



## Senate Immigration Bill Floor Consideration: Round 2 Amendments at a Glance

*June 26, 2007*

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The following amendments to the Senate immigration bill are proposed to be considered by the Senate during the week of June 25th. Amendment language is subject to change. Additionally, agreements may be reached to consider some of these amendments by voice vote. Amendments may be withdrawn and others may be offered. This summary describes the amendments as they were understood as of the time of this writing.

### **Republican Amendments**

#### **Alexander Amendment #1161** (Citizenship grants and Oath of Allegiance)

The Alexander amendment would establish a voucher program to help permanent resident immigrants who intend to apply for citizenship to pay for English classes. The amendment would also provide grants directly to an “accredited institution of higher education” or “other qualified educational institution” (as determined by the Chief of the Office of Citizenship in the Department of Homeland Security (DHS)). The amendment would establish an American Citizenship Grant program, providing funding for organizations to “promote the patriotic integration of prospective citizens.” These organizations will be approved for funding by the Office of Citizenship.

It also establishes the current Oath of Renunciation and Allegiance as federal law. It requires DHS and the Department of State to notify a foreign embassy when one of their nationals has become a U.S. citizen.

#### **Bond Amendment #1255** (Prohibits green cards for Z visa holders)

The Bond amendment would bar undocumented immigrants who legalize through the Z visa program from ever obtaining permanent resident status, and thus from ever acquiring U.S. citizenship. One of the requirements of the Senate bill is that Z visa holders work in order to remain in status. The effect of this amendment would be to cause Z visa holders to revert to undocumented status once they were no longer able to work.

#### **Chambliss Amendment #1318** (Social Security totalization agreement)

The Chambliss amendment would prevent the administration from entering into a Social Security totalization agreement unless such agreement was approved by Congress. It also requires a series of reports from the Social Security Administration on totalization agreements.

Totalization agreements are bilateral agreements that help prevent double taxation for workers who split their careers between two countries and who, while working outside of their home country, may be subject to Social Security taxation from the U.S. and the other country. When retired, workers from other countries may gain partial Social Security benefits based on their work in the U.S.

The U.S. has entered into totalization agreements with 21 countries thus far. It is considering such an agreement with Mexico.

**Coleman Amendment** (Reversing community policing policies)

The Coleman amendment would outlaw state and local policies that prevent their employees—except for teachers and health care providers—from inquiring about the immigration status of those they serve if there is “probable cause” to believe the individual being questioned is undocumented.

Currently, scores of states and localities across the country have government policies that encourage immigrants in their communities to contact the police when they are victims of or witnesses to a crime. These community policing policies say that police will not inquire about the immigration status of crime victims and other people they come across who are not guilty of criminal acts. The Coleman amendment would make these community policing policies illegal under federal law.

**Domenici Amendment #1335** (Federal judgeship increase)

The Domenici amendment would provide for additional federal judgeships in California, Arizona, New Mexico, Texas, New York, and Minnesota. Appropriations to pay for the extra judgeships are authorized.

**Ensign Amendment #1490** (Preclusion of Social Security benefits)

The Senate bill precludes undocumented immigrants attaining a Z visa from gaining Social Security credits for quarters worked without authorization.

The Ensign amendment would apply this same concept to others who had worked without authorization at some point in time, including people who obtained legal status through family immigration or the 1986 legalization program. In order to do this, it would require the Social Security Administration (SSA) to review the quarterly work history of any worker who is not a native-born U.S. citizen. This would apply to immigrants who are now permanent residents and naturalized citizens, including people currently receiving Social Security benefits.

It is very unclear whether DHS has the capacity—even if its resources were unlimited—to provide SSA with a historic, quarter-by-quarter record of employment authorization for every foreign-born person dating back decades. DHS and its predecessor agency INS never had responsibility for maintaining automated records for this purpose.

Assuming it is possible to identify work histories of every foreign-born person, Social Security quarters previously credited to an immigrant would be taken away if those credits were determined to be credited for work while the immigrant had not been authorized. Immigrants (including naturalized citizens) who are drawing Social Security benefits may lose their benefits.

Furthermore, under the Ensign amendment, U.S. citizen children would be ineligible for survivor benefits based on their parents’ contributions, if those Social Security tax contributions were made during a period of unauthorized work.

**Grassley-Baucus-Obama Amendment #1441** (Strike and replace Title III)

The Grassley-Baucus-Obama amendment would strike the current Title III of the bill, having to do with the Electronic Employment Verification System (EEVS), and replace it with a similar title that makes a number of changes. The amendment adds privacy protections, including new restrictions on the amount and kind of data to be collected and stored in the verification database, places limits on the use of the data, and requires Government Accountability Office (GAO) assessments. The amendment eliminates the requirement that the worker produce a REAL ID-compliant driver’s

license. Instead, other secure documents would be accepted by employers seeking to verify an employee's work authorization. The amendment requires the GAO to conduct annual studies evaluating the accuracy, efficiency, integrity, and impact of the EEVS. It provides for greater anti-discrimination protections to guard against employer misuse of the verification system. Finally, the amendment provides due process protections so that employment-authorized individuals may challenge erroneous results when the system finds they are not authorized to work.

