

108TH CONGRESS
1ST SESSION

H. R. 2235

To suspend certain nonessential visas, in order to provide temporary workload relief critical to the successful reorganization of the immigration and naturalization functions of the Department of Homeland Security, to ensure that the screening and monitoring of arriving immigrants and nonimmigrants, and the deterrence of entry and settlement by illegal or unauthorized aliens, is sufficient to maintain the integrity of the sovereign borders of the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 22, 2003

Mr. GRAVES introduced the following bill; which was referred to the
Committee on the Judiciary

A BILL

To suspend certain nonessential visas, in order to provide temporary workload relief critical to the successful reorganization of the immigration and naturalization functions of the Department of Homeland Security, to ensure that the screening and monitoring of arriving immigrants and nonimmigrants, and the deterrence of entry and settlement by illegal or unauthorized aliens, is sufficient to maintain the integrity of the sovereign borders of the United States, and for other purposes.

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. SHORT TITLE; TABLE OF CONTENTS; SEVER-**
 4 **ABILITY; EFFECTIVE DATE.**

5 (a) SHORT TITLE.—This Act may be cited as the
 6 “Emergency Immigration Workload Reduction and Home-
 7 land Security Enhancement Act of 2003”.

8 (b) TABLE OF CONTENTS.—The table of contents for
 9 this Act is as follows:

- Sec. 1. Short title; table of contents; severability; effective date.
- Sec. 2. Findings.
- Sec. 3. Temporary suspension of visa waiver program.
- Sec. 4. Temporary suspension of adjustment of status.
- Sec. 5. Temporary suspension of renewals of temporary protected status.
- Sec. 6. Temporary suspension of certain immigrant visa programs.
- Sec. 7. Restriction of nonimmigrant visas for nationals of countries denying or
 delaying acceptance of aliens.
- Sec. 8. Waivers of temporary suspensions.
- Sec. 9. Termination of temporary suspensions.
- Sec. 10. Suspension of nonimmigrant visas.
- Sec. 11. Temporary funding for detention and removal assistance provided by
 State and local law enforcement agencies.

10 (c) SEVERABILITY.—If any provision of this Act, or
 11 the application of such a provision to any person or cir-
 12 cumstance, is held to be unconstitutional, the remainder
 13 of the Act, and the application of this Act to any other
 14 person or circumstance, shall not be affected by such hold-
 15 ing.

16 (d) EFFECTIVE DATE.—This Act shall take effect in
 17 each local time zone upon the commencement in such zone
 18 of the first Sunday that occurs two weeks after the date
 19 of the enactment of this Act.

1 **SEC. 2. FINDINGS.**

2 The Congress finds as follows:

3 (1) The effective establishment and organiza-
4 tion of the Directorate of Border and Transpor-
5 tation Security of the Department of Homeland Se-
6 curity is imperative if the Directorate is to carry out
7 the immigration enforcement responsibilities dele-
8 gated to it by the Congress in the manner expected
9 by the American people.

10 (2) The effective implementation of these duties
11 will not be achieved without an unacceptable com-
12 promise to the security interests of the United
13 States unless certain immigration programs are tem-
14 porarily suspended, and other material assistance is
15 provided to law enforcement agencies and other enti-
16 ties that support the immigration enforcement func-
17 tions of the Directorate, until such time as the Sec-
18 retary of Homeland Security can make the certifi-
19 cations to Congress required in section 9.

20 (3) Such certifications, taken together, will es-
21 tablish the effective operational transfer of immigra-
22 tion enforcement functions to the new Directorate.

1 **SEC. 3. TEMPORARY SUSPENSION OF VISA WAIVER PRO-**
2 **GRAM.**

3 The admission of aliens to the United States under
4 section 217 of the Immigration and Nationality Act (8
5 U.S.C. 1187) is suspended.

6 **SEC. 4. TEMPORARY SUSPENSION OF ADJUSTMENT OF STA-**
7 **TUS.**

8 (a) IN GENERAL.—The authority of the Secretary of
9 Homeland Security to adjust the status of any alien to
10 that of an alien lawfully admitted for permanent residence
11 under section 240A of the Immigration and Nationality
12 Act (8 U.S.C. 1229b) or section 245 of such Act (8 U.S.C.
13 1187), is suspended.

14 (b) EFFECT ON APPLICATIONS.—The suspension de-
15 scribed in subsection (a) shall include the suspension of
16 acceptance for filing of applications for the adjustments
17 of status described in such subsection.

