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S. 1639

The Secure Borders, Economic Opportunity and Immigration Reform Act of 2007 (Placed on Calendar in Senate)

Calendar No.
110th CONGRESS
1st Session
S.

To provide for comprehensive immigration reform and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. Kennedy (for himself and Mr. Specter) introduced the following bill; which was read the first time

A BILL

To provide for comprehensive immigration reform and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

1 **Secure Borders, Economic Opportunity and Immigration**
2 **Reform Act of 2007**
3

4 **SECTION 1. EFFECTIVE DATE TRIGGERS.**

5 (a) *In General.*--With the exception of the probationary benefits
6 conferred by section 601(h) of this Act, the provisions of subtitle C of
7 title IV, and the admission of aliens under section 101(a)(15)(H)(ii) of
8 the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)), as
9 amended by title IV, the programs established by title IV, and the
10 programs established by title VI that grant legal status to any
11 individual or that adjust the current status of any individual who is
12 unlawfully present in the United States to that of an alien lawfully
13 admitted for permanent residence, shall become effective on the date
14 that the Secretary submits a written certification to the President and
15 the Congress, based on analysis by and in consultation with the
16 Comptroller General, that each of the following border security and
17 other measures are established, funded, and operational:

18 (1) **OPERATIONAL CONTROL OF THE INTERNATIONAL BORDER**
19 **WITH MEXICO.**--The Secretary of Homeland Security has established
20 and demonstrated operational control of 100 percent of the
21 international land border between the United States and Mexico,
22 including the ability to monitor such border through available methods
23 and technology.

24 (2) **STAFF ENHANCEMENTS FOR BORDER PATROL.**--The United
25 States Customs and Border Protection Border Patrol has hired, trained,
26 and reporting for duty 20,000 full-time agents as of the date of the
27 certification under this subsection.

28 (3) **STRONG BORDER BARRIERS.**--There has been--

29 (A) installed along the international land border between the United
30 States and Mexico as of the date of the certification under this
31 subsection, at least--

32 (i) 300 miles of vehicle barriers;

33 (ii) 370 miles of fencing; and

34 (iii) 105 ground-based radar and camera towers; and

1 (B) deployed for use along the along the international land border
2 between the United States and Mexico, as of the date of the
3 certification under this subsection, 4 unmanned aerial vehicles, and
4 the supporting systems for such vehicles.

5 (4) CATCH AND RETURN.--The Secretary of Homeland Security is
6 detaining all removable aliens apprehended crossing the international
7 land border between the United States and Mexico in violation of
8 Federal or State law, except as specifically mandated by Federal or
9 State law or humanitarian circumstances, and United States
10 Immigration and Customs Enforcement has the resources to maintain
11 this practice, including the resources necessary to detain up to 31,500
12 aliens per day on an annual basis.

13 (5) WORKPLACE ENFORCEMENT TOOLS.--In compliance with the
14 requirements of title III of this Act, the Secretary of Homeland
15 Security has established, and is using, secure and effective
16 identification tools to prevent unauthorized workers from obtaining
17 employment in the United States. Such identification tools shall include
18 establishing--

19 (A) strict standards for identification documents that are required to
20 be presented by the alien to an employer in the hiring process,
21 including the use of secure documentation that--

22 (i) contains--

23 (I) a photograph of the alien; and

24 (II) biometric data identifying the alien; or

25 (ii) complies with the requirements for such documentation under
26 the REAL ID Act (Public Law 109-13; 119 Stat. 231); and

27 (B) an electronic employment eligibility verification system that is
28 capable of querying Federal and State databases in order to restrict
29 fraud, identity theft, and use of false social security numbers in the
30 hiring of aliens by an employer by electronically providing a digitized
31 version of the photograph on the alien's original Federal or State
32 issued document or documents for verification of that alien's identity
33 and work eligibility.

34 (6) PROCESSING APPLICATIONS OF ALIENS.--The Secretary of
35 Homeland Security has received, and is processing and adjudicating in

1 a timely manner, applications for Z nonimmigrant status under title VI
2 of this Act, including conducting all necessary background and security
3 checks required under that title.

4 (b) *Sense of Congress.*--It is the sense of Congress that the border
5 security and other measures described in subsection (a) shall be
6 completed as soon as practicable, subject to the necessary
7 appropriations.

