

Meek
Payne
Pryce (OH)

Sawyer
Schiff
Serrano

Stokes
Weldon (FL)
Weldon (PA)

□ 1433

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to designate the Federal building and United States courthouse located at 300 Northeast First Avenue in Miami, Florida, as the 'David W. Dyer Federal Building and United States Courthouse'."

A motion to reconsider was laid upon the table.

PERSONAL EXPLANATION

Ms. PRYCE of Ohio. Mr. Speaker, I was unavoidably detained. Had I been present, I would have voted "aye."

MOTION TO INSTRUCT CONFEREES ON H.R. 2267, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

Mr. ROHRABACHER. Mr. Speaker, I offer a motion to instruct conferees.

THE SPEAKER pro tempore (Mr. LAHOOD). The Clerk will report the motion.

The Clerk read as follows:

Mr. ROHRABACHER moves that the managers on the part of the House at the conference on the disagreeing votes of the House and the Senate on H.R. 2267, Commerce-Justice-State-Judiciary Appropriations Act for fiscal year 1998, be instructed to insist on the House's disagreement with section 111 of the Senate amendment, which provides for a permanent extension of section 245(i) of the Immigration and Nationality Act.

The SPEAKER pro tempore. Pursuant to rule XXVIII, the gentleman from California [Mr. ROHRABACHER] and the gentleman from West Virginia [Mr. MOLLOHAN] each will control 30 minutes.

The Chair recognizes the gentleman from California [Mr. ROHRABACHER].

Mr. MOLLOHAN. Mr. Speaker, I yield 15 minutes to the distinguished chairman of the subcommittee, the gentleman from Kentucky [Mr. ROGERS].

The SPEAKER pro tempore. Without objection, the gentleman from Kentucky will control 15 minutes.

There was no objection.

Mr. ROHRABACHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I offer this motion to instruct conferees to try to prevent the enactment of a permanent rolling amnesty program for illegal aliens. Let me repeat that, "a permanent rolling amnesty program for illegal aliens." That is what the issue is today.

Contained in the Senate version of the Commerce-State-Justice appropriations bill is a perpetual extension of an

infamous provision of law that has never won an up-and-down vote on the floor of either the House or the Senate. In fact, the only direct vote ever taken on this provision was taken in this House, and it lost.

Section 245(i) of the Immigration and Nationality Act allows people who are in the United States illegally to pay \$1,000 to the INS to have their legal status changed. I know a lot of my colleagues have been told this only deals with people who have come here and overstayed their visas. That is absolutely inaccurate, and if they base their judgment on that supposed fact, they have been given a misrepresentation.

The INS suggests to us that 62 percent of the people using 245(i) are people who have come into this country illegally, did not come in with visas, snuck into our country. And, yes, some of them came in with visas and just arrogantly overstayed their visas and decided to stay here on an illegal status.

Make no mistake about it, 245(i) is only about illegal aliens who have snuck across our borders or who have overstayed their visas. This provision exists because it brings in hundreds of millions of dollars a year to the Immigration and Naturalization Service, even though they have only gotten around to spending about 5 percent of the 245(i) revenues.

This provision is bad for our country because it undermines our laws. It ends up costing us a lot more than that \$200 million a year, because these people often come here, and illegal aliens, as we know, commit crimes and cost us in other ways. But it also undermines our trust in the law, it violates our national security, and it punishes millions of people around the world who are eligible for permanent residence in the United States but they are waiting their turn, they are waiting in line, and they are separated from their families.

Last year, we passed the Illegal Immigration Reform Act which was widely supported by Americans, immigrants and native-born alike. This reform was a promise to the American taxpayers that we would no longer reward those who break the law. We promised them that their hard-earned tax dollars would not be spent to pay for an immigration system that is contradictory and randomly applied. And we promised our newest American citizens that we would uphold the integrity of the system that they so apparently respected, waiting for months and many times for years to come to the United States of America.

If 245(i) is extended, or what this act wants to do is actually extend it in perpetuity, just make it a permanent provision of the law, the Illegal Immigration Reform Act that we passed last year is null and void, it has been passed in vain; 245(i) not only compromises the integrity of our laws, it also compromises our national security.

The legal immigration process which 245(i) beneficiaries bypass, the regular

immigration process, requires would-be Americans to undergo background checks in their own countries by our State Department consuls. These officials, American officials, conduct a thorough background check in the applicants' home countries, where there are files and there are local officials to call, in order to screen out terrorists and criminals. They also check for an applicant's ability to stay off welfare.

Section 245(i) allows and encourages anyone in the world to skip the background check and skip the welfare probability check and to come here illegally and to pay \$1,000. They then undergo a much less thorough check through the INS. In the meantime, while they are going through this much less thorough check, they are here in the United States of America. If they are terrorists or their criminal background is evident, they are here legally through the 245(i) process while they are being adjudicated. Native country screening for prospective Americans is vital to the safety of our citizens and the security of this country.

Mr. Speaker, we will hear from the other side today that 245(i) is just a matter of location, again, another piece of misinformation that has been passed out: It is just a matter of where someone picks up their visa. That is absolutely not true.

In fact, since most of the beneficiaries of 245(i) have lived here illegally for more than 6 months, most of them would not be eligible for a home-country visa. Meaning, if they returned home, they would not be able to do it anyway because they have already stayed here illegally over 6 months. The only possible way that they could get their visa to stay here legally would be to use 245(i) in this situation. Thus, what do we have? We are making it easier to immigrate illegally into the United States then it is for people to immigrate legally.

We will hear today that without 245(i) the families of illegal aliens may be separated, and that is true. There is no doubt about it, and we care about these people and these families. They put themselves in this situation, unfortunately. But what they will not tell us when we are discussing this, and even though our hearts go out to those people who are going to be separated, we also have a heart for those family members around the world who obey our laws, and they are separated from their families and they are waiting for months and sometimes years to come to this country. What about these families?

Permanently extending 245(i) means we are rewarding people who break our laws and penalizing those who abide by them. We are siding with the families of lawbreakers over those people who stay in line and are waiting, apparently, to obey our laws and come here as proud citizens of the United States of America.

Well, we have a chance to right this wrong, Mr. Speaker. We do not have to

tell everyone in the world that the best and quickest way to a green card is to break our laws and to come here illegally. We can vote for instruction to conferees that will tell our conferees that a permanent extension of this gaping 245(i) loophole is unacceptable.

I would ask for a resounding "yes" on this vote for these commonsense instructions. Let me remind my colleagues, what we are doing today in a motion to instruct is asking our conferees not to go along with a permanent extension. That does not mean that we cannot sit down and negotiate and try to come up with a compromise on 245(i). But if we do not and our conferees go along with this, if our conferees go along with a permanent extension, there will be no compromise in the future. We have foregone that option.

□ 1445

Please, let us go for compromise, let us go for trying to mold this and make this more humane, but let us try to deal with the issue. I would ask for a yes vote on my motion to instruct conferees.

Mr. Speaker, I reserve the balance of my time.

Mr. ROGERS. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I rise in opposition to the motion to instruct. I am opposed to the motion not because I support a permanent extension, far from it. I do not. In fact, we are opposing a permanent extension, which the Senate would like to do. I think we need to not extend the 245(i) provision in the future, but by the same token, I think we have to leave open for the conferees to work in a fair and equitable fashion on the equities of people who have relied upon 245(i) in the past and that are presently in the country, who came here with the expectation that 245(i) would be available to them. I think we have to be free to deal with the equities of families who are here now.

For those in the future, however, who are thinking of coming here and trying to become citizens, they can know that in the future 245(i) will not be available. But for those here now, I think we have to be free to deal with them in a fair and equitable way.

I agree with the gentleman on opposing permanent extension. This conferee certainly and others are fighting permanent extension as hard as we know how. By the same token, I would ask that my colleagues defeat the motion to instruct, to leave us some freedom to deal with those who are here who find themselves in an awkward situation not of their making. I would hope that the Members of the body would leave the conferees some flexibility on the matter and not vote for this motion to instruct. I would hope that we would vote "no".

Mr. Speaker, I yield the balance of my time to the gentlewoman from Florida [Ms. ROS-LEHTINEN] and ask unanimous consent that she be permitted to control that time.

The SPEAKER pro tempore [Mr. CAMP]. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. MOLLOHAN. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, I rise in opposition to the Rohrabacher motion. The Rohrabacher motion proposes that we disagree with the Senate's provision to permanently extend 245(i) of the Immigration and Naturalization Act and in the process really ties the hands of the conferees. Section 245 allows individuals who are already in this country who are eligible to become legal permanent residents to pay a fee and adjust their visa status here in the United States instead of having to go overseas to do so. Extension of this provision is an important immigration policy issue and one with serious financial impact implications.

Let me assure my colleagues that the conferees of the Commerce-Justice-State appropriations bill are working in good faith to weigh the issues associated with 245(i) and arrive at the best solution. I ask my colleagues to recognize that, not to tie our hands, and, therefore, I urge our colleagues to oppose this Rohrabacher motion to instruct.

Mr. Speaker, I reserve the balance of my time.

Mr. ROHRABACHER. Mr. Speaker, I yield myself 1 minute.

Pardon me, but it is nonsense to try to read this proposal to instruct conferees and to suggest that it ties the hands of anyone. The bottom line is, read this motion to instruct. It just precludes us from permanently extending this immigration loophole to which hundreds of thousands of illegal immigrants are pouring in and being permitted to stay in this country illegally. We can make any type of compromise after that. The conferees can agree to anything else. But we are preventing a permanent extension of what is an ongoing amnesty program for illegal aliens. If we can agree, make some compromises, that is totally within this motion to instruct conferees. No one should oppose this motion based on that illogical analysis of what my motion is all about.

Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. HORN].

(Mr. HORN asked and was given permission to revise and extend his remarks.)

Mr. HORN. Mr. Speaker, here we have another attraction for people to come here illegally and then realize, well, "we are sort of dumb here and we will say 'if you pay us \$1,000, you can sort of stay around.'"

Let us not just think about the young Americans that are pushed out of jobs by illegals, which started me on this issue in 1975. The leaders of Watts showed me how illegal immigrants were pushing out young people who were in entry jobs as teenagers in hotels, in restaurants, and in gasoline stations.

But we are also harming people from other countries who are following the rules and want to come here legally.

Let us look at the three major countries where future citizens are waiting for years. The Philippines. These are our allies. These are the people to whom we gave independence in 1946. They have been waiting in line since September 1986 to come legally to the United States under the first preference category.

India. The richest ethnic community in the United States are the people who have come from India legally, doctors, lawyers, Ph.D.s on university faculties. Those waiting to come here under the fourth preference in India goes back to June 1985.

Mexico. If you are a brother or a sister of an adult U.S. citizen, you have been "standing in line" legally in Mexico since 1986. They are not part of the 49 countries that pour over our southern border. They are trying to obey the laws of this land. How are we treating them? We are saying, come on over anytime, extend your stay, and all will be forgiven if you pay us \$1,000.

When I see the flyers being passed out at the door on this vote on how business looks on this as a great revenue raiser to incarcerate criminal aliens, and—gee whiz say these business interests—the \$1,000 resulted in \$200 million. Let me tell my colleagues that the State of California spends \$400 million to \$500 million of its own money on handling criminal aliens. You are right, there should be something done about it. But it is not this way. When people who are coming here illegally are also being exploited by businesses, that is wrong.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I rise today in strong opposition to the Rohrabacher motion to instruct the conferees on the extension of section 245(i). Section 245(i) allows parents, students, doctors and teachers who have already received an INS-approved visa petition to renew or adjust their immigration status in the United States. The ways in which to receive an INS-approved visa petition is to either have an American family member or an employer such as Motorola or Texas Instruments, who both support this provision, sponsor the person. Section 245(i) would enable these American businesses to retain skilled and trained personnel in order to prosper.

