



FEDERATION FOR AMERICAN IMMIGRATION REFORM

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## S. 744 Title I—Senate Judiciary Committee Markup

May 9, 2013 and May 14, 2013

1. Manager's Amendment (note: all subsequent amendments herein are made to this revised version of S. 744)
  - a. Sponsor: Sen. Chuck Schumer (D-NY)
  - b. Adopted 14-4
2. Prohibits border crossing fees for pedestrians or passenger vehicles at land ports of entry along both Northern and Southern borders. Prohibits the government from conducting any study relating to the imposition of such fee.
  - a. Sponsor: Sen. Pat Leahy (D-VT) (Amdt. #1)
  - b. Adopted via voice vote
3. Requires DHS Secretary to adhere to certain congressional reporting requirements, including submitting to the Senate and House Judiciary Committees the initial “Comprehensive Southern Border Security Strategy” and all subsequent reports on such; and, reports on border effectiveness rates, surveillance, port of entry wait times, and allocations at ports of entry.
  - a. Sponsor: Sen. Chuck Grassley (R-IA) (Amdt. #2)
  - b. Adopted via voice vote
4. Requires the DHS Chief Financial Officer and Inspector General to conduct annual audits of the Comprehensive Immigration Reform Trust Fund.
  - a. Sponsor: Sen. Chuck Grassley (R-IA) (Amdt. #5)
  - b. Adopted via voice vote
5. Expands the functions of the DHS Immigration Ombudsman to include providing assistance to individuals and families who have been the victims of crimes committed by aliens or violence near the border.
  - a. Sponsor: Sen. Jeff Sessions (R-AL) (Amdt. #36)
  - b. Adopted via voice vote
6. Designates human trafficking a form of slavery and adds severe forms of such to the definition of “part 1 violent crimes” for purposes of Byrne grant funding.
  - a. Sponsor: Sen. John Cornyn (R-TX) (Amdt. #6)
  - b. Adopted via voice vote
7. Increases the number of members on the DHS Border Oversight Task Force from 26 to 29 members by adding 1 private land owner representative from the Northern border region and 2 private land owner representatives from the Southern border region.
  - a. Sponsor: Sen. Jeff Flake (R-AZ) (Amdt. #1)
  - b. Adopted via voice vote

8. Requires DHS Secretary to submit the “Comprehensive Southern Border Security Strategy” to the U.S. Comptroller General, and requires the Comptroller General to review annually the Secretary’s semiannual reports on such, as well as to submit an assessment of the status and progress of the Secretary’s Border Security Strategy.
  - a. Sponsor: Sen. Jeff Flake (R-AZ) ([Amdt. #2](#))
  - b. Adopted via voice vote
9. Requires DHS Secretary to establish standards to provide children in the custody of CBP medical and mental health care, food, climate-appropriate clothing, personal hygiene products, and the ability to make supervised phone calls to family members.
  - a. Sponsor: Sen. Dianne Feinstein (D-CA) ([Amdt. #6](#))
  - b. Adopted via voice vote
10. Requires that grants to law enforcement agencies for Operation Stonegarden be allocated through a competitive grant process.
  - a. Sponsor: Sen. Dianne Feinstein (D-CA) ([Amdt. #7](#))
  - b. Adopted via voice vote
11. Requires CBP to acquire and deploy watercraft to provide support for border-related maritime anti-crime activities.
  - a. Sponsor: Sen. Dianne Feinstein (D-CA) ([Amdt. #8](#))
  - b. Adopted via voice vote
12. Creates new DHS Ombudsman for Immigration Related Concerns to, among other things, receive and resolve complaints from individuals and employers over immigration matters involving the Department, to conduct inspections of detention facilities, and to determine whether an individual or employer is suffering or about to suffer an immediate threat of adverse action related to the administration of immigration laws. The Ombudsman also must also annually report objectives to Congress, and has the authority to request Inspector General inspections, investigations, and audits of DHS.
  - a. Sponsor: Sen. Mazie Hirono (D-HI) ([Amdt. #24](#) as amended in committee)
  - b. Adopted via voice vote
13. Requires DHS Secretary to submit to Congress certification that the Southern border has been under “effective control” for at least 6 months before the Secretary can begin processing applications for amnesty (“registered provisional immigrant” status). Requires the 90% apprehension rate goal be met in all border sectors, not just those deemed “high risk.”
  - a. Sponsor: Sen. Chuck Grassley (R-IA) ([Amdt. #4](#))
  - b. Denied 6-12
14. Increases overall funding for the bill, including the initial amount for the Comprehensive Immigration Reform Trust Fund from \$6.5 billion to \$8.3 billion.
  - a. Sponsor: Sen. Chuck Schumer (D-NY) ([Amdt. #2](#))
  - b. Adopted 14-4
15. Requires the House of Representatives to vote to determine whether the DHS Secretary has achieved the goals in the Secretary’s border security and fencing plans before the

Secretary can process applications for illegal aliens to gain amnesty (“registered provisional immigrant” status) or a subsequent green card.