8 (c) *Presidential Progress Report.*--

9 (1) IN GENERAL.--Not later than 90 days after the date of
10 enactment of this Act, and every 90 days thereafter until the
11 requirements under subsection (a) are met, the President shall submit
12 a report to Congress detailing the progress made in funding, meeting,
13 or otherwise satisfying each of the requirements described under
14 paragraphs (1) through (6) of subsection (a), including detailing any
15 contractual agreements reached to carry out such measures.

16 (2) PROGRESS NOT SUFFICIENT.--If the President determines that
17 sufficient progress is not being made, the President shall include in the
18 report required under paragraph (1) specific funding
19 recommendations, authorization needed, or other actions that are or
20 should be undertaken by the Secretary of Homeland Security.

21 (d) *GAO Report.*--Not later than 30 days after the certification is
22 submitted under subsection (a), the Comptroller General shall submit
23 a report to Congress on the accuracy of such certification.

24 **SECTION 2. Immigration Security Account .**

25 Section 286 of the Immigration and Nationality Act, as amended by
26 section 623, is further amended by adding at the end the following:

27 "(z) Immigration Security Account.-

29
30 (1) IN GENERAL.- There is established in the general fund of the
31 Treasury a separate account, which shall be known as the
32 "Immigration Security Account".

33
34 (2) SOURCE OF FUNDS.- Immediately upon enactment,
35 \$4,400,000,000 shall be transferred from the general fund of the
36 Treasury to the Immigration Security Account.

37

1 (3) APPROPRIATIONS.-

2
3 (A) There are hereby appropriated such sums that are provided
4 under subsection 2 to remain available until five years after
5 enactment.

6
7 (B) These sums shall be available for the Secretary of Homeland
8 Security to meet the trigger requirements set forth in title I, section 1,
9 of this Act.

10
11 (C) To the extent funds are not exhausted pursuant to (b), they
12 shall be available to the Secretary of Homeland Security for one or
13 more of the following activities:

14
15 (i) Fencing and Infrastructure;

16
17 (ii) Towers;

18
19 (iii) Detention beds;

20
21 (iv) Employment Eligibility Verification System, including funds for
22 expenditures under section 306 of this Act, relating to the State
23 Records Improvement Grant Program;

24
25 (v) Implementation of programs authorized in titles IV and VI; and

26
27 (vi) Other federal border and interior enforcement requirements to
28 ensure the integrity of programs authorized in titles IV and VI.

29
30 (4) TRANSFERS.-The Secretary of Homeland Security shall have the
31 authority to transfer amounts out of the Immigration Security Account
32 as appropriate to carry out subsections (3)(b) and (3)(c) of this
33 section.

34
35 (5) REPORTING.- The Secretary of Homeland Security shall submit
36 to the Committees on the Judiciary and Appropriations of the Senate a
37 plan for expenditure of the funds under subsection 2 within 60 days of
38 enactment of this Act, and update the plan annually, that -

39
40 (i) identifies one-time and on-going costs;

41
42 (ii) identifies the level of funding for each program, project,
43 and activity, and if that funding will supplement an
44 appropriated program, project, or activity;

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(iii) identifies the amount of funding to be obligated in each fiscal year, by program, project, and activity;

(iv) includes milestones for completion of each identified program, project, or activity;

(v) demonstrates how activities will further the goals and objectives of this Act.

(6) NOTIFICATIONS.- The Secretary of Homeland Security shall notify the Committees on Judiciary and Appropriations of the Senate 15 days prior to reprogramming funds from the original allocation or transferring funds out of the Immigration Security Account.

1 **TITLE I—BORDER ENFORCEMENT**

2 **Subtitle A—Assets for Controlling United States Borders.**

3 **SEC. 101. ENFORCEMENT PERSONNEL.**

4 (a) Additional Personnel-

5 (1) U.S. CUSTOMS AND BORDER PROTECTION OFFICERS -
6 In each of the fiscal years 2008 through 2012, the
7 Secretary shall, subject to the availability of
8 appropriations, increase by not less than 500 the number
9 of positions for full-time active duty CBP officers and
10 provide appropriate training, equipment, and support to
11 such additional CBP officers.

12 (2) INVESTIGATIVE PERSONNEL-

13 (A) IMMIGRATION AND CUSTOMS ENFORCEMENT
14 INVESTIGATORS- Section 5203 of the Intelligence
15 Reform and Terrorism Prevention Act of 2004 (Public
16 Law 108-458; 118 Stat. 3734) is amended by
17 striking `800' and inserting `1000'.