Under 245(i), eligible immigrants whom the INS has already determined should be allowed to become permanent residents would normally need to return to their home consulates to renew their immigration status, leaving behind their American spouses and children. By passing an extension of 245(i), these people would be allowed to renew their immigration status in the United States while remaining in the company of their American loved ones. In fact, the only thing that the extension of 245 would do is to change the location of where a person's immigrant

visa is renewed. Section 245(i) does not give special benefits to illegal immigrants. This means that the person who illegally snuck across the border, who therefore does not have an INS-approved visa petition, does not qualify for 245(i).

After being subjected to fingerprinting and rigorous background checks, immigrants who have never been convicted of a crime provide and fund our INS' detention and deportation activities by paying a sum of \$1,000 to have their status renewed. It raises \$200 million to our U.S. Treasury.

That is why Americans for Tax Reform, headed by Grover Norquist, supports the extension of 245(i). I urge my colleagues to vote against the Rohrabacher motion and support the renewal of 245(i) because it is essential and beneficial to American businesses and, indeed, to the American taxpayer. By supporting 245(i), we would support America and the scores of organizations and corporations which are depending on our vote.

Mr. ROHRABACHER. Mr. Speaker, I yield myself 1 minute.

Yes, big business does want this loophole to stay in place because it is exploiting illegal aliens and bringing down the pay of American workers, who are now having to face competition with people who were not meant to be here in the first place. That is immoral. It is an immoral thing, but our companies want to make a profit at it; fine, let us keep the loophole in place. That is wrong. It is wrong logic. It is not right for the Congress of the United States to be representing the interests of big business and illegal aliens and not representing the interests of the American people in between.

Mr. Speaker, we just heard that a person who illegally comes across our border is not eligible for 245(i). That is not the case. That is why 62 percent of the people who have used 245(i) are people who have snuck across our border and come here illegally. Someone who sneaks across the border, comes here illegally, finds himself a big businessman who will pay him substandard wages but will be willing to sponsor him or anybody else who he suckers into sponsoring him, they are then eligible for 245(i). Sixty-two percent of the hundreds of thousands of illegal aliens who have used this have come in just that way. They have snuck in illegally.

Mr. Speaker, I yield 1 minute to the gentleman from Missouri [Mr. BLUNT].

Mr. BLUNT. Mr. Speaker, I rise in support of this motion to instruct our conferees. The permanent extension of 245(i) really flies in the face of immigration reform. Whatever we need to do to work out immigration problems for people who are already in the country I think can be done within this motion to instruct. But certainly leaving this on the books, making it easier for people to illegally come to the country than for people to legally come to the

country hurts people who are waiting to come to the country. It keeps people's families separated who have been in line, who have been waiting to come to the country.

Ending section 245(i) will not be harmful to businesses who employ legal aliens. Those individuals are already protected under 245(a), which says if you fall through the cracks, if there is some error that is not your fault that puts your status here in jeopardy, without paying \$1,000 you can get that straightened out. This is really designed to protect the people who are here legally, working hard, having their families together, not to open the door to illegal aliens.

Mr. MOLLOHAN. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Illinois [Mr. POSHARD].

Mr. POSHARD. Mr. Speaker, I rise today to express my strong opposition to the Rohrabacher motion to instruct conferees on H.R. 2267. The gentleman from California [Mr. ROHRABACHER] seeks to instruct the conferees to accept the House position with regard to 245(i) extension for illegal immigrants, a position which by allowing for the expiration would force hundreds of thousands of immigrants to return home in order to apply for a permanent visa. But what is even worse is that once these immigrants have left the United States, they would not be permitted to return to this country for 3 years or even 10 years in certain cases.

Extension of 245(i) is not a giveaway to illegal immigrants. Rather, this section can only be used by those who are already entitled to become permanent residents based on family or employer petitions. Forcing these people, many of whom have established strong ties with families, communities, and employers, to leave the country for 3 years or more is unfair and counterproductive. I urge my colleagues to vote against the Rohrabacher motion and signal your support for a reasonable response to an important issue that affects hundreds of thousands of families in this country.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. DIAZ-BALART].

(Mr. DIAZ-BALART asked and was given permission to revise and extend his remarks.)

□ 1500

Mr. DIAZ-BALART. Mr. Speaker, I thank the distinguished gentlewoman from Florida not only for yielding me time, but for her leadership on this important issue, as she has demonstrated on so many other issues throughout her tenure, extraordinary tenure, in Congress.

With the utmost respect for my dear friend, the gentleman from California [Mr. ROHRABACHER], this is the ultimate issue of confusing apples and oranges. No one can use section 241(i) unless they are eligible for permanent residency in the United States. Unless you qualify for legal residency in the

United States, you cannot use section 241(i).

I want to repeat that. I think it is important to repeat it, because of the confusion that is being spread this afternoon.

Section 245(i) says that if you are eligible for a green card, if you meet all the requirements for a green card, and, as the distinguished gentlewoman from Florida said, if, after meeting the requirements for a green card, you apply for permanent residency in the United States pursuant to section 245(i), then you have to go through all the requirements of getting the background check, criminal check and all that other very important procedure.

So this is not a matter that is appropriately addressed as one of illegal immigration. It is a matter of permitting people who are eligible and who qualify under all the requirements for permanent residency in the United States. So it is an issue of common sense. It is an issue of fairness.

It is also an issue of proportionality. Why do I say it is an issue of proportionality, Mr. Speaker? The new immigration law says if you have technically at any point fallen out of status in the United States, if you were a student and, for example, not meeting your full course load and fell out of status for over 6 months, the new immigration law says you have to be out of the country for 3 years before you can even apply to come back.

Section 245(i) says if after having been technically out of status you qualify, as long as you qualify completely for permanent residence in the United States, then you can use 245(i) to seek permanent residence in the United States and not be barred for 3 years. So the issue of proportionality, I think, is very important.

I would like to say in addition to fairness, in addition to common sense, in addition to proportionality, there is a perception issue here.

Mr. Speaker, this issue has grown to one of immense proportions in the Hispanic community throughout the United States. I think it is appropriate for all my esteemed colleagues to know that this is perceived by the Hispanic community as one directly related to how immigrants in the United States are treated. I think it is important for all of our esteemed colleagues in this House to know that.

So, because of fairness, because of common sense, because of proportionality, and because of perception, I ask all my distinguished colleagues to vote "no" on Rohrabacher today, and to give a strong vote of confidence to this commonsense 245(i).

Mr. ROHRABACHER. Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. DEAL], to talk about why he is opposed to this provision that has permitted 400,000 people already to illegally come into the United States.

Mr. DEAL of Georgia. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, we are going to hear debates that are emotional, that are based on personal points of view and perceptions that we do not all agree with. But there is one point of view we should all agree with, and that is we are a nation of law. It is our responsibility to make that law. It is our responsibility to forge support for the concept of law.

This is a situation, as I view it, in which the prerequisite that is indisputable for eligibility under 245(i) is that you be in violation of the law.

Mr. Speaker, can one think of any other statute that we have that says to qualify for the provisions of this statute, you must be a law violator? I can only think of one. That is where, in order to get a pardon, you must be in violation of the law and we forgive your sins and pardon you.

Mr. Speaker, that is what we are doing here. We are saying you are in violation of the law; no matter how well intended, no matter how many family members you have here, no matter how many employers you have that say they are willing to give you a job, you are in violation of the law.

If we are a nation of laws, we ought to abide by it, respect it, and enforce respect on behalf of those who are citizens and noncitizens.

Mr. MOLLOHAN. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, first let me make it clear to anyone listening, this motion to instruct says we must insist on the House's position. The House's position is to eliminate section 245(i). It does not talk about coming up with some modification or compromise. It says eliminate, because we did not do anything on it, so that means it would be extinguished.

Secondly, this is not a section that would serve as a magnet, as one of the Members implied earlier in his discussion, to bring in people who are undocumented. An individual must have a legal basis for obtaining lawful permanent residency in order to qualify for section 245(i). If you do not have a legal basis to be in this country, you cannot apply.

This is a Nation of laws, and the law says that you can adjust based on 245(i) if you meet the conditions. What we are fighting is last year we changed the law in midstream on hundreds of thousands of people. That is unfair. Due process requires us to say to folks, if we told you these were the rules of the game, then that is what you must abide by.

We should not change. Now is the time for us to be flexible. Section 245(i) of the Immigration and Naturalization Act provides very needed flexibility for our business community and for very close-knit families. You have to be a spouse, a child or a parent to qualify, or you have to have a job in hand, be-

cause the business has proven to the Department of Labor that no other worker is available.

Mr. Speaker, let us understand what this is. Section 245(i) does not serve as a magnet for illegal immigration, nor does it give some type of benefit to someone who just walks into this country and says "now I want to be able to stay." You have to have a legal basis to be in this country in order to qualify, and then you pay a fine of \$1,000. The fine has been used mostly for the purpose of helping to deter future illegal immigration. It is well worth it to have it. It provides the flexibility. The business community says it is worthwhile. So do families who are on the verge of losing a loved one.

Mr. Speaker, let us support section 245(i) and oppose the Rohrabacher motion to instruct.

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from New York [Mr. GILMAN], the esteemed chairman of the Committee on International Relations.

(Mr. GILMAN asked and was given permission to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I am pleased to rise in support of the extension of section 245(i) and in opposition to the motion by the gentleman from California [Mr. ROHRABACHER]. The motion to instruct the conferees would end an invaluable immigration procedure, will create new and unnecessary burdens on our families and on our businesses.

Section 245(i) will not change the immigration procedures, but rather will change the location where individuals obtain permanent residence via a green card, either here or abroad. This extension does not allow individuals to jump the line and obtain a residency any faster nor does it allow them to immediately become legal residents. Whether they process their paperwork here or in their home countries, these individuals must wait the same amount of time and are placed on a waiting list on a first come first serve basis.

Extending 245(i) will greatly assist our consular offices abroad to increase their efficiency and focus and provide better services to our American citizens traveling and living abroad. With the Immigration and Naturalization Service processing applications for green cards, consular offices throughout the world can service Americans with overseas emergencies rather than spending the majority of their time with noncitizens. Moreover, opponents believe INS does not provide adequate background checks on individuals and as a result is putting the American public at risk. That is simply not true.

INS processes all individuals through the same checks as the State Department would prior to allowing them to become citizens. Section 245(i) is not any amnesty program for illegal aliens. The program is designed to help people

who are already eligible to obtain legal status in the form of permanent residence in this country. Those who apply for adjustment under section 245(i) must qualify for an immigrant visa based on a family or employment relationship, have a visa number immediately available and be otherwise admissible to our Nation. Section 245(i) does not change the rules or does not make immigration any easier.

It merely changes the location of processing and provides a penalty fee which offsets processing costs and funds detention efforts. Accordingly, I urge my colleagues to join in supporting the extension of 245(i) to help families and businesses around our Nation. This extension is necessary. Without it, consulates abroad will suffer under their increased workload, businesses will be interrupted and families torn apart. Moreover, 245(i) has generated \$200 million in revenues in 1997 and over \$120 million of that went to the detention and removal of criminal aliens.

I urge that we maintain adequate funding for detaining and deporting criminals. Vote "no" on the Rohrabacher motion.

Mr. ROHRABACHER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, for those who are a little bit confused by the discussion today, we are talking specifically, in the short-term, about whether or not 1 million people who are in this country currently illegally, whether or not they should have to go back to their native country in order to adjust their status, or whether these people who are here in this country illegally, 62 percent of them who came here illegally in the first place, but ended up taking jobs from American citizens, coming here illegally and taking the food out of the mouths of our own working people, whether those people should have to obey the law when they came in, which was the law, and go home and adjust their status, or whether or not we are going to enforce the law and protect the people of the United States against the malicious, illegal immigration that has been hurting our country and our people.

The other thing is, and let us make very clear, this motion to instruct conferees opens the door to negotiations. It specifically states that we are opposed to a permanent extension of this ongoing amnesty for illegal aliens.

Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. BILBRAY].

(Mr. BILBRAY asked and was given permission to revise and extend his remarks.)

Mr. BILBRAY. Mr. Speaker, we are really talking about fairness and common sense here. Now, last year we passed an Immigration Reform Act that was based on dividing legal immigration and illegal immigration. And about the concept of fairness, that we do not reward those who have broken the law and punish those following the law.

I am listening to the speakers that support 245(i), at least the great majority of them. If you go back in the record, you will find they did not support the Immigration Reform Act last year anyway. It passed by 320 votes, because the American people wanted fairness and common sense put back into our immigration law and stop punishing people for playing by the rules and stop allowing people to buy their way out of illegal status.

There are those that say, well, they will be legal; they are legal anyways, they would qualify. Except they are illegal aliens. If that was not true, then why are they opposing this bill? They would not need this exemption if they were actually legal as stated.

Mr. Speaker, I will include for placement in the RECORD a letter by James Dorcy, a veteran of 30 years of the Justice Department. He worked most of his career with the Immigration and Naturalization Service. His statement, he writes to me, and I would like to put it in the RECORD. He says that "245(i) sets up an irreconcilable conflict of interest within the Immigration and Naturalization Service. The conflict arises with the agency charged with enforcing our laws against illegal immigration actually profit from illegal immigration as it does through section 245(i). With such a conflict of interest, the INS cannot possibly fulfill its duties and obligations to remove aliens ordered removed or even to seriously act to prevent illegal immigration."

This is an immigration agent, somebody with 30 years experience, saying there is a problem here, a major problem.

Mr. Chairman, let us be fair about this. There are people who did not like that vote of 320 votes. Let us not reverse the Immigration Reform Act. This compromise just says we will allow a compromise, but we will not allow a permanent extension of 245(i). I would challenge anyone again to look at the motion. It says we oppose the permanent extension of 245(i).

Mr. Speaker, I include the letter I referred to in the RECORD.

SAN DIEGO, CA,
October 28, 1997.

Hon. BRIAN BILBRAY,
Longworth HOB,
Washington, DC.
Via Fax: 202-225-2948.

DEAR BRIAN: I am a retired 30-year veteran of the Justice Department. Most of my career was served in the Immigration and Naturalization Service with my last nine years working in the public integrity field in the Office of Professional Responsibility of the INS and later the Inspector General's Office of the Department of Justice.

It is from my experience in fighting internal corruption in our government that I want to call your attention to an extremely serious flaw in Section 245(i) of the Immigration and Nationality Act. Sec. 245(i) sets up an irreconcilable conflict of interest within the Immigration and Naturalization Service. The conflict arises when the agency charged with enforcing our laws against illegal immigration actually profit from illegal immigration as it does through Sec. 245(i). With such

a conflict the INS cannot possibly fulfill its duties and obligations to remove aliens ordered removed or even to seriously act to prevent illegal immigration.

Hundreds of positions within the INS are becoming totally dependent for their existence on the fees collected from aliens. Employees whose livelihoods are dependent on these fees and their coworkers are so compromised that it is virtually impossible for them to objectively fulfill their duties and responsibilities in enforcing and administering law prohibiting illegal immigration.

It is estimated that there are more than 2 million aliens now on the immigrant visa waiting list residing in the United States illegally. There are potentially millions more aliens who now qualify or in the future will qualify for immigrant visas who will attempt to enter the United States illegally. For the INS to take action against such aliens, it would forfeit a potential of several billions of dollars in fees that it can collect from these same aliens through Sec. 245(i). It is absolutely outrageous that Congress would put an agency into such a position of conflict of interest.

This provision of law was scheduled to sunset on September 30th of this year. It has been temporarily extended but is due to expire on November 7th. The Senate has voted to permanently extend the measure in the appropriation bill for Commerce, Justice, State, and Judiciary. On Wednesday, October 29th, Congressman Dana Rohrabacher intends to introduce a motion to instruct conferees on this appropriation bill to oppose adoption of this measure into the final bill. I urge you to support and vote for the motion.

If this law is allowed to continue, we run a terrible risk of institutionalizing corruption that might very well spread throughout our government. Nobody should ever be allowed to buy a pardon for doing wrong, and that is exactly what Sec. 245(i) does. For government employees and the agency they work for to be put in a position of profiting from commerce in such pardons defies all reason and rationality. This form of institutionalized bribery is something one might expect of a Third World country, but it has no place in a great country like ours.

Again, I urge you to support Mr. Rohrabacher's motion to instruct and to do all you can to rid the Immigration and Nationality Act of this corrupting provision.

Sincerely,

JIM DORCY.

Mr. MOLLOHAN. Mr. Speaker, I yield myself 30 seconds to respond to that.

Mr. Speaker, let me just ask, does the gentleman whose motion this is agree that this motion precludes any compromise with the Senate?

Mr. ROHRABACHER. Mr. Speaker, if the gentleman will yield, no, the intent of this motion is not that.

□ 1515

Mr. MOLLOHAN. The motion reads, to be instructed to insist on the House's disagreement with section 111 of the Senate amendment. That means all we can do is disagree. That precludes any compromise on this issue. If that is the gentleman's purpose, then I think the gentleman would oppose his own motion.

Mr. ROHRABACHER. Mr. Speaker, if the gentleman will yield, that is not my purpose. I will be happy to state that for the Record.

Mr. MOLLOHAN. Mr. Speaker, I yield 30 seconds to the chairman, the gentleman from Kentucky [Mr. ROGERS].

Mr. ROGERS. Mr. Speaker, my colleague on the committee is exactly right. The motion, if passed, would insist upon the House position, which is zip, nothing. In order for us to be able to compromise, the gentleman's motion should have been a motion to disagree with the Senate provision, with an amendment, allowing a compromise.

Mr. MOLLOHAN. So if the gentleman wants us to compromise, he should vote against his own motion.

Mr. ROGERS. That is right.

Mr. MOLLOHAN. Mr. Speaker, I am pleased to yield 1 minute to the distinguished gentleman from Minnesota [Mr. PETERSON].

(Mr. PETERSON of Minnesota asked and was given permission to revise and extend his remarks.)

Mr. PETERSON of Minnesota. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in opposition to this Rohrabacher motion to instruct conferees. Mr. Speaker, this motion is opposed by the U.S. Chamber of Commerce, the National Association of Manufacturers, the AFL-CIO, and all by itself, bringing those organizations together, that should be enough to make Members realize that there is merit in this 245(i) program.

I do not claim to be an expert on this issue, but to me it just seems logical and practical to approach a complex problem within the immigration code in this manner. Once the United States has decided a person is eligible for a green card so they can legally work in this country, it does not make much sense to me to send them all the way back to their home country in order to pick up that status.

What sense does it make to force qualified workers to spend their money and time on travel for what amounts to little more than bureaucratic nonsense? What business do we have disrupting the workplace? The only thing the Rohrabacher motion would seem to accomplish is more paperwork, more cost, and more red tape.

Mr. Speaker, I urge my colleagues to join me in voting "no" on the Rohrabacher motion.

GENERAL LEAVE

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of the motion to instruct conferees.

The SPEAKER pro tempore (Mr. CAMP). Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Illinois [Mr. HYDE], chairman of the Committee on the Judiciary.

(Mr. HYDE asked and was given permission to revise and extend his remarks.)

Mr. HYDE. Mr. Speaker, I thank the gentlewoman for yielding me 1 minute.

Mr. Speaker, I do not like disagreeing with my good friend, the gentleman from California [Mr. ROHRBACHER], but I do oppose his motion to instruct. I would tell the gentleman, 245(i) does not give anybody an amnesty or give anybody a pass. It is a procedure whereby people who have been in this country and have attempted to regularize their status, and have applied and are on a list, and whose number has come up and a visa is available, it prevents them from being forced to go out of the country and wait either 3 years or 10 years to apply to come back. It keeps the families that have been established together. It is humanitarian.

Yes, we are dealing with illegals who can be deported anytime, but it is a process for people who are ready to become regularized, to become regularized without having to break up the family. It deals with the reality that the people are here. If we abandon 245(i), they are going to stay here. They are not going to have to leave. But that visa that would be used up by one of those applicants will be used by another immigrant, so we add to the totality of immigration, not reduce it.

Mr. ROHRBACHER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, when we hear talk about regularization of status, what we are really talking about, and people should understand this, is someone who is in this country illegally. The fact that the AFL-CIO has again abandoned its defense of the rights of the working people of the United States, the citizens of our country and the people who are here legally, does not surprise me but it should surprise people on the other side of the aisle.

However, that big business wants to hire illegal immigrants and give them the jobs does not surprise me. One of the things that is wrong about illegal immigration is that it takes jobs away from the people of the United States. We should not permit that to happen. We should watch out for our own people. Who do we care for? We are supposed to be caring for the citizens of the United States and people who have come here legally and people who have respected our laws.

Second of all, this instruction of conferees clearly, just as in disagreement, the word "disagreement" is right there in the motion, with what the Senate is trying to do, and that is a permanent extension of this amnesty for illegal immigrants.

Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT].

(Mr. TRAFICANT asked and was given permission to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, if Members vote "no" on Rohrabacher they certify the encouragement of illegal immigration. I heard the words of perception, we are always going to get a race card or something here. I oppose

illegal immigration, and I oppose illegal immigrants, black, white, red, yellow, brown, Martian, or an intergalactic time traveler. If you are in America illegally, I oppose you, and I oppose the Congress' laws that allow and encourage it.

Let us look at the law, because most Americans believe Congress needs a brain scan performed by a proctologist here. The first law said, if you are in America illegally for 5 years, Congress is so confused they are going to make you a citizen, and then made you a citizen. Then they said, since we made you a citizen, you have your dear family that misses you, and we will allow your family to come in and we will make them a citizen.

We set a big blinker out there that says, if you want to come to America, jump the fence, because somehow, some way, you are going to get certified and we are going to make you a citizen. Some people came over here in the belly of a slave ship. There are people that stood in line waiting to get in this country. We are now rewarding people who jump the fence. Beam me up.

The Rohrabacher motion says, look, we passed a law. That law made certain requirements. Now, the next year we are going to give a permanent extension and eradicate the law? Why did we have this debate a year ago? Because we could get together over a year ago and put it off for another day, and then we will take care of it with another machination of Congress. It is wrong, Congress. It is wrong. Our borders are wide open. We are destroying the fabric of what our law stands for.

We have had more Mexicans killed on the border than died at Oklahoma City, in that same period of time, trying to get in this country illegally. We have our borders wide open and narcotics running in here, and an epidemic of historic levels of first time use of heroin age 12 to 17.

The American people know it. They are fed up. The American people say, look, we have nothing against any ethnic group or any color of skin; if you are in this country, in the country illegally, get out. Congress should throw you out, not make you a citizen, and not encourage with laws and promote people who jump the fence. That is what we are doing. If Members vote "no" today, they are saying to the Senate, go ahead, go ahead and get over once again.

Both parties should be standing on the floor defending the House position. It is the position of the American people. I oppose illegal immigration. I will not be a part of any ploy that will allow more of it.

Mr. MOLLOHAN. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Texas [Ms. JACKSON-LEE].

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise to vigorously oppose the

motion to instruct, to make sure that the extension is put in place permanently to save families in this country.

Mr. Speaker, I rise today in opposition to Representative ROHRBACHER's motion to instruct the conferees on the Commerce, State, Justice appropriations bill directing the House conferees to disagree to the permanent extension of section 245(i) that was included in the Senate version of the bill.

In 1994, Congress passed section 245(i) of the Immigration and Nationality Act, a temporary provision that was to have expired on September 30, 1997. This provision has since been extended until November 7, 1997, by the two continuing resolutions. I urge my colleagues to oppose this motion to instruct and to allow section 245(i) to be extended permanently.