- a. Sponsor: Sen. Mike Lee (R-UT) ([Amdt. #4](#))
  - b. Denied 6-12
16. Requires the bill’s goal of apprehending 90% of unlawful border crossers to apply to all border sectors, opposed to only “high risk” sectors.
    - a. Sponsor: Sen. Chuck Grassley (R-IA) ([Amdt. #1](#))
    - b. Adopted via voice vote
  17. Requires the Inspector General for certain grant-receiving agencies to conduct annual audits and other accountability measures such as limiting conference expenses and prohibiting funds from going to nonprofits who maintain funds in offshore accounts to avoid taxes.
    - a. Sponsor: Sen. Chuck Grassley (R-IA) ([Amdt. #24](#))
    - b. Adopted via voice vote
  18. Requires the federal government to reimburse state and local governments for the “clerical support” and “public defenders’ services” costs associated with the prosecution and pre-trial detention of federally-initiated immigration-related criminal cases.
    - a. Sponsor: Sen. Dianne Feinstein (D-CA) ([Amdt. #9](#))
    - b. Adopted via voice vote
  19. Strikes provision requiring: DHS Secretary (in consultation w/ DOJ) to issue use of force policies; ICE, CBP, and USCIS officers to report uses of force; and DHS to investigate, discipline, and review uses of force by officers.
    - a. Sponsor: Sen. Jeff Sessions (R-AL) ([Amdt. #37](#))
    - b. Denied 7-11
  20. Prohibits the federal government from reimbursing state and local governments for costs associated w/ the prosecution or pre-trial detention of aliens if the Attorney General concludes there is reason to believe that law enforcement apprehended the alien using “unlawful conduct.”
    - a. Sponsor: Sen. Richard Blumenthal (D-CT) ([Amdt. #10](#)) ([Substitute](#))
    - b. Adopted via voice vote
  21. Prevents illegal aliens from obtaining amnesty until the DHS Secretary: 1) triples the number of border patrol agents along the Southern border; 2) quadruples the number of drones, cameras, helicopters, and other equipment along the border; 3) completes the remainder of the border fence as mandated by the Secure Fence Act of 2006; 4) develops real-time information sharing w/ the DOH and all federal law enforcement agencies; 5) completes and fully implements the biometric US-VISIT entry-exit system; and 6) establishes operational control over 100% of the Southern border. If the DHS Secretary fails to substantially comply w/ all requirements w/in 3 years, the Department’s political appointees’ salaries will be cut by 20 percent and given in the form of block grants to Southern border states.
    - a. Sponsor: Sen. Ted Cruz (R-TX) ([Amdt. #1](#))
    - b. Denied 5-13

22. Requires DHS when apprehending aliens to inquire “as soon as practicable” whether the alien is a parent, legal guardian, or primary caregiver of a child, or whether the alien is traveling with a spouse or child. Also requires officers to consider family unity, whether the alien has a child, or any other “humanitarian concern” when determining whether to repatriate or prosecute an illegal alien. Requires border patrol officers to undertake “family unity” and “child best interest” training.
  - a. Sponsor: Sen. Mazie Hirono (D-HI) ([Amdt. #23](#) as amended in committee)
  - b. Adopted 10-8
23. Strikes provision specifying training requirements for DHS personnel issued by the DOJ Civil Rights Division.
  - a. Sponsor: Sen. Jeff Sessions (R-AL) ([Amdt. #38](#))
  - b. Withdrawn
24. Authorizes/restores funding for states and local governments to be reimbursed for detaining “unknown” aliens and illegal aliens prior to conviction.
  - a. Sponsor: Sen. Dianne Feinstein (D-CA) ([Amdt. #1](#)) ([Cornyn-Feinstein 2<sup>nd</sup> Degree](#))
  - b. Adopted 10-8
25. Establishes grant program to be administered by Secretaries of Transportation and General Services Administration to construct transportation and supporting infrastructure improvements at existing and new international border crossings.
  - a. Sponsor: Sen. Dianne Feinstein (D-CA) ([Amdt. #10](#))
  - b. Adopted via unanimous consent
26. Requires DHS Secretary to explain any waivers of law when implementing the border fencing strategy, and states such waivers expire upon certification by the Secretary that the border fencing strategy is “substantially completed.” Requires if or when the DHS Secretary implements the border fencing strategy, to consult with the Secretaries of Interior, Agriculture, states, locals, tribes, and property owners to minimize the fence’s impact on the “environment, culture, commerce, and quality of life.” Adds new section stating that the DHS Secretary is not required to install fencing or infrastructure along the Southern border if the Secretary determines that the use or placement of such resources is not most appropriate method of achieving effective border control. Clarifies that nothing in the bill requires the construction of fencing along Northern border.
  - a. Sponsor: Sen. Pat Leahy (D-VT) ([Amdt. #4](#)) ([Substitute](#))
  - b. Adopted via voice vote
27. Requires the completion of a double-layered border fence along the Southern border, replacing the DHS Secretary’s optional border fencing strategy.
  - a. Sponsor: Sen. Jeff Sessions (R-AL) ([Amdt. #9](#))
  - b. Denied 6-12
28. Revises border security provisions among other things to: 1) require DHS and the Comptroller General to determine the borders are secure before permitting illegal aliens amnestied (receiving “registered provisional immigrant” status) to receive a green card; 2) require DHS to achieve 90% apprehension rate along all border sectors; 3) require DHS to develop and utilize new and improved border metrics; 4) authorize the border commission

