, U.S. Immigration and Naturalization Service, and Colin Wright, NATO Civilian Coalition.

COMMITTEE CONSIDERATION

On October 6, 1997, the Subcommittee on Immigration and Claims met in open session and ordered reported the bill H.R. 429, by a voice vote, a quorum being present. On October 29, 1997, the Committee met in open session and ordered reported favorably the bill H.R. 429 without amendment by a voice vote, a quorum being present.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports 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.

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT FINDINGS

No findings or recommendations of the Committee on Government Reform and Oversight were received as referred to in clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives.

⁹ INA sec. 101(a)(27)(I)(ii).

¹⁰ Civilian employees of NATO and their families enter the U.S. with "NATO-6" visas. 22 C.F.R. sec. 41.12.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 2(1)(3)(B) of House Rule XI is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 429, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 4, 1997.

Hon. HENRY J. HYDE,
*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. 429, the NATO Special Immigrant Amendments of 1997.

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

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

cc: Honorable John Conyers, Jr.
Ranking Minority Member

H.R. 429—NATO Special Immigrant Amendments of 1997

CBO estimates that enacting H.R. 429 would have no net impact on the federal budget. Enacting H.R. 429 would affect direct spending, so pay-as-you-go procedures would apply. However, we estimate that the amounts involved would be much less than \$500,000 a year. This legislation contains no new intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995 and would have no impact on the budgets of state, local, or tribal governments.

H.R. 429 would make certain employees of the North Atlantic Treaty Organization and their families eligible for special immigrant visas. The bill's provisions would affect about 130 individuals. The fee for a special immigrant visa is \$80, so enacting the bill could increase fees collected by the Immigration and Naturalization Service (INS) by about \$10,000 over the next several years. The INS would spend the fees as direct spending in the year that they are collected, so there would be no net budgetary impact from enacting H.R. 429.

The CBO staff contact for this estimate is Mark Grabowicz, who can be reached at 226-2860. This estimate was approved by Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

Pursuant to Rule XI, clause 2(1)(4) 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.

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title

The Act may be cited as the “NATO Special Immigrant Amendments of 1997.”

Section 2. Special Immigrant Status for Certain NATO Civilian Employees

Subsection (a) of section 2 of this bill adds a new subparagraph (L) to section 101(a)(27) of the INA providing that an alien qualifies as a special immigrant if the alien would have qualified as an “international organization” special immigrant pursuant to clauses (i)–(iv) of section 101(a)(27)(I) of the INA should (1) references in such clauses to international organizations (described in section 101(a)(15)(G)(i) of the INA) be treated as references to NATO, (2) references to officers and employees of such organizations and the members of their immediate families be treated as references to nonimmigrants eligible for “NATO–6” visas (as members of a civilian component accompanying a force entering in accordance with the provisions of the NATO Status-of-Forces Agreement, members of a civilian component attached to or employed by an Allied Headquarters under the “Protocol on the Status of International Military Headquarters” set up pursuant to the North Atlantic Treaty, or as dependents), and (3) references to the Immigration Technical Corrections Act of 1988 or to the Immigration and Nationality Technical Corrections Act of 1994 be treated as references to this bill.

Section 101(a)(15)(N) of the INA provides that (1) parents of those aliens accorded special immigrant status pursuant to clause (i) of section 101(a)(27)(I) of the INA (while the aliens are children) and (2) children of such parents, or of those aliens accorded special immigrant status pursuant to clauses (ii)–(iv) of section 101(a)(27)(I), qualify as nonimmigrants. Subsection (b) of section 2 of this bill amends subparagraph (N) to provide nonimmigrant status to analogous parents and children related to individuals accorded special immigrant status pursuant to new section 101(a)(27)(L) of the INA.

AGENCY VIEWS

Paul Virtue of the Immigration and Naturalization Service testified before the Subcommittee on Immigration and Claims on May 13, 1997, that “[w]e do not oppose this proposal and do not foresee any budgetary or resource impact on the Service if this bill should be enacted.”

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 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) * * *

* * * * *

(15) The term “immigrant” means every alien except an alien who is within one of the following classes of nonimmigrant aliens—

(A)(i) * * *

* * * * *

(N)(i) the parent of an alien accorded the status of special immigrant under paragraph (27)(I)(i) (*or under analogous authority under paragraph (27)(L)*), but only if and while the alien is a child, or (ii) a child of such parent or of an alien accorded the status of a special immigrant under clause (ii), (iii), or (iv) of paragraph (27)(I) (*or under analogous authority under paragraph (27)(L)*);

* * * * *

(27) The term “special immigrant” means—

(A) * * *

* * * * *

(J) an immigrant (i) who has been declared dependent on a juvenile court located in the United States or whom a such a court has legally committed to, or placed under the custody of, an agency or department of a State and who has been deemed eligible by that court for long-term foster care, and (ii) for whom it has been determined in administrative or judicial proceedings that it would not be in the alien’s best interest to be returned to the alien’s or parent’s previous country of nationality or country of last habitual residence; except that no natural parent or prior adoptive parent of any alien provided special immigrant status under this subparagraph shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act; **[or]**

(K) an immigrant who has served honorably on active duty in the Armed Forces of the United States after October 15, 1978, and after original lawful enlistment outside the United States (under a treaty or agreement in effect on the date of the enactment of this subparagraph) for a period or periods aggregating—

(i) * * *

* * * * *

and the spouse or child of any such immigrant if accompanying or following to join the immigrant, but only if the executive department under which the immigrant serves or served rec-

ommends the granting of special immigrant status to the immigrant[.]; or

(L) an immigrant who would be described in clause (i), (ii), (iii), or (iv) of subparagraph (I) if any reference in such a clause—

(i) to an international organization described in paragraph (15)(G)(i) were treated as a reference to the North American Treaty Organization (NATO);

(ii) to a nonimmigrant under paragraph (15)(G)(iv) were treated as a reference to a nonimmigrant classifiable under NATO-6 (as a member of a civilian component accompanying a force entering in accordance with the provisions of the NATO Status-of-Forces Agreement, a member of a civilian component attached to or employed by an Allied Headquarters under the "Protocol on the Status of International Military Headquarters" set up pursuant to the North Atlantic Treaty, or as a dependent); and

(iii) to the Immigration Technical Corrections Act of 1988 or to the Immigration and Nationality Technical Corrections Act of 1994 were a reference to the NATO Special Immigrant Amendments of 1997.

* * * * *