

Chair's prior announcement, further proceedings on this motion will be postponed.

BORDER COMMUTER STUDENT ACT OF 2002

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4967) to establish new nonimmigrant classes for border commuter students.

The Clerk read as follows:

H.R. 4967

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Border Com-muter Student Act of 2002".

SEC. 2. ESTABLISHMENT OF BORDER COMMUTER NONIMMIGRANT CLASS.

(a) CLASS FOR ACADEMIC OR LANGUAGE STUDIES.—Section 101(a)(15)(F) of the Immi-gration and Nationality Act (8 U.S.C. 1101(a)(15)(F)) is amended by striking "and (ii)" and all that follows through the end of subparagraph (F) and inserting the fol-lowing: "(ii) the alien spouse and minor chil-dren of any alien described in clause (i) if ac-companying or following to join such an alien, and (iii) an alien who is a national of Canada or Mexico, who maintains actual re-sidence and place of abode in the country of nationality, who is described in clause (i) ex-cept that the alien's qualifications for and actual course of study may be full or part-time, and who commutes to the United States institution or place of study from Canada or Mexico;"

(b) CLASS FOR VOCATIONAL OR NONACADEMIC STUDIES.—Section 101(a)(15)(M) of the Immi-gration and Nationality Act (8 U.S.C. 1101(a)(15)(M)) is amended by striking "and (ii)" and all that follows through the end of subparagraph (M) and inserting the fol-lowing: "(ii) the alien spouse and minor chil-dren of any alien described in clause (i) if ac-companying or following to join such an alien, and (iii) an alien who is a national of Canada or Mexico, who maintains actual re-sidence and place of abode in the country of nationality, who is described in clause (i) ex-cept that the alien's course of study may be full or part-time, and who commutes to the United States institution or place of study from Canada or Mexico;"

(c) LIMITATION.—Section 214(m) of the Im-migration and Nationality Act (8 U.S.C. 1184(m); as redesignated by section 107(e)(2)(A) of P.L. 106-386) is amended by striking "section 101(a)(15)(F)(i)" both places it appears and inserting "clause (i) or (iii) of section 101(a)(15)(F)".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from Texas (Ms. JACKSON-LEE) each will control 20 min-utes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speak-er, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 4967, the bill currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gen-tleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speak-er, I yield myself such time as I may consume.

Mr. Speaker, the Immigration and Nationality Act permits foreign stu-dents to study in the United States on nonimmigrant student visas. Aliens must be full-time students to be eligi-ble for F visas, which is academic or language studies, or M visas, which are vocational or non-academic studies, nonimmigrant student visas. However, some INS districts have paroled com-muter students from Canada and Mex-ico into the United States as visitors to bypass this statutory requirement because no visa category exists for part-time commuter students.

Since September 11, 2001, the INS has issued memoranda regarding its intent to end this practice of accommodating part-time commuter students but per-mits its continuance through the end of this year for students already en-rolled in border schools. On August 27, 2002, the INS issued an interim rule to expand the F and M student visa cat-egories to permit Mexican and Cana-dian commuter students to obtain stu-dent visas.

However, such a rule is open to dif-fering interpretations across adminis-trations. By passing H.R. 4967, this bill would make Congress' intent clearer that the Canadian and Mexican stu-dents should be able to obtain student visas and attend U.S. schools along our borders.

The bill amends the F and M student categories of the Immigration and Na-tionality Act to expand student visa authorization only for nationals of Canada or Mexico who maintain actual residence and place of abode in the country of nationality, whose course of study may either be full- or part-time, and who commute to the U.S. institu-tion or place of study from Canada or Mexico. These part-time students will be tracked in the Student and Ex-change Visitor Information System, or SEVIS; and I would point out that if this bill is not passed, and they con-tinue to be paroled in as visitors, they will not be tracked under SEVIS be-cause they do not have student visas.

