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"Merit-Based" Immigration Under S. 1348: Bringing In the High-Tech Waitresses

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Proponents of S. 1348 claim that the bill ends "chain migration" and replaces it with a new merit-based system that will bring high-skill workers into the United States. Advocates assert, "the bill will end chain migration which allows legal immigrants to bring extended family members to the U.S."[1] In place of chain migration, the bill creates a new "merit-based" system that will supposedly "select future immigrants based on [their]…skills and attributes."[2] In reality, the bill neither ends chain migration nor creates a new system focused on high-skill workers. Under the bill, chain migration will triple annually for about a decade. Meanwhile, the number of employment-based green cards going to unskill workers will dramatically increase while the number going to high-skill workers will be relatively unchanged for the next decade.

Family Chain Migration. The present immigration system favors family ties over skill level. Under current law, recent immigrants may bring parents, adult siblings, and adult children into the United States. These incoming relatives may in time bring in spouses who may bring in other brothers and sisters and parents, and so on. This family-based flow of immigrants is predominately low-skill. Data from the New Immigrant Survey indicates that 60 percent of family chain immigrants have only a high school degree or less; 38 percent lack a high school degree. By contrast, only 9 percent of native-born Americans lack a high school degree.

Contrary to claims that S. 1348 "ends" chain immigration, the bill actually increases it. The bill calls for "decreasing the backlog" of pending family-based visa applications. The current backlog is around 5.9 million. In order to clear the backlog, S. 1348 almost triples the current level of family chain immigrants, raising the annual allotment from 147,000 to 440,000. The inflow rate will remain at 440,000 every year until the backlog is cleared, which could take between 8 and 13 years depending on the share of applicants who actually use visas to come to the U.S.

After the backlog is cleared, family chain migration will, ostensibly, come to an end. Thus the bill dramatically increases family chain migration for roughly a decade in exchange for a promise to end it at decade's end. Of course, any legislative change that takes effect a decade in the future has little meaning. The "end" of family-based immigration can be overturned by additional legislation at any point during the next 10 years. In the bargaining game of Washington politics, a quid pro quo that concedes 10 years of tangible gains to one's opponent in exchange for a promised reward a decade later is a remarkably bad bargain. In S. 1348, the proponents of family chain migration have won hands down; family chain migration is tripled for

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roughly a decade, while the putative end to such migration, ten years, hence is effectively worthless.

The New "Merit-Based" Immigration System. Proponents of S. 1348 claim that the bill replaces chain migration with a new "merit-based" immigration system which will bring in a flow of high-skill, high-tech workers. In reality, the new system is at least as focused on low-skill workers as it is on high-skill workers. The core of the proposed system is a "merit-based evaluation system" that creates a point system to select future immigrants, allegedly based on their skill levels and their ability to contribute to U.S. international competitiveness.[3]

Examination shows that this point system is far from merit-based. For example, green card applicants get a high number of points if they are currently employed in "high demand" occupations, which include janitor, waitress, sales clerk, fast food worker, freight handler, laborer, grounds keeping worker, food preparation worker, maid, and house cleaner. Under the proposed point system, a high school dropout working in a fast food restaurant who has the recommendation of her employer outscores an applicant with a Ph.D. trying to enter the country from abroad.

The bill eliminates the current green card allocation for workers of "exceptional ability," but allocates 90,000 green cards per year for the next eight years to reduce the existing employment visa backlog (under 8 U.S.C. (b) of existing law), which consists primarily of unskilled workers. It seems unlikely that S. 1348 provides any increase in green cards for high-skill workers, at least through the first eight years of operation.

On the questions of chain migration and skill-based immigration, S. 1348 is a step backward from existing law.

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1. White House, "Fact Sheet: Ending Chain Migration", May 29, 2007, at *www.whitehouse.gov/infocus/immigration*
2. *Ibid.*
3. S. 1348 Title V Section 502.