



AILA's Take on Border in S.744

For more information, go to www.aila.org/border

- ♦ [Border Triggers to Legalization](#)
- ♦ [Improvements to Border Security](#)
- ♦ [Entry-Exit System](#)
- ♦ [Visa Overstays](#)

Border Triggers to Legalization

The Senate bill establishes border requirements that must be met before legalization can move forward. A balanced and approach to triggers is critical to the success of the reform plan. Border triggers must be clearly defined and attainable; otherwise, millions will be held in an indefinite limbo status, defeating the purpose of immigration reform.

What are the required triggers before Registered Provisional Immigrant (RPI) status can be granted?

- ♦ DHS must implement a Comprehensive Southern Border Strategy (to achieve and maintain an effectiveness rate of 90% in all Southern border sectors)
- ♦ DHS must implement a Southern Border Fencing Strategy (to identify where fencing, including double-layer fencing, should be deployed)

What are the required triggers before RPIs can obtain green cards?

- ♦ Comprehensive Southern Border Strategy is deployed and operational. "Operational" defined as technology, infrastructure, and personnel, including minimum requirements in the bill, have been procured, funded, and is in current use.
- ♦ Southern Border Fencing Strategy implemented, including 700 miles of pedestrian fencing.
- ♦ Implementation of mandatory employment verification system
- ♦ Integrated electronic exit system in use at all air and sea ports
- ♦ Deployment of 38,405 trained full-time active duty Border Patrol agents along the Southern Border.

DHS must certify these requirements 6 months before adjusting RPIs' status to permanent residency.

Why is mandating fencing on the entire southern border not a viable trigger?

There is no evidence that an expensive double-layer fence is cost-effective or necessary. Border crossings are down 80% since 2000. Pouring billions into building such a fence runs directly counter to data on recent and current migration trends and severely detracts from the true needs of border security including combating transnational crime organizations and trafficking of contraband and persons. By contrast, S.744 gives DHS the discretion to identify what fencing is needed beyond the mandated 700 miles.

Why is 100% "Operational Control" not a viable trigger?

While border security is of critical importance to our nation, experts agree that a 100% sealed border is not realistic. Setting such a goal will almost certainly block legalization from moving forward, which is necessary to help improve border security.

Ports of Entry

The bill establishes clear border security goals and appropriates the necessary resources to achieve those goals. Importantly, S. 744 increases resources to ports of entry (POEs) which require greater attention compared to border regions where the Department of Homeland Security (DHS) has made unprecedented resource investments in recent years. The bill also increases oversight for Customs and Border Protection (CBP).

Improvements to Ports of Entry

- ♦ S.744 provides an additional 3,500 CBP officers, includes POEs to be considered in the Southern Border Fencing Strategy, and establishes a grant program to improve the transportation infrastructure at existing and new land POEs.
- ♦ With the buildup of enforcement between POEs, lands ports have been neglected, creating long delays for over 215 million people and 13 million containers entering annually through the northern and southern borders for travel and trade. CBP officers at POEs carry the double duty of facilitating legitimate flow of people and goods while also apprehending unauthorized crossings.

- ♦ Ineffective operations at land POEs hurt the U.S. economy. The U.S. Dept. of Commerce estimates that every minute of delay at the five busiest southern ports costs the U.S. economy \$116 million.

Oversight and Training

- ♦ S. 744 mandates the development and implementation of use force policies for CBP personnel as well as training on topics including immigration laws, constitutional rights, scope of authority, use of force. These policies are urgently needed to address substantiated reports of abuses.
- ♦ The bill creates an Oversight Task Force and expands the DHS ombudsman to cover CBP and ICE to increase oversight and accountability.

Entry-exit system

What are key entry-exit system provisions in S.744?

S. 744 mandates an integrated entry-exit system at air and sea ports that collects machine-readable visa or passport information which is also a trigger for RPI adjustment to LPR status. The bill appropriates adequate resources for this important security measure. Senator Hatch's amendment to S. 744 allows for a gradual implementation of a biometric exit data system starting with the busiest airports and expanding to all air and sea ports.

Why can't a mandatory biometric exit system be a viable trigger?

Nationwide implementation of a biometric exit system would be costly and may not be feasible in a reasonable amount of time. DHS's 2009 pilot program and recent 2012 reports identified key issues needing to be addressed before implementation: cost of integrating biometrics into the departure process, data collection disrupting the flow of travelers, reluctance of air carriers and airports due to operational costs.¹ Given these challenges, implementation should be done gradually to ensure that there are no devastating consequences to travel and commerce which are a key sector of the economy. In the first quarter of 2013 alone, international visitors added more than \$14.4 billion to the U.S. economy.² Any viable biometric system cannot compromise our economic security by unduly burdening travel.

Visa overstays

S.744 proposes several measures that will alleviate the cause of visa overstays. These include directing DHS to deal with 90% of cases of where they individuals have overstayed by more than 180 days; establishment of a visa overstay notification pilot program; expansion of the integrated exit data system; expansion of the employment verification system; elimination of the backlogs in the family and employment immigration system; and an increase in temporary workers.

Who overstays their visas?

Family members visiting their relatives, tourists and business travelers frequently overstay their visas. Military spouses regularly enter and overstay their visas in order to adjust status, often due to well-meaning but erroneous advice.

What is not the solution to visa overstays?

Some policymakers have proposed as solutions expedited removal or mandatory imprisonment of visa overstays. These are expensive and harsh penalties that are disproportionate to the problem.

- ♦ With detention costing the American taxpayers about \$160 per person per day, mandating imprisonment for visa overstays would result in a massive and expensive expansion of the federal prison system that would cost taxpayers millions of dollars.
- ♦ Expedited removal authorizes summary removal without any hearing or opportunity to produce evidence that they are not subject to expedited removal. Subjecting individuals who may have inadvertently overstayed their visa or who have legitimate reasons for overstaying, would be a severe consequence that would harm American families and businesses.

¹ GAO Testimony before the House Homeland Security Subcommittee on Border and Maritime Security. "Immigration Enforcement: Preliminary Observations on DHS' Overstay Enforcement Efforts." May 21, 2013.

² "First Quarter U.S. Travel and Tourism Exports Contribute \$43 Billion to the U.S. Economy" U.S. Chamber of Commerce Press Release (May 6, 2013).