In practice, the INS has been allow-ing the students in for years but with-out proper authority to do so. This bill gives the INS that proper authority, and I urge my colleagues to vote for it.

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I might consume.

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, I am pleased to join my col-leagues in support of making part-time commuter students who are nationals of either Canada or Mexico and attend school in the United States eligible for special student visas. I especially con-gratulate the gentleman from Arizona

(Mr. KOLBE) for his untiring efforts to move this legislation forward.

Thousands of Canadian and Mexican nationals commute to attend schools part-time in the United States. Accord-ing to the Institute of International Education, 25,769 Canadian students and 10,679 Mexican students are en-rolled at U.S. colleges on a full-time basis. There are thousands of addi-tional students that are part-time stu-dents.

Texas has a significant portion of students who commute to schools in Texas. For years now, border points like El Paso and Laredo have made ex-ceptions for part-time Mexican stu-dents who enter on a daily visitor and travel visa. Schools in Texas, such as Texas A&M International, will benefit from this legislation. Texas A&M International University has approxi-mately 50 to 60 students that benefit from this legislation. At the University of Texas Pan-American in Edinburg, Texas, 14 of the 425 international stu-dents are part-time.

According to university officials at both institutions, many more students would attend if they could be able to cross the border easily. Unfortunately, current law does not establish an ap-propriate visa for those part-time com-muter students who, in fact, are com-ing to learn and then returning home to contribute to their communities.

Under the Immigration and Natu-ralization Act, aliens who reside in a foreign country and are pursuing a full course of study from a recognized voca-tional institution or an established col-lege, university or other academic in-stitution in the United States are eligi-ble for student visas. For the purpose of granting student visas, the INS de-fines "full course of study" as 12 cred-its or more. So, therefore, part-time commuter students, those who might only be taking a class or two, are not currently eligible for student visas.

However, some INS district offices have permitted part-time commuter students to enter the United States as visitors to pursue their studies. I am encouraged by the INS' recent reversal of a May 2002 decision to eliminate this practice and enforce the full-time 12-hour credit requirement.

We do know that we live in different times since the horrific acts of 9-11. We do know our responsibilities for border security; and of course, as I have men-tioned earlier, my commitment to such in cosponsorship of several bills, recog-nizing the balance, a balance in the previous bill to add a study on racial profiling, this bill is a balance. It recog-nizes that these students are coming to learn, to contribute, and to make a difference not only in their lives but in their communities.

It also recognizes the economic as-pect of it, and these students will be contributing to the economy of the re-gions of which they participate in those academic institutions.

Fortunately, the agency recently postponed enforcement of the policy

until August 15, 2002, while administrative and legislative remedies are considered. I consider that a balanced perspective on the part of the INS.

The legislation we are introducing today appropriately addresses the problem facing part-time commuter students without hoping for a new avenue for illegal immigration. Of course, this bill is on the floor of the House today and would amend 18 U.S.C. 1101 to make certain part-time commuter students eligible for student visas. The bill would allow nationals of Canada or Mexico who both maintain a residence and a place of abode in their country of nationality and who commute to school to enroll part-time in schools in the United States, and part-time commuter student visas are restricted to nationals of Canada or Mexico. The bill would not make political asylees, residents or others, who are nationals of third countries, who simply live in Canada or Mexico eligible for the visas; and I think that is an important point to make.

Again, I believe that we have an enormous responsibility to ensure the security of our communities, but I think this is a balanced and forthright legislative initiative to help all.

Finally, Mr. Speaker, the Enhanced Border Security and Visa Entry Reform Act, passed by the Senate in April and signed into law by the President on May 14, 2002, leads the way for full implementation of participation in services mandatory by January 30, 2003. However, SEVIS only tracks non-immigrant students and exchange visitors. Aliens admitted with visitor visas are not tracked through the system. This bill for the first time will ensure that part-time commuter students from Canada and Mexico are also tracked through the student tracking process, again in response to the new concerns we have after September 11.

