

TO PROVIDE SPECIAL IMMIGRANT STATUS FOR ALIENS
SERVING AS TRANSLATORS WITH THE UNITED STATES
ARMED FORCES

MAY 26, 2005.—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

together with

MINORITY VIEWS

[To accompany H.R. 2293]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 2293) to provide special immigrant status for aliens serving as translators with the United States Armed Forces, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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THE AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SPECIAL IMMIGRANT STATUS FOR PERSONS SERVING AS TRANSLATORS WITH UNITED STATES ARMED FORCES.

(a) **IN GENERAL.**—For purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), subject to subsection (c)(1), the Secretary of Homeland Security may provide an alien described in subsection (b) with the status of a special immigrant under section 101(a)(27) of such Act (8 U.S.C. 1101(a)(27)), if the alien—

(1) files with the Secretary of Homeland Security a petition under section 204 of such Act (8 U.S.C. 1154) for classification under section 203(b)(4) of such Act (8 U.S.C. 1153(b)(4)); and

(2) is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence, except in determining such admissibility, the grounds for inadmissibility specified in section 212(a)(4) of such Act (8 U.S.C. 1182(a)(4)) shall not apply.

(b) **ALIENS DESCRIBED.**—

(1) **PRINCIPAL ALIENS.**—An alien is described in this subsection if the alien—

(A) is a national of Iraq or Afghanistan;

(B) worked directly with United States Armed Forces as a translator for a period of at least 12 months;

(C) obtained a favorable written recommendation from the first General or Flag officer in the chain of command of the United States Armed Forces unit that was supported by the alien; and

(D) prior to filing the petition described in subsection (a)(1), cleared a background check and screening, as determined by the first General or Flag officer in the chain of command of the United States Armed Forces unit that was supported by the alien.

(2) **SPOUSES AND CHILDREN.**—An alien is described in this subsection if the alien is the spouse or child of a principal alien described in paragraph (1), and is following or accompanying to join the principal alien.

(c) **NUMERICAL LIMITATIONS.**—

(1) **IN GENERAL.**—The total number of principal aliens who may be provided special immigrant status under this section during any fiscal year shall not exceed 50.

(2) **COUNTING AGAINST SPECIAL IMMIGRANT CAP.**—For purposes of the application of sections 201 through 203 of the Immigration and Nationality Act (8 U.S.C. 1151–1153) in any fiscal year, aliens eligible to be provided status under this section shall be treated as special immigrants described in section 101(a)(27) of such Act (8 U.S.C. 1101(a)(27)) who are not described in subparagraph (A), (B), (C), or (K) of such section.

(d) **APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS.**—The definitions in subsections (a) and (b) of section 101 of the Immigration and Nationality Act (8 U.S.C. 1101) shall apply in the administration of this section.

PURPOSE AND SUMMARY

H.R. 2293 would provide special immigrant status to a limited number of Iraqis and Afghanistans who have served as translators for the U.S. Armed Forces.

BACKGROUND AND NEED FOR THE LEGISLATION

A number of alien translators currently working in Iraq and Afghanistan embedded with units of the U.S. Armed Forces are providing extremely valuable services. Their cooperation and close identification with the U.S. military have put these individuals and their families in danger. This danger will only escalate after U.S. forces leave or reduce their strength in Iraq and Afghanistan. H.R. 2293 would provide immigration relief for this small group of brave individuals.

Under H.R. 2293, permanent resident visas would be available to nationals of Iraq or Afghanistan (and their spouses and minor chil-

dren) who have worked directly with the U.S. Armed Forces as translators for at least 12 months, who have obtained favorable written recommendations from the officer in charge of the unit they worked with, and who have cleared a background check. No more than 50 principals may receive permanent resident status in any fiscal year, and the recipients will count towards the 10,000 per year quota of special immigrant visas.

HEARINGS

No hearings were held on H.R. 2293.

COMMITTEE CONSIDERATION

On May 18, 2005, the Committee met in open session and ordered favorably reported the bill H.R. 2293 with amendment by a voice vote, a quorum being present.

VOTE OF THE COMMITTEE

The Committee adopted H.R. 2293 by voice vote. In compliance with clause 3(b) of Rule XIII of the Rules of the House of Representatives, the Committee notes that the following rollcall vote occurred during the Committee's consideration of H.R. 2293.

1. Amendment offered by Mr. Conyers to remove the numerical restriction on the special immigrant visas created by this bill. The amendment was defeated 10 ayes to 19 nays.

ROLLCALL NO. 1

	Ayes	Nays	Present
Mr. Hyde			
Mr. Coble		X	
Mr. Smith (Texas)		X	
Mr. Gallegly		X	
Mr. Goodlatte		X	
Mr. Chabot		X	
Mr. Lungren		X	
Mr. Jenkins		X	
Mr. Cannon		X	
Mr. Bachus			
Mr. Inglis			
Mr. Hostettler		X	
Mr. Green		X	
Mr. Keller		X	
Mr. Issa		X	
Mr. Flake			
Mr. Pence		X	
Mr. Forbes		X	
Mr. King		X	
Mr. Feeney		X	
Mr. Franks		X	
Mr. Gohmert		X	
Mr. Conyers	X		
Mr. Berman			
Mr. Boucher			
Mr. Nadler	X		
Mr. Scott	X		
Mr. Watt	X		
Ms. Lofgren	X		
Ms. Jackson Lee			
Ms. Waters	X		
Mr. Meehan	X		

ROLLCALL NO. 1—Continued

	Ayes	Nays	Present
Mr. Delahunt			
Mr. Wexler			
Mr. Weiner	X		
Mr. Schiff			
Ms. Sánchez	X		
Mr. Smith (Washington)			
Mr. Van Hollen	X		
Mr. Sensenbrenner, Chairman		X	
Total	10	19	

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 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. 2293, 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, May 24, 2005.

