

On 5/24/07, the Senate resumed consideration of amendments to the CIR bill (S. 1348).

The highlights:

- A Coleman amendment to allow local government officials to inquire about immigration status was narrowly defeated, 48-49.
- A Dorgan amendment to sunset the new worker program also was defeated, 48-49.
- A Sanders amendment to dramatically increase H-1B fees was passed, 59-35.
- A Vitter amendment to prevent legalization for the undocumented was defeated, 29-66.

Summary of Senate Proceedings—5/24/07

Coleman/Bond Amendment to Allow Local Officials to Ask Immigration Status (#1158)

Yesterday evening, Senator Coleman (R-MN) introduced an amendment, co-sponsored with Senator Bond (R-MO), urging enforcement of what he referred to as “the original intent of Section 642(b) of IIRAIRA.” This amendment, in essence, would override state and local government policies that encourage immigrants to contact the police when they are victims of or witnesses to a crime. Specifically, the amendment would ban what Senator Coleman termed local “sanctuary policies” that currently prevent state and local government officials and law enforcement officers from asking about immigration status during routine stops, including stops for traffic violations. Instead, this misguided amendment would allow those officials, and any government entity or official, in fact—even teachers and health care workers—to inquire about an individual’s immigration status if they have “probable cause to believe the individual is undocumented.”

Senators Menendez and Kennedy opened debate this morning with strong criticism of Senator Coleman’s amendment. Both Senators cited the potential this amendment will have for virtually legalizing racial profiling. “What constitutes probable cause, Senator Menendez asked, “Foreign accent? Skin color? A foreign name?” The Senators also noted that current law already provides ample authority for state and local police to assist federal immigration agents in enforcing the law against criminals and terrorists.

Senator Kennedy then posed the following question: “Does this amendment actually weaken, rather than strengthen, our security?” “Yes!” he declared, since immigrants simply will be unwilling to come forward and report to police on any useful information they might have. “Report to deport” is all the Coleman amendment achieves, he said, a notion that simply “makes no sense.” Another effect that the Coleman amendment will have, he added, is that not only will immigrant be afraid to report to police crimes they have witnessed for fear of being asked their immigration status, they also will fear seeking health care in many situations. For instance, immigrant victims of domestic violence and sexual assault naturally will become even more reluctant than they already are to safely report crimes committed against them to law enforcement agents.

As scheduled, voting on this amendment began at 12:45 pm. Once the final votes were tallied, the amendment was defeated by a very narrow margin, 48-49.

Dorgan Amendment to Sunset New Worker Program (#1181)

Senator Dorgan (D-ND) introduced an amendment, co-sponsored with Senators Durbin (D-IL) and Boxer (D-CA), that would sunset the new worker program after 5 years. In proposing the amendment, Senator Dorgan again recited the criticisms he made of the program prior to his failed amendment on Tuesday, an amendment which sought to eliminate the new worker program entirely. He argued that the new worker program amounts to nothing more than a “Byzantine” attempt by certain interest groups to lower the wages of American workers by hiring cheaper foreign workers. Senator Durbin added that a new worker program without sunset provisions would create a permanent underclass of people who never assimilate into the fabric of the country, who become dispossessed of rights and become disillusioned in the process. By example, he cited the current plight of working class Turks in Germany, and North Africans in France.

Senator Kennedy (D-MA) then took the floor and again issued a strong defense of the new worker program. He stressed the necessity of such a program for the economy and for American businesses, and argued that, far from driving down wages and taking American jobs, such a program actually ensures that American wages remain competitive and fair. Without a new worker program, he added, the hiring of cheaper, undocumented workers will persist and American workers will suffer, quite the opposite of Senator Dorgan’s earlier contentions. Furthermore, Senator Kennedy added that without a new worker program, the exploitation of undocumented workers by unscrupulous employers will continue, and the border will remain a sieve for more undocumented workers to come through. No job can be offered to any immigrant, he continued, before it is openly advertised and offered to American workers first. Finally, he contrasted the situations in Germany and France, brought up by Senator Dorgan, with that in the U.S., stating that the underlying bill provides new workers an opportunity to earn points toward permanent resident status under the new merit-based point system. Such a possibility does not exist in those other countries.

