



# Community Action Kit

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## Analysis of S. 744, Pending Immigration Legislation

*Here are important talking points about Senate Bill 744, officially named the “Border Security, Economic Opportunity, and Immigration Modernization Act,” which grants amnesty to an estimated 12 million or more illegal immigrants in the U.S. and expands the number of foreign workers allowed to be imported to the U.S. Analysis of the bill reveals that it rewards lawbreaking and encourages more illegal immigration:*

S.744 allows the Department of Homeland Security (DHS) to grant legal status (registered provision immigrant, or RPI status) to illegal aliens within 6 months, before any measures to secure the border have been taken. (Sec. 3, p. 10; Sec. 5, p. 24)

S.744 includes the DREAM Act, which puts illegal aliens who entered the U.S. before age 16 on a 5-year fast-track to citizenship. However, unlike previous versions of that bill, there is no age limit and DHS may waive the work/study requirement. (Sec. 2103, p. 112)

S.744 grants amnesty to illegal farm workers and gives them a green card in five years. (Sec. 2211, p. 155; Sec. 2212, p. 177)

S.744 does not require a biometric exit system at all land, air and sea ports of entry to track aliens who enter and leave the U.S., per current law. Instead Section 3303 requires only a biographic exit system that merely collects information on a form or scans what is on identification documents. (Sec. 3303, p. 556)

S.744 requires NO additional border fencing or completion of current border fence requirements. Instead, it requires DHS to submit to Congress a fencing “strategy,” in which DHS may simply offer recommendations about what additional fencing it thinks are needed along the U.S.-Mexico border, if any. (Sec. 5, p. 24)

S.744 does not require illegal aliens to pay back taxes before getting legal status (RPI status). It requires RPI applicants to pay only those back taxes that have already been “assessed” at the time of application. (Sec. 2101, p. 70)

S.744 allows illegal aliens who have been deported (for any reason) and/or who have re-entered illegally to apply for RPI status (amnesty) if they have certain family members in the U.S. (Sec. 2101, p. 73)

S.744 does not require illegal aliens to learn English before receiving amnesty or even a green card. Under Section 2101, an RPI alien who applies for a green card need only claim that he is satisfactorily pursuing a course of study “to achieve an understanding of English and knowledge and understanding” of civics (Sec. 2101, p. 105)

S.744 allows states to grant in-state tuition to illegal aliens — not the aliens who receive amnesty, but ALL illegal aliens who arrive in the future. (Sec. 2103, p. 119)

S.744 undermines immigration enforcement and is riddled with waivers and loopholes such as the following:

S.744 allows DHS to waive multiple misdemeanor convictions when granting amnesty, so an alien with three or more misdemeanors still may be eligible for legal status (RPI status). (Sec. 2101, pp. 64-67)

S.744 also authorizes DHS to waive a broad array of unlawful behavior for the purpose of determining whether illegal aliens are admissible, including:

Gang-related crimes and gang membership;

Three or more drunk driving offenses;

Domestic violence, stalking, child abuse, and violation of protective orders;

Committing crimes of moral turpitude;

Violating federal or state drug laws;

Trafficking in passports;

Providing fraudulent immigration services;

Trafficking immigration documents, including document fraud;

Prostitution;

Misrepresenting a material fact to procure visas or other immigration benefits (if done for any purpose other than submitting an amnesty application);

Violating student visas;

Falsely claiming citizenship; and

Illegally re-entering the U.S. after deportation (which is a felony); (Sec. 2101, p. 66)

All other grounds not specifically listed in the bill. (Sec. 2101 INA245B(b)(3)(i), p. 65)

S.744 exempts certain employers from penalties for hiring illegal workers. These include persons or entities that hire individuals for employment “that is not casual, sporadic, irregular or intermittent (as defined by the Secretary of DHS).” This will exempt employers who hire day laborers or other temporary workers, giving employers an incentive to hire cheaper, illegal workers instead of legal residents or citizens. (Sec. 3101, p. 415)

S.744 delays implementation of E-Verify to appease big business and illegal workers. The bill provides that mandatory E-Verify won't go into effect for all employers until four years after DHS issues regulations implementing the mandatory program. That means (based on the amnesty timeframe) it could be at least a decade before E-Verify becomes mandatory for large companies and 14 years before all employers are phased into the program. (Sec. 3101, p. 437)

S.744 voids state and local E-Verify laws. (Sec. 3101, p. 511)

S.744 prohibits the enforcement of immigration laws against any illegal alien apprehended between the time of enactment and the end of the application period. Under Section 2101, DHS may not detain or remove an alien – for any reason – if the alien is “prima facie eligible,” or at first sight appears to be eligible, for RPI status until DHS has made a decision on the alien's application. (Sec. 2101, p. 72)

S.744 does not expressly punish or require the deportation of any alien who makes false statements in an RPI application. However, it does create criminal penalties and a \$10,000 fine for any federal official who discloses information found in RPI applications in violation of the law. (Sec. 2105, p. 133)

S.744 does not require the deportation of a single illegal alien. DHS is never required to deport an alien whose RPI application is denied — *for any reason*.