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. 2293, a bill to provide special immigrant status for aliens serving as translators with the United States Armed Forces.

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,

DOUGLAS HOLTZ-EAKIN.

Enclosure

cc: Honorable John Conyers, Jr.
Ranking Member

H.R. 2293—A bill to provide special immigrant status for aliens serving as translators with the United States Armed Forces.

H.R. 2293 would allow certain nationals of Iraq or Afghanistan who have worked with the United States Armed Forces as translators to apply for permanent U.S. residence as special immigrants. The bill would limit this opportunity to 50 individuals, plus their families. Enacting this legislation could affect revenues and direct spending by the Bureau of Citizenship and Immigration Services, the Department of State, and certain Federal assistance programs. Because so few special visas would be provided, however, CBO estimates that H.R. 2293 would have no significant budgetary impact.

H.R. 2293 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.

The CBO staff contact for this estimate is Mark Grabowicz, who can be reached at 226–2860. This estimate was approved by Peter H. Fontaine, 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. 2293 would provide special immigrant status to a limited number of Iraqis and Afghanistans who have served as translators for the U.S. Armed Forces.

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.

SECTION-BY-SECTION ANALYSIS AND DISCUSSION

SEC. 1. SPECIAL IMMIGRANT STATUS FOR PERSONS SERVING AS TRANSLATORS WITH U.S. ARMED FORCES.

Subsection (a) of section 1 provides that the Secretary of Homeland Security may provide special immigrant status under section 101(a)(27) of the Immigration and Nationality Act to an alien described in subsection (b) who files with the Secretary a petition under section 204 of the INA for classification as a special immigrant (under section 203(b)(4) of the INA) and who is otherwise eligible to receive an immigrant visa and is otherwise admissible (disregarding the public charge ground of inadmissibility (found at section 212(a)(4) of the INA)).

Subsection (b)(1) describes the principal aliens who are eligible for special immigrant visas under the bill. An alien must: 1) be a national of Iraq or Afghanistan; 2) have worked directly with U.S. Armed Forces as a translator for a period of at least 12 months; 3) have obtained favorable written recommendation from the first General or Flag officer in the chain of command of the U.S. Armed Forces unit that was supported by the alien; and 4) have cleared a background check and screening, as determined by the first General or Flag officer in the chain of command of the U.S. Armed Forces unit that was supported by the alien (before filing a petition).

Subsection (b)(2) provides that the spouse and children of a principal alien who are following or accompanying to join the principal alien are also eligible for special immigrant visas.

Subsection (c)(1) provides that the total number of principal aliens who may be provided special immigrant status pursuant to the bill shall not exceed 50 in any fiscal year.

Subsection (c)(2) provides that aliens eligible to receive special immigrant status pursuant to the bill shall be treated as special immigrants (as described in section 101(a)(27) of the INA, but not described in subparagraphs (A)-(C) or (K)).

Subsection (d) provides that the definitions in subsections (a) and (b) of section 101 of the INA shall apply in the administration of this bill.

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, the Committee notes that this bill does not change existing law.

MARKUP TRANSCRIPT

BUSINESS MEETING

MAY 18, 2005

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.

Chairman SENSENBRENNER. The Committee will be in order. A working quorum is present.

[Intervening business.]

Chairman SENSENBRENNER. Now, pursuant to notice, I call up H.R. 2293, a bill to provide special immigrant status for aliens serving as translators with the United States Armed Forces, for purposes of a markup and move its favorable recommendation to the House. Without objection, the bill will be considered as read and open for amendment at any point.

[The bill, H.R. 2293, follows:]

109TH CONGRESS
1ST SESSION

H. R. 2293

To provide special immigrant status for aliens serving as translators with the United States Armed Forces.

IN THE HOUSE OF REPRESENTATIVES

MAY 11, 2005

Mr. HOSTETTLER (for himself and Mr. HUNTER) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To provide special immigrant status for aliens serving as translators with the United States Armed Forces.

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. SPECIAL IMMIGRANT STATUS FOR PERSONS**
4 **SERVING AS TRANSLATORS WITH UNITED**
5 **STATES ARMED FORCES.**

6 (a) IN GENERAL.—For purposes of the Immigration
7 and Nationality Act (8 U.S.C. 1101 et seq.), subject to
8 subsection (c)(1), the Secretary of Homeland Security
9 may provide an alien described in subsection (b) with the

1 status of a special immigrant under section 101(a)(27) of
2 such Act (8 U.S.C. 1101(a)(27)), if the alien—

3 (1) files with the Secretary of Homeland Secu-
4 rity a petition under section 204 of such Act (8
5 U.S.C. 1154) for classification under section
6 203(b)(4) of such Act (8 U.S.C. 1153(b)(4)); and

7 (2) is otherwise eligible to receive an immigrant
8 visa and is otherwise admissible to the United States
9 for permanent residence, except in determining such
10 admissibility, the grounds for inadmissibility speci-
11 fied in section 212(a)(4) of such Act (8 U.S.C.
12 1182(a)(4)) shall not apply.

13 (b) ALIENS DESCRIBED.—

14 (1) PRINCIPAL ALIENS.—An alien is described
15 in this subsection if the alien—

16 (A) is a national of Iraq or Afghanistan;

17 (B) worked directly with United States
18 Armed Forces as a translator for a period of at
19 least 12 months;

20 (C) obtained a favorable written rec-
21 ommendation from the first General or Flag of-
22 ficer in the chain of command of the United
23 States Armed Forces unit that was supported
24 by the alien; and

1 (D) prior to filing the petition described in
2 subsection (a)(1), cleared a background check
3 and screening, as determined by the first Gen-
4 eral or Flag officer in the chain of command of
5 the United States Armed Forces unit that was
6 supported by the alien.

