



**ACLU Vote Recommendation on S.744,
(motion to invoke cloture on Leahy amendment #1183, as modified)**

Status: This vote is scheduled to take place at 5:30pm EST on Monday June 24, 2013

What it does: The vote will determine whether the Senate proceeds with consideration of S.744, the Border Security, Economic Opportunity, and Immigration Modernization Act, as passed out of the Judiciary Committee and modified by what is known as the Corker-Hoeven “border surge” amendment.

Vote Recommendation: The ACLU recommends a “Yes” vote on the motion to invoke cloture, but is committed to working to remove the border militarization provisions of the Corker-Hoeven amendment before final passage of the legislation.

Background:

- **Though far from perfect, the core provisions of S.744 will advance the civil rights and civil liberties of millions of aspiring American citizens.**
 - S.744’s road to citizenship is wide, which will allow millions of aspiring American family members and neighbors to be fully equal participants in our communities. S.744 contains a robust version of the DREAM Act, which will legalize young people brought up in the United States who are American to the core.
 - S.744 significantly improves legal protections in the deeply flawed immigration jail and deportation system.
 - S.744 creates improved oversight and accountability mechanisms for DHS agencies, including – importantly – over immigration jails, which continue to be sites of egregious basic rights violations. It also restricts the use of solitary confinement.
- **The border militarization provisions added at the eleventh hour to S.744 will be devastating for border communities. They guarantee civil liberties violations, intrusive surveillance, and corruption on a massive scale while militarizing the border with resources that even the amendment’s sponsor called “almost overkill.” The ACLU is committed to pursuing every available avenue to remove the Corker-Hoeven “border surge” provisions from any legislation before it heads to President Obama’s desk.**
 - The “border surge” agreement spearheaded by Sens. Corker (R-Tenn.) and Hoeven (R-N.D.) would waste \$46 billion on an illusory border security problem, militarizing some of the safest communities in America.

- The amendment does not reflect our security needs. There is ample evidence that the southwest border is more secure than it has ever been. Border apprehensions are at a nadir, approaching levels not seen for forty years, and net migration from Mexico is at zero.
 - Last year House Appropriations Committee Chair Rep. Hal Rogers (R-KY) warned about spending at the southwest border that “a sort of mini industrial complex syndrome [] has set in there and we’re going to have to guard against it every step of the way.”
 - The so-called border surge will inevitably exacerbate civil liberties violations characteristic of Customs and Border Protection (CBP) operations, including excessive uses of force and racial profiling. Drones and other surveillance equipment would monitor not only the border itself, but areas extending 100 miles in from the southwest border, exposing American lands and dwellings without the legal protections enjoyed by the rest of the country.
 - The “border surge” will compound the serious problem of overincarceration in federal prisons. The Department of Homeland Security (DHS) already refers more cases for federal prosecution than the Department of Justice’s law enforcement agencies. Federal prisons are 40% over capacity, due in large part to indiscriminate prosecution of individuals for crossing the border without authorization, often to rejoin their families.
- **The ACLU remains concerned about the inclusion of a mandatory employment verification system.**
 - Under the best case scenario, this system will result in hundreds of thousands of workers being forced to visit government offices before they can get approval to work while doing little to stop the unscrupulous employers who currently hire workers under the table.
 - While the bill contains improved due process and privacy protections, it also takes significant steps toward a “cardless” national ID system which could be used to track and limit Americans’ movements and activities.

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