

OPPOSITION TO THE SECTION 245(i) PROVISION AND AMNESTY FOR ILLEGAL ALIENS -- (Senate - March 18, 2002)

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Mr. BYRD. Mr. President, last week, CNN broke the news that, six months after the attacks on the World Trade Center and the Pentagon, the Immigration and Naturalization Service finally provided a confirmation notice to a Florida flight school that two of the suicide hijackers who died on September 11 had been approved for student visas.

The American people must have been shaking their heads in dismay. Certainly many politicians viewed the incident with incredulity and anger. Our President said he was "plenty hot." The Attorney General promised an investigation. Legislators and pundits have called for the restructuring--and even for the abolishment--of the INS.

I find it hard to understand the apparent shock. That this incident occurred should come as no surprise to anyone who has read anything in recent months about the inept manner in which our immigration system is apparently operating. In the aftermath of the September 11 attacks, the American people heard repeatedly about the lapses in our immigration laws that allowed these terrorists to enter our country. Three of the terrorists were in the country on expired visas and should have been deported. Countless federal reports and investigations have concluded that INS is plagued by backlogs and delays. The agency has little sense of who is crossing our borders, and can't track individuals once they are inside the country.

As if to try to provide some logic for its bumbling, the INS said in a statement last week that it had no information at the time that it approved these student visas that either man was tied to terrorist groups. I hardly find any comfort in that. It doesn't explain why Mohammed Atta's visa extension kept winding its way through the bureaucratic process for months after he became recognized internationally as a brutal terrorist.

Since September 11th, the Administration has sought to reassure the American people that this government was taking steps to reinforce that invisible barrier that ostensibly protects our citizens from foreign threats. The American people were told that this government is doing all that it can to strengthen our borders and make Americans safe.

But then this CNN report is unveiled, reinforcing the negative impression that most Americans have of our Nation's border security.

If the American people went to bed last Tuesday night in dismay over this latest INS debacle, they must have been absolutely dumbfounded when they awoke Wednesday morning to learn that the House of Representatives had passed, at the request of the President, what amounts to an amnesty for hundreds of thousands of illegal aliens, many of whom have not undergone any--any--background or security check.

Supporters of the House-passed extension of the so-called Section 245(i) provision were quick to claim that it is not an amnesty. The issue, they argue, is where you fill out your paper work--here or abroad. That is nonsense--D-N-O-N-S-E-N-S-E, nonsense. Section 245(i)--amnesty is amnesty--pure and simple.

The section 245(i) provision, which expired last April, allows undocumented immigrants to seek permanent residency without leaving the United States, if--if--they pay a \$1,000 fee and have a close relative or employer sponsor them. Without the provision, these immigrants would be forced to leave the country, and under tougher illegal immigration reforms passed in 1996, be barred from reentering for up to 10 years.

If waiving tougher penalties for illegal aliens is not a form of amnesty, then I don't know what is.

Those who support reviving the 245(i) provision impress upon us that there are many, many individuals who came to this country legally, but became lost in the huge backlog of paperwork at the Immigration and Naturalization Service. Thus their visas expired while they were awaiting the processing of paperwork and they continued to live in the United States illegally and undetected.

I don't doubt that many of these individuals are well-meaning and have attempted to follow the law. I recognize that many of these individuals, if not for some type of legal exemption, will have to leave the country and be separated from their families. But we must not forget that three of the September 11 terrorists were living in the United States on expired visas. An additional two terrorists--Mohammad Atta and Marwan al-Shehhi tried to change their visa status while they were in the United States, and, thus, were allowed to begin their flight training at a Florida school. And as we learned in these last few days, not only did the Immigration and Naturalization Service never catch them, but months after September 11, the Immigration and Naturalization Service was still issuing paperwork clearing the way for these two terrorists to enter the stream of American society.

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These terrorists weren't hiding from the system, they were exploiting the flaws in the system. Reviving the 245(i) provision reopens another crack in the system through which a potential terrorist can crawl. What the CNN story says to me is not that we should be more lenient with visa applicants, but that we should be much tougher, with visa applicants.

The section 245(i) provision poses a dangerous risk to our border security by compromising the all-important State Department background checks being conducted on potential immigrants in their home countries. By allowing hundreds of thousands of illegal aliens to apply for permanent residency in our country, section 245(i) allows them to sidestep face-to-face interviews at U.S. consulates in their own countries. U.S. consular officers abroad offer unmatched expertise in their host country's social conditions. They are knowledgeable of police records. They are knowledgeable of fraudulent document operations. They are knowledgeable of political extremist groups. Under section 245(i), U.S. consulate officers would not fully exercise this expertise in screening immigrants for permanent residency.