7 (2) SPOUSES AND CHILDREN.—An alien is de-
8 scribed in this subsection if the alien is the spouse
9 or child of a principal alien described in paragraph
10 (1), and is following or accompanying to join the
11 principal alien.

12 (e) NUMERICAL LIMITATIONS.—

13 (1) IN GENERAL.—The total number of prin-
14 cipal aliens who may be provided special immigrant
15 status under this section shall not exceed 50.

16 (2) COUNTING AGAINST SPECIAL IMMIGRANT
17 CAP.—For purposes of the application of sections
18 201 through 203 of the Immigration and Nationality
19 Act (8 U.S.C. 1151–1153) in any fiscal year, aliens
20 eligible to be provided status under this section shall
21 be treated as special immigrants described in section
22 101(a)(27) of such Act (8 U.S.C. 1101(a)(27)) who
23 are not described in subparagraph (A), (B), (C), or
24 (K) of such section.

1 (d) APPLICATION OF IMMIGRATION AND NATION-
2 ALITY ACT PROVISIONS.—The definitions in subsections
3 (a) and (b) of section 101 of the Immigration and Nation-
4 ality Act (8 U.S.C. 1101) shall apply in the administration
5 of this section.

○

Chairman SENSENBRENNER. And the Chair recognizes the gentleman from Indiana, Mr. Hostettler, for 5 minutes for purposes of explaining the bill.

Mr. HOSTETTLER. Thank you, Mr. Chairman. Mr. Chairman, I move to strike the last word.

Chairman SENSENBRENNER. The gentleman is recognized.

Mr. HOSTETTLER. Today I join with the Ranking Member of the Immigration Subcommittee, Sheila Jackson Lee, and the Chairman of the Armed Services Committee, Duncan Hunter, to thank the Chairman of this Committee for holding a markup of H.R. 2293.

H.R. 2293 amends the Immigration and Nationality Act to admit Afghan and Iraqi nationals who serve U.S. forces as interpreters for at least 12 months and have a recommendation of the first general or flag officer in the chain of command. The spouse and children of a qualified alien are also eligible for admission, and the total number is capped at 50 persons.

H.R. 2293 would provide a legislative solution to a problem that is currently vexing our combat units in Iraq. Presently a small number of alien translators are currently embedded with our armed forces in Afghanistan and Iraq. These translators and their immediate families live in constant danger of death because of the key support they render to our combat forces. Our ground commanders have expressed a desire to help these translators come to the U.S. with their immediate families. The justification for H.R. 2293 has best been summed up by a Marine attorney serving in Iraq who had the following to say: "The reason our translators are seeking U.S. citizenship is because they fear that their lives will be in jeopardy when we pull out of Iraq because of how closely they've worked with both the 82nd Airborne Division last year and with our battalion this year. I believe that there is a need for us to do something to protect the lives of some of the people who have put their lives on the line to help us with our mission in Iraq. I realize that some people that are not as close to these individuals might be concerned with security in allowing a terrorist type into our country. However, I believe that the battalion's members are the people in the best position to make that determination. The reason I say that is because these interpreters have been living with us at our camp in our living quarters and eating chow with us every day since we've been here. They go out to the field with us. They have fought alongside us. They've shed blood with us. And they've sat in fighting holes with us during combat operations. Because of all of those reasons, our Marines and my battalion commander are in the best position to know who is deserving and whom we can trust to bring to the United States."

"As a side note, some of the officers and enlisted Marines in my battalion feel so strongly about this issue that they have already offered up their homes for these Iraqi translators to stay in when they come to the United States until they have enough time to settle in and find a place of their own."

This proposal does not create or change any entitlement or require funding. I thank the Chairman for his attention and swift action on this important issue that directly impacts the effectiveness of our fighting men and women, as well as the welfare of the foreign nationals who have aided them. And I yield back the balance of my time.

Chairman SENSENBRENNER. The gentleman from Michigan.

Mr. CONYERS. Thank you, Mr. Chairman.

This is a very troublesome matter. Can someone explain to me why we limit it to the first 50 translators? I yield to the gentleman.

Mr. HOSTETTLER. Would the gentleman yield? The number 50 is a number that has been given to us by the folks in the field to reflect the appropriate number of individuals, including family members, that will be affected by this provision at this time. I yield back.

Mr. CONYERS. Well, what about the people from Afghanistan and Iraq who are not translators but are doing very dangerous work of supporting us militarily in the field here? I mean, this is like one small group not to exceed 50 who will be given special consideration by law. And so I don't think this is an indication of very sound policy.

The ones that are risking their lives as much or more than the interpreters are all excluded, and they may be just as loyal and just as supportive as the translators themselves.

What about undercover informants? For many drivers who carry U.S. Government employees across dangerous areas in both countries? What about translators that are working in other parts of our military operation or in the State Department or USAID or Agriculture, or even in the nuclear specialist area? What about foreign nationals working for other U.S. Government agencies going—who are doing work critically important to establish democracy and rebuild these nations?

This is not the kind of policy that was pursued when we came out of Vietnam. We didn't limit it to translators. We limited it to those who were fighting and risking their lives and taking undue chances in supporting us. And so what we're saying is that the first 50 will get a break here, and the rest of them—and I shudder if we only have 50 translators between two nations. That probably explains what's been happening over there more clearly than anything else. I suggest that we quadruple the number of translators as an amendment to this bill and at least get the numbers up for those who might be eligible.

Please, let's not show this kind of limited generosity so that those who number 51 and higher won't be told, well, of course, we were thinking about you translators, but we didn't mean everybody that risked their lives, we only meant the first 50. And that is the reservations that I have about the measure that is before us.