**Hutchison Amendment #1440** (Touchback)

The Senate bill would require persons who have already been awarded Z visas to return to their home countries and submit an application for permanent residence when it comes time for them to adjust their status from Z temporary status to permanent status. This requirement would apply to "principal applicants" (heads of households). The Hutchison amendment would make Z visa applicants return to their countries of origin *before* obtaining Z visa status. In addition, it would require the spouses of Z visa applicants to also undergo this so-called "touchback" requirement.

**Isakson Amendment #1282** (Preemption/Home Depot)

The Isakson amendment would prohibit state and local laws that required big home-improvement stores to provide rudimentary shelter for day laborers. In some cities, immigrants seeking work congregate in the parking lots of home improvement stores, which are frequented by contractors and others needing short-term labor for construction or other projects. Los Angeles County is considering legislation that would require Home Depot to provide some sort of rudimentary shelter for day laborers congregating in their lots. This amendment would preempt the ability of Los Angeles County and other local jurisdictions from taking such action.

**Thune Amendment #1174** (Probationary legal status triggers)

The Thune amendment would prevent undocumented immigrants in the U.S. from getting any kind of legal status until all the enforcement-related "triggers" in the bill have been met. The Senate bill proposes that undocumented immigrants come forward, register with the government, pay a fine and a fee, and submit fingerprints for a background check. These immigrants would receive interim work authorization, protection from deportation, and temporary suspension of their undocumented status. They would also receive a tamper-proof identification document. Z visas would not be issued until the enforcement-related triggers in the bill have been met. The Thune amendment would delay any registration and any interim benefits for the undocumented until after all the triggers have been met.

**Democratic Amendments**

**Baucus-Tester Amendment #1236** (Strike all reference to REAL ID)

The Baucus-Tester Amendment would strike REAL ID compliance provisions from Title III of the Senate bill (having to do with employment verification) that would require every worker in America to have a REAL ID-compliant driver's license by 2013 to get any new job. Other new documentation provisions in Title III of the bill are left in place, as well as the Electronic Employment Verification System. In place of the REAL ID requirements, the amendment provides a broader requirement that employees present state-issued licenses or identity cards that include biometric data, along with a US birth certificate, certificate of naturalization, or certificate of citizenship.

The amendment also eliminates REAL ID compliance language from other sections of the bill, and eliminates a grant program designed to help states pay to implement REAL ID license provisions.

A number of states have already declared their intent to reject implementation of REAL ID license requirements.

**Boxer Amendment #1198** (Reducing Y visa cap by the number of Y workers who overstay)

The Boxer Amendment would reduce the number of Y visas available in a given year by the number of Y visa holders who fail to depart the U.S. the previous year when their visas expire.

**Brown Amendment #1340** (Employers post jobs at state agency)

The Senate bill requires that before employers can be approved to employ Y-1 (non-agricultural) temporary workers, they must have listed the specific job opportunity with the state employment service agency starting 90 days before the date of the employer's application for a Y-1 worker.

The Brown amendment would require that employers document use of the state employment service agency to advertise all similar job vacancies during the 90-day period prior to the date of its application for a temporary worker, and that it post all similar job opportunities with the employment service for one year *after* filing an application. The requirement would extend to other job opportunities that require comparable education, training, or experience as the job for the Y-1 worker.

Failure to comply with this new requirement would make the employer ineligible to apply for another Y-1 worker during the one-year period following the initial application which triggered the requirement.

**Byrd Amendment #1344** (Border security immigration fee)

The Byrd amendment would increase the penalties for persons applying for a Z visa by \$500 per person. For a family of four, the total would be \$2,000. This penalty is charged every time the visa is renewed.

The underlying bill already imposes high penalties and fees for undocumented immigrants seeking to legalize in the Z visa program. Each person must pay up to \$1,500 in processing fees plus a \$500 "State Impact Assistance Fee." The principle applicant in each family must pay a \$1,000 penalty. The Z visa must be renewed every four years, and each time it is renewed there is the (maximum) \$1,500 processing fee plus \$500 penalty. The Byrd amendment would add another \$500 penalty per application.

When the immigrant gets to the stage of applying for permanent residence, there are additional fees and penalties proposed by the Senate bill. The principle family member must pay a penalty of \$4,000, and each family member would have to pay the processing fee for adjusting to permanent residence (soon going up to \$930). The Byrd amendment would add \$500 per application.

