



HIGHLIGHTS FROM THE SENATE JUDICIARY COMMITTEE'S MARK-UP OF THE SPECTER IMMIGRATION BILL

March 30, 2006

By a vote of 12-6 the Senate Judiciary Committee approved a comprehensive immigration reform bill on Monday (3/27/06). This is the most significant piece of immigration legislation the Committee has considered in a decade.

The Judiciary Committee worked diligently over the course of three weeks, and finished Monday in a seven hour marathon. **Chairman Arlen Specter (R-PA)** allowed equal time for amendments to both the enforcement provisions and the visa reforms in his original "Chairman's mark," and all senators were permitted the opportunity to be heard. As debate progressed, a clear majority emerged in support of real comprehensive immigration reform. Proposals to provide undocumented workers with just temporary legal status, or require them to return home and apply to come back in, were considered and rejected.

While the bill still contains provisions of concern, it was significantly improved from the beginning and garnered the vote of every Committee Democrat and four Republicans (Specter, **Mike DeWine (R-OH)**, **Lindsey Graham (R-SC)**, and **Sam Brownback (R-KS)**). Below are some of the key votes taken during mark-up over the past few weeks:

- Rejection of the Cornyn-Kyl "report to deport" framework. After a possible compromise on the status of undocumented immigrants proved unpopular, Senator Specter allowed up-or-down votes on key principles in the immigration bill authored by **Senate Immigration Subcommittee Chairman John Cornyn (R-TX)** and **Senator Jon Kyl (R-AZ)**. The Cornyn-Kyl bill creates a temporary worker program that requires workers to leave the country after two years. It also offers undocumented immigrants five year work permits, but requires them to leave the country at the end of this time. Both businesses and labor unions oppose this approach. During the mark-up, Senator Kyl's amendment requiring temporary workers to return home before applying for green cards was rejected 5-11. His amendment requiring the formerly undocumented to return home before applying for a green card lost 3-12. In a last ditch effort, Senator Kyl tried to substitute his bill's provisions for the undocumented for the Graham amendment (see next bullet), but the amendment was rejected on a voice vote.
- Earned legalization for more than 10 million undocumented immigrants. An amendment sponsored by **Senator Graham** allows undocumented immigrant workers to come forward, submit to background checks, pay a \$1000 fine plus application costs, and apply for a temporary visa. After working an additional six years, clearing up any back taxes, staying out of trouble, learning English, and paying another \$1000 fine and application costs, the worker could apply for a green card. A clarifying amendment sponsored by **Senator Kennedy** would ensure that no formerly undocumented immigrant could "jump the line" over someone currently waiting outside the U.S. to immigrate with a family or employer sponsor. The Graham amendment with Kennedy's clarification passed 12-5.
- Creation of a new temporary worker program with protections for U.S. workers. An amendment sponsored by **Senator Ted Kennedy (D-MA)** provides visas for foreign workers to enter the U.S. legally and work in the building trades, hospitality industry, and other service sectors. Currently the U.S. offers just 5,000 visas a year for foreign workers to fill these slots—an absurd number by any calculation. For too long the gap between labor demand and labor supply has been met by undocumented workers. The Kennedy amendment would ensure that jobs are first offered to U.S. workers at prevailing wages. Employers could access foreign workers when no U.S. workers are available. Workers would receive a three year nonimmigrant visa with the option of renewing it once.

They would also have full labor rights, including the right to work for any employer, and the right to apply for a green card after working for one year (with an employer sponsor) or four years (under a self-petition). The Kennedy amendment passed 11-6.

- Rejection of key proposals from the House bill. In December 2005 the House passed an enforcement-only bill that criminalized millions of undocumented immigrants and anyone who provides them assistance. These provisions have inspired demonstrations by over a million people across the United States, as well as a call for civil disobedience by leaders in the Catholic Church and other denominations. They are also non-solutions to the problem of unauthorized migration. Two amendments by **Senator Dick Durbin (D-IL)** improved these provisions in the Chairman's mark by striking the Chairman's mark's language criminalizing "unlawful presence" and creating a limited "humanitarian exception" to the bill's expanded definition of "alien smuggling." Each amendment passed 11-6.
- Consideration for farm workers, agricultural employers, and undocumented students. Recognizing the agriculture industry's reliance on undocumented workers and the need to make this legal, the Committee voted to add the AgJOBS legalization/temporary worker legislation (a bill by **Senators Larry Craig (R-ID) and Ted Kennedy**), offered as an amendment by **Senator Dianne Feinstein (D-CA)**. The amendment passed 11-5. The Committee also added **Senator Durbin's DREAM Act**, a bill that provides an opportunity for legal status to bright and motivated immigrant youth. Having twice passed the Senate Judiciary Committee, the DREAM Act was added to the Chairman's mark on a voice vote.
- Some amelioration of the mark's restrictive provisions. The original Chairman's mark included many bad immigration "enforcement" measures, including several from the House bill. These include restricting legal immigrants' access to citizenship; creating outrageous penalties for not filing a change of address with DHS within ten days of moving, or making an innocent misstatement on an immigration form; attempting to overturn the Supreme Court and allowing for the indefinite detention of foreigners; dramatically expanding the "aggravated felony" label to include minor crimes that are neither "aggravated" nor "felonies," with draconian immigration consequences; and creating new penalties for document fraud that will reach undocumented immigrants the bill attempts to legalize. Throughout Committee consideration, additional restrictions were added by **Senators Jeff Sessions (R-AL) and Tom Coburn (R-OK)**, among others. Chief among the added provisions were local enforcement of immigration laws, a dramatic expansion of immigration detention, and extra-judicial deportations.

Some gains were made by **Senator Kennedy, Senator Russ Feingold (D-WI), Senator Feinstein**, and others in reversing some of the excesses in the Chairman's mark like retroactive application of new deportation rules; limitations on judicial review for citizenship denials and delays; and applying the new "document fraud" penalties to vulnerable groups that often rely on false or forged documents to escape abuse. In addition, Senator Specter struck the very problematic Title VII, with its limitations on access to the courts for review of immigration decisions, and indicated a willingness to take up these provisions at a later date.

All told, the original Chairman's mark was substantially improved throughout Judiciary Committee consideration. Attention now shifts to the Senate floor, where a lively debate is already underway.

This is NOT an exhaustive summary of the bill or amendments that were offered during the mark-ups. Updated materials are being produced. Check www.immigrationforum.org for updates.