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Senate

The Senate met at 9:45 a.m. and was called to order by the Honorable JOHN CORNYN, a Senator from the State of Texas.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Almighty Creator, the source of blessings, thank You for blessing us with the opportunity to work with a diverse group of people from different racial and religious backgrounds. Thank You for the strength and courage to face this new day.

Help our Senators to produce legislation to guide America on a proper course. Clear their minds and speak to their hearts so that they will succeed in their worthwhile endeavors.

Strengthen us all to tackle life's challenges as You unite us to achieve Your will. Bless us with the forbearance to forgive and work even with our enemies. Hear our prayer and guide us to Your salvation. We pray in Your strong Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHN CORNYN led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 23, 2006.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby

appoint the Honorable JOHN CORNYN, a Senator from the State of Texas, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. CORNYN assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The distinguished Senator from Pennsylvania is recognized.

SCHEDULE

Mr. SPECTER. Mr. President, this morning we will resume debate on the pending amendment related to the orange card visa program offered by Senator FEINSTEIN. We have an agreement of 60 minutes of debate prior to the vote. Senators should be on notice that a vote will occur sometime between 10:45 and 11 o'clock this morning. We expect additional votes throughout the day and perhaps into the evening.

Last night, the majority leader filed cloture. The order now provides that all first-degree amendments must be filed by 2:30 today in order to qualify under rule XXII. Senators should also be reminded that the Senate will take its customary Tuesday recess from 12:30 until 2:15 for the party caucus meetings.

IMMIGRATION

Mr. SPECTER. Mr. President, last week and up to our vote yesterday has been, I think, a very productive week for the Senate. We had 17 rollcall votes: 11 by Republicans, 6 by Democrats. We had 8 voice votes evenly divided: 4 by Democrats, and 4 by Republicans. We moved through some very contentious issues. I think the debate was of a high caliber.

I thank the Democratic leader, who is on the floor of the Senate, for his co-

operation, and I thank all Senators for their cooperation and I am looking forward to similar activity. I think we are poised to complete action on this bill this week as contemplated.

We have maintained a delicate perhaps even tenuous coalition in support of the bill reported by the Judiciary Committee as we have worked through the underlying contentious issue as to how to handle 11 million undocumented immigrants with a view not to creating a fugitive class of Americans, remembering our roots as a nation, that we are a nation of immigrants, and recognizing the contribution which the undocumented immigrants, although here illegally, the contribution which they make to our economy.

We have faced a significant resistance to the bill on the ground that it constitutes amnesty. As I have contended before, it is not amnesty. We can't repeat that too often to remind people that amnesty is when you forgive transgression or forgive a wrong or forgive a crime. The undocumented immigrants will have to pay a fine. They will have to pay back taxes. They will have to go through criminal background checks. They will have to learn English. They will have to hold a job for a protracted period of time. And the reality is that they will earn their citizenship.

We have worked through some difficult amendments. Some could have gone either way without destroying the delicate coalition, and others would have perhaps been killer amendments which would have fractured the bill, which has not happened.

For those who are opposed to the bill or want to limit immigrants, the Bingaman amendment reduced the number of future guest workers from 350,000 to 200,000.

We had a very spirited and contentious debate on an amendment by Senators CORNYN and KYL which would have precluded H-2C guest workers to self-petition. Then Senator KENNEDY

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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came back with a modification which opened up self-petitions which, in my view, is indispensable if we are not to put the immigrants at the mercy of the employer and provide the background for unfair treatment by employers to hang the sword of Damocles over the heads of the undocumented immigrants.

We had a very spirited debate on what to do about English, whether it is the national language or the common and unifying language or how to categorize it.

In my view, there was not a great deal of difference between the amendments offered by Senator INHOFE and Senator SALAZAR. We do know that we are looking for English to be a unifying factor. There is in the law today a series of procedures where other languages are printed for balance in a variety of contexts, but I think ultimately we will work that through on a satisfactory basis.

There was an amendment by Senator KYL to strike the provisions that the green card by H-2C workers would be a path to citizenship. That was a very important amendment not to adopt but to keep that path open consistent with the remainder of the bill.

The amendment to allow undocumented immigrants to receive credit for Social Security even though those payments were made during the time of illegal status, I think, was decided properly, although a close vote, 50 to 49. So that survived.

Yesterday, we rejected the amendment offered by Senator CHAMBLISS on a very complicated matter as to how we deal with the prevailing wage or adverse effect, and I think we are moving forward.

The amendment by the distinguished Senator from California is now on the floor. There is a great deal to recommend in favor of it, in a sense, because it would open up more generously the path to citizenship. But I believe if it were to be adopted it would fracture the very tenuous and delicate coalition which we have on this bill.

I compliment the Senator from California for her work on this bill. She has been a major contributor in the Judiciary Committee generally, and she brought forward the agriculture provisions which have been adopted. She is an effective fighter and, as always, the presenter of important and constructive ideas.