I return my time.

Chairman SENSENBRENNER. Without objection, all Members may include opening statements 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

I am cosponsoring H.R. 2293 with my distinguished colleague, the gentleman from Indiana, Mr. Hostettler. H.R. 2293 would provide special immigrant status for a limited number of Iraqis and Afghanis who have served as translators for the U.S. Armed Forces.

The translators are providing services for our combat forces in Iraq. According to the Marines who work with them, the translators and their immediate families live in constant danger of death because of the key support they are providing for our combat forces. The Marine commanders have expressed a desire to help them to come to the U.S. with their immediate families. The commanders believe that the

lives of the translators will be in even greater jeopardy when the Marines withdraw from Iraq.

The translators have gone far beyond just providing translation services. They stay with the Marines in their camp, in the same living quarters, and eat chow with the soldiers every day. They go into the field with the Marines. They have fought along side of them and shed blood with them during combat operations. Some of the Marines feel so strongly about helping the translators that they have offered to take them into their homes in the United States until they have had enough time to settle in and find places of their own.

H.R. 2293 would make permanent resident visas available to nationals of Iraq and Afghanistan (and their spouses and minor children) who have worked directly with U.S. Armed Forces as translators for at least 12 months, who have obtained favorable written recommendations from the officer in charge of the unit they worked with, and who have cleared a background check. No more than 50 principals would be eligible to receive permanent resident status. The recipients would count towards the 10,000-per-year quota of special immigrant visas.

I am pleased that we can offer permanent resident status to such deserving immigrants with a bipartisan bill. I urge you to vote for H.R. 2293. Thank you.

Chairman SENSENBRENNER. Are there amendments?

Mr. NADLER. Mr. Chairman?

Chairman SENSENBRENNER. The gentleman from New York.

Mr. NADLER. I don't have an amendment, but I move to strike the last word.

Chairman SENSENBRENNER. The gentleman is recognized for 5 minutes.

Mr. NADLER. Thank you, Mr. Speaker—Mr. Chairman, rather. This bill calls for special immigrant status for Iraqi or Afghani nationals who have served as translators in the United States Armed Forces. This bill is a direct—perhaps if Mr. Conyers' observations are correct, not quite adequate, but a direct response to the critical need for translators and linguists in our military.

This interpreter shortage is well documented. The 9/11 Commission report stated that the Government “lacked sufficient translators proficient in Arabic and other key languages, resulting in a significant backlog of untranslated intercepts.”

A 2002 GAO study concluded that staff shortages in Arabic and Farsi “adversely affected agency operations and compromised U.S. military, law enforcement, intelligence, counterintelligence, and diplomatic efforts.”

A Justice Department IG's report released in September 2004 said the Government “cannot translate all the foreign language counterterrorism and counterintelligence material it collects, due largely to inadequate translation capabilities in languages primarily related to counterterrorism activities” such as Arabic and Farsi.

The shortage of Arabic translators in Iraq and Afghanistan has made it harder for U.S. soldiers to protect themselves and has jeopardized interrogations of suspected al Qaeda terrorists in U.S. custody. I commend the author of this legislation and the Chairman of this Committee for their willingness to open the immigration doors to Arabic linguists serving as translators with the U.S. Armed Services—Armed Forces. Yet the answer to this dire need is not only to give U.S. citizenship to Iraqis and Afghanis, but also to stop discriminating against American citizens who are ready to serve their country loyally as Arabic translators but are refused permission to do so.

It is no coincidence that this bill would create 50 spots for Iraqi and Afghani nationals, almost the exact number of linguists who

have been discharged from the armed forces under the “don’t ask, don’t tell” law since 1994 because they are gay. Fifty-four Arabic and nine Persian Iranian, including Farsi people, have been discharged under this policy. Because of “don’t ask, don’t tell,” the military continues to devote its resources to rooting out patriotic gay Americans whose service is central to the war on terror. And this is no excuse, and I don’t want to hear anything here about unit cohesion. These people are translators.

This is another example of the way in which “don’t ask, don’t tell” is not in the best interest of our national security. And this Congress says, “Don’t ask, don’t tell, and for heaven’s sake, don’t translate.”

Given the willingness of the author of this amendment and the Chairman of this Committee to think creatively to solve the need for Arabic and Farsi linguists to help in the war on terror, I hope we will recognize the fundamental rights of American citizens and repeal the unfortunate and incredibly self-defeating policy of “don’t ask, don’t tell.”

Thank you, Mr. Chairman. I yield back.

Chairman SENSENBRENNER. Are there amendments?

Mr. CONYERS. Yes, Mr. Chairman, I have an amendment at the desk.

Chairman SENSENBRENNER. The clerk will report the amendment.

The CLERK. Amendment to H.R. 2293 offered by Mr.—

Mr. HOSTETTLER. Mr. Chairman?

Chairman SENSENBRENNER. The gentleman from Indiana?

Mr. HOSTETTLER. Mr. Chairman, I reserve a point of order.

Chairman SENSENBRENNER. A point of order is reserved on the amendment.

The CLERK. Page 3, strike line 12—

Mr. CONYERS. I ask unanimous consent the amendment be considered as read.

Chairman SENSENBRENNER. Without objection, so ordered. Subject to the reservation of the gentleman from Indiana.

[The amendment follows:]

**Amendment to H.R. 2293
Offered by Mr. Conyers**

Page 3, strike line 12 through line 24 and insert the following:

“(c) VISA CEILINGS AND CAPS.--The number of immigrant visas made available in a fiscal year to special immigrants under this Act shall not be subject to the numerical limitations of section 201 of the Immigration and Nationality Act (8 U.S.C. 1151), section 202(a) of such Act (8 U.S.C. 8 U.S.C. 1153(a)), or section 203(b) of such Act (8 U.S.C. 1153(b)).”