18 **SEC. 5. TEMPORARY SUSPENSION OF RENEWALS OF TEM-**
19 **PORARY PROTECTED STATUS.**

20 The authority of the Secretary of Homeland Security
21 to extend any designation made under subparagraph (B)
22 or (C) of section 244(b)(1) of the Immigration and Na-
23 tionality Act (8 U.S.C. 1254(b)(1)) is suspended.

1 **SEC. 6. TEMPORARY SUSPENSION OF CERTAIN IMMIGRANT**
2 **VISA PROGRAMS.**

3 (a) BROTHERS AND SISTERS OF CITIZENS.—The al-
4 location of family-sponsored immigrant visas to alien
5 brothers and sisters of citizens under section 203(a)(4) of
6 the Immigration and Nationality Act (8 U.S.C.
7 1153(a)(4)), and the admission of such aliens to the
8 United States as immigrants, is suspended.

9 (b) SONS AND DAUGHTERS OF CITIZENS.—The allo-
10 cation of family-sponsored immigrant visas to alien sons
11 and daughters of citizens under paragraph (1) or (3) of
12 section 203(a) of the Immigration and Nationality Act (8
13 U.S.C. 1153(a)), and the admission of such aliens to the
14 United States as immigrants, is suspended.

15 (c) UNMARRIED SONS AND DAUGHTERS OF PERMA-
16 NENT RESIDENT ALIENS.—

17 (1) IN GENERAL.—The allocation of family-
18 sponsored immigrant visas to aliens who are the un-
19 married sons and daughters (but are not the chil-
20 dren) of an alien lawfully admitted for permanent
21 residence under section 203(a)(2)(B) of the Immi-
22 gration and Nationality Act (8 U.S.C.
23 1153(a)(2)(B)), and the admission of such aliens to
24 the United States as immigrants, is suspended.

25 (2) CHILDREN.—The allocation of family-spon-
26 sored immigrant visas to aliens who are the children

1 of an alien lawfully admitted for permanent resi-
2 dence under section 203(a)(2)(A) of the Immigra-
3 tion and Nationality Act (8 U.S.C. 1153(a)(2)(A)),
4 and the admission of such aliens to the United
5 States as immigrants, is suspended, except that this
6 paragraph shall not apply to dependent children who
7 are under 18 years of age at the time an immigrant
8 visa becomes available to the child.

9 (d) DIVERSITY IMMIGRANTS.—The allocation of im-
10 migrant visas to aliens under section 203(c) of the Immi-
11 gration and Nationality Act (8 U.S.C. 1153(c)), and the
12 admission of such aliens to the United States as immi-
13 grants, is suspended.

14 (e) EFFECT ON CLASSIFICATION PETITIONS.—The
15 suspensions of immigrant visa allocations described in this
16 section shall include the suspension of acceptance for filing
17 of petitions for classification under section 204 of the Im-
18 migration and Nationality Act (8 U.S.C. 1154) with re-
19 spect to the affected immigrant visa categories.

20 **SEC. 7. RESTRICTION OF NONIMMIGRANT VISAS FOR NA-**
21 **TIONALS OF COUNTRIES DENYING OR DELAY-**
22 **ING ACCEPTANCE OF ALIENS.**

23 (a) PUBLIC LISTING OF ALIENS WITH NO SIGNIFI-
24 CANT LIKELIHOOD OF REMOVAL.—

1 (1) IN GENERAL.—The Secretary of Homeland
2 Security shall establish and maintain a public listing
3 of every alien who is subject to a final order of re-
4 moval and with respect to whom the Secretary or
5 any Federal court has determined that there is no
6 significant likelihood of removal in the reasonably
7 foreseeable future due to the refusal, or unreason-
8 able delay, of all countries designated by the alien or
9 under this section to receive the alien.

10 (2) DISCONTINUATION OF VISAS.—In the case
11 of any foreign state for which 24 or more of the citi-
12 zens, subjects, or nationals of such state appear on
13 the public listing described in paragraph (1), such
14 foreign state shall be deemed to have denied or un-
15 reasonably delayed the acceptance of such aliens,
16 and the Secretary of Homeland Security shall make
17 the notification to the Secretary of State prescribed
18 in section 243(d) of the Immigration and Nation-
19 ality Act (8 U.S.C. 1253(d)). Consular officers in
20 such foreign state shall accordingly discontinue the
21 issuance of nonimmigrant visas to citizens, subjects,
22 or nationals of the state.

