



BACKGROUND

Our current per-country cap system, places limits on the number of immigrants who are eligible to receive green cards based solely on their country of origin. Due to this inequitable system, immigrants from large countries such as India and China who have been approved by USCIS are subject to 10, 15, even 20-year wait times for employment-based green cards while immigrants from smaller countries have almost no wait time at all. The Fairness for High-Skilled Immigrants Act (S. 386) would ensure that our employment-based green card system no longer discriminates against similarly situated immigrants based solely on their country-of-origin. As a result, the green card waiting time for immigrants from other countries may increase. Senators Lee and Durbin have negotiated an agreement designed to ease the transition for these immigrants from other countries.

Importantly, this agreement does not increase overall levels of immigration into the United States, is consistent with the bill's commitment to equal treatment under the law, and preserves and strengthens other important safeguards for American workers.

OVERVIEW

The agreements adds three new provisions to S. 386:

First, the agreement adds a new transition provision to the bill to ensure that no class of immigrant is frozen-out of the employment-based green card system.

- Specifically, a small percentage of available green cards (5.75%) are prioritized for consular applicants residing abroad in countries other than India and China. This provision will sunset in 9 years and is in addition to the current three-year transition set-asides in S. 386.

Second, the agreement makes an additional H-1B reform designed to protect American works competing for jobs with temporary visa-holders.

- Companies with more than 50 employees who rely on temporary visa workers for more than 50% of their work force cannot sponsor more temporary workers for employment. This is a common sense reform to root out abuse in our nonimmigrant visa programs.

Third, the agreement provides temporary relief to immigrants stuck in the green card backlog without increasing overall immigration levels or compromising the integrity of our employment-based green card system.

- Specifically, this agreement creates a front-end filing system. Aliens already legally working in the United States on temporary visas who have an green card application (I-140) may file to adjust their status while they wait for a green card to become available.
 - These immigrants will not receive a green card before they otherwise would under the current system. Rather, they will remain on temporary status, and be subject to deportation if their green card petition is not approved. While they wait, they will continue to be subject to wage and hour conditions on their employment.
 - However, these immigrants will be able to change jobs, they will have the freedom to leave the country for temporary visits, and their spouse and children will have protection against being forced to leave the country if the temporary employee should die.
 - This provision will sunset in nine years from the date of enactment.
- Adjustment of status under this provision will not give work authorization to those who are ineligible to work under the current system.

SUPPORT FOR THE AMENDMENT AND MORE INFORMATION

The agreement Senator Lee has reached with Senator Durbin is fundamentally consistent with the underlying objective behind the Fairness for High-Skilled Immigrants Act and it deserves bipartisan support. This bill accomplishes a simple but extraordinarily important objective: the elimination of country-of-origin discrimination on our employment based immigration system. Senator Lee urges his colleagues to support it.

Please contact Elizabeth Oberan in Senator Lee's office with any questions about this amendment. Elizabeth_Oberan@judiciary-rep.senate.gov. 202-224-7116