Page 2, strike Line 17 and all that follows through page 3, line 6, and insert the following:

“(B) QUALIFYING SERVICE.--

(i) worked directly with the United States Government providing important assistance to United States Armed Forces or other United States Government personnel for a period of at least 12 months;

(ii) the Secretary of Homeland Security may waive a portion of the 12-month work requirement under extraordinary circumstances, in consultation with the Secretary, Director, or chief officer of the U.S. government department or agency for which the alien worked;

(C) obtained a favorable recommendation from the Secretary, Director, or chief officer of the department or agency for which the alien worked; and

(D) prior to filing the petition described in subsection (a)(1), cleared a background check and screening process established by the Secretary of Homeland Security.”

Chairman SENSENBRENNER. The gentleman from Michigan is recognized for 5 minutes.

Mr. CONYERS. Since we have the measure before us, Members of the Committee, there might be three changes that could make it more acceptable.

First, of course, is to get rid of the 50-person cap on the number of persons who can receive special immigrant status under the bill.

Secondly—and this hasn't been stated yet—but it would ensure that any visas granted under this act would be given outside of the annual limit on special immigrant visas, the worldwide ceiling, and the per country ceilings on visas, which at this moment, unless we accept this amendment, is applied, these 50 would be deducted from these three categories.

And, finally, it would open—this amendment would open up these visas so that they're not available just to translators but also to very important others who provide important assistance to the United States Armed Forces or other U.S. personnel.

The least we can do is be a little bit more democratic as to who would be the beneficiaries of this special immigrant status, and with these three changes, I think—I don't think. I would support

the amendment, and I urge the Members to seriously consider these changes to make this at least a bill that won't be the object of much commerce and joking around, because it really—it really defies imagination that the first 50 translators would get a special status and everybody else doing their job in this incredible struggle in the Middle East would be subject to the regular immigration laws. I urge support of the amendment.

Chairman SENSENBRENNER. Does the gentleman from Indiana insist on his point of order?

Mr. HOSTETTLER. Yes, I do, Mr. Chairman.

Chairman SENSENBRENNER. The gentleman is recognized. State your point of order.

Mr. HOSTETTLER. Mr. Chairman, I make a point of order that the amendment is not germane under House Rule XVI. The amendment is not germane to the fundamental purpose of the bill, that is, military translators, and thus fails for lack of germaneness.

Moreover, the amendment is outside the scope of the underlying bill and is thus not germane.

Chairman SENSENBRENNER. Does the gentleman from Michigan wish to be heard on the point of order?

Mr. CONYERS. Mr. Chairman, I do.

Chairman SENSENBRENNER. The gentleman is recognized.

Mr. CONYERS. I would like to merely indicate that I would—to take it completely out of the germaneness argument, I'd be willing to strike the whole provision with the exception of lifting the cap on—the ceiling—

Chairman SENSENBRENNER. Does the gentleman concede the point of order and wish to reintroduce the amendment without the provisions that are objected to?

Mr. CONYERS. I do, and—

Chairman SENSENBRENNER. Okay. The point of order is conceded and sustained. The gentleman from Michigan wishes to offer a second amendment, which the clerk will report.

The CLERK. Amendment to H.R. 2293, offered by Mr. Conyers.

Mr. CONYERS. I ask unanimous consent the amendment be considered as read.

Chairman SENSENBRENNER. Without objection, the amendment that the gentleman is offering is the same amendment that deals with striking line 12 through 24 on page 3, but does not strike line 17 and all that follows through page 3, line 6 on qualifying services. Is the Chair correct?

Mr. CONYERS. The Chair is correct.

Chairman SENSENBRENNER. Without objection, the amendment is considered as read.

[The amendment follows:]

**Amendment to H.R. 2293
Offered by Mr. Conyers**

Page 3, strike line 12 through line 24 and insert the following:

“(c) VISA CEILINGS AND CAPS.--The number of immigrant visas made available in a fiscal year to special immigrants under this Act shall not be subject to the numerical limitations of section 201 of the Immigration and Nationality Act (8 U.S.C. 1151), section 202(a) of such Act (8 U.S.C. 8 U.S.C. 1153(a)), or section 203(b) of such Act (8 U.S.C. 1153(b)).”

Page 2, strike Line 17 and all that follows through page 3, line 6, and insert the following:

~~(B) QUALIFYING SERVICE.--~~

~~(i) worked directly with the United States Government providing important assistance to United States Armed Forces or other United States Government personnel for a period of at least 12 months;~~

~~(ii) the Secretary of Homeland Security may waive a portion of the 12-month work requirement under extraordinary circumstances, in consultation with the Secretary, Director, or chief officer of the U.S. government department or agency for which the alien worked;~~

~~(C) obtained a favorable recommendation from the Secretary, Director, or chief officer of the department or agency for which the alien worked; and~~

~~(D) prior to filing the petition described in subsection (a)(1), cleared a background check and screening process established by the Secretary of Homeland Security.”~~

Chairman SENSENBRENNER. And the gentleman from Michigan is recognized for 5 minutes.

Mr. CONYERS. Mr. Chairman, what I present now is merely the main point that we would strike the 50-person cap on the number of persons who can receive special immigrant status under the bill, and not have those numbers taken from outside the annual limit on special immigrant visas, the worldwide ceiling, or the per country ceilings on visas.

In other words, we would at least allow more than 50 people, if there were that many—and let us all pray that there are more than 50 translators in two countries struck by war—that they would be able to enjoy the provisions of this special immigrant status. And I return any time.

Chairman SENSENBRENNER. The gentleman from Indiana, Mr. Hostettler. Does the gentleman from Indiana seek recognition?

Mr. HOSTETTLER. Yes.