I ask my colleagues to support this balanced initiative and support this legislation.

Mr. Speaker, I am pleased to join my colleagues in support of making part-time commuter students who are nationals of either Canada or Mexico and attend school in the United States eligible for special student visas. I especially congratulate Mr. KOLBE for moving this legislation forward.

Thousands of Canadian and Mexican nationals commute to attend schools part time in the United States. According to the Institute of International Education, 25,769 Canadian students and 10,679 Mexican students are enrolled at U.S. Colleges on a full time basis. There are thousands of additional students that are part-time students. Texas has a significant portion of students who commute to schools in Texas. For years now Border points like El Paso and Laredo Texas have made exceptions for part-time Mexican students who entered on a daily visitor and travel visas. Schools in Texas such as Texas A&M International will benefit from this legislation. Texas A&M International University has approximately 50 to 60 students that would benefit from this legislation. At the University of Texas Pan American in Edinburg, Texas, 14 of the

425 international students are part-time students. According to university officials at both institutions many more students would attend if they could cross the border easily. Unfortunately, current law does not establish an appropriate visa for these part-time commuter students.

Under the Immigration and Naturalization Act, aliens who reside in a foreign country and are pursuing a full course of study from a recognized vocational institution or an established college, university, or other academic institution in the United States are eligible for student visas. For purposes of granting student visas, the INS defines "full course of study" as 12 credits or more. Part-time commuter students, those who might be only taking a class or two, are not currently eligible for student visas.

However, some INS district offices have permitted part-time commuter students to enter the United States as visitors to pursue their studies. I am encouraged by the INS recent reversal of a May 2002 decision to eliminate this practice and enforce the full time, 12 credit hour requirement.

Fortunately, the agency recently postponed enforcement of the policy until August 15, 2002, while administrative and legislative remedies are considered.

The legislation we are introducing today appropriately addresses the problem facing part-time commuter students without opening new avenues for illegal immigration. This bill would amend 18 U.S.C. 1101 to make certain part-time commuter students eligible for student visas. The bill would allow nationals of Canada or Mexico who both maintain a residence and a place of abode in their country or nationality and who commute to school to enroll part time in schools in the United States. Part-time commuter student visas are restricted to nationals of Canada or Mexico. The bill would not make political asylees, residents, or others who are nationals of third countries but simply live in Canada or Mexico eligible for the visas.

This legislation is also consistent with the current INS interim rule in that it ensures that part-time commuter students are tracked through the Student Exchange Visitor Information System. As we discussed in our Subcommittee hearing a few weeks ago on SEVIS, this system was set up to ensure that the Federal Government is aware of changes in a foreign student's status that could affect their eligibility to remain in the United States. The Enhanced Border Security and Visa Entry Reform Act, passed by the Senate in April and signed into law by the President on May 14, 2002, leads the way for full implementation of SEVIS. Participation in SEVIS is mandatory by January 30, 2003; however, SEVIS only tracks nonimmigrant students and exchange visitors. Aliens admitted with visitor visas are not tracked through the system. This bill will, for the first time, ensure that part-time commuter students from Canada and Mexico are tracked through SEVIS.

While I acknowledge new security concerns in the aftermath of September 11, I feel that we can meet those concerns without prohibiting all part-time commuter students from attending classes at schools in the United States. This legislation represents a bipartisan compromise that will allow us to meet these needs in a reasonable, thoughtful manner. This legislation represents the best type of legislation that results when members on op-

posing sides can put aside partisan differences and work for viable solutions. I am pleased to support this measure and I will work to see its passage in the 107th Congress.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona (Mr. KOLBE), the principal author of this bill.

Mr. KOLBE. Mr. Speaker, I thank the gentleman for yielding me the time, and I want to thank the chairman of the full committee and the ranking member, the distinguished gentleman from Texas, the ranking member of the Subcommittee on Immigration and Claims, for their courtesies shown to me and my staff in the preparation of this bill and the consideration of it in the committee.

