

108TH CONGRESS
1ST SESSION

S. 205

To authorize the issuance of immigrant visas to, and the admission to the United States for permanent residence of, certain scientists, engineers, and technicians who have worked in Iraqi weapons of mass destruction programs.

IN THE SENATE OF THE UNITED STATES

JANUARY 23, 2003

Mr. BIDEN (for himself, Mr. SPECTER, Mr. LUGAR, and Mr. HATCH) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To authorize the issuance of immigrant visas to, and the admission to the United States for permanent residence of, certain scientists, engineers, and technicians who have worked in Iraqi weapons of mass destruction programs.

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.**

4 This Act may be cited as the “Iraqi Scientists Immi-
5 gration Act of 2003”.

1 **SEC. 2. ADMISSION OF CRITICAL ALIENS.**

2 (a) NONIMMIGRANT CATEGORY.—Section 101(a)(15)
3 of the Immigration and Nationality Act (8 U.S.C.
4 1101(a)(15)) is amended—

5 (1) by striking “or” at the end of subparagraph
6 (U);

7 (2) by striking the period at the end of sub-
8 paragraph (V) and inserting “; or”; and

9 (3) by adding at the end the following new sub-
10 paragraph:

11 “(W) Subject to section 214(s), an alien—

12 “(i) who the Attorney General determines,
13 in coordination with the Secretary of State, the
14 Director of Central Intelligence, and such other
15 officials as he may deem appropriate, and in
16 the Attorney General’s unreviewable discretion,
17 is an individual—

18 “(I) who has worked at any time in
19 an Iraqi program to produce weapons of
20 mass destruction or the means to deliver
21 them;

22 “(II) who is in possession of critical
23 and reliable information concerning any
24 such Iraqi program;

1 “(III) who is willing to provide, or has
2 provided, such information to the United
3 States Government;

4 “(IV) who may be willing to provide,
5 or has provided, such information to in-
6 spectors of the United Nations or of the
7 International Atomic Energy Agency;

8 “(V) who will be or has been placed in
9 danger as a result of providing such infor-
10 mation; and

11 “(VI) whose admission would be in
12 the public interest or in the interest of na-
13 tional security; or

14 “(ii) who is the spouse, married or unmar-
15 ried son or daughter, parent, or other relative,
16 as determined by the Attorney General in his
17 unreviewable discretion, of an alien described in
18 clause (i), if accompanying or following to join
19 such alien, and whose admission the Attorney
20 General, in coordination with the Secretary of
21 State and the Director of Central Intelligence,
22 determines in his unreviewable discretion is in
23 the public interest or in the interest of national
24 security.”.

1 (b) LIMITATIONS AND CONDITIONS APPLICABLE TO
 2 “W” NONIMMIGRANTS.—Section 214 of the Immigration
 3 and Nationality Act (8 U.S.C. 1184) is amended—

4 (1) by redesignating subsections (m) (as added
 5 by section 105 of Public Law 106–313), (n) (as
 6 added by section 107(e) of Public Law 106–386),
 7 (o) (as added by section 1513(c) of Public Law 106–
 8 386), (o) (as added by section 1102(b) of the Legal
 9 Immigration Family Equity Act), and (p) (as added
 10 by section 1503(b) of the Legal Immigration Family
 11 Equity Act) as subsections (n), (o), (p), (q), and (r),
 12 respectively; and

13 (2) by adding at the end the following new sub-
 14 section:

15 “(s) NUMERICAL LIMITATIONS AND CONDITIONS OF
 16 ADMISSION AND STAY FOR NONIMMIGRANTS ADMITTED
 17 UNDER SECTION 101(a)(15)(W).—

18 “(1) LIMITATION.—The number of aliens who
 19 may be admitted to the United States or otherwise
 20 granted status under section 101(a)(15)(W)(i) may
 21 not exceed a total of 500.

