

ISSUE BRIEF

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Schumer–Corker–Hoeven Amendment Fails on Securing the Border and Halting Illegal Immigration

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On Friday, Senators Bob Corker (R–TN) and John Hoeven (R–ND), joined by Senator Charles Schumer (D–NY), introduced an amendment to the Senate’s comprehensive immigration reform bill (S. 744). The amendment, which when incorporated into the bill ballooned it to nearly 1,200 pages, is touted as putting teeth into the border security provisions of the Gang of Eight’s amnesty bill.

In public discussions the phrase “border security” is generally shorthand for not only protecting the nation’s sovereignty but also stopping or greatly reducing future illegal immigration into the U.S. The Schumer–Corker–Hoeven amendment would do neither. While Senator Corker has claimed that his amendment should “put to rest” the nation’s security concerns along the border, the reality is that the amendment is far from a “game changer.”

False Promises on Security and Immigration.

The authors of the amendment assert that, under the revised legislation, amnesty recipients could not move forward to obtain green cards and full access to the welfare/entitlement state unless specific “triggers” are met. Remarkably, the “triggers” in the amendment do not require a reduction in the

number of illegal immigrants entering the country in future years. Nor do they have to be in place before an initial amnesty is granted to millions of illegal immigrants under the bill.

Under the amended S. 744, the number of future illegal immigrants entering and residing in the country can actually increase and amnesty recipients would still receive green cards and become eligible for citizenship. All this would come years after these illegal immigrants receive the initial registered provisional immigrant status.

The main trigger in S. 774 asserts that some 10 years in the future, the Secretary of the Department of Homeland Security (DHS) will certify that he/she has put in place technology and infrastructure that may at some future time provide “effective control” of the border.¹ Critically, even 10 years after enactment, DHS does not have to actually achieve “effective control”; it merely has to assert that it has established a system that might achieve control at some point in the future.

Effective control in S. 744 has two components: “persistent surveillance” and an “effectiveness rate of 90 percent.”² Persistent surveillance is undefined in the bill and is therefore meaningless.

An “effectiveness rate of 90 percent” means that at least 90 percent of attempted border crossings would be apprehended or turned back. Note again that even 10 years after enactment, DHS does not have to actually achieve an apprehension rate of 90 percent but merely assert that a plan to achieve it is “deployed and operational.” Moreover, since the number of attempted border crossings is unknown, the 90 percent apprehension rate would be nebulous even if it were achieved.

This paper, in its entirety, can be found at
<http://report.heritage.org/ib3974>

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Another trigger requires that a detailed scheme of technology and infrastructure prescribed in section 5(a) of the bill must also be deployed and operational before green cards will be given to amnesty recipients. But paragraphs (4) and (5) of this section empower the Secretary to waive all of the detailed requirements, rendering the detailed border control plan spelled out by the amendment's authors meaningless.

Establishing Real Border Security Metrics. Instead, there is a fair and objective way to measure the number of illegal immigrants entering the country: the Census Bureau's annual American Community Survey (ACS).

Each year, DHS calculates the number of illegal immigrants residing in the U.S. using a well-established and widely accepted "residual" methodology. The residual method works as follows. First, DHS determines the number and characteristics of the legal immigrants who should be inside the country according to the number of visas actually issued. Second, the number and characteristics of all immigrants appearing in the ACS is determined. Immigrants in the survey in excess of the number of visas issued are deemed to be illegal. This method is currently used to produce the widely used estimate that there are at least 11.5 million illegal immigrants currently in the U.S.

Critically, the ACS identifies the year that an illegal immigrant entered the country according to the self-report of the immigrants themselves. Therefore, in the future, the ACS will enable DHS to identify the number of illegal immigrants who have entered the country each year after 2013.

Of course, the ACS is not a perfect measure. There are clearly a large number of illegal immigrants who reside in the U.S. but do not appear in the ACS. But the ACS at least offers an objective minimum measure of the net inflow of illegal immigrants based on an established methodology.

A Better Way Forward. Any bill that starts by giving amnesty to millions who are unlawfully present will only encourage greater illegal immigration, thus making border security even more difficult. There is a better way forward—a practical, fair, and responsible path to address the nation's broken borders and immigration mess without a massive, bloated comprehensive immigration reform law, and the ACS can be used as a demonstrable measure of its effectiveness.

This path includes as the first priority real measures that would put border security first. To secure the border, the U.S. should use targeted and true investments in infrastructure, technology, and assets to enhance the efforts of U.S. border agents and the Coast Guard. Additionally, the U.S. should pursue greater cooperation with Mexico and support local law enforcement in border security efforts. The right path also enforces U.S. law, including ensuring that strong employment verification systems are in place to prevent the employment of unlawful labor.

Critically, these and other reforms would then be tested by the ACS, providing the U.S. with proof of their success or failure.

Far from a Game Changer. Congress should stop business as usual and actually take a close look at the bills they are considering. Far from the "breakthrough" its proponents claim it is, the Schumer-Corker-Hoeven deal is full of loopholes and false promises and would do little to solve the nation's border security and immigration challenges.

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1. The Border Security, Economic Opportunity, and Immigration Modernization Act of 2013, S. 744, Section 3(c) (2)(A)(i)(II), page 4.
2. *Ibid.*, Section 3(a)(3).