Section 245(i) allows certain immigrants who have fallen out of status, but who are now eligible for permanent U.S. residency, to pay a \$1,000 fee and have their paperwork processed while they remain in the United States. Without 245(i) these immigrants would have to return to their native countries for visa processing before once again reentering the United States.

Section 245(i) is only available to those immigrants already on the brink of becoming legal permanent residents—people who are already eligible to become permanent residents. These are people who the INS has already determined should be able to become permanent residents based on their family and employment relationships, that is, they have been sponsored by either a family member who is a legal resident or citizen, or a business willing to employ the applicant.

Despite the charges of many, section 245(i) is not a vehicle for criminals and terrorists to become U.S. citizens. Section 245(i) will benefit:

Persons who unknowingly receive incorrect documents from the INS and by the time this error is recognized, they have fallen out of status;

Corporate executives, managers, and professionals whose status has lapsed due to an oversight by a human resource manager;

The family members of those corporate executives whose status lapses inadvertently through oversight;

A husband who is the sole source of support for his wife and children who are U.S. citizens;

A wife of a legal permanent resident and the mother of children who are U.S. citizens; and

The mother of a 12-year-old girl in my district who is from Honduras; the girl would be abandoned, otherwise.

Section 245(i) will allow businesses to keep valued employees, allows families to stay together, and provides substantial resources to the INS for border enforcement. Section 245(i) is a humanitarian provision of immigration law that allows families to stay together while one member seeks an immigrant visa. Any suspension of section 245(i) could force hundreds of thousands of people to leave their jobs and families in this country. Section 245(i) also provides U.S. businessman who use thousands of skilled foreign workers with needed work force continuity.

My colleagues, I urge you to oppose this motion to instruct and in so doing support the permanent extension of section 245(i), a practical and effective provision that is narrowly

tailored to allow immigrants to obtain legal U.S. residency without leaving the country and leaving their families, their jobs and their hopes for better future behind.

Mr. MOLLOHAN. Mr. Speaker, I am pleased to yield 1 minute to the distinguished gentlewoman from New York [Ms. VELAZQUEZ].

(Ms. VELAZQUEZ asked and was given permission to revise and extend her remarks.)

Ms. VELAZQUEZ. Mr. Speaker, I rise in strong opposition to this motion to recommit. The families affected by 245(i) have their backs to the wall. Right now the futures of thousands and thousands of immigrants are at stake.

I want my colleagues who oppose this act of fairness to think about Elvi Blanco when they cast their vote. Her husband, a legal resident, has prostate cancer. Her two children are U.S. citizens. Elvi has been here for 9 years and will qualify for permanent resident status, but she will have to leave her ailing husband and her two children if 245(i) is not extended. Once she returns to El Salvador, it could take up to 2 years for her visa application to be processed.

If some people have their way, families like the Blancos will be split up, lives will be disrupted, and innocent people will suffer. I urge my colleagues to extend a small degree of fairness for immigrants. Vote "no" on the motion to instruct.

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to yield 2 minutes to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, I rise in opposition to the motion to instruct. Section 245(i) of the Immigration and Nationality act permits, as we have heard, certain family and employment-based immigrants, family and employment-based immigrants, to adjust their status to that of permanent residents, some that are not permanent residents because of clerical errors, while remaining in the United States, rather than requiring immigrants to return to their home country to obtain an immigrant visa.

We are not talking about if they become legal or when, but where. Do we kick them away from families until the paperwork is completed? Do we deprive families from being together and receiving support from the family member who is deported?

Section 245(i) was the product of efforts by the Department of State and the Immigration and Naturalization Service to expedite the process of granting immigrant visas, generate revenues, and free U.S. consulates abroad to fulfill their primary functions. Rather than requiring individuals already in the United States to return to their home countries to obtain their immigrant visas, this provision permits immigrants to remain in the United States while adjusting their status, but it imposes a fine on those who choose this option.

The enactment of section 245(i) generates, according to an INS spokeswoman, \$200 million in fines this year alone. This additional revenue for the U.S. Government helps to reduce the State Department's visa processing case load by 30 percent, in addition.

Last year's immigration bill increased the fine to \$1,000 from the previous \$650, and required that at least 80 percent of the funds generated be deposited in a new INS account to be used only for detention. Failure to extend this provision of the law would result in a shortage of resources for both the INS and the State Department. It would create a backlog in application processing, a shortage of funds for detention, and undercut the primary functions of our consulates abroad, which is to advance foreign policy objectives.

I just think that for families, for children, for spouses, for employment, it behooves us to disapprove this motion to instruct.

Mr. ROHRBACHER. Mr. Speaker, for the United States of America, I yield 3½ minutes to the gentleman from Texas, Mr. LAMAR SMITH, chairman of the Subcommittee on Immigration and Claims.

(Mr. SMITH of Texas asked and was given permission to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I support the motion to instruct conferees to disagree with the Senate provision that makes permanent an immigration provision known as 245(i). The overriding objective of the Illegal Immigration Reform and Immigrant Responsibility Act, enacted by overwhelming margins in 1996, was to remove incentives for illegal immigration and require illegal aliens to return to their home countries or be removed.

Section 245(i) directly contradicts this goal. Section 245(i) permits illegal aliens who have become eligible for an immigrant visa to adjust to legal immigrant status without having to follow the normal procedure for obtaining an immigrant visa, applying for the visa at a U.S. consulate.

By allowing illegal aliens to bypass the legal process, we reward illegal behavior, and actually encourage aliens to enter or stay in the United States illegally. Section 245(i) rewards those who jump the line, and insults aliens who follow the law and wait for their visa before entering the United States. As a result, law-abiders have to wait to be with their families, while law-breakers do not.

The penalty paid by 245(i) applicants for the right to adjust status, a fee of \$1,000, is minuscule compared to the multi-billion dollar cost imposed on taxpayers as a whole by illegal immigration. While the Federal Government spends hundreds of millions of dollars trying to prevent illegal immigration and to remove illegal aliens on the one

hand, it is encouraging illegal behavior with 245(i) on the other.

□ 1530

That simply does not make any sense. The chief beneficiaries of 245(i) are the relatives of formerly illegal aliens legalized under the amnesty passed in 1986, proving once again that amnesties are among the worst possible options in immigration policy.

The requirement to undergo visa processing in one's own country is not a mere formality. Waiting for a visa outside of the U.S. allows more time, if required, for problem cases. If the visa should be denied, the alien is already outside of the United States and does not need to be deported. In addition, consular officers often are in a better position than INS to identify circumstances particular to a country of origin, such as a criminal background, that warrant closer examination or even denial of the application.

Mr. Speaker, having said all of this, it might be difficult to just end 245(i). There are people in the pipeline who, rightly or wrongly, have relied on its existence and have pending applications. I believe that we can draft a fair and compassionate solution to this situation by allowing persons who have already begun the process to continue to have their 245(i) applications processed, a type of grandfathering for those already in the pipeline.

Mr. Speaker, this approach allows both family and business-sponsored petitioners who have already taken significant steps to get their green cards to continue doing so, but says no to anybody thinking of benefiting from illegal behavior in the future.

As for U.S. employers, a provision could be drafted that allows processing to continue for cases where a short lapse in status has occurred due to processing errors or where more technical problems have occurred, but would not encourage illegal entry or other illegal behavior.

Mr. Speaker, allowing 245(i) to exist permanently would be like Congress passing a second amnesty. It would say, "Even if you ignore or intentionally violate U.S. immigration laws, we will forgive you and reward you with a green card."

Mr. Speaker, I urge my colleagues to vote "yes" on the motion and say "no" to rewarding illegal behavior.

Mr. ROGERS. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Texas. I yield to the gentleman from Kentucky.

Mr. ROGERS. Mr. Speaker, the gentleman from Texas, I think, has made an excellent statement. I would ask the gentleman if the conferees came back with a conference report that reflected the gentleman's recognition that we have to deal with those in the country who have relied upon 245(i) in the past, but repealed it for the future, is that something that the gentleman would agree with?

Mr. SMITH of Texas. Mr. Speaker, the gentleman from Kentucky is absolutely correct.

Mr. ROGERS. Mr. Speaker, if the gentleman would continue to yield, the problem is this motion would preclude that. That is why I am opposed to it.

Mr. ROHRABACHER. Mr. Speaker, I yield myself 1½ minutes.

Mr. Speaker, I hope that no one is swayed by this nonsensical analysis. First of all, we know how much teeth a motion to instruct conferees has. This motion will in no way prevent a compromise.

Mr. Speaker, I would ask the gentleman from Kentucky [Mr. ROGERS] if he really believes that a motion to instruct conferees will prevent a compromise on this issue. Is that the gentleman's position?

Mr. ROGERS. Mr. Speaker, will the gentleman yield?

Mr. ROHRABACHER. I yield to the gentleman from Kentucky.

Mr. ROGERS. Mr. Speaker, I think so. That is the reason. I am opposed for this reason. The gentleman's motion insists upon the House position.

Mr. ROHRABACHER. Mr. Speaker, I reclaim my time. I wish the gentleman would quote the motion at hand rather than quoting what he thinks it should say.

Mr. Speaker, the fact is the motion is very clear. It is very clear that it is the House's disagreement on section 111 of the Senate amendment, that we are simply disagreeing with the Senate's permanent extension of this amnesty program for illegal aliens who are here in this country illegally. We are disagreeing with that permanent extension, for the record. And as we know, I would suggest that my words as the author now letting people know on the record what the purpose of this is, as well as the intent of the language as well as the language itself, does not in any way preclude this body from coming to a compromise on this issue. In fact, all it does is prevent a permanent extension of this amnesty for people who are here illegally. That is all it does, and I am stating that for the record as the legislative intent.

Mr. MOLLOHAN. Mr. Speaker, I yield 15 seconds to the gentleman from Kentucky [Mr. ROGERS].

Mr. ROGERS. Mr. Speaker, to respond to the gentleman from California [Mr. ROHRABACHER], my dear friend, I think he and I more or less agree on what should be the final result: No permanent extension. I believe sincerely that the gentleman's motion, if successful, would prevent that. Otherwise, I would support it. My staff tells me that that is the case.

Mr. MOLLOHAN. Mr. Speaker, I thank the distinguished gentleman from Kentucky [Mr. ROGERS], chairman of the subcommittee, for clarifying this very important point.

Mr. Speaker, I am pleased to yield 1 minute to the distinguished gentleman from California [Mr. DOOLEY].

(Mr. DOOLEY of California asked and was given permission to revise and extend his remarks.)

Mr. DOOLEY of California. Mr. Speaker, I rise today to urge my col-

leagues to vote "no" on the Rohrabacher motion.

Mr. Speaker, it is rare that the U.S. Senate casts a 99-to-0 vote, but that is what they did earlier this year when faced with a decision to eject nearly 1 million people from this country. The U.S. Senate said "no." They said no because they knew that nearly 1 million people would be forced to leave their families, their businesses, their jobs, despite having a legal basis for obtaining permanent residency in this country.

Mr. Speaker, these 1 million hard-working immigrants, some of whom reside in my district in California, have a legal basis for retaining residency, yet if we adopt this motion they will be required to leave the country and wait years to be reunited with their families in the United States.

Mr. Speaker, I voted for the immigration bill last year, and there were some important changes that we made in the law to combat some of the problems of illegal immigration. But this provision of the law is unworkable and unfair, and it is inciting fear in many people who have built lives and families and businesses here and who are contributing to our communities and to our economy.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. FORBES].

(Mr. FORBES asked and was given permission to revise and extend his remarks.)

Mr. FORBES. Mr. Speaker, I reluctantly rise in opposition to the gentleman from California [Mr. ROHRABACHER], my good friend, and his motion to instruct conferees.

As a member of the Subcommittee on Commerce, Justice, State, and Judiciary, I would have to say, first and foremost, that 245(i) is an important undertaking in which we restore some compassion to the actions we took last year in immigration reform.