Senator Specter (R-PA) echoed similar sentiments in support of the new worker program, and urged his colleagues to vote against Senator Dorgan’s amendment. Senator Kyl agreed, calling this new Dorgan amendment merely a “light version of the amendment that was defeated” on Tuesday, and adding that “sunsetting” the program does nothing to eliminate illegal immigration into the country, since employers simply won’t have the workers they need to fill labor shortages and immigrants will continue to cross the border seeking available jobs.

This amendment was defeated, 48-49.

McCain Amendment Regarding Payment of Back Federal Taxes (#1185)

Senator McCain introduced an amendment regarding the payment of back taxes. While AILA has not yet seen the actual text of the amendment, we understand that it was included in last year's Senate bill, S.2611, and requires those who legalize to pay back taxes for periods they worked while in undocumented status.

This amendment was accepted by voice vote.

Akaka Amendment Regarding Children of Filipino WWII Veterans (#1186)

Senator Akaka (D-HI) introduced an amendment yesterday that would exempt from the numerical limitations on family-based immigrants the unmarried and married sons and daughters of naturalized Filipino World War II veterans. Senator Kennedy expressed his support for this amendment.

This amendment passed by a vote of 87-9.

Sanders Amendment Raising Fees for H-1B Visas (#1223)

Senator Sanders (I-VT) introduced an amendment that would increase the fees for H-1B visas from \$1,500 to \$8,500. This additional fee would be on top of existing fees, and funds would be used for training and scholarship programs. Senator Sanders listed the Teamsters Union and the AFL-CIO among supporters of his amendment. Without this amendment, Senator Sanders said, "skilled middle class and upper middle class Americans" would be hurt, and their wages would continue to be suppressed. Senator Sanders cited evidence that certain U.S. companies admit hiring foreign H-1B workers over American workers because "foreign workers are willing to work for less money than Americans," earning "huge profits" as a result.

Just prior to the vote, Senator Sanders announced that he had made changes to his amendment, dropping the fee for H-1B visas from the \$8,500 he proposed earlier, down to \$5,000. Following Senator Sanders' announcement, Senators Kennedy and Specter expressed their support for the bill.

This amendment was accepted, 59-35.

Vitter Amendment to Prevent Legalization of the 12 Million Undocumented (#1157)

Senator Vitter (R-LA) introduced an amendment that "strikes at the heart" of the underlying bill. The amendment seeks "to eliminate the fundamentally flawed Z visa amnesty" provision from the underlying bill, thereby preventing undocumented immigrants from legalizing. He stated that "rewarding illegal behavior, as was done in

the 1986 amnesty,” sent the wrong message to those outside the country wanting to get in, many of whom are here today in undocumented status. This message, he argued, must not be repeated, so the Z visa provisions in Title VI should be taken out of the underlying bill. Senator DeMint (R-SC) voiced support for this amendment.

Senators Specter and Kennedy attacked this amendment, saying it essentially guts the major thrust behind the underlying legislation, making the entire bill virtually obsolete should the amendment pass.

This amendment failed, 29-66.

The following amendments were introduced, but voting on them was delayed until after the Memorial Day recess.

Dodd Amendment (#1199)

Senator Dodd introduced an amendment he spoke about yesterday, seeking to increase family unification. The amendment would address provisions in the current bill curtailing provisions for parents of U.S. citizen (USC) sponsors. In particular, it would increase the green card cap on visas issued to parents of USCs to 90,000, up from the 40,000 set aside in the underlying bill, making sure sufficient numbers of visas are available to those parents coming to the U.S. It also would lengthen parent visitor stays to 180 days, up from the 30 days allowed for in the underlying bill. Finally, the amendment would make penalties for parent overstays applicable only to those parents, not their USC sponsors.

Senator Menendez expressed strong support for this amendment, as he did yesterday, chastising those who characterize family reunification as mere “chain migration,” and declaring that those who denigrate parents coming to the US, wanting to join their USC children, have simply chosen to dismiss the very essence of what America was built on.

Voting on this amendment was delayed until after the Memorial Day recess.

