

Pending Amendments to the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007 (S. 1348)

Members of the Senate have introduced over 100 amendments to the Secure Borders, Economy Opportunity, and Immigration Reform Act of 2007 (S. 1348).¹ The amendments below are considered “pending” and therefore likely to be considered when the Senate resumes debate on S. 1348 during the week of June 4-8. Please call or write your senators now and encourage them to take an active stance on the amendments described below!

Amendments AILA Supports:

SA 1138 Clinton/Hagel/Menendez Amendment – SUPPORT – to designate the spouses and minor children of lawful permanent residents as immediate relatives. Both current law and S.1348 limit the number of green cards available to spouses and minor children of lawful permanent residents (LPRs) to 87,900 per year. This has resulted in a backlog of over 1 million family members who wait 10 or more years to be reunited. SA 1138 would re-categorize spouses and minor children of LPRs as “immediate relatives,” thereby eliminating the cap on the number of visas available to these family members. The U.S. prides itself on welcoming newcomers and protecting families, but immigration policies are keeping these families apart. This amendment would ensure that permanent residents of the U.S. are able to reunite with their spouses and minor children in a timely manner.

SA 1176 Feingold Amendment – SUPPORT – to establish commissions to review the facts and circumstances surrounding injustices suffered by European Americans, European Latin Americans, and Jewish refugees during World War II.

SA 1191 Lieberman Amendment – SUPPORT – to provide safeguards against faulty asylum procedures and to improve conditions of detention. This amendment would implement the key recommendations of the congressionally established U.S. Commission on International Religious Freedom. The Commission reported an unacceptable risk that the fears of genuine asylum seekers were not being fully considered. Asylum seekers are often detained for months in maximum security prisons, without being considered for release on bond. The amendment implements quality assurance procedures to ensure that asylee statements are accurately recorded; that alternatives to detention are considered; and that detention standards are improved. The amendment calls for sensible reforms that will safeguard the nation's security, improve the efficiency of our immigration detention

¹ A complete list of proposed amendments to S. 1348 can be found on THOMAS at <http://thomas.loc.gov/> - simply search by bill number for S. 1348, click on the link to “Bill Summary and Status File,” and choose “Amendments.”

system, and ensure that people fleeing persecution are treated in accordance with this nation's most basic values.

SA 1194 Menendez/Hagel Amendment – SUPPORT – to adjust the cut-off date for family-based immigrant petitions from May 1, 2005 to January 1, 2007. S. 1348 would address the extensive, decades-long backlogs of family-based petitions for lawful permanent residence, but only for those petitions filed before May 1, 2005. Petitions that were filed on or after that cut-off date – an estimated 833,000 - would be rejected. This is a grave injustice to individuals who sought to play by the rules and relied in good faith on the laws in effect at the time of filing. The Menendez amendment would move the “cut-off” date from May 1, 2005 to January 1, 2007, making it consistent with the cut-off date for legalization applicants. It would also add 110,000 green cards per year to the family backlog reduction effort to ensure that the backlogs will still be eliminated within the intended 8-year period.

SA 1199 Dodd/Menendez Amendment – SUPPORT – to increase the number of immigrant visas for parents of U.S. citizens and the length of time parents can remain in the U.S. on the newly minted temporary parent visas. Under current law, parents of U.S. citizens are defined as immediate relatives, along with spouses and minor children, and are exempt from annual numeric caps. S. 1348 removes them from this category, subjects them to an annual cap of 40,000 green cards, and creates a new temporary visa category for parents. The Dodd amendment promotes family unity by increasing the annual cap on green cards for parents of U.S. citizens to 90,000; extending the permissible duration of stay for parents who visit on the newly created temporary visa; and ensuring that penalties imposed on parents who overstay their temporary visas are not unfairly applied to others.

SA 1249 Cantwell/Cornyn Amendment – SUPPORT – to establish a parallel and complementary employer-sponsored merit-based program. This “employer-sponsored” stream would let companies continue to sponsor specific individuals for permanent residence. It would provide 140,000 visas separate and in addition to those currently in the bill. This amendment would protect U.S. workers by applying labor market tests to employer sponsorship of foreign workers in the EB-2 and EB-3 categories.

