Another Immigration Loophole: 245(i)

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The watchword of the Bush Administration's education reform is accountability. To receive federal funds, everyone in education must be accountable: teachers, students and schools.
But whatever happened to accountability when it comes to border security and the admission of aliens to the United States? Politicians are aggressively second-guessing the decisions of the FBI, the CIA and even the White House itself, but where is any accountability for aliens getting into our country, legally, illegally, and as legal visitors who never leave and then become illegal?

Attorney General John Ashcroft says there are 314,000 illegals, called absconders, who have been ordered deported after committing felonies, but our government can't find them. The Immigration and Naturalization Service (INS) recently raised that appalling number to 500,000.

The legal aliens are an even bigger problem. All 19 hijackers on 9/11 entered the United States legally on government-issued visas, several of whom illegally overstayed their allotted time.

Now we hear there is another way aliens are able to remain in our country. They sneak over our borders illegally, or illegally overstay their visas, and then become legal by exploiting a now-expired loophole known as 245(i), the section in a 1994 federal law that allows an illegal alien to apply for a green card, stay permanently in the United States, and subsequently apply for citizenship.

This amnesty loophole allowed aliens who broke our laws to pay a $1,000 fine and go to the head of the line in front of prospective immigrants who complied with our laws. U.S. law states that aliens must apply in their own countries to get permission to immigrate to the United States.

A million of these loophole aliens have become legal residents since the law was passed. In 2000, these loophole aliens were 28.3 percent of new legal residents, in 1999 they were 25.4 percent, and in 1998 they were 29.4 percent.

INS chief James Ziglar has no will to tackle the illegal-alien scandal. He recently told a Tucson audience that "it's not practical or reasonable to think that you're going to be able to round them all up and send them home."

Loophole 245(i) expired in April 2001, but the open-borders lobby led by Senator Ted Kennedy has been hard at work to get it renewed. With the active support of the Bush Administration plus scheduling chicanery by the House leadership, renewal passed the House by one vote on March 12.

Senator Robert Byrd then brought 245(i) extension to a screeching stop by calling it amnesty and "sheer lunacy." However, the amnesty push hasn't gone away.

On May 14, President George W. Bush said, "I wanted a temporary extension of 245(i). . . . I intend to work with Congress to see if we can't get that done here pretty quick."

The open-borders lobby is trying to claim that 245(i) is not amnesty, but the dictionary refutes their argument. The definition of amnesty is a general pardon for offenses against the government, and the purpose of the 245(i) loophole is to pardon illegal aliens for their offense in violating our immigration laws and to allow them to benefit by that violation.

Section 245(i) applies to those who snuck across our border, intentionally overstayed a temporary visa, violated the terms of their visa, or entered the U.S. as an aircraft worker or ship crewman. It even applies to aliens who are deportable under 8 U.S.C. 1227(a)(4)(B), which includes any alien who "engages in any terrorist activity."

Section 245(i) is not designed to address the problems of aliens whose cases have been snarled in the INS bureaucracy. They are taken care of by Section 245(a).

Rabih Haddad, a co-founder of the Global Relief Foundation, which U.S. officials shut down because of suspicions it was helping to fund terrorist groups, is among those who have applications pending to get a green card under 245(i). The danger of amnesty is further indicated by the case of Mahmoud Abouhadimi, convicted of participating in the 1993 World Trade Center truck bombing, who received amnesty in 1990 under the big amnesty law of 1986.

Despite all we know about the people who are plotting to kill Americans, the U.S. has issued 50,000 visas since 9/11 to non-Israeli visitors from the Middle East.

Rep. Dave Weldon (R-FL) has introduced a bill to establish a temporary moratorium on visas issued in 15 countries that sponsor terrorism, the Terrorist Admission Prevention Act (H.R. 4010). When is Congress going to get serious about border security?