I supported immigration reform as a much-needed device in which we can separate the very big problem of illegal immigration in this country versus the problem of legal immigrants. People who have played by the rules come to this Nation and want to enjoy so much that this Nation has to offer, as many of our ancestors did when they came to this country.

This is about compassion, keeping families together, making sure that employers who want to keep talent in this country are able to do so. This is not about aiding illegal immigration. This is about compassion. This is tightening up on immigration reform.

Mr. Speaker, I rise in opposition, reluctantly, to the motion of the gentleman from California, my friend.

Mr. ROHRABACHER. Mr. Speaker, I yield 2 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Speaker, I rise in strong support of this motion and urge its adoption.

It is very important for my colleagues to understand what we are

talking about here. This is a vote against a permanent extension. It does not, I repeat, does not preclude legislative actions on how to fairly resolve the issue, as was previously discussed by our colleagues the gentleman from California [Mr. ROHRABACHER] and the gentleman from Texas (Mr. SMITH).

Mr. Speaker, actually what are we doing if we permanently extend it? We are violating all the people that have come here honestly and legally in this country. We are telling all of those people that are sitting in files in our offices back in our districts that they do not have to obey the law, that they have been waiting legally in line for years to come in, but we are going to reward those who break the law.

Mr. Speaker, I also must point out that there are costs involved in this issue. Many of us, including New Jersey, I might say, are very concerned about how this benefit system has been a magnet for many illegal immigrants. In New Jersey alone we spend \$146 million a year to educate children of illegal aliens. The costs go up from there. So we are not only talking about the law, we are also talking about taxpayer costs here.

I must stress that there are extenuating circumstances, I understand it and my colleagues understand it, to the INS paperwork backlogs and the bureaucratic snafus and there are situations where there might be delays for families who have put down roots here. But it would be wrong as a consequence of those snafus to extend this permanently.

What we should say is that as of the day that the bill is signed into law, any immigrant in this country who is trying to address their status might be considered independently and apply that, as the gentleman from California [Mr. ROHRABACHER] and the gentleman from Texas [Mr. SMITH] have already indicated.

I believe this is the fairest way to deal with the situation, and not violate those good people who have legally come to this country and not cause the taxpayers a greater cost on their tax bills.

The argument has been made that by allowing section 245(i) to stay on the books, the INS makes up to \$150 million in revenue received from the \$1,000 fee that aliens pay to obtain legal status. But, this money pales in comparison to the multi-billion dollar cost imposed on taxpayers as a result of the devastating consequences of illegal immigration.

At the same time many of us are concerned that our benefits system acts as a magnet for many illegal immigrants. For example, many children of illegal immigrants receive a free education in U.S. public schools at the expense of American taxpayers, driving up the cost of education and taking resources away from U.S. children. The State of New Jersey alone spends an estimated \$146 million a year to educate about 16,000 children of illegal aliens.

The cost associated with providing Federal benefits to illegal immigrants is astronomical. While as a society, we do not turn people

away from an emergency room or deny food to the hungry. Nor should we. However, I do not believe we should reward illegal immigrants by allowing them to stay.

Nevertheless, I must stress that I understand that there are extenuating circumstances due to INS paperwork backlogs and bureaucratic snafus. And there are situations where, because of these delays, families who have put down roots, would be split up because of an automatic cessation of 245(i).

Because of this, we should create a timetable for the sunset of 245(i). We should say that as of the day the bill is signed into law, any immigrant in the country, who is trying to adjust their status with the INS and would be considered in violation of the law under an expiration of 245(i), will be allowed to stay and complete the process. But as of that day, any new immigrant to this country will be subject to the new law that does not include the 245(i) loophole.

I believe that this is the fairest way to deal with this situation. I urge my colleagues to oppose permanent extension of section 245(i) and to work in a good faith effort to solve this problem fairly while remaining true to immigration law reform. This motion urges opposition to a permanent extension of 245(i). It does not preclude any discussion on finding the fairest way to phase out this section with the least possible impact on those involved.

I ask my colleagues to vote yes on this motion to instruct.

Mr. MOLLOHAN. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. ENGEL].

(Mr. ENGEL asked and was given permission to revise and extend his remarks.)

Mr. ENGEL. Mr. Speaker, I rise in opposition to the motion.

Mr. Speaker, I rise in opposition to the motion offered by my good friend from California, Mr. ROHRBACHER. Although I have the deepest respect for the gentleman from California, I feel strongly that Section 245(i) has been beneficial to our country and should be extended.

Section 245(i) allows an individual who is technically out of status to pay a fee and correct problems with his or her immigration status.

The majority of the people affected by this problem have merely overstayed the terms of their visas while they await permanent residence arising out of valid immigrant petitions.

Those qualified to use section 245(i) are already eligible for visas that will be immediately available to them under U.S. law.

Without section 245(i), these soon-to-be green cardholders are faced with an ironic problem: they are approved to be legal permanent residents, but have to return to their home countries to get their visas and, then, face a 3- to 10-year bar to reentry.

This result undermines the principle of family unification which forms the bedrock of our immigration code by separating spouses and children from their families. It would also adversely affect businesses by forcing important employees to leave the United States to adjust their status.

Several benefits accrue to the United States from permanent codification of this section.

Due to the \$1,000 fee charged to those who utilize section 245(i), the INS expects to gen-

erate up to \$200 million in revenue this fiscal year, alone. These moneys are used to offset the costs of detention and adjudications of illegal immigrants.

Furthermore, by allowing individuals to adjust status here, U.S. consular staff abroad have more time and resources to provide better services to traveling Americans.

I think it is important to note that the Senate has already agreed to extend section 245(i).

Mr. Speaker, I believe the choice is clear: support extension of section 245(i) and oppose the motion to instruct.

Mr. MOLLOHAN. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Speaker, the rules of the House and my friendship for the gentleman from California compel me to restrain myself in characterizing and in dealing with the gentleman's characterizations of this issue. But, Mr. Speaker, all I can say is on so many different issues the gentleman is factually wrong.

Mr. Speaker, 245(i) is not a rolling amnesty. It is not a stagnant amnesty. It is not an amnesty. Mr. Speaker, 245(i) is about where an individual can adjust their status. It has nothing to do with what their status was before; 245(i) has nothing to do with a stay of deportation or a defense against deportation. An individual who is in this country illegally can be deported at any time, and nothing about 245(i) provides a defense or a stay of that deportation.

And 245(i) does not allow any single individual to cut ahead of anyone else. It only applies when their number comes up and, as the gentlewoman from Florida has mentioned, it only involves where they actually make their status adjustment. It allows no one to cut ahead.

The gentleman from California [Mr. ROHRBACHER] keeps saying he is for compromise. The gentleman fought the 1-year bill in 1994. He fought it in 1995. He fought it in 1996. He keeps calling it an amnesty. He keeps saying it is a way to keep out of being deported. He keeps saying it allows people to jump ahead of line against lawful immigrants. Each time the gentleman is wrong. Each year the gentleman is wrong.

Now the gentleman says compromise, but he writes language which insists on the House position, which is no extension. The gentleman could have so easily drafted this motion to instruct to say that he would agree with the Senate with an amendment, and the amendment could have been the grandfather clause, the amendment could have been the compromise he now claims to have.

Mr. Speaker, I suggest that the gentleman from California does not want to see 245(i) extended for 1 day. This is not about a permanent extension. This is about destroying this program and having people believe it is something far different than it really is.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I agree with the gentleman from California [Mr. BERMAN]. We should not be misled by those who want to distort the facts about 245(i) and give inaccurate information; 245(i) does not give special benefits to illegal immigrants. It does not allow anyone to cut in line ahead of any other person. We should not be penalizing those who are on the way to becoming legal immigrants.

□ 1545

Section 245(i) keeps families together. It enables businesses to retain skilled workers. It brings in \$200 million a year to the U.S. Treasury. Half of the projected increase in funding for criminal detention space will come from the \$1,000 per immigrant fees paid. Without this funding, detention space for an estimated 14,000 criminal aliens will not be available. That is an unsettling thought for many communities. Without that funding, inadequate space may mean that criminals that should be held in detention will not be with all the potential calamities that that will lead to.

Even if this possibility is unnecessary, if we simply extend 245(i), do not tie the hands of those negotiators and let us get a settlement on this issue. Reject the Rohrbacher motion.

Mr. MOLLOHAN. Mr. Speaker, I yield one-half minute to the distinguished gentleman from Illinois [Mr. BLAGOJEVICH].

Mr. BLAGOJEVICH. Mr. Speaker, let me reiterate what has been said before about 245(i). Section 245(i) will not help anybody who does not have a legal basis to stay. If you are an immigrant, you do not have a legal basis to stay. If you jump the fence to get into the United States, not all the king's horses nor all the king's men nor 245(i) will help you stay in the United States.

This is about immigrants who have a legal basis to stay. It is about the hardship on families for those who are here who sooner or later are going to get their adjustment in immigration status. The question is, do we disrupt families, do we send them back and keep families from being together and making those leave the United States and go to their host country to await adjustment of status, or do we keep them here and keep families together? That is the question.

The SPEAKER pro tempore (Mr. CAMP). The gentleman from West Virginia [Mr. MOLLOHAN] has 4¼ minutes remaining, and the gentleman from California [Mr. ROHRBACHER] has 2 minutes remaining and has the right to close.

Mr. MOLLOHAN. Mr. Speaker, I yield 1¼ minutes to the distinguished gentleman from Illinois [Mr. GUTIERREZ].

Mr. GUTIERREZ. Mr. Speaker, we hear a lot of rhetoric about what has become the common currency of those who oppose immigrants. I hope that instead today we will listen to some common sense.

The truth about 245(i) is that it is a family unifier. It keeps families together, children with their mothers, dads with their wives. It is a revenue raiser. It will raise more than \$200 million in fiscal year 1997. It promotes effective immigration control, that so many Members speak about, by raising the \$200 million.

It supports American business by helping them retain the skilled and highly qualified workers that they insist upon, that they insist upon. Those are the facts and the figures. But when is it more important to talk about fairness than today?

I think we should quote a man who spoke about fairness. When Martin Luther King, Jr. marched on Washington he said, we refuse to believe that the bank of justice is bankrupt. We refuse to believe that there are insufficient funds in the great vault of opportunity in this Nation.

Mr. Speaker, America's immigrants want only to share in the riches of freedom, to know that the security of justice extends to them also.

Please join me in sharing this freedom, extending this justice and saying yes to families and fiscal responsibility and fairness above all.

Let us keep the families together. Let us keep the moms with their children, mom and dad together raising them in this great Nation of ours. That is what we are based on. Oppose this motion.

Mr. MOLLOHAN. Mr. Speaker, I yield the balance of my time to the distinguished gentleman from Missouri, [Mr. GEPHARDT], minority leader.

(Mr. GEPHARDT asked and was given permission to revise and extend his remarks.)

Mr. GEPHARDT. Mr. Speaker, I am very proud to stand before you today to send a very strong message that I support the permanent extension of 245(i) and I oppose the Rohrabacher motion. Section 245(i) is a very important provision of our immigration law that affects hundreds of thousands of individuals and families who have come to our country and are eligible for permanent residency.

Section 245(i) is profamily. It is pro-business. It is principles that have always been central to our national immigration policy. Section 245(i) helps hard-working individual Americans and families all across our country who could be needlessly disrupted.

Members have heard others before me on both sides of the aisle express their support for this provision and their opposition to the Rohrabacher motion. Before I leave today, I would like to make Members aware of a story of one person and one family who would be deeply affected.

Rajesh Dua came to this country from India to seek a Ph.D. degree. In 1992, Rajesh received his Ph.D. degree in medicinal chemistry and received several awards for his postdoctoral work in making safer and more effective drugs to fight illnesses like epilepsy.