Chairman SENSENBRENNER. The gentleman is recognized for 5 minutes.

Mr. HOSTETTLER. Mr. Chairman, the cap that has been placed on this provision is a reasonable cap, according to the U.S. Marine

Corps and others who are involved in this process. If there is a purpose, a reason for us to allow for more individuals to be made under this—to make provision for more individuals, we can always revisit that. But at this time it is unnecessary to increase the cap over the—

Mr. CONYERS. Could the Chairman—could the Ranking Member yield to me?

Mr. NADLER. Mr. Chairman?

Chairman SENSENBRENNER. The time belongs to the gentleman from Indiana, Mr. Hostettler. Do you yield to the gentleman from Michigan?

Mr. HOSTETTLER. I will yield.

Chairman SENSENBRENNER. The gentleman from Michigan.

Mr. CONYERS. I thank you. Surely, Mr. Hostettler, you are very much aware of how difficult changing immigration law is as a Member of this Committee. The likelihood of us revisiting this to find out that there are a couple hundred people eligible I don't think is very good, if this were ever to become law, and that's why—let's change it now. If, in fact, there are not more than 50, then nobody will be hurt by us making this change.

Mr. HOSTETTLER. Reclaiming my time, and I understand the gentleman's point that—and I would agree with him. As a general rule, it is somewhat difficult to change immigration law, but given the time that has lapsed since this request was first brought to the Committee and to the Chairman and the time of the marking up of this bill, this is one of those areas of immigration law that has significant support, and if we need to revisit it, I think that this will fall out of the normal MO for immigration law, and we can revisit it and change it just as quickly. And I yield back the—

Mr. CANNON. Would the gentleman yield, Mr. Hostettler?

Mr. HOSTETTLER. Well, I yield to the gentleman from Utah.

Mr. CANNON. Thank you. I'm just trying to clarify. Are we talking—with the new amendment, we're only talking about translators, right?

Mr. HOSTETTLER. That's correct.

Mr. CANNON. And is 50 a generous number, do you know? Or what if we end up with 55 or we're there for longer and we end up with 70 or something? I'm just wondering why—in the first place, how clear is the number 50? And could we maybe save some problem without creating a big loophole by going with this amendment?

Mr. HOSTETTLER. Reclaiming my time, the number 50 is an adequate number, according to the folks in the field.

Mr. CANNON. But would that—does it do harm to the underlying concept to change a hard 50 to a number that may adjust over time without us—I mean, does this do significant damage to the underlying concept of—

Chairman SENSENBRENNER. Will the gentleman from Indiana yield?

Mr. HOSTETTLER. I will yield to the Chair?

Chairman SENSENBRENNER. My reading of the bill indicates that the limit is 50 per year.

Mr. HOSTETTLER. Yes.

Chairman SENSENBRENNER. It's an annual cap of 50. I would argue against the amendment of the gentleman from Michigan be-

cause if we make it unlimited, then they might be without translators as all of them would apply to come and it would put the flag officer who is responsible for signing off in a real untenable position in making a decision, whereas he could tell some that they could wait until next year.

I yield back to the gentleman from Indiana.

Mr. HOSTETTLER. I yield back the balance of my time.

Chairman SENSENBRENNER. The question is on the amendment offered by the gentleman from Michigan, Mr. Conyers. Those in favor will say aye? Opposed, no?

The noes appear to have it.

Mr. CONYERS. Mr. Chairman, I would like a record vote on this amendment.

Chairman SENSENBRENNER. A record vote will be ordered. The question is on agreeing to the amendment offered by the gentleman from Michigan, Mr. Conyers. Those in favor will as your names are called answer aye, those opposed no, and the clerk will call the roll.

The CLERK. Mr. Hyde?

[No response.]

The CLERK. Mr. Coble?

Mr. COBLE. No.

The CLERK. Mr. Coble, no. Mr. Smith?

Mr. SMITH OF TEXAS. No.

The CLERK. Mr. Smith, no. Mr. Gallegly?

Mr. GALLEGLY. No.

The CLERK. Mr. Gallegly, no. Mr. Goodlatte?

[No response.]

The CLERK. Mr. Chabot?

Mr. CHABOT. No.

The CLERK. Mr. Chabot, no. Mr. Lungren?

Mr. LUNGREN. No.

The CLERK. Mr. Lungren, no. Mr. Jenkins?

Mr. JENKINS. No.

The CLERK. Mr. Jenkins, no. Mr. Cannon?

Mr. CANNON. No.

The CLERK. Mr. Cannon, no. Mr. Bachus?

[No response.]

The CLERK. Mr. Inglis?

[No response.]

The CLERK. Mr. Hostettler?

Mr. HOSTETTLER. No.

The CLERK. Mr. Hostettler, no. Mr. Green?

Mr. GREEN. No.

The CLERK. Mr. Green, no. Mr. Keller?

Mr. KELLER. No.

The CLERK. Mr. Keller, no. Mr. Issa?

[No response.]

The CLERK. Mr. Flake?

[No response.]

The CLERK. Mr. Pence?

Mr. PENCE. No.

The CLERK. Mr. Pence, no. Mr. Forbes?

[No response.]

The CLERK. Mr. King?

Mr. KING. No.