**Dodd Amendment #1199** (Family parent visas)

The Dodd amendment has to do with the number of parents of U.S. citizens who are allowed to join or visit their family members in the U.S.

Under current law, parents of U.S. citizens are considered “immediate relatives” and there is no cap on these close family members. The Senate bill proposes to remove parents from the “immediate relatives” category and sets a cap of 40,000 visas per year for parents.

The Dodd amendment increases the cap for parent visas to 90,000 annually. This number represents the average annual number of green cards issued to parents in recent years.

The Dodd amendment would also enable visiting parents of U.S. citizens to come on visitor visas good for 180 days and makes the visa renewable and valid for three years. The Senate bill proposes to allow parents to visit only for 30 days per year and is unclear on the point of long-term validity. The Dodd amendment brings the length of stay for the parent visitor visa into line with other visas. Current law permits tourists, for example, to stay for 180 days at a time.

The Dodd amendment also would change the Senate bill so that parents traveling on visitor visas would not be punished for visa violations committed by others. Under the Senate bill, if a certain threshold percentage of parent visitors from a given country overstay their visas, *all* parents from that country would be denied visitor visas. The Dodd amendment would allow innocent parties to continue to be eligible for visitor visas.

**Leahy Amendment #1386** (Refugee scholars)

Senator Leahy’s amendment would protect scholars who have been persecuted in their home countries on account of their beliefs, scholarship, or identity. Scholars and their spouses and children would be granted nonimmigrant status for two years, which could be renewed once for a two year period.

**Levin Amendment #1486** (Iraqi religious minority refugees)

Certain religious minority Iraqi refugees have been denied asylum in the U.S. because of “changed country conditions,” due to removal of Saddam Hussein’s regime after these refugees fled for reasons of religious persecution. The Levin amendment would protect these vulnerable populations by granting a rehearing of asylum cases which were denied due to changes in country conditions so that those who still fear persecution in Iraq can pursue safety in the United States. It would also require that Iraqi religious minorities be given increased priority for consideration as refugees by the U.S.

**McCaskill Amendment #1468** (Repeat violators who hire undocumented workers)

The McCaskill amendment pertains to employers who are found to be repeat violators of the prohibition against hiring undocumented immigrants. Employers found to be repeat violators would be barred from federal contracts for a period of five or more years, with limited exceptions for national defense or national security reasons.

**Menendez-Obama-Feingold Amendment #1317** (Increased family points in merit system)

The Senate bill proposes a merit-based point system to replace the current systems of family-based and employment-based immigration that exist in current law. The point system as structured by the Senate bill awards a maximum of 100 points and would not give any points for family relationships unless a 55-point threshold is met in the other categories (such as employment, education, English and civics). It also awards different points for different family relationships, and only gives an extra two points to people who lawfully submitted their green card applications on or after May 1, 2005. (The bill otherwise voids the family immigration applications submitted on or after May 1, 2005.)

The Menendez-Obama-Feingold amendment removes the arbitrary 55-point minimum, gives an equal, ten points for each recognized family relationship, and increases the points awarded for filing an application on or after May 1, 2005, to five points. This amendment would increase the maximum points possible for the family category from ten to fifteen points.

**Sanders-Grassley Amendment #1332** (Employers to certify no mass layoff)

This amendment would require employers intending to hire foreign workers under any type of employment visa to certify that current workers have not been given notice of a mass layoff. The employer must also certify that it does not intend to issue a notice of mass layoffs. Mass layoffs are defined to occur when a company with 100 or more employees lets go 50 or more members of its staff. There is an exception for situations in which the employer can show that a mass layoff will not reduce the number of its employees working inside the United States.

**Webb Amendment #1313** (Community ties for Z applicants)

The Webb amendment would further restrict the number of undocumented immigrants who would be eligible for Z visas. The amendment would require that undocumented immigrants be present in the U.S. at least four years prior to enactment of the bill, and have other ties to the community such as home ownership, business ownership, school attendance, payment of federal taxes, statement of intent to become a citizen, and other ties. No specific threshold is specified in the test of community ties. The cutoff for presence in the U.S. in the Senate bill currently is January 1, 2007.

The amendment also eliminates the bill's "touchback" provisions—the requirement that Z visa holders return to their home country to apply for adjustment to permanent status when they are eligible to do so.

**Other Amendments**

In addition to the amendments listed above, there are a few other amendments that are still being negotiated or for which we have not seen language. These include two amendments by Senator Graham having to do with enforcement and establishing criminal penalties for persons who overstay their visas. There also may be an amendment from Senator Schumer having to do with a tamper-proof biometric Social Security card.

Other, non-controversial amendments may be brought up for agreement by voice vote.