Mr. Speaker, H.R. 4967 will end years of frustration for colleges and universities, frustration made worse by the terrorist attacks of September 11.

The Border Commuter Student Act is simple in its purpose. It is to allow U.S. border colleges to teach Mexican and Canadian citizens who live near the border. It creates a new non-immigrant classification for Mexicans and Canadians who want to commute each day to U.S. college or school. The study can be full-time or part-time.

The people of Mexico and Canada who live and work in their home country but who want to attend a night class, such as business English for Mexicans, in the United States should be allowed to do this. Every day citizens of Mexico and Canada cross back and forth to shop, to do business, to visit relatives. They should also be able to further their education. On that, I think most of us agree.

Current law provides for two student nonimmigration categories. The F1 category is for academic studies and the M1 category is for nonacademic or vocational studies. These categories by law require that a student be enrolled full-time; but here is the loophole, or I should say the gaping hole, for commuting students.

A person can enter the United States only to study full-time; and if they enter for business or for pleasure, the law explicitly states that they cannot be enrolled in a study.

For decades, it has been the policy of the INS that these border commuter students were required to attend class full-time; however, it was loosely enforced prior to September 11, 2001. The INS recently pushed this law to its limit by allowing border commuter students to enter the United States to study on a reduced course load as long as they are a "qualified full-time student."

I commend the INS for expanding the number of students that can enter the U.S. as full-time students to include these quasi-full-time students. Although the INS did what they could

under the law that limits students entering the country to full-time status, this simply is not enough.

We need to clarify the law so that there is no misunderstanding, no room for misinterpretation, and no room for further changes by future administrations to this policy. We need to give these colleges and students the confidence that a future INS commissioner is not going to change policy midstream in someone's studies.

The Border Commuter Student Act creates a new classification for Mexicans and Canadians to enter the United States. In other words, it provides additional options for the citizens of our neighboring countries to enter the U.S. It does not allow foreign children to attend public elementary or high schools; and it ensures national security by continuing the requirement that all foreign students be entered into the student tracking system; and that, Mr. Speaker, is very important.

It is in the interest of the United States to allow our neighbors to take courses in English and history and mathematics and philosophy or business or nursing or any other kind of vocation or profession at our Nation's colleges and schools along the border. In addition, it is in the interest of Mexico and Canada to allow their citizens access to an expanded area of educational opportunities.

I am very proud today that the House of Representatives is doing its part to help these schools and these students. I believe our neighbors to the south and the north deserve special treatment and the Border Commuter Student Act adds another option to enter the United States for Canadians and Mexicans who live along the border.

The bipartisan bill was voted out of the Committee on the Judiciary unanimously. It is supported by the administration, by the Mexican Government, the Canadian Government, the U.S.-Mexico Counties Coalition, the Arizona-Mexico Commission, the American Association of State Colleges and Universities, the National Association of State Universities and Land-Grant Colleges, the Career College Association, the Hispanic Association of Colleges and Universities, the University of Phoenix system, University of Texas system, and Texas Tech.

Mr. Speaker, this is, as the gentlewoman said earlier, good legislation. It is balanced legislation. It corrects a flaw we have had in our immigration law for some time, and I urge my colleagues to support this bill.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I may consume.

Let me just conclude by simply saying what we want in this legislation is to help our commuter students from Canada and Mexico come in, be trained, and contribute to their communities and societies. This is a balanced legislative initiative, and I ask my colleagues to support it.

Mr. REYES. Mr. Speaker, I rise today in strong support of H.R. 4967, the Border Com-

muter Student Act. I applaud my colleague, Mr. KOLBE, for his hard work at addressing in issue that is critical along the U.S.-Mexico and Canada borders.