18 (B) ADDITIONAL PERSONNEL- In addition to the
19 positions authorized under section 5203 of the
20 Intelligence Reform and Terrorism Prevention Act of
21 2004, as amended by subparagraph (A), during each
22 of the fiscal years 2008 through 2012, the Secretary
23 shall, subject to the availability of appropriations,
24 increase by not less than 200 the number of
25 positions for personnel within the Department
26 assigned to investigate alien smuggling.

27 (3) DEPUTY UNITED STATES MARSHALS- In each of the
28 fiscal years 2008 through 2012, the Attorney General
29 shall, subject to the availability of appropriations, increase
30 by not less than 50 the number of positions for full-time
31 active duty Deputy United States Marshals that assist in
32 matters related to immigration.

33 (4) RECRUITMENT OF FORMER MILITARY PERSONNEL-

34 (A) IN GENERAL- The Commissioner of United States
35 Customs and Border Protection, in conjunction with
36 the Secretary of Defense or a designee of the
37 Secretary of Defense, shall establish a program to
38 actively recruit members of the Army, Navy, Air
39 Force, Marine Corps, and Coast Guard who have

1 elected to separate from active duty.

2 (B) REPORT- Not later than 180 days after the date
3 of the enactment of this Act, the Commissioner shall
4 submit a report on the implementation of the
5 recruitment program established pursuant to
6 subparagraph (A) to the Committee on the Judiciary
7 of the Senate and the Committee on the Judiciary of
8 the House of Representatives.

9 (b) Authorization of Appropriations-

10 (1) U.S. CUSTOMS AND BORDER PROTECTION OFFICERS -
11 There are authorized to be appropriated to the Secretary
12 such sums as may be necessary for each of the fiscal years
13 2008 through 2012 to carry out paragraph (1) of
14 subsection (a).

15 (2) DEPUTY UNITED STATES MARSHALS- There are
16 authorized to be appropriated to the Attorney General such
17 sums as may be necessary for each of the fiscal years
18 2008 through 2012 to carry out subsection (a)(3).

19 (3) BORDER PATROL AGENTS- Section 5202 of the
20 Intelligence Reform and Terrorism Prevention Act of 2004
21 (118 Stat. 3734) is amended to read as follows:

22 **SEC. 5202. INCREASE IN FULL-TIME BORDER PATROL**
23 **AGENTS.**

24 (a) Annual Increases- The Secretary of Homeland Security
25 shall, subject to the availability of appropriations for such
26 purpose, increase the number of positions for full-time active-
27 duty border patrol agents within the Department of Homeland
28 Security (above the number of such positions for which funds
29 were appropriated for the preceding fiscal year), by not less
30 than—

31 (1) 2,000 in fiscal year 2007;

32 (2) 2,400 in fiscal year 2008;

33 (3) 2,400 in fiscal year 2009;

34 (4) 2,400 in fiscal year 2010;

35 (5) 2,400 in fiscal year 2011; and

36 (6) 2,400 in fiscal year 2012.

37 (b) Northern Border- In each of the fiscal years 2008 through
38 2012, in addition to the border patrol agents assigned along the

1 northern border of the United States during the previous fiscal
2 year, the Secretary shall assign a number of border patrol
3 agents equal to not less than 20 percent of the net increase in
4 border patrol agents during each such fiscal year.

5 `(c) Authorization of Appropriations- There are authorized to be
6 appropriated such sums as may be necessary for each of fiscal
7 years 2008 through 2012 to carry out this section.'

8 (c) *Shadow Wolves Apprehension and Tracking*.--

9 (1) PURPOSE.--The purpose of this subsection is to authorize the
10 Secretary, acting through the Assistant Secretary of Immigration and
11 Customs Enforcement (referred to in this subsection as the
12 ``Secretary''), to establish new units of Customs Patrol Officers
13 (commonly known as ``Shadow Wolves'') during the 5-year period
14 beginning on the date of enactment of this Act.

15 (2) ESTABLISHMENT OF NEW UNITS.--

16 (A) IN GENERAL.--During the 5-year period beginning on the date
17 of enactment of this Act, the Secretary is authorized to establish within
18 United States Immigration and Customs Enforcement up to 5
19 additional units of Customs Patrol Officers in accordance with this
20 subsection, as appropriate.

21 (B) MEMBERSHIP.--Each new unit established pursuant to
22 subparagraph (A) shall consist of up to 15 Customs Patrol Officers.

