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IMMIGRATION BILL WOULD AID SECURITY, NAPOLITANO SAYS

By Ashley Parker
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WASHINGTON — Legislation to overhaul the nation's immigration laws would further strengthen the country's security system to guard against cases like the Boston Marathon bombings, Homeland Security Secretary Janet Napolitano told the Senate Judiciary Committee on Tuesday in the last of three hearings on a bipartisan immigration proposal.

The shadow of the Boston bombings — the two suspects in the case entered the country legally in 2002 under an asylum petition by their father — has loomed over the hearings. Some Republican senators and conservative commentators have urged caution on any new legislation until questions surrounding the bombings have been answered.

In an effort that seems intended to minimize the political fallout, Senator Lindsey Graham, Republican of South Carolina and a member of the bipartisan group of eight senators who wrote the legislation, has floated the idea of an amendment that would require immigrants, including refugees and asylum seekers, who are deemed potentially "high risk" to undergo a more comprehensive background check.

In addition to any amendment that Mr. Graham proposes, aides said they expected a number of other security-related amendments to be offered in the committee and on the Senate floor.

"Obviously, I'd be open to anything that takes the lessons from Boston and uses them to improve this," said Senator Marco Rubio, Republican of Florida and a member of the group.

But Senator Robert Menendez, Democrat of New Jersey and another member of the group, said the Boston bombings should not serve as a deterrent for the legislation.

"My argument with individuals who are now trying to use the Boston tragedy to derail immigration reform," Mr. Menendez said, "is that we had the World Trade Center bombing, we had Sept. 11, we've known whatever defects" there are in the immigration system.

"So you don't have to wait for immigration reform to suggest that there's a way to change," he said. "And if anything, immigration reform creates the opportunity to strengthen your consular decisions abroad."

In her testimony, Ms. Napolitano said the bill would strengthen border security by increasing financing and staffing, and by putting in place a mandatory electronic employment verification system, as well as an electronic system to track people when they leave the country.

"Indeed, as we just saw in Boston, information from our legal immigration system often supports response and investigation," said Ms. Napolitano, who later said that the bill "gives us more measurements, more metrics, more identities, more things that we can use from a law enforcement purpose."

Ms. Napolitano also described the current process for those seeking asylum, which includes, she said, several rounds of screening, as well as the collection of biographical and biometric information.

Asked by Senator Charles E. Grassley of Iowa, the ranking Republican on the committee, about earlier reports that the Federal Bureau of Investigation was not aware that the older suspect in the Boston case, Tamerlan Tsarnaev, took a six-month trip to Chechnya and Dagestan in 2012 because an airline misspelled his name on a flight manifest, Ms. Napolitano said that, in fact, "the system pinged when he was leaving the United States."

"By the time he returned," she said, "all investigations had been — the matter had been closed."

Ms. Napolitano added that while there was "a mismatch" between Mr. Tsarnaev's identity document and his airline ticket, the new legislation would guard against such problems.

"The bill will help with this because it requires that passports be electronically readable, as opposed to having to be manually input," she said. "It does a really good job of getting human error, to the extent it exists, out of the process."

Mr. Graham also pointed out that the legislation includes a border security trigger that would require an electronic system that tracks entries and exits to be fully functional.

"So the 19 hijackers on 9/11 were all students here on visas," Mr. Graham said. "Their visas expired and the system did not catch that, is that correct?"

"That's correct," Ms. Napolitano replied. "There are a number of ways that those hijackers would be revealed under the bill."

(In fact, while several of the Sept. 11 terrorists had overstayed or violated their visas, many were in the country on current, valid visas — including both student and tourist visas.)

In a sign of some of the divisions emerging on the bill, Senator Ted Cruz, Republican of Texas, pressed Ms. Napolitano on what he described as "an amorphous, multifaceted, subjective test" to determine when the border is secure.

"Can you describe a circumstance in which the evidence would be such that D.H.S. would say the trigger is not satisfied, that border security is not there?" he said. "What would the facts have to be for D.H.S. to conclude the triggers are not satisfied?"

"Well, if the conditions in the Tucson sector return to where they were in 2005 and 2006, the triggers certainly would not be satisfied," Ms. Napolitano said, referring to a high-risk sector of the border.