



Senate Amendment to H.R. 240 — Department of Homeland Security Appropriations Act, 2015 (Rogers, R-KY)

CONTACT: MATT DICKERSON, MATTHEW.DICKERSON@MAIL.HOUSE.GOV, 6-9718

FLOOR SCHEDULE: THE SENATE AMENDMENT TO H.R. 240 MAY BE CONSIDERED ON THE FLOOR ON MARCH 3, 2015, UNDER A PRIVILEGED MOTION.

CLAUSE 4 OF RULE XXII OF THE RULES OF THE HOUSE STATES THAT “WHEN THE STAGE OF DISAGREEMENT HAS BEEN REACHED ON A BILL OR RESOLUTION WITH HOUSE OR SENATE AMENDMENTS, A MOTION TO DISPOSE OF ANY AMENDMENT SHALL BE PRIVILEGED.”

AN ARTICLE DESCRIBING THIS PROCEDURE CAN BE FOUND [HERE](#). IT IS EXPECTED THAT A PRIVILEGED MOTION TO REcede FROM THE HOUSE POSITION AND CONCUR IN THE SENATE AMENDMENT WILL BE RAISED BY A REPUBLICAN MEMBER. IF THIS HOUSE ADOPTS THIS MOTION, THE DHS APPROPRIATIONS BILL WILL THEN BE SENT TO THE PRESIDENT FOR HIS SIGNATURE.

TOPLINE SUMMARY: The Senate Amendment to H.R. 240 under consideration on the House floor makes appropriations for the Department of Homeland Security (DHS) through the end of Fiscal Year 2015. It is identical to the DHS appropriations bill passed by the House earlier this year, but **does not** include House-passed amendments to block the president’s executive amnesty.

CONSERVATIVE CONCERNS: Conservatives have expressed concern that this legislation does not to stop the president’s executive amnesty.

This legislation does not explicitly fund the president’s executive amnesty actions as the U.S. Citizenship and Immigration Services receives mandatory funding from fees outside of the regular appropriations process. At the same time, this bill contains no policy provision to stop the implementation of executive amnesty.

A federal judge in the Southern District of Texas recently [enjoined](#) the Deferred Action for Parents of Americans and Lawful Permanent Residents

COST: The bill would provide a total of \$39.67 billion in regular discretionary appropriations.

Additionally, the bill would provide \$6.438 billion in discretionary appropriations designated for disaster relief and \$213 million in discretionary appropriations designated for Overseas Contingency Operations (OCO). Both of these categories are exempt from the discretionary spending caps established by the Budget Control Act (BCA). In total, the bill would authorize \$47.771 billion in budget authority.

According to [CBO](#), by not defunding the executive amnesty actions, the Senate amendment would allow \$14.9 billion in new welfare spending that would occur if the amnesty is allowed to be implemented. This includes \$815 million in Social Security payments, \$330 million for Medicare, \$811 million for Food Stamps, \$1 billion in SSI payments, \$1.5 billion for Obamacare and Medicaid, and \$10.2 billion in earned income and child tax credits.

(DAPA) and the expanded Deferred Action for Childhood Arrivals (DACA) amnesty programs announced in November 2014, which prohibit the implementation of the two programs. However, [some have expressed concerns that federal resources](#) are being used to prepare for implementation of executive amnesty in spite of the court's action.

- **Expand** the Size and Scope of the Federal Government?: **No**
- **Encroach** into State or Local Authority?: **No**
- **Delegate** Any Legislative Authority to the Executive Branch?: The bill continues current law for funding DHS, which allows mandatory spending for certain accounts funded by fees without Congressional review.
- **Contain** Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: **No**

DETAILED SUMMARY AND ANALYSIS:

Unaccompanied Alien Children (UAC): The bill includes a total of \$553.589 million to respond to the surge of UACs. These funds, contained in the different accounts throughout the bill, are [for](#) “detering such illegal migration, interdicting these migrants, caring for and transporting an estimated 58,000 undocumented children to the custody of the Department of Health and Human Services (HHS), and facilitating the movement of thousands of undocumented families through removal proceedings after they illegally cross the U.S. border during this fiscal year.” The bill requires regular reporting to Congress on UACs and for the President’s FY 2016 budget to address the needs of DHS for UAC response funding.

Situational Awareness Report: The bill requires DHS to submit to Congress a plan for situational awareness along the Southwest Border within 180 days.

U.S. Customs and Border Protection (CBP): The bill provides a total of \$10.699 billion in appropriations for CBP, a level that is \$119 million above the FY 2014 level and \$3 million below the President’s budget request.

Within the total, \$3.9 billion is for border security between ports of entry and \$2.8 billion is for inspections at ports of entry. Funding is provided to support the current-law minimum of 21,370 Border Patrol agents, and the bill directs CBP to take steps to comply with this required staffing level.

\$382 million is provided for Border Security Fencing, infrastructure, and Technology.

U.S. Immigration and Customs Enforcement (ICE): The bill provides a total of \$5.959 billion in appropriations for ICE, a level that is \$689 million above the FY 2014 level and \$945 million above the President’s budget request.