In 1994, he obtained his green card and in 1995, he married Tomoko Nakagawa, a citizen of Japan who was also studying in the United States on a student visa. Rajesh and Tomoko decided to make the United States their home and they applied for Tomoko's green card in 1995. But because Tomoko was misinformed by a foreign student advisor who told her that she would not need to apply for a student visa while she was waiting for a green card, she is out of status.

Now, listen to Rajesh's own words:

Currently, I am employed as a lead scientist in a biotech company in Seattle, Washington. I am actively involved in creating new agents against cancer, inflammation, and corneal epithelium injury. Tomoko and I are law-abiding, taxpaying citizens who own a home and are contributing to our society with community service.

Tomoko has never worked illegally, has never sought any form of governmental assistance. She is fully covered by health care. She has a retirement account, life insurance, and is the equal owner of our home. We are expecting a baby in November of 1997. To me, it is atrocious to separate a healthy, loving, law-abiding, self-sufficient couple who have realized their American dream. I hope that somebody can understand our pain and frustration and help us obtain some sort of waiver so that people like myself and my wife can stay until she gets a green card.

There is case after case. People are calling our offices, a foreign national Ph.D., a primary care physician, a wife of an executive in valid status, on and on and on.

Mr. Speaker, this is a moral issue. Let us please vote down the Rohrabacher motion and keep this 245(i) in continuity for all of these people who are counting on us to vote the right way today.

Vote "no" on the Rohrabacher motion.

Mr. ROHRABACHER. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The gentleman from California [Mr. ROHRABACHER] is recognized for 2 minutes.

Mr. ROHRABACHER. Mr. Speaker, first let me state that it is clear that on both sides of this issue there are people who love the United States of America, good Americans, and they love their fellow citizens and they love people of the world. So I have no dispersions on anybody's love of country or love of fellow human beings. But 245(i) is also supported by people who are not necessarily good hearted. There are big businessmen who have a big stake in keeping 245(i) in place so that they can hire people who come here illegally or are here illegally instead of hiring American citizens.

Let us make that very clear. When Members see the handout when they come in, they will see the big business organizations supporting 245(i). If they go along with that, they are along with putting our people out of jail and our people are people who have come here legally and U.S. citizens and giving those jobs to people who are here illegally.

Even if she is from India and a biotech person and a wonderful human being, if she was not in this country legally, maybe someone else like an American citizen should have had that job that she had. Even though we sympathize with her, we sympathize with the American people and the law-abiding people who did not break the law more than we do this young lady from India that was just described.

Four hundred thousand people have already used this loophole, this amnesty for illegal immigrants to get to stay in our country, 400,000. Sixty-two percent of them snuck into this country and did not come here legally at all; \$1,000 made up for that, for the fact that they broke our law. With that \$1,000, which will, of course, enable a million more and millions more in the future who are here illegally to normalize that status, we are going to pay for 14,000 spaces at detention centers. That is great. One-fourth of all of the criminals in California jails are illegal aliens. That does not come anywhere near the cost of illegal immigration into our country.

Section 245(i) does what? It undermines the background checks that we do in other countries to prevent criminals from coming here in the first place. Do not tell me we are going to build 14,000 new detention center spaces. That does not come anywhere near the price, plus the heartache of letting criminals come into this country. What it does more than anything else, it undermines respect for our law.

There are people like Charles Mensah from Ghana. Here is Charles Mensah's family. He came here legally. He has been waiting and separated from his family for years. Here they are waiting in Ghana. He is going to be a proud American citizen and he has obeyed the laws. What we are doing is slapping him in the face and saying, if you would have disobeyed our laws, skipped over, come here illegally or snuck your family in here illegally, we would reward you for that.

Section 245(i) breaks down all respect for our law. It jeopardizes our security by taking out the security clearances and the background checks. We need to end this practice, to vote for the motion to instruct conferees that will then permit us a chance to get a compromise on this issue. Support this conference instruction.

Mrs. MALONEY of New York. Mr. Speaker, I stand today in opposition to the motion by Mr. ROHRABACHER.

There are many misconceptions about 245(i) that I would like to clear up. Section 245(i) is only for people who qualify for permanent residency. It does not allow people to break in line, and it does not give them any preference. It simply allows them to stay in the country while their applications are being processed.

It reduces paperwork at consulate offices abroad, and generates \$200 million a year in revenues for INS, an agency that cannot take anymore cuts.

These are not people who are not contributing to our society. These are people with family ties, jobs, and a stake in this country. These are people on their way to becoming legal residents.

If 245(i) is allowed to expire, it will not only be a tragedy for the people who are deported, but also for the families that they leave behind.

Mr. NADLER. Mr. Speaker, I rise to support the extension of section 245(i) of the Immigration and Nationality Act and to oppose this effort to blatantly force immigrants to endure unnecessary hardship.

Section 245(i) enables prospective lawful permanent residents to adjust their status while in the United States. This provision generates, through fees, more than \$150 million in additional annual revenues, reduces the caseload of U.S. consulates overseas, and allows immigrants to remain with their families and businesses as they adjust their status in the United States rather than being forced to process their adjustments abroad.

This provision is designed to encourage immigrants to comply with the law and become legal residents. It punishes people for their infractions and fines them \$1,000, and only then does it allow immigrants to adjust their status and become legal residents. If the provision did not exist, some immigrants may continue to evade the law in order to remain in this country and stay with their families. This provision is a practical and effective tool that has benefited the U.S. Government as well as thousands of now legal immigrants.

If we fail to extend this provision, we will have shifted enormous workloads back to U.S. consulates abroad, sacrificed desperately needed funds, and forced undue hardship on legal immigrants and their families.

We ought to extend section 245(i), and extend it permanently.

Mr. DAVIS of Illinois. Mr. Speaker, I rise in objection to the motion to instruct conferees on H.R. 2267. In this motion is an effort to close the process of Americanization to thousands of qualified human beings who are a valuable part of America's future. Mr. Speaker, 245(i) permits certain family and employment-based immigrants to adjust their status to that of permanent residence while remaining in the United States.

The enactment of Section 245(i) has generated between \$100 and \$200 million annually in additional revenues for the U.S. Government and reduces the State Department's visa processing caseload by an average of 30 percent. In 1996 the immigration law increased the fine from \$650 to \$1,000 and required that at least 80 percent of the funds generated be deposited in a INS account, to be used as the INS wishes. Failure to extend this provision of the law would result in a shortage in resources for both the INS and the State Department and create a backlog in application processing.

Section 245(i) is not an amnesty, it does not allow illegal immigrants to buy their U.S. status. It can only be used by prospective lawful permanent residents and under close and careful scrutiny of Federal authorities. In order to adjust their status under this provision of the law, eligible immigrants must meet the same criteria as they would if their visa applications were processed overseas.

Mr. Speaker and colleagues, I believe in the words of Ms. Emma Lazarus when she wrote:

Give me your tired, your poor,
Your huddled masses yearning to breathe free,
The wretched refuse of your teeming shore.
Send these, the homeless, tempest-tost to me,
I lift my lamp beside the golden door?

I strongly urge my colleagues to join me in opposition to this motion and believe in the words of Emma Lazarus and I ask her clarion call become a relic of history? No, it is and will remain a viable statement of American values.

Thank you Mr. Speaker and I yield back the balance of my time.

Mr. STENHOLM. Mr. Speaker, I rise today to express my opposition to this motion to recommit, but also to express my hope that a compromise policy can be worked out in conference. I support the goal of this motion expressing support for House position to allow section 245(i) to sunset as required by the Immigration and Nationality Act because I believe that the Senate legislation, which would permanently extend this section 245(i), leaves a loophole which could encourage illegal immigration and allows those who violate our Nation's laws to buy a reprieve.

But, while I agree with the intent of this motion to close a loophole, I believe that in doing so we should make allowances for those folks and their families and employers who will be greatly impacted by the loss of section 245(i). I am convinced that there is middle ground to be found here, and I support looking for a compromise between the House and Senate bills to provide for a temporary extension of this legislation to give us time to study its impact on illegal immigration or an extension which would help those folks who have made a good faith effort to comply with all our Nation's immigration laws and who fall out of legal status. To me, their situations are different from those folks who enter this country illegally.

I urge my colleagues to vote against this motion to instruct conferees but also urge conferees to continue working to find the middle ground on this issue. While we should do everything in our power to encourage compliance with our Nation's immigration laws and to discourage illegal immigration, we must take into account the cases in which exceptions can be made and should be made which will not jeopardize these goals. I support and encourage my colleagues to support a compromise between the extremes of the House and Senate bills which will serve the interests of all American citizens.

MEMORANDUM

TO: CWS
FROM: Julie Turner
DATE: October 29, 1997

RE the Rohrbacher Motion to Instruct Conferees on Commerce-State-Justice (The permanent extension of section 245(i) of the Immigration Act)

BACKGROUND

Section 245(i) of the Immigration and Nationality Act was a temporary provision to allow individuals who are eligible for an immigrant visa because of their employment or family status to adjust their status (from illegal to legal) if they pay a \$1,000 fine to the INS. This provision was set to sunset on September 30th. It was extended by the continuing resolution, and the Senate Commerce-State-Justice appropriation bill extends it permanently.

PROS

Extending section 245(i) is important to high tech businesses who rely on foreign

workers (such as Texas Instruments, Monsanto, Dow Chemical, etc).

Extending 245(i) helps keep families together when some members are here legally and others in the family are here illegally or may have originally been here legally then fallen into illegal status by overstaying their visa or otherwise violating immigration laws.

Section 245(i) does not apply to all illegal immigrants. It applies only to those who are prospective lawful citizens who must meet the same eligibility requirements they would face if they were applying from their home country.

The fine generated \$130 million in revenue which the INS used to detain illegal aliens, and eliminating the provision would require these folks to go back to their home countries to be processed thus shifting the burden of doing paperwork including background checks to the State Departments consular offices.

Supporters of extending Section 245(i) include Colin Peterson, Gary Condit, and Grover Norquist.

CONS

This provision allows folks who are here illegally (either by entering this country illegally or by falling out of legal status) to simply pay a fine to erase their illegal status.

Section 245(i) is used by people who entered this country illegally but who gained a right to apply for legal status by marrying a legal immigrant or having a child in the U.S.

Supporters of ending Section 245(i) include Lamar Smith, Brian Bilbray, and Dana Rohrbacher.

A LOOPHOLE IN IMMIGRATION LAW (By Steven A. Camarota and Jessica Vaughan)

Just a year after Congress overwhelmingly passed a landmark bill aimed at curbing illegal immigration, it is poised to approve a loophole that renders one of the 1996 law's most important reforms meaningless.

The provision in question is section 245(i) of the Immigration and Nationality Act, which allows illegal aliens to undergo visa processing (i.e., receive a green card) in the United States, provided they pay a fine of \$1,000. Until a few years ago, most of these individuals who have been required to apply for a visa in their home country. This controversial provision was scheduled to sunset on Sept. 30. However, at the beginning of the month, after a flurry of media coverage and intense pressure from interest groups, Congress extended it for 23 days and is considering extending it permanently.

By definition, all of the beneficiaries of 245(i) are illegal aliens. Proponents of high immigration have taken pains to describe them as "almost legal" or "on track for a green card." While it is true they have approved petitions from sponsors, giving them permission to apply, this is not the same as being approved for a green card. Their applications have yet to be screened for criminal and medical history, the likelihood that the applicant will become dependent on welfare or other disqualifiers.

The sunset of 245(i) is necessary in order to activate a powerful enforcement tool passed last year. Anyone who has been in the United States illegally for at least five months can now be barred from reentering legally for either three or 10 years, depending on how long they were here illegally. In the past, illegal aliens could apply for permanent residence without penalty, even if they had been violating the law by living in the United States for years. If 245(i) ends as scheduled, any illegal alien who aspires to a green card will have to return home within six months or be subject to the new bar. The

three-year/10-year bar was passed specifically with the sunset of 245(i) in mind. If 245(i) is extended, illegal aliens are shielded from the bar, rendering it meaningless.