23 (b) SUNSET.—Subsection (a) shall sunset in accord-
24 ance with section 9.

1 **SEC. 8. WAIVERS OF TEMPORARY SUSPENSIONS.**

2 (a) IN GENERAL.—The Secretary of Homeland Secu-
3 rity may, in the Secretary’s discretion—

4 (1) waive on an individual case-by-case basis
5 sections 4, 6, and 7; or

6 (2) waive, with the concurrence for the Sec-
7 retary of State, section 3 for designated classes of
8 applicants, if such applicants are not inadmissible
9 under section 212(a) of the Immigration and Na-
10 tionality Act (8 U.S.C. 1182(a)) or deportable under
11 section 237(a) of such Act (8 U.S.C 1227).

12 (b) DELEGATION.—The Secretary of Homeland Se-
13 curity may, in the discretion of the Secretary, delegate to
14 the Secretary of State, for designated classes of appli-
15 cants, the waiver authority of subsection (a)(1) with re-
16 spect to sections 6 and 7.

17 **SEC. 9. TERMINATION OF TEMPORARY SUSPENSIONS.**

18 Sections 3 through 8 shall cease to be effective one
19 week after the certification by the Secretary of Homeland
20 Security to the Congress that the following conditions are
21 satisfied:

22 (1) The integrated entry and exit data system
23 required by the Immigration and Naturalization
24 Service Data Management Improvement Act of 2000
25 (Public Law 106–215), including the requirements
26 added by section 302(a) of the Enhanced Border Se-

1 security and Visa Entry Reform Act of 2002 (Public
2 Law 107–173), is fully operational at all ports of
3 entry.

4 (2) The system of machine-readable tamper-re-
5 sistant visas and other travel and entry documents
6 required by section 302(b) of the Enhanced Border
7 Security and Visa Entry Reform Act of 2002 (Pub-
8 lic Law 107–173), as well as the technology stand-
9 ard for visa waiver program participants required by
10 section 302(c) of such Act, are fully operational at
11 all ports of entry and, where applicable, at consular
12 posts abroad.

13 (3) The Department of Homeland Security has
14 the operational capability to take into custody and
15 remove from the United States any alien described
16 in section 237(a) of the Immigration and Nationality
17 Act (8 U.S.C. 1227(a)) who has been brought to the
18 attention of the Service by a State or local law en-
19 forcement agency.

20 (4) Adequate Federal funds have been appro-
21 priated and are available to reimburse all verified
22 claims described in section 11.

23 (5) The data system for the registration of
24 aliens under chapter 7 of title II of the Immigration

1 and Nationality Act (8 U.S.C. 261 et seq.) is fully
2 operational and—

3 (A) is fully compliant with the data system
4 integration and interoperability standards en-
5 acted in section 202(a) of the Enhanced Border
6 Security and Visa Entry Reform Act of 2002
7 (Public Law 107–173);

8 (B) ensures the entry of all registrations
9 made in accordance with section 221(b) of the
10 Immigration and Nationality Act (8 U.S.C.
11 1201(b)) into the registration system at the
12 time at the time of the relevant visa application;

13 (C) ensures that all other registrations
14 made under procedures required by section 264
15 of such Act (8 U.S.C. 1304) are entered into
16 the data system within 72 hours of submission
17 by the alien of an approved form of registra-
18 tion; and

19 (D) ensures that all notices of change of
20 address required by section 265 of such Act (8
21 U.S.C. 1305) are entered in the data system
22 within 5 working days of submission by the
23 alien of an approved change of address form.

24 (6) A program for the random audit of the
25 backlog of applications for changes in immigration

1 status by aliens present in the United States exist-
2 ing on the effective date of this Act has been fully
3 implemented by the Department of Homeland Secu-
4 rity.

5 (7) The program described in paragraph (6) re-
6 liably indicates that the incidence of fraud or false
7 statements is no more than 3 percent of all approved
8 applications.

9 (8) The foreign student monitoring system de-
10 scribed in section 641 of the Illegal Immigration Re-
11 form and Immigrant Responsibility Act (8 U.S.C.
12 1372), as amended and expanded by sections 501
13 and 502 of the Enhanced Border Security and Visa
14 Entry Reform Act of 2002 (Public Law 107–173),
15 is fully operational, and no educational institution
16 certified to receive nonimmigrant students under
17 subparagraph (F), (M), or (J) of section 101(a)(15)
18 of the Immigration and Nationality Act (8 U.S.C.
19 1101(a)(15)) registers or admits aliens present in
20 the United States in violation of law.

