

May 8, 2012

Re: Immigration amendments to the FY 13 Commerce, Justice and Science Appropriations Bill

Dear Member of Congress,

The undersigned organizations urge you to oppose any harmful immigration amendments to the FY 2013 Commerce, Justice and Science (CJS) appropriations bill. .

We are aware that amendments are most likely to be offered on four potential immigration areas: 1) amendments that will commandeer state resources in enforcing federal immigration law; 2) amendments that will prohibit funding for constitutional challenges of state immigration laws; 3) excessive and non-targeted spending on border enforcement and militarization of the border; and 4) expansion of E-Verify. We have serious concerns about these possible amendments and ask you to oppose them and other harmful immigration amendments that may be offered.

1. **Amendments that would commandeer state resources to enforce federal immigration law.** We anticipate amendments in two categories: (1) penalizing jurisdictions with policies that prioritize police resources according to community budget priorities and public safety needs, leaving immigration enforcement as a federal responsibility; and (2) penalizing jurisdictions with policies that treat Immigration and Customs Enforcement (ICE) detainer requests to state or local law enforcement agencies as voluntary, consistent with federal law, based on community budget priorities and public safety needs.

Some states and localities have passed policies that promote community policing and crime reduction through measures that properly leave immigration enforcement to the federal government. Victims and witnesses won't come forward if they fear that police officers will act as immigration agents. Federal law does not require state and local immigration enforcement and ICE can do its job without detainers.

Far from being "sanctuary cities," these jurisdictions have enacted carefully considered local policing policies based on what works best to promote public safety. They prioritize budgetary and law enforcement resources according to community needs, while still permitting federal immigration enforcement to take place. Law enforcement agencies need federal support to keep police officers on the beat during these tough economic times; penalizing hard-working police over an immigration fight is wrong and hurts everyone's safety.

2. **Amendments that would prohibit funding for pending Department of Justice litigation on state immigration laws.** DOJ is currently challenging state immigration laws in AZ, AL, SC, and UT, and has mostly prevailed. The federal government is simply affirming its sole jurisdiction over the country's immigration laws. It would be unprecedented for Congress to interfere with a Supreme Court decision that is due by the

end of June in DOJ's Arizona case. Amendments seeking to defund DOJ pose serious separation of powers concerns.

As the executive branch's lawyer, DOJ is constitutionally responsible for ensuring the faithful execution of federal laws. DOJ is correctly asserting the principle that states may not legislate in conflict with federal immigration law. Whether or not Members agree with the substance of DOJ's position, a funding limitation would establish a dangerous precedent by opening the door to congressional restraints on federal litigation by future administrations about any issue.

3. **Excessive and non-targeted spending and militarization of the border.** We currently are spending unprecedented resources at the border. Without fixing the immigration system, however, those resources bring diminishing returns. Border security must be smarter and more effective, and focus on quality versus quantity. We urge you to reject unnecessary, superfluous and non-targeted funding for border enforcement activities. We also urge you to reject amendments that promote National Guard presence at the Southwest border or expansion of Operation Streamline. Increasing border security measures is unnecessary at a time when unlawful immigration has plummeted to a low not seen for 30 years and the U.S. borders are the most secure they have ever been. The appropriations amendment process is the wrong place to be making vital national security decisions about resource allocation at the border, without input from the affected agencies and stakeholders.
4. **Expansion of E-Verify.** The E-Verify program has well-documented failings which include unacceptably high error rates that misidentify U.S. Citizen and lawful immigrant workers as unauthorized for employment. Any attempt to require all federal contractors to use the program is duplicative and will hurt small businesses and workers. The federal government, through Executive Order and a final rule (the Federal Acquisition Regulation or "FAR"), already requires employers with federal contracts and subcontracts to use the program for all new hires and all workers assigned to the contract. The rule has been in effect since September 8, 2009, and includes a number of important exemptions for agriculture and state and local governments.

We thank you for your past leadership in ensuring that appropriations bills do not legislate on these issues. Please contact Tyler Moran, National Immigration Law Center, moran@nilc.org or Eric Sigmon, Lutheran Immigration and Refugee Service, esigmon@lirs.org if you have any questions.

Sincerely,

American Civil Liberties Union (ACLU)

American Immigration Lawyers Association (AILA)

Asian American Justice Center, Member of the Asian American Center for Advancing Justice (AAJC)

Casa de Esperanza: National Latin@ Network for Healthy Families and Communities

Farmworker Justice
Hebrew Immigrant Aid Society (HIAS)
The Leadership Conference on Civil and Human Rights (LCCHR)
Lutheran Immigration and Refugee Service (LIRS)
National Council of La Raza (NCLR)
National Immigration Forum
National Immigration Law Center
New York Immigration Coalition
Rights Working Group
Service Employees International Union (SEIU)
Southern Poverty Law Center