The advocates of extending 245(i) argue that because these individuals are already here, there is little point in forcing them to return home for their visa processing. Beyond the disregard for the rule of law that this view represents, it is also troubling because it fails to appreciate the message it sends to those overseas who are considering entering the country illegally.

Illegal aliens are in effect being told that they may come whenever they want and stay illegally for as long as it takes until they get a visa. In fact, according to a recent analysis by the Immigration and Naturalization Service (INS), last year roughly 25 percent of legal immigrants were 245(i) recipients—about 230,000 individuals. What's more, the State Department estimates that perhaps 1 million people on visa waiting lists are residing in the United States illegally. Clearly, such a system encourages illegal immigration.

In addition to contributing to illegal immigration, 245(i) has other problematic aspects. The program creates a potential conflict of interest for the INS. In fiscal year 1996 the INS collected roughly \$200 million in fines from 245(i) recipients. Thus, the INS is in the awkward position of arguing that illegal aliens should be allowed to stay because the agency needs the money their fines generate.

What's more, what does the 245(i) program say to those who are playing by the rules and patiently waiting their turn to come to the United States? This is the immigration policy equivalent of the Redskins ignoring the waiting list for season tickets and allowing anyone who manages to sneak into Jack Kent Cooke Stadium to stay and watch the game from whatever seat they can find, provided they pay a \$50 fine.

There is also the question of which agency can best process visa applications. Recently the blue ribbon commission on Immigration Reform recommended that the State Department take over all visa functions from the INS. State Department personnel abroad know the local languages and customs and are in contact with local authorities. Thus, they are far better equipped to evaluate visa applications than the INS. Moreover, allowing people to apply for visas from within the United States makes any effort to keep out those who are found ineligible, such as criminals, totally ineffective because even if their applications are denied their chances of being deported are slim.

Clearly, any policy that results in more illegal immigration should be carefully considered. There are now about 5 million illegal aliens living in the country, with 400,000 more settling each year. Ample research indicates that the presence of illegal aliens depresses wages for other workers who are forced to compete with them for low-wage jobs. Also, illegal aliens work disproportionately in the underground economy and hold low-wage jobs, and thus typically pay very little in taxes—yet, they sue such costly taxpayer-provided services as education, public hospitals and the criminal justice system.

The upcoming decision on section 245(i) is ultimately about whether Congress places a higher value on the convenience of illegal aliens or on effective and fair immigration enforcement.

WASHINGTON, DC,

October 23, 1997.

DEAR MEMBER OF CONGRESS: I would like to respond to some of the misinformation that has been disseminated in the context of the debate over extension of Section 245(i) of the Immigration and Nationality Act.

Those who claim that business don't need Section 245(i) are being either intentionally misleading or don't understand immigration law. Allegations that 245(i) only benefits "illegal aliens" are simply not true. Section 245(i) is the sole method for certain individuals to adjust their status here in the United States. Section 245(i) cannot help an "illegal alien" who does not already have a legal basis for obtaining permanent residency.

Section 245(i) does not, under any circumstances, give an individual a substantive right to convert his or her status from illegal to legal. Section 245(i) helps many people who have unintentionally violated their status. For example, a foreign student here on a non-immigrant visa who drops a class one summer to lighten his course load may unwittingly change from a full-time student to a part-time student. If this is the case, this student has violated the terms of his non-immigrant visa. This innocent and unknowing violation of his status makes him ineligible to adjust his status through Section 245(a). His only option is 245(i).

Sunset of this provision will have a highly detrimental impact on U.S. businesses. Our business community hires many foreign nationals with crucial, hard to obtain skills. These individuals are an integral part of operations at companies such as Motorola, Microsoft, Texas Instruments, and Bell Atlantic. These individuals are often sponsored by their employers to adjust their status to permanent residence because of their importance to company operations.

An approved non-immigrant visa petition must be constantly updated, with no room for any margin of error. If a person works for a company that has gone through a merger or an acquisition, or if the person is transferred or has undergone a change of job title, that person's application must be updated and re-filed. Many times this is overlooked, because the individual and the company are not immigration law experts, and are unaware that failure to update the application renders the individual out of status.

Section 245(i) is the only way valued employees can adjust their status if they have, at any time, gone out of status. Extension of Section 245(i) becomes even more crucial to U.S. business when viewed in conjunction with the Illegal Immigrant Reform and Immigrant Responsibility Act of 1996 (IIRAIRA). IIRAIRA bans individuals who have violated their status from entering the United States for 3 or even 10 years. If Section 245(i) is not permanently extended and an employee must leave the country to obtain permanent residence, that employee could be barred from entering the United States for at least 3 years, and possibly 10. Their absence will greatly disrupt U.S. companies, and put them at a distinct disadvantage in a competitive marketplace.

Section 245(i) raises badly needed revenue for the INS. This provision raised over \$200 million in fiscal year 1997. Most of those funds went directly to the INS to combat illegal immigration. It is baffling why those opposed to 245(i) would eliminate a provision that aids in the fight against illegal immigration.

Permanent extension of 245(i) makes sense because it can only be used in individuals who are already eligible for permanent residence, it raises badly needed revenue for the INS to combat illegal immigration, and it gives U.S. companies the flexibility they need to attract and retain crucial, highly-skilled employees. I urge you to support permanent extension of Section 245(i).

Sincerely,

Laura Foote Reiff,
Partner, Baker & McKenzie.

Ms. PELOSI. Mr. Speaker, I rise in strong opposition to this motion to instruct conferees to block the extension of section 245(i).

According to INS statistics, two-thirds of those using 245(i) are the spouses and children of American citizens and lawful permanent residents. Another portion is used by skilled immigrants sponsored by companies.

Section 245(i) can only be used by prospective lawful permanent residents and under careful scrutiny of Federal authorities. In order to adjust their status, eligible immigrants must meet the same criteria they would if their visa applications were reviewed overseas.

Allowing section 245(i) to expire will force a cruel separation of families. Silas Archila, who lives in my district in San Francisco, is in the process of becoming a U.S. citizen. He and his wife run a child care center. If his wife is not able to adjust her status through section 245(i), she will be forced to leave him to be a single parent of their 4-year-old daughter, a U.S. citizen, and she will be barred for 3 years from immigrating to the United States.

Allowing section 245(i) to expire will force many battered immigrant women to return to countries that cannot protect them—even though, as part of their Violence Against Women Act case, each woman has already proven to the INS that returning to that country and being forced to leave the United States would cause her and her children extreme hardship.

Failure to permanently extend this provision places unnecessary burdens on families and businesses, which will also suffer from the loss of skilled workers. I urge my colleagues to oppose this motion to instruct.

Mr. DEFAZIO. Mr. Speaker, this motion as I understand it would effectively terminate the 245(i) program which permits immigrants who have overstayed their travel student visas to qualify for legal citizenship by remaining in the United States and paying a \$1,000 fee to the INS. I fully understand the concerns of many Oregonians who support extending this program indefinitely. However, I have also heard from some of my constituents who oppose extending this program because it would invite illegal boarder crossings. I do not support any measure that would unravel the progress we have made in enacting tough immigration reform laws passed during the 104th Congress.

I have long been a strong advocate of sensible immigration reform. That is why I voted for the Immigration Reform Act of 1996, which increases the number of border patrol agents and cuts the number of legal immigrants entering the United States. However, this motion places an arbitrary limit on the hundreds of legal immigrants who are currently being processed for residency status.

The 245(i) program applies to immigrants who have overstayed their visa and are eligible for residency status. The program also applies to individuals who are here legally and are seeking citizenship so that they do not have to return to their native country and wait 3 years before they can enter the United States as a legal immigrant. Most applicants of this program are spouses and children of U.S. citizens who would otherwise become eligible for permanent resident status. However, for those who enter illegally, this program should not apply.

I will vote present on this motion because it does not let Congress take a more pragmatic approach. I believe we can balance the concerns of both points of view. This motion does not distinguish between legal and illegal immigrants but 245(i) would apply for both. I believe we should make this important distinction

so that people entering illegally will not be allowed to enter under the same conditions as those who enter legally. This approach does not let immigrants violate current immigration laws but would allow those currently seeking residency status to complete the process.

In the spirit of enacting fair and sensible immigration policy, Congress should adopt a more realistic termination date so that current applicants waiting to join their families here are not forced to leave the U.S. immediately.

Mrs. MINK of Hawaii. Mr. Speaker, I rise in strong opposition to the motion to instruct conferees on Commerce-Justice-State appropriations for fiscal year 1998.

This motion to instruct would throw another roadblock before the conferees, by insisting on House language that allows section 245(i) of the Immigration and Nationality Act to sunset.

A significant proportion of people who use 245(i) never intended to break the law. Rather, they were tripped up by the Immigration and Nationality Act, which is arguably second only to the Tax Code in its sheer complexity. My colleagues who have criticized the Internal Revenue Service for strictly enforcing arcane tax laws will agree that honest mistakes happen. Likewise, these 245(i) applicants are not running from the Immigration and Naturalization Service. They are not fighting the paperwork requirements or griping about the \$1,000 penalty. All they want is to retain the opportunity they now have in the law to set things right and get on with their lives.

Let us be clear: To be eligible to adjust status under section 245(i), these intending immigrants must meet all other immigration requirements: they must not have a criminal record; they must not be terrorists; they cannot belong to the Communist Party; they may not have an illness that presents a public health hazard; and they cannot be at risk of becoming a public charge. They still go through the criminal background and health checks that any other visa applicant does—they simply do it here in the United States.

For this same reason, section 245(i) will not stop deportations. In the first place, it is extremely rare for persons who find themselves in deportation proceedings to have a visa approved, ready and waiting for them, so they could not even apply to adjust status under 245(i). This fiscal year, INS removals skyrocketed to nearly 100,000, despite the fact that 245(i) was in effect. Clearly 245(i) has not interfered with deportations in the slightest.

Foes of 245(i) call it a unique, special concession under immigration law. This is untrue. Every day we allow people to cross our borders on fiancée visas, so they can marry U.S. citizens. Yet, we allow these fiancées to complete their immigrant processing here in the United States.

Furthermore, keeping section 245(i) makes fiscal sense. At least 80 percent of the penalties paid—\$74 million this year alone—pay for detaining criminal aliens whom the INS seeks to deport. The INS budget receives \$100 million per year from 245(i) penalties, but unfortunately this motion to instruct does not say where we should cut to make up the loss of funding.

Meanwhile, the State Department would have to shoulder a greatly increased burden of visa processing. Since fiscal year 1994 when 245(i) was instituted, appropriators have been able to significantly cut spending on U.S. consular staff abroad, because 30 percent of their

immigrant visa traffic was using 245(i) to be processed stateside by INS. This appropriations bill does not restore this lost funding for overseas consular staff, so the Department of State will leave visa applicants subject to ever longer delays in processing and will create a bureaucratic nightmare for thousands of U.S. families and businesses.

The Senate voted overwhelmingly—99 to 0—to adopt its version of the Commerce, Justice, State appropriations bill, which included language to make 245(i) permanent. They had good reason to do so. Not only does 245(i) keep families intact until permanent residency becomes available, it also helps businesses keep some of their most unique, valuable, skilled employees. This skill base keeps hundreds of U.S. firms competitive in the international marketplace.

Scores of America's leading companies support making 245(i) a permanent part of U.S. law, including: AT&T, Apple Computers, Bayer Corp., Digital Equipment Corp., Dow Chemical, Ford Motor Co., Hewlett-Packard, INTEL, Maytag, Merck, Microsoft, Monsanto, Motorola, Procter & Gamble, Sun Microsystems, Texas Instruments, TRW, Westinghouse Electric, and Xerox. Even the U.S. Chamber of Commerce wants 245(i) to continue. I am baffled as to why my colleagues on the other side of the aisle would not listen to these business and industry leaders on this issue.