21 (9) The number of aliens removed from the
22 United States, during each of 4 months preceding
23 the month in which the certification under this sec-
24 tion is executed, was at least 25 percent higher than
25 in the comparable months of the previous year.

1 (10) All reports and plans, and all operational
2 transfers of functions, required under title IV of the
3 Homeland Security Act of 2002 (6 U.S.C. 201 et
4 seq.) have been successfully performed and imple-
5 mented to the extent required by law as of the cer-
6 tification date.

7 (11) The elimination of the backlog of immigra-
8 tion benefit applications required by section 458 of
9 the Homeland Security Act of 2002 (Public Law
10 107–296; 116 Stat. 2201) has been completed.

11 (12) The annual report required by section
12 205(b) of the American Competitiveness in the
13 Twenty-first Century Act of 2000 (8 U.S.C.
14 1574(b)), for the fiscal year preceding the date of
15 the certification, has been submitted to the Con-
16 gress.

17 (13) Process changes described in section
18 205(b)(2)(C)(vi) of the American Competitiveness in
19 the Twenty-first Century Act of 2000 (8 U.S.C.
20 1574(b)(2)(C)(vi)) have been implemented and are
21 substantially operational.

22 **SEC. 10. SUSPENSION OF NONIMMIGRANT VISAS.**

23 (a) IN GENERAL.—The authority of the Secretary of
24 State to issue nonimmigrant visas is suspended. The au-

1 thority of the Secretary of Homeland Security to admit
2 nonimmigrant aliens into the United States is suspended.

3 (b) EFFECT ON APPLICATIONS.—The suspensions
4 described in subsection (a) shall include the suspension of
5 acceptance for filing of applications for nonimmigrant
6 visas and applications for admission as a nonimmigrant.

7 (c) WAIVERS AUTHORIZED.—The Secretary of
8 Homeland Security may, in the Secretary's discretion,
9 waive the application of subsection (a) in the case of any
10 alien or class of aliens if the following conditions are satis-
11 fied:

12 (1) Section 203(c) of the Immigration and Na-
13 tionality Act (8 U.S.C. 1153(c), and any other provi-
14 sion of law authorizing the issuance of diversity im-
15 migrant visas, is repealed.

16 (2) Personal interviews are mandatory for ad-
17 mission of aliens to the United States under section
18 217 of the Immigration and Nationality Act (8
19 U.S.C. 1187).

20 (3) The Secretary, with the Secretary of State,
21 verifies that each alien admitted on the basis of a
22 nonimmigrant visa has had a personal interview with
23 a consular officer prior to the issuance of the visa.

24 (d) CONSTRUCTION.—During any period in which a
25 waiver granted under subsection (c) applies to aliens

1 barred from receipt of nonimmigrant visas under section
2 7(a)(2), the bar shall supersede the waiver.

3 **SEC. 11. TEMPORARY FUNDING FOR DETENTION AND RE-**
4 **MOVAL ASSISTANCE PROVIDED BY STATE**
5 **AND LOCAL LAW ENFORCEMENT AGENCIES.**

6 The Secretary of Homeland Security shall reimburse
7 verifiable claims submitted by a law enforcement agency
8 of a State, or any political subdivision of a State, that
9 were lawfully incurred for the emergency medical care,
10 housing, and care in a secure facility, and the transpor-
11 tation into Federal custody at a location designated by the
12 Secretary, of any alien detained as inadmissible under sec-
13 tion 212(a) of the Immigration and Nationality Act (8
14 U.S.C. 1182(a)) or deportable under section 237(a) of
15 such Act (8 U.S.C. 1227(a)), if—

16 (1) transfer to Federal custody has occurred;

17 (2)(A) a determination is subsequently made
18 under section 240(c)(1) of the Immigration and Na-
19 tionality Act (8 U.S.C. 1229a(c)(1)) that such alien
20 is removable; or

21 (B) a determination is made that the alien has
22 permanently departed the United States;

23 (3) reimbursement for all costs excepting trans-
24 portation costs is made according to a per diem rate
25 established by the Secretary; and

1 (4) the first day of such detention is not later
2 than the date on which the certification described in
3 section 9 is made.

○