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## **AILA Recommends Senators Vote NO on the Inhofe Amendment 275 – Oppose massive escalation of immigration detention**

**AILA opposes the Inhofe amendment which would grant DHS extraordinarily broad power to detain non-citizens for prolonged or indefinite periods.**

**The Inhofe amendment is unconstitutional.** The Supreme Court has held that indefinite detention of individuals who cannot be removed presents serious due process concerns.<sup>1</sup> But this amendment would authorize the indefinite detention of immigrants who pose no threat to public safety—in direct contradiction of the Supreme Court. It is intentionally designed to strip protections to prevent erroneous deprivation of liberty. Detention must be done consistent with the Constitution.

**The amendment denies immigrants basic fairness—like a day in court.** The government should never have the unchecked power to detain a person indefinitely. The Inhofe amendment would confer on DHS the specific authority to detain individuals for life without any due process protections, such as any opportunity to appear before a judge to determine whether detention is justified.

**The amendment needlessly wastes American taxpayer dollars.** Americans should be asking: “Why detain thousands of individuals who pose no risk to public safety and could otherwise contribute to the economy, serve their communities, and support their families?” Who would foot the bill at a yearly rate of about \$60,000 for each detainee and a total cost of \$2 billion annually?

**Existing law already protects public safety.** Under current law, the federal government is already authorized to detain noncitizens who present a danger to national security and cannot be removed. Those who suffer from a mental illness that renders them dangerous, including sex offenders, can be civilly committed under existing state laws after serving their criminal sentence. Indefinite and long-term detention is neither necessary nor the right solution.

**Diplomacy not detention.** Individuals who cannot be repatriated to their home country should not be subject to indefinite detention because the U.S. lacks diplomacy agreements with a country. The solution to the problem of individuals who cannot be repatriated is to

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<sup>1</sup> See *Zadvydas v. Davis*, 533 U.S. 678 (2001).

put diplomatic pressure on their home countries. Punishing the individual with long-term detention is not the answer.

### **What does the Inhofe amendment do?**

- Authorizes indefinite detention for nearly all immigrants in removal proceedings without the basic due process of a bond hearing. This population includes asylum seekers and longtime lawful permanent residents with misdemeanor offenses.
- Requires mandatory detention to individuals who have been free for years, are leading productive lives, and pose no danger but have an old conviction on their record.
- Prohibits immigration judges from ordering immigrants to be supervised on secure and cost-effective alternatives to detention.
- Strips courts of the power to review detention decisions and thereby authorizes the indefinite detention of many categories of people who cannot be repatriated to their home country.