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## **Statement of the American Immigration Lawyers Association**

Submitted to the Subcommittee on Border and Maritime Security of the Committee on Homeland Security of the U.S. House of Representatives

> Hearing on "A Study in Contrasts: House and Senate Approaches to Border Security"

> > July 23, 2013

The American Immigration Lawyers Association (AILA) submits this statement to the Subcommittee on Border and Maritime Security. AILA is the national association of immigration lawyers established to promote justice and advocate for fair and reasonable immigration law and policy. AILA has over 13,000 attorney and law professor members.

In recent years, a resource-heavy approach has resulted in a dramatic, unprecedented build-up of border security enforcement and a massive expenditure of resources. Nonetheless, lawmakers continue to call for additional investment of resources on the border. For example, the "border surge" amendment adopted by Senate bill S. 744 would allocate billions of dollars to double an already excessive number of Border Patrol agents and increase technology and infrastructure on the Southern border. Such an approach is a gross expenditure of taxpayer funds that is unjustified and may be completely unnecessary. Little to no evidence was presented during consideration of S. 744 showing that the commitment of resources specified by the bill would be cost-effective or would significantly improve border safety or national security.

AILA has consistently called for smart border strategies that establish clear and reasoned goals for resource allocation and enforcement actions at the border. Until a border plan is developed and successfully tested to ensure it will actually improve the safety of border communities and national security, Congress should refrain from prescribing or authorizing specific expenditures for personnel, fencing or other infrastructure on the border.

In the past, Congress has revisited highly prescriptive border enforcement laws. After passing the Secure Fence Act of 2006, Congress began questioning the wisdom of the mandatory double-layered fencing required under the law and amended it to give DHS more discretion as to where and what kind of fencing was appropriate.

Overly prescriptive legislation would also make it harder for DHS to respond quickly and efficiently to changing needs on the borders. In testimony before Congress, Michael Fisher, Chief of the U.S. Border Patrol, questioned the wisdom of a mandatory 90 percent operational control standard saying that it "wouldn't make sense" for all sectors.

Any border security plan should be based on performance metrics and measurable standards of border safety that are achievable and fiscally responsible. House bill H.R. 1417, Border Security Results Act of 2013, rightly shifts the focus to an outcome based measure rather than one based on the resources committed to border security. H.R. 1417 requires DHS to develop and implement a plan over 2 to 5 years to achieve specific border security goals, including reaching a 90 percent operational control level in the high traffic border regions and along the southwest border.

## **Border Security and Immigration Reform**

One problem with H.R. 1417 is its failure to address how border security will fit in with reforms to the legal immigration system or a legalization plan for the undocumented. Without these key components of reform that go hand-in-hand with border security, a massive commitment of resources is unlikely to improve border security or reduce illegal border crossings. Effective border security cannot be achieved in a vacuum – it requires all the moving parts to be improved in order to produce a workable result.

Finally, AILA urges Congress to avoid setting the border security requirements in H.R. 1417 as trigger conditions that must be met before legalization may move forward. There is widespread consensus that the immigration system requires broad reform and that reform should proceed as expeditiously as possible. America's economic and national interests depend on it. There is no rational policy justification for holding certain elements of reform "hostage" until others are achieved. More specifically, if border security triggers are not well-defined and attainable in a reasonable timeframe, the legalization of millions will be held in an indefinite status and discouraged from coming out of the shadows, thus compromising the goals of meaningful and comprehensive immigration reform and national security.