As you know, the situation on the U.S.-Mexico and Canada borders is unique in regard to foreign students who reside in their homelands and who cross at our Ports-of-Entries (POEs) to use American colleges and universities. Many of these students attend classes on a part-time basis. In the past, the interpretation of the meaning of part-time student varied from POE to POE resulting in inconsistent policy. Immigration and Naturalization Service (INS) District Directors used their discretion in allowing part-time students to cross at many POEs.

Recently, the INS began to enforce laws by stating that "aliens who seek to enter the United States regularly but primarily to pursue less than a full course of study are neither visitors nor students and are ineligible for student visa or visitor status." INS Commissioner Ziglar further clarified policy by stating that "the POEs are not to admit visitors for business or pleasure whose purpose for entering the United States is to pursue a part-time course of study at a college or university."

As we continue with our efforts to secure our homeland, I will be the first to admit that priority must be placed on improving the ability of the INS to enforce our laws and deploy technology necessary to secure our nation's borders. Having worked for many years in the U.S. Border Patrol, I understand the importance of increasing security at our nation's POEs and I also understand the need to carefully monitor student visas.

However, as you can imagine Mr. Speaker, this situation would have created a great deal of confusion in my district and in many other districts along the U.S.-Mexico and Canadian borders and would have penalized law-abiding people who were taking steps to educate and improve themselves. In fact, there are over 2,000 students in my district alone who would have been adversely impacted by the implementation of this policy. Some of these students included professionals who work full-time in Mexico border cities and who cross regularly to attend colleges and universities part-time in pursuit of graduate degrees. Such individuals include skilled workers in maquiladoras, educators, and engineers. Many of these individuals contribute to the improvement and quality of life for sister cities along our borders.

The Border Commuter Student Act, of which I am an original cosponsor, creates two new non-immigrant student visa categories for Canadian and Mexican students who study part-time in the United States but who live in their home country. This legislation only applies to schools located within 75 miles of the border. Mr. Speaker, this is good, common-sense legislation that closes a loophole and allows students from the U.S.-Mexico and Canada borders to attend classes in the United States on a part-time basis. I urge my colleagues to support it.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr.

SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 4967.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

□ 1515

OUR LADY OF PEACE ACT

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4757) to improve the national instant criminal background check system, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4757

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Our Lady of Peace Act".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Since 1994, more than 689,000 individuals have been denied a gun for failing a background check.

(2) States that fail to computerize their criminal and mental illness records are the primary cause of delays for background checks. Helping States automate their records will reduce delays for law-abiding gun owners.

(3) 25 States have automated less than 60 percent of their felony criminal conviction records.

(4) 33 States do not automate or share disqualifying mental health records.

(5) In 13 States, domestic violence restraining orders are not automated or accessible by the national instant criminal background check system.

(6) In 15 States, no domestic violence misdemeanor records are automated or accessible by the national instant criminal background check system.

TITLE I—TRANSMITTAL OF RECORDS

SEC. 101. ENHANCEMENT OF REQUIREMENT THAT FEDERAL DEPARTMENTS AND AGENCIES PROVIDE RELEVANT INFORMATION TO THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.

(a) IN GENERAL.—Section 103(e)(1) of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note) is amended—

(1) by inserting "electronically" before "furnish"; and

(2) by adding at the end the following: "The head of each department or agency shall ascertain whether the department or agency has any records relating to any person described in subsection (g) or (n) of section 922 of title 18, United States Code and on being made aware that the department or agency has such a record, shall make the record available to the Attorney General for inclusion in the system to the extent the Attorney General deems appropriate. The head of each department or agency, on being made aware that the basis under which a record was made available under this section does not apply or no longer applies, shall transmit a certification identifying the record (and any name or other relevant identifying information) to the Attorney General for removal from the system. The Attorney General shall notify the Congress on an annual basis as to whether the Attorney General has obtained from each such department or agency the information requested by the Attorney General under this subsection."