In addition to dealing with employment-based green cards, this amendment also addresses some of the bills changes to the H-1B program by striking the presumption of “immigrant intent” and restoring the “degree equivalency” provision. Furthermore, the amendment, while maintaining the provisions to strengthen H-1B enforcement in the bill, eliminates overregulation of legitimate H-1B employers by striking provisions that would require every employer comply with burdensome requirements that currently apply only to “willful violators” and to employers with excessive numbers of H-1B employees.

Amendments AILA Opposes:

SA 1170 McConnell Amendment – OPPOSE – to amend the Help America Vote Act of 2002 to require individuals voting in a federal election to present photo identification. Such a requirement has the potential to disenfranchise certain groups like the elderly, the poor, and young voters who may be less likely to have or be able to secure photo identification.

SA 1184 Cornyn Amendment – OPPOSE – to expand the grounds making immigrants ineligible for benefits under the legalization provisions and other restrictions. This amendment would severely erode core due process principles and unnecessarily restrict immigration benefits for certain categories of immigrants. Although billed as a technical amendment to "close loopholes" in the proposed legislation, this amendment would in fact significantly expand, RETROACTIVELY, grounds for deportability. Moreover, this amendment would subvert the very goals of the bill's legalization program and render large numbers of the current undocumented population ineligible to participate.

SA 1189 Allard Amendment – OPPOSE – to eliminate the pathway to legal permanent residency for Z visa holders by removing the point system set aside for them. To ensure that all Z visa holders eventually are able to earn permanent residency status, the architects of the bill inserted a smaller, separate point schedule for Z visa holders to determine when, during the 5 year legalization period, such visa holders could apply for permanent residence. By eliminating this separate point schedule for Z visa holders, this amendment seeks to undermine the opportunity for Z visa holders to become legal permanent residents by requiring them to compete with other intending immigrants. If successful, the amendment would create a permanent underclass of lower skilled workers, living here in legal limbo indefinitely without the rights afforded to legal permanent residents. Similar situations have played out in other countries, resulting in very problematic, even disastrous, consequences.

SA 1231 Durbin/Grassley Amendment – OPPOSE – to strike provisions in the bill that allow the Secretary of Labor to determine whether or not there is a shortage of U.S. workers in the occupation and area of intended employment for which a Y nonimmigrant is sought. This amendment would require employers to follow extensive hiring and recruitment procedures even in areas where there labor shortages as determined by the Secretary of Labor.

SA 1234 & SA 1235 Sessions Amendments – OPPOSE – This pair of amendments would exclude Y and Z visa holders from claiming the earned income tax credit (EITC).

SA 1234 - to prevent the earned income tax credit (EITC), which is, according to the Congressional Research Service, the largest anti-poverty entitlement program of the Federal Government, from being claimed by Y temporary workers or illegal aliens given status by this Act until they adjust to legal permanent resident status.

SA 1235 – to amend the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, to include the EITC on the list of means-tested benefits that green card holders cannot receive until they have been a lawful permanent resident for 5 years.

These amendments would deny those immigrants who have become legal residents one of the tax benefits available to every taxpayer. The EITC is designed to reduce the tax burden on low-income families with children. It would be patently unfair to subject immigrant workers to harsher tax consequences. Immigrant workers cannot receive the earned income tax credit unless he or she is a legal resident who is a low wage worker paying payroll taxes and filing an income tax return. These amendments punish men and women who are working hard and playing by the rules by attempting to deny them the benefits that similarly situated workers receive and desperately need.

SA 1250 Cornyn Amendment – OPPOSE – to allow information contained in a legalization application that has been denied to be disclosed to law enforcement agencies in any civil or criminal investigation. The Cornyn amendment abolishes the confidentiality protections contained in S.1348 and authorizes the DHS and DOS to share such information with any relevant law enforcement agency or court in any criminal or civil investigation when the application is denied. Security experts agree that it is critical to bring the 12 million undocumented people who are here without legal status out of the shadows. But current undocumented immigrants will have to be persuaded that it is safe to come forward to an agency that they have come to mistrust. Churches, community agencies, and attorneys need to know that they are not exposing their clients to immigration enforcement by encouraging them to apply for legalization. Previous experience has demonstrated that without such confidentiality safeguards, many immigrants will fear exposing themselves, their family members, or their employers to deportation as a result of applying for status. If this happens, the reform will fail to substantially reduce the size of the unauthorized population.