The CLERK. Mr. King, no. Mr. Feeney?
 Mr. FEENEY. No.
 The CLERK. Mr. Feeney, no. Mr. Franks?
 Mr. FRANKS. No.
 The CLERK. Mr. Franks, no. Mr. Gohmert?
 Mr. GOHMERT. No.
 The CLERK. Mr. Gohmert, no. Mr. Conyers?
 Mr. CONYERS. Aye.
 The CLERK. Mr. Conyers, aye. Mr. Berman?
 [No response.]
 The CLERK. Mr. Boucher?
 [No response.]
 The CLERK. Mr. Nadler?
 Mr. NADLER. Aye.
 The CLERK. Mr. Nadler, aye. Mr. Scott?
 Mr. SCOTT. Aye.
 The CLERK. Mr. Scott, aye. Mr. Watt?
 Mr. WATT. Aye.
 The CLERK. Mr. Watt, aye. Ms. Lofgren?
 Ms. LOFGREN. Aye.
 The CLERK. Ms. Lofgren, aye. Ms. Jackson Lee?
 [No response.]
 The CLERK. Ms. Waters?
 [No response.]
 The CLERK. Mr. Meehan?
 [No response.]
 The CLERK. Mr. Delahunt?
 [No response.]
 The CLERK. Mr. Wexler?
 [No response.]
 The CLERK. Mr. Weiner?
 Mr. WEINER. Aye.
 The CLERK. Mr. Weiner, aye. Mr. Schiff?
 [No response.]
 The CLERK. Ms. Sanchez?
 Ms. SANCHEZ. Aye.
 The CLERK. Ms. Sanchez, aye. Mr. Smith?
 [No response.]
 The CLERK. Mr. Van Hollen?
 Mr. VAN HOLLEN. Aye.
 The CLERK. Mr. Van Hollen, aye. Mr. Chairman?
 Chairman SENSENBRENNER. No.
 The CLERK. Mr. Chairman, no.
 Chairman SENSENBRENNER. Members who wish to cast or change
 their votes? The gentlewoman from California, Ms. Waters.
 Ms. WATERS. Aye.
 The CLERK. Ms. Waters, aye.
 Chairman SENSENBRENNER. The gentleman from California, Mr.
 Issa.
 Mr. ISSA. No.
 The CLERK. Mr. Issa, no.
 Chairman SENSENBRENNER. The gentleman from Virginia, Mr.
 Forbes.
 Mr. FORBES. No.
 The CLERK. Mr. Forbes, no.

Chairman SENSENBRENNER. The gentleman from Massachusetts, Mr. Meehan.

Mr. MEEHAN. Aye.

The CLERK. Mr. Meehan, aye.

Chairman SENSENBRENNER. The gentleman from Virginia, Mr. Goodlatte.

Mr. GOODLATTE. No.

The CLERK. Mr. Goodlatte, no.

Chairman SENSENBRENNER. Further Members who wish to cast or change their votes? If none, the clerk will report.

The CLERK. Mr. Chairman, there are 10 ayes and 19 noes.

Chairman SENSENBRENNER. And the amendment is not agreed to.

Are there further amendments? If there are no further amendments, a reporting quorum is present. The question occurs on the motion to report the bill H.R. 2293 favorably. All 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 staff is directed to make any technical and conforming changes, and all Members will be given 2 days as provided by House rules in which to submit additional, dissenting, supplemental, or minority views.

[Intervening business.]

Chairman SENSENBRENNER. The Committee stands adjourned.

[Whereupon, at 11:41 a.m., the Committee adjourned.]

MINORITY VIEWS

In every war we fight on foreign soil, some citizens of those countries are willing to take a stand against tyranny and to stand up for democracy, by working in countless ways to help advance our military, political and reconstructive efforts. In the past, Congress has passed immigration laws to ensure that foreign nationals who perform important services for us during our occupation of foreign countries are able to relocate to the United States. Often, they risk their lives to work for the American military, or our diplomatic and development agencies. Repaying their sacrifices by offering them the opportunity to become American citizens, and sometimes literally saving their lives, is a just and fair policy.

We support the general principles and policies underlying this bill, but we are disappointed that the majority was unwilling to broaden this bill to cover other foreign nationals who work with U.S. government operations in Iraq and Afghanistan.

When we pulled out of Vietnam, Vietnamese citizens who worked for our government, and their families, were at great risk of being killed if they remained in Vietnam. We responded by giving them the opportunity to come to the United States and resettle here with permanent residency. That was the right thing to do. The same principle was correctly applied to nationals from Laos and Cambodia.¹

Unfortunately, in its present form, this bill does not replicate that sound policy. After rushing this country into a war in Iraq, and pursuing aggressors in Afghanistan, the proponents of this legislation now suggest that translators for our Armed Forces need to be rescued from our democratic experiment in the Middle East. Neither country has fallen to terrorists or insurgents. We are not pulling out of our engagements in these nations. Yet the originator of this bill, Chairman Duncan Hunter of the Committee on Armed Services, wants to bring translators here now. Surely, we still need these translators in Iraq and Afghanistan. This bill sends a misguided message to the world that these nations are so dangerous that we must, in essence, grant blanket asylum from our own experiment in democracy.

Beyond that general concern, the legislation is so narrowly drafted and unreasonably rigid that it excludes many deserving foreign nationals. For example, the bill only allows 50 translators to come to the U.S. and it does not define who qualifies as a translator, other than saying that the person must work with (not even for) the U.S. Armed Forces for 12 months. On this basis, permanent residency can be handed out to personal friends or others who should not necessarily qualify but may be politically well-con-

¹Prior to the passage of the Refugee Act of 1980, refugees from the Indo-Chinese peninsula came and were brought to the U.S. and were admitted as "public interest parolees."

nected. Qualifying translators may still be denied the opportunity to relocate here under this language.

This unwise and arbitrary limitation to 50 visas should be stricken. Experience has taught us that arbitrary caps in immigration law are nearly impossible to adjust or repeal when it turns out that the cap does not cover all of the people who rightly qualify for the visa.² It is important that we correct this error now. Such caps often leave many deserving people shut out of immigration benefits.