This debate is not a question of whether these intending immigrants will eventually get a green card. They will get a green card, so long as American relatives or employers sponsor them.

Killing 245(i) will not bring integrity to our immigration system. What it will do is cost the INS revenue for detaining criminal aliens, drop a staggering, unfunded workload onto the Department of State, disrupt family reunification, and interrupt business activity and innovation in our leading industries—just so we can send a message that minor immigration violations will not be tolerated.

Kicking hundreds of thousands of immigrants out of the country for minor violations makes no practical or fiscal sense. It doesn't help America fight illegal immigration. It is merely a way for hard-line immigration opponents to make an example of the very people who are trying to do the right thing.

Mr. WATTS of Oklahoma. Mr. Speaker, today we will have a vote on a provision of the Nation's immigration law referred to as section 245(i). I hope my colleagues will vote against repealing this provision of the law.

Section 245(i) allows individuals who are on the brink of becoming legal permanent residents to adjust their status without having to leave the country. The majority of these individuals are the spouses and children of American citizens.

Without this provision we tell these future citizens they must leave the country and leave their families and wait for perhaps years to be reunited with them in the United States. During that waiting time, they cannot re-enter the country to visit their families for any reason—not to attend a family wedding not to attend a family baptism, not even to attend a family funeral.

Having said that, I understand what my colleague from California is trying to accomplish and I have to believe that somehow we can negotiate and draft legislation that will punish the bad and not the good.

Compassion is a hallmark of the American people; it is part of our character as a nation. Today's vote will be a test of our compassion. I urge my colleagues to oppose repeal of this law.

Mr. ABERCROMBIE. Mr. Speaker, today I rise to speak against the motion to instruct conferees on H.R. 2267, the Departments of Commerce, Justice, State appropriations bill for fiscal year 1998.

I support section 245(i) of the Immigration and Nationality Act. The provision allows certain immigrants to have their papers processed here in order to become permanent residents, rather than requiring them to return to their home country. Section 245(i) is available only to people who are already eligible to become permanent residents, that is, those who are sponsored by close family members or by employers who cannot find eligible U.S. workers, and whose "priority date" is current under existing quotas. The provision does not, as alleged, give illegal immigrants the right to live in the United States. Nor does the provision change the order in which a person's claim is adjudicated. There is one single worldwide line for everyone waiting for their immigrant visa.

People adjusting status under section 245(i) are screened to make sure that they are barred from obtaining a green card on grounds such as criminal offenses, health problems, becoming a public charge, or other thresholds of inadmissibility. In addition, people applying under section 245(i) must submit fingerprints to the Federal Bureau of Investigation to verify that they have no disqualifying criminal history in the United States or in their home country.

If section 245(i) is not extended, both the Immigration and Naturalization [INS] and the State Department will be adversely impacted by a significant shift in workload. INS will lose personnel and money now earmarked for badly needed apprehension and detention efforts. Section 245(i) generated about \$200 million in revenues in fiscal year 1996, of which 80 percent was used for detention. U.S. consulates abroad will be under great strain due to the increased workload without the additional resources that section 245(i) provides. U.S. citizens who seek services from one of these agencies will suffer, not just those individuals who could have used section 245(i).

Section 245(i) allows business to keep valued employees, allows families to stay together, and pays for detention.

I urge my colleagues to vote "no" on the motion to instruct conferees.

Mr. RILEY. Mr. Speaker, I rise today in strong support of this important motion.

In my view, our Nation can only be secure when its borders are secure. In recent years, and Nation's illegal alien population has reached intolerable levels—levels that threaten American jobs and place tremendous burdens on government services. America can no longer withstand the flood of illegal immigration.

Last year, Congress passed landmark legislation that, once and for all, cracked down on illegal immigration to our great Nation. Unfortunately, Mr. Speaker, there is a provision of law known as 245(i), which I believe undermines the intent of the Illegal Immigration Reform Act, sends the wrong message to the world, and seriously threatens our national security. It does so by allowing illegal aliens to

pay the INS \$1,000 to change their status from illegal to legal without appropriate back ground checks.

Who benefits most from 245(i)? People who illegally cross our borders or overstay their visas. In other words, it benefits illegal aliens. Consequently, 245(i) sends a dangerous message to the world. The message. "Don't wait to legally enter the United States. Come illegally and have your status adjusted for only \$1,000."

Mr. Speaker, 245(i) also creates a very real threat to our Nation's national security and to the safety of our citizens. While many aliens who come to this country illegally do so to find a better way of life, others have more sinister reasons. The recent arrest in New York of two possible suicide bombers illustrates how easily criminals and terrorists can evade our immigration controls. Simply put, 245(i) makes it easier for dangerous criminals and terrorists to enter and remain in this country. Worse yet, they can stay without being subjected to criminal background checks in their home countries.

If this is true, then why would the INS support 245(i)? The answer is simple, Mr. Speaker. The INS supports 245(i) to make a buck and to lighten their caseload. For example, INS argues that it needs 245(i) because the provision expedites thousands of green card applications a year. They also say that the provision raises more than \$200 million a year in badly needed funds. Yet, at \$1,000 per person, INS is allowing more than 200,000 additional illegal aliens a year to remain in this country. I do not believe that INS should continue to risk American lives, create additional burdens on government services, and cost American jobs just to make a buck or to lighten their caseload.

Mr. Speaker, 245(i) may work well for illegal aliens and INS, but it does not work well for the American people. It is time we do the right thing and let 245(i) expire. I urge your support of this important motion.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from California [Mr. ROHRABACHER].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. ROHRABACHER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 153, nays 268, answered "present" 1, not voting 10, as follows:

[Roll No. 541]
YEAS—153

Aderholt	Barton	Bliley
Archer	Bass	Blunt
Baker	Bateman	Boehner
Barr	Bereuter	Bono
Barrett (NE)	Bilbray	Boyd
Bartlett	Bilirakis	Brady

Bryant	Hastert
Bunning	Hastings (WA)
Burton	Hayworth
Callahan	Hefley
Coble	Henger
Campbell	Hill
Canady	Hilleary
Chambliss	Hobson
Christensen	Horn
Coble	Hostettler
Coburn	Hulshof
Collins	Hunter
Combest	Hutchinson
Cooksey	Inglis
Cox	Istook
Cunningham	Johnson, Sam
Deal	Jones
DeLay	Kasich
Dickey	Kingston
Doolittle	Klug
Dreier	Largent
Duncan	Lewis (CA)
Dunn	Lewis (KY)
Ehrlich	Linder
Emerson	LoBiondo
Ensign	Lucas
Everett	Manzullo
Ewing	McCollum
Fawell	McCrery
Foley	McKeon
Fowler	Mica
Franks (NJ)	Miller (FL)
Frelinghuysen	Moran (KS)
Galleghy	Nethercutt
Ganske	Neumann
Gibbons	Ney
Gillmor	Northup
Goode	Norwood
Goodlatte	Packard
Goodling	Parker
Goss	Paxon
Graham	Pease
Greenwood	Peterson (PA)
Gutknecht	Petri
Hansen	Pickering

NAYS—268

Abercrombie	Davis (VA)
Ackerman	DeGette
Allen	Delahunt
Andrews	DeLauro
Army	Dellums
Bachus	Deutsch
Baessler	Diaz-Balart
Baldacci	Dicks
Ballenger	Dingell
Barcia	Dixon
Barrett (WI)	Doggett
Becerra	Dooley
Bentsen	Doyle
Berman	Edwards
Berry	Ehlers
Bishop	Engel
Blagojevich	English
Blumenauer	Eshoo
Boehrlert	Etheridge
Bonilla	Evans
Bonior	Farr
Borski	Fattah
Boswell	Fazio
Boucher	Filner
Brown (CA)	Flake
Brown (FL)	Foglietta
Brown (OH)	Forbes
Burr	Ford
Buyer	Fox
Camp	Frank (MA)
Cannon	Frost
Cardin	Furse
Carson	Gejdenson
Castle	Gekas
Chabot	Gephardt
Chenoweth	Gilchrest
Clay	Gilman
Clayton	Gordon
Clement	Granger
Clyburn	Green
Condit	Gutierrez
Conyers	Hall (OH)
Cook	Hall (TX)
Costello	Hamilton
Coyne	Harman
Cramer	Hastings (FL)
Crane	Hefner
Crapo	Hilliard
Cummings	Hinchey
Danner	Hinojosa
Davis (FL)	Hoekstra
Davis (IL)	Holden

Pitts	McDermott
Porter	McGovern
Pryce (OH)	McHale
Radanovich	McHugh
Riggs	McInnis
Roemer	McIntyre
Rogan	McKinney
Rohrabacher	McNulty
Roukema	Meehan
Royce	Meek
Ryun	Menendez
Salmon	Metcalf
Sanford	Millender-
Scarborough	McDonald
Schaefer, Dan	Miller (CA)
Schaffer, Bob	Minge
Sensenbrenner	Mink
Sessions	Moakley
Shadegg	Mollohan
Shaw	Moran (VA)
Shimkus	Morella
Shuster	Murtha
Skeen	Myrick
Smith (MI)	Nadler
Smith (OR)	Neal
Smith (TX)	Nussle
Snowbarger	Oberstar
Solomon	Obey
Spence	Olver
Stearns	Ortiz
Stump	Owens
Sununu	Oxley
Tauzin	Pallone
Taylor (MS)	Pappas
Taylor (NC)	Pascrell
Thune	Pastor
Tiahrt	Paul
Trafficant	Pelosi
Wamp	
Watkins	
Weldon (PA)	
Paxon	
Whitfield	
Wicker	
Wolf	
Young (FL)	

Peteron (MN)	Smith, Linda
Pickett	Snyder
Pombo	Souder
Pomeroy	Spratt
Portman	Stabenow
Poshard	Stark
Price (NC)	Stenholm
Quinn	Strickland
Rahall	Stupak
Ramstad	Talent
Rangel	Tanner
Redmond	Tauscher
Regula	Thomas
Reyes	Thompson
Rivers	Thornberry
Rodriguez	Thurman
Rogers	Tierney
Ros-Lehtinen	Torres
Rothman	Towns
Roybal-Allard	Turner
Rush	Upton
Sabo	Velazquez
Sanchez	Vento
Scott	Visclosky
Sandlin	Walsh
Sawyer	Waters
Saxton	Watt (NC)
Schumer	Watts (OK)
Scott	Waxman
Serrano	Weller
Shays	Wexler
Sherman	Weygand
Sisisky	White
Skaggs	Wise
Skelton	Woolsey
Slaughter	Wynn
Smith (NJ)	Yates
Smith, Adam	Young (AK)

ANSWERED "PRESENT"—1

DeFazio

NOT VOTING—10

Cubin	McIntosh	Stokes
Gonzalez	Payne	Weldon (FL)
Houghton	Riley	
Kelly	Schiff	

□ 1617

Mr. VISCLOSKY, Mr. McINNIS and Ms. DELAURO changed their vote from "yea" to "nay."

Messrs. HEFLEY, SOLOMON, PACKARD and DELAY changed their vote from "nay" to "yea."

So the motion to instruct was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. THOMAS. Mr. Speaker, on roll call No. 541, I cast a "no" vote. I had intended to vote "aye."

NUCLEAR WASTE POLICY ACT OF 1997

The SPEAKER pro tempore (Mr. CAMP). The Chair is prepared to declare the House resolved into the Committee of the Whole for consideration of H.R. 1270.

For what purpose does the gentleman from Nevada [Mr. ENSIGN] rise?

UNFUNDED MANDATE POINT OF ORDER

Mr. ENSIGN. Mr. Speaker, I rise to make a point of order under section 425 of the Budget Act on the basis that the provision beginning on page 56, line 15, imposes an unfunded intergovernmental mandate on State governments.

The SPEAKER pro tempore. The gentleman from Nevada makes a point of order that the bill violates section