S.744 allows immigration judges to ignore U.S. immigration law. Section 2313 authorizes immigration judges to “exercise discretion” to decline to order the alien deported AND terminate proceedings if the judge determines deporting the alien “is against the public interest or would result in hardship to the alien's U.S. citizen or LPR parent spouse or child...” (Sec. 2313, p. 341)

S.744 allows the Secretary of DHS to ignore U.S. immigration law. Section 2313 provides that DHS may “exercise discretion to waive a ground of inadmissibility or deportability of the Secretary determines that such removal or refusal of admission is against the public interest” or would result in “hardship” to the alien's U.S. citizen or LPR parent spouse or child. (Sec. 2313, p. 343)

S.744 grants DHS sole discretion in making asylum decisions, taking the process out of the hands of an immigration judge. (Sec. 3404, p. 571)

S.744 authorizes illegal aliens to bring class action lawsuits against the government for a denial of RPI status. (Sec. 2104, p. 131)

S.744 allows the Department of Homeland Security to appoint counsel to illegal aliens fighting deportation at taxpayer expense. (Sec. 3502, p. 583)

S.744 hurts American workers in the following ways:

S.744 increases competition for jobs by doubling legal immigration within a decade after enactment — and triples it if you include the 12 million amnestied illegal aliens. This is the equivalent of adding the population of Canada – nearly 34 million people, virtually all of whom will need jobs — in a decade. Moreover, this estimate relates to legal permanent residents only, not temporary workers.

S.744 increases the number of guest workers by 50 percent over the decade after enactment.

S.744 creates a new unskilled guest worker program, through a new “W” visa, to bring in up to 200,000 additional workers each year. (Sec. 4703, p. 834)

S.744 triples the number of so-called skilled (H-1B) guest workers who may enter the U.S. annually. (Sec. 4101, p. 674)

S.744 also grants work authorization to the spouses of H-1B and W visa holders.

S.744 exempts immigrants (green card holders) with advanced degrees in science, technology, engineering and math, also referred to as STEM fields, from the cap on employment-based

25. S.744 allows DHS to contract out the screening, supervision and custody of illegal aliens to community-based organizations. (Sec. 3715, p. 660)

28. S.744 creates a new bureaucracy, the Office of Legal Access Programs, to provide illegal aliens with “legal orientation programs” that help fight deportation. The bill requires DHS to make these programs available to the aliens within 5 days of being taken into custody. Section 3503 also authorizes the Office of Legal Access Programs to provide services, including legal services, to aliens in deportation hearings. (Sec. 3503, p. 585)

S.744 does not prevent American taxpayers from subsidizing illegal immigration. In fact, it makes the current problem worse:

S.744 requires that DHS waive the law against aliens becoming public charge when determining which aliens are eligible for amnesty. (Sec. 2101, p.65)

S.744 provides that when an RPI alien applies for legal permanent resident status – a point at which many federal benefits become available — the alien need only demonstrate income or resources equal to 125 percent of the federal poverty level. (Sec. 2102, INA 245C(a) and (b) p. 94)

S.744 does not prohibit state and local jurisdictions from giving benefits to newly legalized aliens. Many states, such as California, give benefits to illegal aliens and nonimmigrants (temporary aliens) such as taxpayer funded health care and welfare benefits. (Sec. 2101, p. 92)

S.744 creates a “slush fund” for nonprofit organizations that help implement the amnesty. Section 2537 authorizes DHS to award newly-created “Initial Entry, Adjustment, and Citizenship Assistance” (IEACA) grants to nonprofit organizations that help illegal aliens navigate the amnesty process. The bill appropriates \$100 million for IEACA grants for the first five years and “such sums as may be necessary for fiscal year 2019 and subsequent fiscal years.” (Sec. 2537, pp. 397-99)

S.744 does not end chain migration, which leads to the admission of large numbers of low- skilled, less educated immigrants. While at first it appears that the bill repeals two family-based categories for admission, it eliminates the effect of doing so by giving family members extra weight in the merit-based immigration program and by including spouses and children of legal permanent residents in the definition of immediate relatives, significantly expanding legal immigration. (Sec. 2301, p. 264; Sec. 2305, p.282)

When fully implemented, S.744 will cost U.S. taxpayers \$6.3 trillion in federal spending alone over the course of 50 years. (See Heritage Foundation Report, May 2013)