I am constrained to oppose the amendment because I think if we were to allow everybody who has been in this country since January 1, we will destroy the coalition, and we have made a distinction for those here longer than 5 years from those here 2 to 5 years on a principle basis—that those who are here longer and who have roots ought to be accorded greater consideration. We have drawn a line on January 7, 2004, because that was the date the President made a speech on immigration and people who came to the United States in illegal status

after that date were on notice, you might say, maybe constructive notice, if they didn't know about it exactly, but they were on notice that they would not be accorded the same status as those who have been here earlier. We have used that as a cutoff date.

My view is that we are working on legislation which is of great importance to our country. We face a real test as to whether we will retain our principle of a welcoming nation to immigrants who earned their status to become citizens.

I think we have worked through the Judiciary Committee where we had a very difficult markup, and one marathon session to meet the timetable established by the majority leader.

The bill has been vigorously debated on both sides. I think there has been some concession of significance from the votes to those who are opposed to having an expansive view of guest workers and an expansive view according to immigrant status to move toward citizenship.

We have a great deal more work to do. I am confident, or optimistic or perhaps even hopeful that we will pass this bill in the Senate, and then we will look forward to the conference with the House of Representatives which has evidenced a very different view. But we have worked through with the House, with Chairman SENSENBRENNER, difficult issues on the PATRIOT Act and other matters, and our bicameral system has worked for America. We will move ahead to forge legislation which is principled but recognizing that there are different points of view, and accommodating as many views as we can. Where there is a basic disagreement, we vote to express the will of the body.

I have spoken a little longer than usual, but I wanted to summarize where we are on the bill.

COMPREHENSIVE IMMIGRATION REFORM ACT OF 2006

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 2611, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2611) to provide for comprehensive immigration reform and for other purposes.

Pending:

Feinstein-Harkin amendment No. 4087, to modify the conditions under which aliens who are unlawfully present in the United States are granted legal status.

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period of debate for up to 60 minutes on amendment No. 4087, with the Senator from California, Mrs. FEINSTEIN, in control of 30 minutes, the Senator from Pennsylvania, Mr. SPECTER, in control of 20 minutes, and the Senator from Massachusetts, Mr. KENNEDY, in control of 10 minutes.

The Senator from California is recognized.

Mrs. FEINSTEIN. I thank the President. I also want to thank the chair-

man of the committee. He has been a very good chairman. I want him to know that the only reason I offer this amendment is because when we read the bill language of Hagel-Martinez, which has not been voted on by this body, I believe it to be unworkable. I believe it will create another class of illegal immigrants in this country. I believe it is impossible to carry out the deportation requirements of the Hagel-Martinez amendment.

AMENDMENT NO. 4087, AS MODIFIED

I send an amendment to the desk, as modified, on behalf of Senators HARKIN, KENNEDY, REID, KERRY, and myself. This is a modification of my earlier amendment.

The ACTING PRESIDENT pro tempore. Without objection, the amendment is so modified.

(The amendment, No. 4087, as modified, is as follows:

On page 345 strike line 10 and all that follows through page 395, line 23, and insert the following:

Subtitle A—Earned Adjustment of Status

SEC. 601. ORANGE CARD VISA PROGRAM.

(a) SHORT TITLE.—This section may be cited as the "Orange Card Program".

(b) EARNED ADJUSTMENT OF STATUS.—

(1) IN GENERAL.—Chapter 5 of title II (8 U.S.C. 1255 et seq.) is amended by inserting after section 245A the following:

"SEC. 245B. ACCESS TO EARNED ADJUSTMENT.

"(a) ADJUSTMENT OF STATUS.—

"(1) PRINCIPAL ALIENS.—Subject to subsection (c)(5) and notwithstanding any other provision of law, including section 244(h), the Secretary of Homeland Security shall adjust an alien's status to the status of an alien lawfully admitted for permanent residence, if the alien satisfies the following requirements:

"(A) APPLICATION.—The alien shall file an application establishing eligibility for adjustment of status in accordance with the procedures established under subsection (n) and pay the fine required under subsection (m) and any additional amounts owed under that subsection.

"(B) CONTINUOUS PHYSICAL PRESENCE.—

"(i) IN GENERAL.—The alien shall establish that the alien—

"(I) was physically present in the United States on or before January 1, 2006;

"(II) was not legally present in the United States on or before January 1, 2006, under any classification set forth in section 101(a)(15); and

"(III) did not depart from the United States on or before January 1, 2006, except for brief, casual, and innocent departures.

"(ii) LEGALLY PRESENT.—For purposes of this subparagraph, an alien who has violated any conditions of the alien's visa shall be considered not to be legally present in the United States.

"(C) ADMISSIBLE UNDER IMMIGRATION LAWS.—The alien shall establish that the alien is not inadmissible under section 212(a) except for any provision of that section that is waived under subsection (b) of this section.

"(D) EMPLOYMENT IN THE UNITED STATES.—

"(i) IN GENERAL.—The alien shall—

"(I) submit all documentation of the alien's employment in the United States before January 1, 2006; and

"(II) be employed in the United States for at least 6 years, in the aggregate, after the date of the enactment of the Orange Card Program.