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Statement of the American Immigration Lawyers Association (AILA)
On the Border Security Spending Deal
February 14, 2019

Last night, the bipartisan Senate and House conferees released details of the omnibus appropriations bill to fund the federal government for the remainder of the fiscal year. Votes are expected later today. In short, the deal provides massive increases in spending on border security and enforcement, including border fencing and other barriers and expansions in immigration detention, that are excessive and unjustified. The bill increases funding for Immigration and Customs Enforcement (ICE) by over \$500 million and for Customs and Border Protection (CBP) by nearly \$1 billion, bringing the total annual funding for both agencies combined to their highest levels in history at nearly \$23 billion.

Contrary to reports in the media, the deal will **increase funding for immigration detention by at least 12 percent** rather than decrease detention bed levels. Two factors will contribute to the dramatic increase: first, the deal directly funds DHS to increase the average daily number of detention beds to 45,274 for the entire fiscal year. In March 2018, Congress funded detention beds for an average population level of 40,354. Now, less than a year later it is adding nearly 5,000 more beds.

Second, the deal does not include critical checks on reprogramming and transfer authority to prevent DHS from spending more on detention than Congress appropriates. As of early February, DHS had a daily headcount of 49,000 people in immigration detention, nearly 9,000 above its funded levels. Under the deal struck on Monday, nothing will prevent DHS from overspending even more on detention to reach the 52,000 detention bed levels the administration requested.

In addition, the deal includes **\$1.375 billion to repair existing border fencing or barriers and provide 55 miles of new barriers**. These have not been shown to be effective or necessary to improve national security or border security.

The spending bill does include important and necessary increases to improve infrastructure and increase personnel at ports of entry, through which the vast majority of illegal narcotics and weapons are smuggled. The bill also provides the full \$563 million requested for the immigration court system which should enable the hiring of an additional 75 immigration judge teams and help reduce the courts' 800,000 case backlog. Unfortunately, it does not include measures to shield the immigration courts from interference by the Department of Justice, which has instituted counter-productive policies that restrict judges from deciding their cases in a fair and efficient manner. The bill also includes helpful measures that will improve the oversight and protections for unaccompanied children and pregnant women who are detained.

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Overall the American Immigration Lawyers Association has deep concerns about the enormous increases the bill provides for border security enforcement. These expenditures constitute an unwise and wasteful use of American taxpayer dollars. Claims that there is an immigration crisis at the border are wildly exaggerated. In fact, apprehension rates at the southern border are at their lowest levels in decades, even when one accounts for the recent increases in Central American asylum seekers. Moreover, spending for border and interior enforcement is already at extremely high, unprecedented levels. Continued spending at this or higher levels will contribute to the continued growth of an outsized enforcement machine designed to deport immigrants without addressing the needs of American families, businesses, and communities that welcome and depend on immigrants.

AILA would welcome earnest debate over immigration reform but urges Congress and the President to do it through a transparent process that allows the opportunity for meaningful deliberation and public comment. Immigration reform must include changes to the legal immigration system to meet the needs of American families and businesses, reforms to ensure the fair and efficient operation of our laws consistent with due process, and the granting of permanent status to Dreamers, people who have received TPS, and others living in the United States who are undocumented and face the threat of deportation. Border security and enforcement are necessary components of reform but must be done in a smart, effective, and humane manner.