created under the bill to act as an advisory panel to the Secretary of DHS immediately following enactment (rather than taking over in 5 years if Secretary fails to meet goals); and 5) require DHS to develop a plan to decrease wait times at ports of entry, including by requiring the addition of 10,000 CBP officers, no less than 5,000 of which are mandated to be border patrol officers.

- a. Sponsor: Sen. John Cornyn (R-TX) ([Amdt. #1](#))
  - b. Denied 6-12
29. Increases the number of district court judges in Arizona, California, and Texas. Also amended to provide protections to “whistleblowers” (Sen. Grassley).
  - a. Sponsor: Sen. Dianne Feinstein (D-CA) ([Amdt. #2](#)) ([Grassley 2<sup>nd</sup> Degree](#))
  - b. Adopted via voice vote
30. Ensures that “effective control” of the border encompasses all unlawful entries into the U.S., using the definition of operational control as under the Secure Fence Act of 2006.
  - a. Sponsor: Sen. Jeff Sessions (R-AL) ([Amdt. #11](#))
  - b. Denied 6-12
31. Requires DHS to decrease wait times at ports of entry, authorizes the hiring of an additional 5,000 border patrol officers, and allows for public and private cost-sharing and reimbursement agreements for the creation or maintenance of new or existing border facilities.
  - a. Sponsor: Sen. John Cornyn (R-TX) ([Amdt. #2](#))
  - b. Withdrawn
32. Restricts the use of unarmed, unmanned aerial vehicles in the San Diego and El Centro sectors to within 3 miles of the Southern border. The restriction does not apply to CBP maritime operations.
  - a. Sponsor: Sen. Dianne Feinstein (D-CA) ([Amdt. #11](#)) ([Substitute](#)) ([Feinstein 3<sup>rd</sup> Degree](#))
  - b. Adopted via voice vote
33. Prohibits DHS from deporting or removing an illegal entrant from an entry or exit point on the Southern border at night. Requires the DHS Secretary to certify to Congress compliance with this requirement within 1 year of enactment and every 180 days thereafter. The prohibition does not apply if: (1) justified by a compelling governmental interest; (2) the deportation or removal complies with an applicable Local Arrangement for the Repatriation of Mexican Nationals; or (3) the illegal entrant is not an accompanied minor and is deported or removed from the same sector apprehended or agrees to be deported or removed at night after notice. Requires DHS to submit a study to Congress within 1 year of enactment on the Alien Transfer Exit Program (ATEP), including: (1) specific locations of lateral repatriations within the past year; (2) CBP performance measures developed to deter recidivism; and (3) rates of violent crime and available infrastructure in Mexico near those locations. Requires authorities to return all lawful, nonperishable belongings confiscated from the illegal entrant before repatriation.
  - a. Sponsor: Sen. Chris Coons (D-DE) ([Amdt. #2](#)) ([Coons 2<sup>nd</sup> Degree](#))
  - b. Adopted via voice vote

34. Makes technical changes. In addition, removes the FY 2015 funding sunset from the general treasury fund for the Travel Promotion Act of 2009. Exempts Track 2 family-based visas filed before enactment and not issued within 5 years from the per-country cap. Strikes the reinstatement remedy for individuals lawfully present but lost work authorization because of employer's unlawful acts. Strikes the emergency designation of appropriations for the Interior Enforcement Account. Limits the new \$500 J-1 visa fee to employers using nonimmigrants in the Summer Work Travel program established by the Foreign Affairs Reform and Restructuring Act of 1998. Grants DHS Secretary authority to determine prevailing wage for non-agricultural W visa workers. Strikes W visa employer attestation stating that employer agrees to "substantially comply with all applicable labor and employment laws related to the W nonimmigrant's employment."
  - a. Sponsor: Sen. Chuck Schumer (D-NY) ([Amdt. #1](#))
  - b. Adopted via voice vote
35. Requires the use of a biometric entry-exit system at all ports of entry before the DHS Secretary may adjust the status of RPIs to LPRs.
  - a. Sponsor: Sen. Jeff Sessions (R-AL) ([Amdt. #4](#))
  - b. Denied 6-12
36. Strikes all of S. 744 and replaces with S. 683, the Border Security Results Act.
  - a. Sponsor: Sen. Mike Lee (R-UT) ([Amdt. #1](#))
  - b. Withdrawn