

Calendar No. 9

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, Mr. HATCH, and Mr. LEAHY) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

JANUARY 30, 2003

Reported by Mr. HATCH, without amendment

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”.

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

7 (a) NONIMMIGRANT CATEGORY.—Section 101(a)(15)
8 of the Immigration and Nationality Act (8 U.S.C.
9 1101(a)(15)) is amended—

10 (1) by striking “or” at the end of subparagraph
11 (U);

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

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

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

17 “(i) who the Attorney General determines,
18 in coordination with the Secretary of State, the
19 Director of Central Intelligence, and such other
20 officials as he may deem appropriate, and in
21 the Attorney General’s unreviewable discretion,
22 is an individual—

23 “(I) who has worked at any time in
24 an Iraqi program to produce weapons of

1 mass destruction or the means to deliver
2 them;

3 “(II) who is in possession of critical
4 and reliable information concerning any
5 such Iraqi program;

6 “(III) who is willing to provide, or has
7 provided, such information to the United
8 States Government;

9 “(IV) who may be willing to provide,
10 or has provided, such information to in-
11 spectors of the United Nations or of the
12 International Atomic Energy Agency;

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

16 “(VI) whose admission would be in
17 the public interest or in the interest of na-
18 tional security; or

19 “(ii) who is the spouse, married or unmar-
20 ried son or daughter, parent, or other relative,
21 as determined by the Attorney General in his
22 unreviewable discretion, of an alien described in
23 clause (i), if accompanying or following to join
24 such alien, and whose admission the Attorney
25 General, in coordination with the Secretary of

1 State and the Director of Central Intelligence,
 2 determines in his unreviewable discretion is in
 3 the public interest or in the interest of national
 4 security.”.

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

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

17 (2) by adding at the end the following new sub-
 18 section:

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

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

1 “(2) CONDITIONS.—As a condition for the ad-
2 mission, and continued stay in lawful status, of any
3 alien admitted to the United States or otherwise
4 granted status as a nonimmigrant under section
5 101(a)(15)(W), the nonimmigrant—

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

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

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

21 “(D) shall cooperate fully with all requests
22 for information from the United States Govern-
23 ment including, but not limited to, fully and
24 truthfully disclosing to the United States Gov-
25 ernment all information in the alien’s posses-

sion concerning any Iraqi program to produce weapons of mass destruction or the means to deliver them; and

“(E) shall abide by any other condition, limitation, or restriction imposed by the Attorney General.”.

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

(1) in subsection (c)—

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

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

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

(3) by adding at the end the following new subsection:

“(n) ADJUSTMENT TO PERMANENT RESIDENT STATUS OF ‘W’ NONIMMIGRANTS.—

“(1) IN GENERAL.—If, in the opinion of the Attorney General, a nonimmigrant admitted into the United States (or otherwise provided nonimmigrant status) under section 101(a)(15)(W)(i) has complied with section 214(s) since such admission or grant of

1 status, the Attorney General may, in coordination
2 with the Secretary of State and the Director of Cen-
3 tral Intelligence, and in his unreviewable discretion,
4 adjust the status of the alien (and any alien who has
5 accompanied or followed to join such alien pursuant
6 to section 101(a)(15)(W)(ii) and who has complied
7 with section 214(s) since admission or grant of non-
8 immigrant status) to that of an alien lawfully admit-
9 ted for permanent residence if the alien is not de-
10 scribed in section 212(a)(3)(E).

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

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

24 “(2) The Attorney General shall determine whether
25 a ground of inadmissibility exists with respect to a non-

1 immigrant described in section 101(a)(15)(W). The Attor-
 2 ney General, in the Attorney General’s discretion, may
 3 waive the application of subsection (a) in the case of such
 4 a nonimmigrant if the Attorney General considers it to
 5 be in the public interest or in the interest of national secu-
 6 rity.”.

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

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

12 (a) IN GENERAL.—In this Act, the term “weapon of
 13 mass destruction” has the meaning given the term in sec-
 14 tion 1403(1) of the Defense Against Weapons of Mass De-
 15 struction Act of 1996 (title XIV of Public Law 104–201;
 16 110 Stat. 2717; 50 U.S.C. 2302(1)), as amended by sub-
 17 section (b).

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

Calendar No. 9

108TH CONGRESS
1ST SESSION

S. 205

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.

JANUARY 30, 2003

Reported without amendment