Cornyn Amendment Expanding Restrictions on Immigration Benefits and Due Process (#1184)

Yesterday, Senator Cornyn (R-TX) introduced an amendment that would expand restrictions on immigration benefits and due process, closing what Senator Cornyn terms “loopholes” in the underlying bill that allow legalization of what he called “absconders,” those who have failed to deport after being ordered deported, or who have reentered the country unlawfully after being removed. The full ramifications of this amendment are still being grappled with, but it is becoming increasingly clear that this amendment, if passed, would exclude a large portion of the undocumented population from the legalization program in the underlying bill. Moreover, because of its retroactivity provisions, this amendment would further aggravate the devastating impact of the

material support bar and would prevent vulnerable populations from certain forms of protection through immigration relief.

Senator Menendez took to the floor to offer his strong opposition to the bill, focusing in particular on the dangers of retroactivity provisions in any legislation. How fair is it, he asked, to punish someone for doing something that was legal when they did it? Regarding immigration laws in particular, such retroactivity, he declared, was near universally recognized as a policy that led to tremendous harm in prior laws, and for this reason, was eliminated in all prior negotiations leading up to the underlying bill. Senator Cornyn was being disingenuous at best, Senator Menendez implied, by trying to insert it into the bill now through his amendment.

Voting on this amendment was delayed until after the Memorial Day recess.

Menendez Amendment (#1194)

Senator Menendez introduced an amendment, co-sponsored by several other senators, that would move the cut-off date for legal immigration applicants from the May 1, 2005 date proposed in the underlying bill, to January 1, 2007, the same date proposed for legalization of the undocumented. “All this amendment does, Senator Menendez said, “is bring justice and fairness to the underlying bill by treating legal applicants and the undocumented the same.” The amendment “provides the same cut-off date for those who played by the rules and are sponsored to come here by a United States citizen, as those who entered in undocumented status with nobody sponsoring them.”

The amendment also would add 100,000 green cards a year to aggressively reduce the backlog and avoid lengthening the eight-year deadline for clearing the adult children and sibling backlog. This backlog clearance must be completed before immigrants in the new legalization program can begin obtaining legal permanent residency status.

Voting on this amendment was delayed until after the Memorial Day recess.

McConnell Amendment Requiring ID Cards to Vote in National Elections (#1170)

Senator McConnell (R-KY) introduced an amendment requiring that individuals across the country present a government issued, valid, photo identification card in order to register to vote. The impetus behind this amendment, he said, was a story about undocumented individuals in San Antonio who voted despite not being citizens of the U.S. Senator McConnell said he was sure that “such a story, if true, is certainly happening elsewhere” as well.

Voting on this amendment was delayed until after the Memorial Day recess.

Feingold Amendment to Set Up Commissions to Study U.S. Treatment of Refugees During WWII (#1176)

Senator Feingold (D-WI) introduced an amendment setting up commissions to review the circumstances surrounding injustices suffered by European Americans, European Latin Americans, and Jewish refugees during World War II.

Sessions Amendment Preventing Those Who Legalize From Collecting Earned Income Tax Credit (#1235)

Senator Sessions (R-AL) introduced an amendment to prevent undocumented workers who legalize from collecting any benefits relating to the Earned Income Tax Credit.

Senator Kennedy offered a brief, but passionate criticism of the Sessions amendment, saying that while murderers and other criminals, many of whom have committed heinous crimes, still can collect the Earned Income Tax Credit, the Sessions amendment would prevent a person from collecting the tax credit simply for being in the country in undocumented status. Senator Kennedy said that he would reserve the rest of his comments on this amendment for a later time during the debate.

Durbin Amendment to Require Jobs Be Offered to Americans Before Y Visa Holders

Senator Durbin (D-IL) introduced an amendment to require that jobs be offered to Americans before they are offered to Y visa holders in the new worker program, and removes a provision in the underlying bill allowing the Secretary of Labor to declare labor shortages. Senator Durbin asked that this amendment be considered after the Memorial Day recess.

*In general, AILA believes this “bargain” bill is unacceptable and unworkable **in its current form**. However, while the process is still very much in flux, we are working closely with our allies to improve the bargain as much as possible during Senate floor debate over the next few weeks. We will keep you posted about amendment information as it becomes available.*