

On 6/5/07, the Senate resumed consideration of amendments to the CIR bill (S. 1348).

**Highlights:**

- An amendment from Senator Allard to eliminate the separate point schedule for Z visa holders failed, 31-62.
- An amendment from Senator Durbin that eliminates DOL-determined labor shortages as an exception to employer recruitment requirements for Y visas was agreed to, 71-22.
- A motion to invoke cloture was filed by Majority Leader Reid. A vote on the cloture motion will take place on Thursday morning.

**Summary of Senate Proceedings—6/5/07**

Discussion of comprehensive immigration reform was delayed for several hours due to time set aside to pay tribute to Senator Thomas (R-WY), who died yesterday evening. When it resumed, debate began in earnest on two controversial amendments—Allard (#1189) and Dorgan (#1231)—leading up to votes on each.

**Allard Amendment (#1189) to Eliminate the Separate Point Schedule for Z Visa Holders**

In introducing this amendment, Senator Allard (R-CO) sought to strike a blow at one of the central pillars of comprehensive immigration reform, the earned legalization program for undocumented people working and contributing in the U.S. Senator Allard stated that without his amendment, “those who broke the law will be rewarded unfairly.” The amendment eliminates the separate point schedule included in the underlying bill for undocumented individuals who legalize to Z visa status.

Senator Kennedy (D-MA) argued that this amendment is a bad idea because “it would force undocumented immigrants to compete with other future intending immigrants under the new merit-based point system.” Given the merit-based point system’s strong preference for the highly educated, Senator Kennedy added, this amendment is “a thinly veiled attempt to keep undocumented workers from ever obtaining permanent residence.” The educational profile of the undocumented workforce is such that “these workers will never be able to compete in a meaningful way for the pool of merit-based green cards.” As such, if it were to pass, “the amendment would create a permanent underclass of lower skilled workers, living here in legal limbo indefinitely without the rights or opportunities afforded to legal permanent residents. Similar situations have played out in other countries, resulting in highly problematic, even disastrous, consequences.”

Once the final votes were tallied, the amendment failed by a vote of 31-62.

**Durbin Amendment (#1231) to Remove DOL-Determined Labor Shortages as an Exception to Y Visa Recruitment Requirements**

Senator Durbin (D-IL) introduced an amendment that eliminates DOL-determined labor shortages as an exception to employer recruitment requirements for Y visas. Senator Durbin argued that the amendment is an attempt to require that jobs be offered to Americans before they are offered to Y visa holders in the new worker program. Removing the provision in the underlying bill allowing the Secretary of Labor to declare labor shortages, he said, would achieve this, since all employers who use the Y visa program would always be required to offer jobs to Americans first. Senator Durbin cited the AFL-CIO as a strong supporter of his measure. Senator Grassley (R-IA), a co-sponsor of the amendment, also expressed his support for the amendment.

Senator Specter argued in response that this amendment is simply unnecessary, since American workers and their wages are already protected under the law. Senator Kennedy, however, expressed support for the amendment. He agreed with the general principle that a measure protecting American workers is good for the country. Ensuring that new Y visa workers don't encroach upon American jobs or affect American wages, he said, is a step in that direction.

The amendment was agreed to by a vote of 71-22.

### **Cloture Discussion**

In an effort to wrap up the amendment process on the Senate floor, Majority Leader Reid offered several options to Minority Leader McConnell regarding an end game and requested unanimous consent (UC) to proceed pursuant to any one of the options. McConnell, in his efforts to preserve the rights of Republican senators to continue offering amendments, objected to the UC requests moving Reid to state that he would file for cloture at the end of business this evening.

According to Senate rules, once the cloture motion has been filed there will be an additional two days of debate before the Senate votes on cloture. Senate rules also require that the vote take place one hour after the Senate convenes for the day; thus, the vote to invoke cloture would take place at some point Thursday morning. To invoke cloture 60 affirmative votes are needed. The Senate will be able to continue debating the pending amendments that the bill managers agree to bring up through the close of business on Wednesday.

If cloture is invoked on Thursday morning, and again this would require 60 votes in the affirmative, the Senate would move to post cloture debate. During this phase, there is a 30 hour time limit on debate and amendments to be considered must have been submitted prior to cloture being invoked. Generally speaking, an amendment that expands the scope of a bill or introduces new subject matter is not germane. Amendments that limit or restrict provisions of a bill *are* germane, as well as amendments to strike specific provisions.

The 30 hours of post cloture debate is essentially running time and would expire at some point Friday, at which time there would be a vote on final passage.

A motion to invoke cloture was filed by Majority Leader Reid. A vote on the cloture motion will take place on Thursday morning.

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

Prior to the recess, 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.

Senator Durbin (D-IL) spoke in opposition to this amendment. He suggested that the amendment was proposed for partisan reasons, since it would affect minorities who tend to vote Democratic, and may even be unconstitutional. He also cited evidence showing that Senator McConnell’s concerns about supposedly rampant voter fraud were completely overblown. Of 196 million voters in recent elections, he said, only 52 people were convicted of voter fraud, and of these, the majority would not have been prevented by requiring voter ID cards.

This amendment failed, 41-52.

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

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

Senator Sessions expressed opposition to this bill, saying that allegations of such injustices are “outrageously exaggerated,” and the amendment is therefore a “slight to America.”

This amendment passed by a vote of 67-26.

*The following amendments were discussed but are not yet pending:*

### **Bingaman Amendment Removing the 2-1-2-1-2 Timetable from the Y Visa Program (#1267)**

Senator Bingaman (D-NM) formally introduced an amendment he discussed yesterday, one that seeks to remove the requirement that Y visa holders leave the U.S. for a year before they are able to renew their visa. As it stands, S.1348 requires Y visa holders to conform to a 2-1-2-1-2 timetable: work for 2 years in the U.S., leave for a year and reapply for another two year period, then leave again for a year and reapply once more for the final two year period. Senator Bingaman stated in detail the many problems associated with this provision—costly to implement; large number of overstays probable; impossible to enforce effectively—and how unworkable it really is. Senator Bingaman therefore urged that the Y visa provisions in the underlying bill return to the form it had in last year’s Senate bill (S. 2611), something his amendment would accomplish if passed. AILA supports passage of this amendment.

### **Thune Amendment (#1174) to Prevent Immediate Legal Status Being Granted to Undocumented**

Senator Thune (R-SD) introduced an amendment to eliminate what he termed the “loophole” in the underlying bill allowing immediate legal status upon enactment of the bill. The amendment would require that certain border security measures be triggered, or met, before any probationary benefits are granted to those who legalize their status. AILA opposes this amendment.

### **DeMint Amendment to Require Z Visa Holders to Maintain Health Insurance (#1197)**

Senator DeMint (R-SC) introduced an amendment “to eliminate uncompensated health care” due to non-citizens using health care facilities without having insurance. The amendment would require Z visa holders to maintain a minimum level of health insurance coverage while in Z visa status in order to qualify for adjustment to legal permanent resident status. The average of the high deductible plan serving as this minimum coverage is roughly \$122 per month, according to Senator DeMint.

Senator Kennedy pointed out in response that roughly 4 million citizens currently have no health insurance coverage, yet Senator DeMint would only require that the undocumented maintain such coverage. Senator DeMint responded that while this may be true, “it’s one thing to ask Americans to compensate for uninsured Americans, it’s quite another to ask them to subsidize low wage undocumented immigrants and their employers.” AILA opposes this amendment.

*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 this week. We will keep you posted about amendment information as it becomes available.*