22 “(2) CONDITIONS.—As a condition for the ad-
 23 mission, and continued stay in lawful status, of any
 24 alien admitted to the United States or otherwise

1 granted status as a nonimmigrant under section
2 101(a)(15)(W), the nonimmigrant—

3 “(A) shall report to the Attorney General
4 such information concerning the alien’s where-
5 abouts and activities as the Attorney General
6 may require;

7 “(B) may not be convicted of any criminal
8 offense punishable by a term of imprisonment
9 of 1 year or more after the date of such admis-
10 sion or grant of status;

11 “(C) must have executed a form that
12 waives the nonimmigrant’s right to contest,
13 other than on the basis of an application for
14 withholding of removal or for protection under
15 the Convention Against Torture, any action for
16 removal of the alien instituted before the alien
17 obtains lawful permanent resident status;

18 “(D) shall cooperate fully with all requests
19 for information from the United States Govern-
20 ment including, but not limited to, fully and
21 truthfully disclosing to the United States Gov-
22 ernment all information in the alien’s posses-
23 sion concerning any Iraqi program to produce
24 weapons of mass destruction or the means to
25 deliver them; and

1 “(E) shall abide by any other condition,
 2 limitation, or restriction imposed by the Attor-
 3 ney General.”.

4 (c) ADJUSTMENT OF STATUS.—Section 245 of the
 5 Immigration and Nationality Act (8 U.S.C. 1255) is
 6 amended—

7 (1) in subsection (c)—

8 (A) by striking “or” before “(8)”; and

9 (B) by inserting before the period “or (9)
 10 an alien who was admitted as a nonimmigrant
 11 described in section 101(a)(15)(W)”;

12 (2) by redesignating subsection (l), relating to
 13 “U” visa nonimmigrants, as subsection (m); and

14 (3) by adding at the end the following new sub-
 15 section:

16 “(n) ADJUSTMENT TO PERMANENT RESIDENT STA-
 17 TUS OF ‘W’ NONIMMIGRANTS.—

18 “(1) IN GENERAL.—If, in the opinion of the At-
 19 torney General, a nonimmigrant admitted into the
 20 United States (or otherwise provided nonimmigrant
 21 status) under section 101(a)(15)(W)(i) has complied
 22 with section 214(s) since such admission or grant of
 23 status, the Attorney General may, in coordination
 24 with the Secretary of State and the Director of Cen-
 25 tral Intelligence, and in his unreviewable discretion,

1 adjust the status of the alien (and any alien who has
 2 accompanied or followed to join such alien pursuant
 3 to section 101(a)(15)(W)(ii) and who has complied
 4 with section 214(s) since admission or grant of non-
 5 immigrant status) to that of an alien lawfully admit-
 6 ted for permanent residence if the alien is not de-
 7 scribed in section 212(a)(3)(E).

8 “(2) RECORD OF ADMISSION; REDUCTION IN
 9 VISA NUMBERS.—Upon the approval of adjustment
 10 of status of any alien under paragraph (1), the At-
 11 torney General shall record the alien’s lawful admis-
 12 sion for permanent residence as of the date of such
 13 approval and the Secretary of State shall reduce by
 14 one the number of visas authorized to be issued
 15 under sections 201(d) and 203(b)(4) for the fiscal
 16 year then current.”.

17 (d) WAIVER AUTHORITY.—Section 212(d) of the Im-
 18 migration and Nationality Act (8 U.S.C. 1182(d)) is
 19 amended by inserting after paragraph (1) the following
 20 new paragraph:

21 “(2) The Attorney General shall determine whether
 22 a ground of inadmissibility exists with respect to a non-
 23 immigrant described in section 101(a)(15)(W). The Attor-
 24 ney General, in the Attorney General’s discretion, may
 25 waive the application of subsection (a) in the case of such

1 a nonimmigrant if the Attorney General considers it to
 2 be in the public interest or in the interest of national secu-
 3 rity.”.

4 (e) CONFORMING AMENDMENT.—Section 248(1) of
 5 the Immigration and Nationality Act (8 U.S.C. 1258(1))
 6 is amended by striking “or (S)” and inserting “(S), or
 7 (W)”.

8 **SEC. 3. WEAPON OF MASS DESTRUCTION DEFINED.**

9 (a) IN GENERAL.—In this Act, the term “weapon of
 10 mass destruction” has the meaning given the term in sec-
 11 tion 1403(1) of the Defense Against Weapons of Mass De-
 12 struction Act of 1996 (title XIV of Public Law 104–201;
 13 110 Stat. 2717; 50 U.S.C. 2302(1)), as amended by sub-
 14 section (b).

15 (b) TECHNICAL CORRECTION.—Section 1403(1)(B)
 16 of the Defense Against Weapons of Mass Destruction Act
 17 of 1996 (title XIV of Public Law 104–201; 110 Stat.
 18 2717; 50 U.S.C. 2302(1)(B)) is amended by striking “a
 19 disease organism” and inserting “a biological agent, toxin,
 20 or vector (as those terms are defined in section 178 of
 21 title 18, United States Code)”.

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