Supporters of the 245(i) provision will tell us that we can rely on a thorough INS background check. Ha-ha. Don't forget that if the visa applicants fail the INS security check, they are already inside the country. If they fail that check, they are already inside this country. And because of the ineptitude of the INS, they may have been living in this country for months and, who knows, perhaps years. We cannot afford to have a weaker visa screening standard for illegal aliens who are given the opportunity to permanently reside in our country.

Moreover, an extension of the 245(i) provision would contribute significantly to the INS' dangerously overloaded processing backlog. The Immigration and Naturalization Service currently faces a backlog of roughly 4 million cases, and we can expect an additional half a million visa application filings if section

245(i) is revived. The fact that the INS is notifying a Florida flight school of Mohammed Atta's student visa approval 6 months after the September 11 attacks clearly suggests that the Immigration and Naturalization Service cannot handle further increases in its workload. What's more, it does not make a whit of sense to place these new obligations on an agency that both the administration and Members of Congress are suggesting will undergo dramatic reforms in the coming months.

All of that is to say nothing about the message that we send abroad to potential immigrants who are waiting patiently to legally enter this country. Section 245(i) acts as an incentive, a lure, for illegal immigration by suggesting that it is quicker and more convenient to enter the country illegally than to wait outside the United States to complete the visa application process.

These are serious concerns that the Senate will need to address before it acts on this issue. The American people and the Congress should know the answers to these questions. In fact, there are a number of questions that ought to be raised as we consider changes to our immigration system, but I am becoming increasingly doubtful that the administration really wants to provide the answers.

The administration has been very quiet about its reasons for asking the Congress to renew the 245(i) provision. The White House issued only a three-paragraph statement last week in supporting the House-passed extension of 245(i), which states in the first paragraph:

The Administration strongly supports House passage of H.R. 1885 This legislation reflects the Administration's philosophy that government policies should recognize the importance of families and help to strengthen them.

Mr. President, I support recognizing the importance of families. I am sure that every Senator here is all for families. In fact, I have yet to meet an anti-family politician.

But this Government's first obligation, especially in light of what happened on September 11, ought to be that of protection of American families, and the 245(i) provision does not meet that test in the wake of September 11.

Last week, the Homeland Security Director unveiled a color-coded system to alert Americans of varying levels of terrorism threats. Governor Ridge warned that the United States remains on an elevated threat level and that the corresponding yellow light signifies that there is still a "significant threat" of a terrorist attack. Certainly, the administration would want to explain to the American people, as well as to the Congress, why an amnesty that streamlines and shortcuts background checks for illegal aliens is not a threat to our domestic security.

The suggestion has been raised in the media that the House passed this amnesty, at the President's request, so that Mr. Bush would have a legislative achievement to tout at his meeting with Mexican President Vicente Fox this week. The broader amnesty for 3 million illegal Mexican immigrants that the President proposed prior to the September 11 attacks has been indefinitely shelved, and it has been suggested that an extension of the section 245(i) provision is a substitute for that proposal. Last week the Washington Times quoted the majority whip in the other body as saying, "The president says he needs it, and we're going to do it." The paper also quoted a Republican aide saying, "That's the only reason we're doing it. What the president wants, the president gets."

I hope that is not the case. I hope that party politics is not the sole consideration in a matter as grave as this.

The suggestion has also been raised that the House passed an extension of Section 245(i), and included it as part of a so-called border security bill, to pressure the Senate into quickly passing similar border security legislation that is pending before it. Well, this Senator from West Virginia will not be pressured into passing legislation. The Senate is a deliberative body. Senators have a responsibility to consider and to thoroughly debate legislation that comes before this body, especially legislation that raises as many concerns as section 245(i). I raise these concerns and I shall continue to raise them. The administration chose not to address these concerns last week when the House acted on the 245(i) provision.

Mr. President, the American people and the Congress cannot be expected to have confidence in our efforts to secure our borders, if they see the administration advocating legislation that seems to fly in the face of tighter border security. The administration must explain why, on the same day that the Homeland Security Director would issue an elevated state of alert, the White House would push through the House an amnesty for illegal aliens that would weaken our visa screening processes. Doesn't make much sense, does it? The right hand seems not to know what the left hand is doing.

It is lunacy--sheer lunacy--that the President would request, and the House would pass, such an amnesty at this time. That point seems obvious to the American people, if not to the administration.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

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