Unfortunately, the United States government may be engaged in both Iraq and Afghanistan for many more years to come. We cannot predict with any certainty that only 50 people in those two countries will render the type of assistance to our government that makes them worthy of this benefit. Nor should we randomly shut the door after 50 applicants come forward. If the beneficiaries of this bill have provided life-sustaining assistance to United States Armed Forces, as the proponents of this bill would argue, then surely the 51st and 52nd applicant is just as worthy of relief as the first.

H.R. 2293 also reduces the total number of special immigrant visas available to qualifying individuals. Yet there is ample precedent for providing increased visas for populations of deserving immigrants outside of existing numerical caps. This was done most recently with H-1B visas³, H-2B visas⁴, and Australian visas.⁵ Without lifting these caps, other deserving immigrants who have been waiting for visas or who may desperately need them (such as child victims of abuse, neglect or abandonment) will be unable to get a visa because their slots will have been used by Iraqi or Afghan translators for the U.S. Armed Forces.

Most importantly, this bill does not provide any benefits for many of the Iraqis and Afghans who are risking their lives for our nation's interests. There is no offer of permanent residency for undercover informants. No benefit for the many drivers who carry U.S. government employees across dangerous areas in these countries, risking their lives every day. There is no reason to exclude translators who are working for other U.S. government agencies in these countries—the State Department, USAID, the Agriculture Department, or our nuclear specialists, for example. Certainly, hundreds of foreign nationals are doing work that is critically important to our efforts to establish democracy and rebuild these nations. They may be targeted for reprisals from insurgents due to their connections with U.S. employees or agencies and killed, yet,

²Public interest parolees (PIPs) who arrived mostly in the 1970's and 1980's from Vietnam, Laos and Cambodia following the wars there were unable to become permanent residents. These people were marginalized and were unable to take advantage of many opportunities in the U.S. as a result. Finally, in 2001, Congress changed the law to allow PIPs to adjust their status to permanent residency. See the Foreign Operations Appropriations Act of 2001, P.L. 106-429, §101A. However, many were unable to adjust. The benefit was capped at 4000 immigrants, although more than 4000 people meeting the qualification standards were living in the U.S. as parolees at the time. The cap was finally lifted in the Consolidated Appropriations Act for Fiscal Year 2005, P.L. 108-447, Division D, §534(m).

³See the Consolidated Appropriations Act for Fiscal Year 2005, Division J, Title IV, Subtitle B, §108-447.

⁴See the Real I.D. Act of 2005 in the Emergency Supplemental Appropriation for Defense, the Global War on Terror and Tsunami Relief for Fiscal Year 2005, Division B, §405, P.L. 109-13.

⁵*Id.* at §501.

we are unwilling to open our doors to anyone other than Armed Forces translators.

H.R. 2293 only benefits Iraqi and Afghan translators for the U.S. Armed Forces because Chairman Hunter agreed to move the legislation at the request of the U.S. Marine Corps. There is no logical reason why the bill, and the benefit of permanent residency, should be limited to military translators. The Conyers amendment that was offered in Committee would expand potential beneficiaries so that others who provide important assistance to U.S. Armed Forces, or other U.S. personnel, would be eligible for special immigrant visas.

Certainly translators provide an important service to our personnel on the ground in these countries. However, Afghans and Iraqis assist with other important jobs as well. The opportunity to relocate to the U.S. should be extended to drivers who risk their lives for U.S. personnel on every road trip, foreign nationals assisting USAID personnel in development projects, and individuals who provide critical intelligence information that protects our troops and assists our military efforts.

The bill requires that translators must have worked with the U.S. Armed Forces for 12 months. The amendment would allow the Secretary of Homeland Security to waive a portion of that work requirement in extraordinary circumstances. A translator who saves the life of a U.S. Marine, or provides some other critical assistance in his fourth month of work with our military should be able to take advantage of this visa program now. If his acts have made him a target of our opponents, his life may be endangered, but the rigidity of this statutory language would prevent us from assisting him under this statute.

The amendment would still require that the provision be applied to someone who has worked for or with the U.S. government. It could not be applied to someone who has no work or service relationship with a U.S. government entity. The waiver would be made in consultation with the Secretary, Director or chief officer of the U.S. government agency or department for which the alien worked.

The bill requires that applicants pass a background check and screening, as determined by the appropriate military officer, before they can apply for this visa. This sets up a system where different standards may be applied to different people. In addition, the military may not have appropriate screening processes, or their processes may not cover the same issues or concerns that need to be addressed for immigration purposes. The amendment calls on the Secretary of Homeland Security to establish these standards so that they will be appropriate for newly arriving permanent residents and so that they will be uniformly applied to applicants.

This bill contains the seed of a good idea. But the arbitrary cap, the reduction of special immigrant visas, and the restriction to Armed Forces translators should be corrected before this legislation is sent to the full House for its consideration.

If we want to show our gratitude, and ensure the safety of our many people who are risking their lives for Americans and U.S. policy in Iraq and Afghanistan, not a select or favorite few.

Description of Amendments Offered by Democratic Members

During the markup one amendment was offered by one Democratic Member, Mr. Conyers.

1. *Conyers Amendment*

Description of Amendment: The amendment would make the following changes to the bill: (i) strike the 50-person cap on the number of persons who can receive special immigrant status; (ii) ensure that any visas granted would be given outside of the annual limit on special immigrant visas, the worldwide ceiling, and per-country ceilings on visas; (iii) make these visas available not only to translators, but also to others who provide important assistance to U.S. Armed Forces or other U.S. personnel; and (iv) permit a partial waiver of the work requirement and require the Department of Homeland Security to establish processes for background clearances of the applicants.

Vote on Amendment: The amendment was defeated on a voice vote.

JOHN CONYERS, JR.
HOWARD L. BERMAN.
SHEILA JACKSON LEE.
MAXINE WATERS.
CHRIS VAN HOLLEN.