23 (3) DUTIES.--The additional Immigration and Customs Enforcement
24 units established pursuant to paragraph (2)(A) shall operate on Indian
25 reservations (as defined in section 3 of the Indian Financing Act of
26 1974 (25 U.S.C. 1452)) located on or near (as determined by the
27 Secretary) an international border with Canada or Mexico, and such
28 other Federal land as the Secretary determines to be appropriate, by--

29 (A) investigating and preventing the entry of terrorists, other
30 unlawful aliens, instruments of terrorism, narcotics, and other
31 contraband into the United States; and

32 (B) carrying out such other duties as the Secretary determines to
33 be necessary.

1 (4) AUTHORIZATION OF APPROPRIATIONS.--There are authorized
2 to be appropriated to carry out this subsection such sums as are
3 necessary for each of fiscal years 2008 through 2013.

4 **SEC. 102. TECHNOLOGICAL ASSETS.**

5 (a) Acquisition—Subject to the availability of appropriations for such
6 purpose, the Secretary shall procure additional unmanned aerial
7 vehicles, cameras, poles, sensors, and other technologies necessary to
8 achieve operational control of the borders of the United States.

9 (b) Increased Availability of Equipment—The Secretary and the
10 Secretary of Defense shall develop and implement a plan to use
11 authorities provided to the Secretary of Defense under chapter 18 of
12 title 10, United States Code, to increase the availability and use of
13 Department of Defense equipment, including unmanned aerial
14 vehicles, tethered aerostat radars, and other surveillance equipment,
15 to assist the Secretary in carrying out surveillance activities conducted
16 at or near the international land borders of the United States to
17 prevent illegal immigration.

18 (c) Authorization of Appropriations—There are authorized to be
19 appropriated to the Secretary such sums as may be necessary for each
20 of the fiscal years 2008 through 2012 to carry out subsection (a).

21 **SEC. 103. INFRASTRUCTURE.**

22 Section 102 of the Illegal Immigration Reform and Immigrant
23 Responsibility Act of 1996 (8 U.S.C. 1103 note) is amended—

24 (1) in subsection (a), by striking "Attorney General, in
25 consultation with the Commissioner of Immigration and
26 Naturalization," and inserting "Secretary of Homeland Security";
27 and

28 (2) in subsection (b)—

29 (A) by redesignating paragraphs (1), (2), (3), and (4) as
30 paragraphs (2), (3), (4), and (5), respectively;

31 (B) by inserting before paragraph (2), as redesignated, the
32 following:

33 "(1) FENCING NEAR SAN DIEGO, CALIFORNIA —In carrying out
34 subsection (a), the Secretary shall provide for the construction
35 along the 14 miles of the international land border of the United
36 States, starting at the Pacific Ocean and extending eastward, of
37 second and third fences, in addition to the existing reinforced
38 fence, and for roads between the fences."

1 (C) in paragraph (2), as redesignated –

2 (i) in the header, by striking ``**SECURITY FEATURES**''
3 and inserting ``**ADDITIONAL FENCING ALONG**''
4 **SOUTHWEST BORDER**"; and

5 (ii) by striking subparagraphs (A) through (C) and
6 inserting the following:

7 `` (A) REINFORCED FENCING.--In carrying out subsection (a), the
8 Secretary of Homeland Security shall construct reinforced fencing
9 along not less than 700 miles of the southwest border where fencing
10 would be most practical and effective and provide for the installation of
11 additional physical barriers, roads, lighting, cameras, and sensors to
12 gain operational control of the southwest border.

13 `` (B) PRIORITY AREAS.--In carrying out this section, the Secretary
14 of Homeland Security shall--

15 `` (i) identify the 370 miles along the southwest border where
16 fencing would be most practical and effective in deterring smugglers
17 and aliens attempting to gain illegal entry into the United States; and

18 `` (ii) not later than December 31, 2008, complete construction of
19 reinforced fencing along the 370 miles identified under clause (i).

20 `` (C) CONSULTATION.--

21 `` (i) IN GENERAL.--In carrying out this section, the Secretary of
22 Homeland Security shall consult with the Secretary of Interior, the
23 Secretary of Agriculture, States, local governments, Indian tribes, and
24 property owners in the United States to minimize the impact on the
25 environment, culture, commerce, and quality of life for the
26 communities and residents located near the sites at which such fencing
27 is to be constructed.

28 `` (ii) SAVINGS PROVISION.--Nothing in this subparagraph may be
29 construed to--

30 `` (I) create any right of action for a State, local government, or
31 other person or entity affected by this subsection; or

32 `` (II) affect the eminent domain laws of the United States or of any
33 State.

