

H.R.4986

National Defense Authorization Act for Fiscal Year 2008 (Enrolled as Agreed to or Passed by Both House and Senate)

SEC. 1244. SPECIAL IMMIGRANT STATUS FOR CERTAIN IRAQIS.

(a) In General- Subject to subsection (c), the Secretary of Homeland Security, or, notwithstanding any other provision of law, the Secretary of State in consultation with 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 the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)), if the alien—

- (1) or an agent acting on behalf of the alien, submits a petition for classification under section 203(b)(4) of such Act (8 U.S.C. 1153(b)(4));
- (2) is otherwise eligible to receive an immigrant visa;
- (3) is otherwise admissible to the United States for permanent residence (excluding the grounds for inadmissibility specified in section 212(a)(4) of such Act (8 U.S.C. 1182(a)(4))); and
- (4) cleared a background check and appropriate screening, as determined by the Secretary of Homeland Security.

(b) Aliens Described-

(1) PRINCIPAL ALIENS- An alien is described in this subsection if the alien--

- (A) is a citizen or national of Iraq;
- (B) was or is employed by or on behalf of the United States Government in Iraq, on or after March 20, 2003, for not less than one year;
- (C) provided faithful and valuable service to the United States Government, which is documented in a positive recommendation or evaluation, subject to paragraph (4), from the employee's senior supervisor or the person currently occupying that position, or a more senior person, if the employee's senior supervisor has left the employer or has left Iraq; and
- (D) has experienced or is experiencing an ongoing serious threat as a consequence of the alien's employment by the United States Government.

(2) SPOUSES AND CHILDREN- An alien is described in this subsection if the alien--

- (A) is the spouse or child of a principal alien described in paragraph (1); and
- (B) is accompanying or following to join the principal alien in the United States.

(3) TREATMENT OF SURVIVING SPOUSE OR CHILD- An alien is described in subsection (b) if the alien--

- (A) was the spouse or child of a principal alien described in paragraph (1) who had a petition for classification approved pursuant to this section or section 1059 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163; 8 U.S.C. 1101 note), which included the alien as an accompanying spouse or child; and
- (B) due to the death of the principal alien--
 - (i) such petition was revoked or terminated (or otherwise rendered null); and
 - (ii) such petition would have been approved if the principal alien had survived.

(4) APPROVAL BY CHIEF OF MISSION REQUIRED- A recommendation or evaluation required under paragraph (1)(C) shall be accompanied by approval from the Chief of Mission, or the designee of the Chief of Mission, who shall conduct a risk assessment of the alien and an independent review of records maintained by the United States Government or hiring organization or entity to confirm employment and faithful and valuable service to the United States Government prior to approval of a petition under this section.

(c) Numerical Limitations-

(1) IN GENERAL- The total number of principal aliens who may be provided special immigrant status under this section may not exceed 5,000 per year for each of the five fiscal years beginning after the date of the enactment of this Act.

(2) EXCLUSION FROM NUMERICAL LIMITATIONS- Aliens provided special immigrant status under this section shall not be counted against any numerical limitation under sections 201(d), 202(a), or 203(b)(4) of the Immigration and Nationality Act (8 U.S.C. 1151(d), 1152(a), and 1153(b)(4)).

(3) CARRY FORWARD-

- (A) FISCAL YEARS ONE THROUGH FOUR- If the numerical limitation specified in paragraph (1) is not reached during a given fiscal year referred to in such paragraph (with

respect to fiscal years one through four), the numerical limitation specified in such paragraph for the following fiscal year shall be increased by a number equal to the difference between--

- (i) the numerical limitation specified in paragraph (1) for the given fiscal year; and
- (ii) the number of principal aliens provided special immigrant status under this section during the given fiscal year.

(B) FISCAL YEARS FIVE AND SIX- If the numerical limitation specified in paragraph (1) is not reached in the fifth fiscal year beginning after the date of the enactment of this Act, the total number of principal aliens who may be provided special immigrant status under this section for the sixth fiscal year beginning after such date shall be equal to the difference between--

- (i) the numerical limitation specified in paragraph (1) for the fifth fiscal year; and
- (ii) the number of principal aliens provided such status under this section during the fifth fiscal year.

(d) Visa and Passport Issuance and Fees- Neither the Secretary of State nor the Secretary of Homeland Security may charge an alien described in subsection (b) any fee in connection with an application for, or issuance of, a special immigrant visa. The Secretary of State shall make a reasonable effort to ensure that aliens described in this section who are issued special immigrant visas are provided with the appropriate series Iraqi passport necessary to enter the United States.

(e) Protection of Aliens- The Secretary of State, in consultation with the heads of other relevant Federal agencies, shall make a reasonable effort to provide an alien described in this section who is applying for a special immigrant visa with protection or the immediate removal from Iraq, if possible, of such alien if the Secretary determines after consultation that such alien is in imminent danger.

(f) Eligibility for Admission Under Other Classification- No alien shall be denied the opportunity to apply for admission under this section solely because such alien qualifies as an immediate relative or is eligible for any other immigrant classification.

(g) Resettlement Support- Iraqi aliens granted special immigrant status described in section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)) shall be eligible for resettlement assistance, entitlement programs, and other benefits available to refugees

admitted under section 207 of such Act (8 U.S.C. 1157) for a period not to exceed eight months.

(h) Rule of Construction- Nothing in this section may be construed to affect the authority of the Secretary of Homeland Security under section 1059 of the National Defense Authorization Act for Fiscal Year 2006.