The bill includes \$3.431 billion for Enforcement and Removal operation, including full funding to support the [287\(g\) program](#) that support local law enforcement of immigration law.

The bill includes \$2.523 billion for Custody Operations, enough to fund the 34,000 detention beds mandated by the bill.

The bill provides \$109.7 million for Alternatives to Detention, which places “low-risk aliens” under supervision or electronic monitoring instead of detention prior to hearings and removal.

The bill provides \$319 million for the Transportation and Removal Program, which provides for removal of aliens.

Transportation Security Administration (TSA): The bill provides a total of \$4.834 billion in net discretionary appropriations for TSA, a level that is \$94 million below the FY 2014 level and \$509 million above the President's budget request.

The bill provides \$790 million for the Federal Air Marshals.

The bill provides \$124 million for Surface Transportation Security, which includes funds for 31 [Visible Intermodal Prevention and Response \(VIPR\)](#) teams.

Coast Guard: The bill provides a total of \$8.591 billion in discretionary appropriations for the Coast Guard, a level that is \$150 million below the FY 2014 level and \$440 million above the President's budget request.

Of the total, \$213 million is designated as for Overseas Contingency Operations (OCO), which do not count against the Budget Control Act (BCA) caps on regular appropriations.

U.S. Secret Service: The bill provides a total of \$1.666 billion for the Secret Service, a level that is \$81 million above the FY 2014 level and \$30 million above the President's budget request.

The bill provides a \$25 million increase to support infrastructure improvements, additional staff, and tactical canine units at the White House to respond to recent security incidents. The Secret Service is required to brief Congress on their efforts to enhance security at the White House.

The bill withholds \$10 million from Management funding until the Secret Service submits a report to Congress detailing the Secret Service's efforts to improve its standards of conduct.

The bill provides \$22 million to begin preparation for 2016 Presidential candidate protection.

The bill provides \$4 million to establish the protective detail of the next former President.

Federal Emergency Management Agency (FEMA): The bill provides a total of \$10.785 billion for FEMA, a level that is \$804 million above the FY 2014 level and \$377 million above the President's budget request.

The bill provides \$7.033 billion for the Disaster Relief Fund (DRF). Of this total, \$6.438 billion is designated as for disaster relief. The DRF is FEMA's primary account for funding disaster response efforts, such as direct aid to individuals, aid to state and local governments, cleanup, and infrastructure repair. Funds appropriated the DRF are available until they are spent; because it is a "no-year" account, funds do not expire at the end of the fiscal year like normal appropriations. The DRF can be funded through regular appropriations bills as well as supplemental appropriations bills.

The [Budget Control Act](#) (BCA) allows appropriations for disaster relief above the regular appropriations caps. As described by [CRS](#), the allowed amount of disaster appropriations is calculated as the "average funding provided for disaster relief over the previous 10 fiscal years—excluding the highest and lowest years—plus any amount by which the prior year's appropriation was below the maximum allowable cap adjustment for that year."

The bill provides \$680 million for Firefighter Assistance Grants. Firefighter Assistance Grants are made available to local firefighter departments and cover both personnel and equipment costs.

U.S. Citizenship and Immigration Services (USCIS): The bill provides a total of \$124 million in discretionary appropriations for USCIS. The only discretionary funding USCIS receives is for the E-Verify program, which

allows employers to verify the immigration status of workers. Unlike most agencies, USCIS is almost entirely funded through fees. USCIS is carrying out the President's executive amnesty actions using fees.

Science and Technology Directorate (S&T): The bill provides a total of \$1.104 billion for the S&T, a level that is \$116 million below the FY 2014 level and \$32 million above the President's budget request. The Science and Technology Directorate's mission is to research and develop technology to support the mission of DHS. S&T funding supports laboratories, including the National Bio- and Agro-Defense Facility, Centers of Excellence, and other research.

National Identification Card: The bill prohibits funds to develop a national identification card.

Guantanamo: The bill prohibits funds to transfer or release detainees from Guantanamo.

Immigration Law: The bill includes a provision to require the Secretary of Homeland Security to enforce all existing immigration laws.

Grants for State and Local UAC Response: The bill would make care, transportation, and humanitarian relief of unaccompanied immigrant children by state and local governments an expense eligible for reimbursement under Homeland Security grant programs.

LEGISLATIVE HISTORY: On March 2, 2015, the Senate rejected cloture on a motion to insist on Senate amendment to House bill and agree to the request for conference by a [47 – 43](#) vote. Also on March 2, 2015, the Senate passed a motion to table to message from the House by a [58 – 31](#) vote, sending the Senate amendment to H.R. 240 back to the house.

On February 27, 2015, the House voted to disagree to the Senate amendment, and request a conference by a [228 – 191](#) vote.

On February 27, 2015, the Senate Amendment to H.R. 240 was passed by a [68 – 31](#) vote.

On January 14, 2015, the House approved [H.R. 240](#), as amended by a [236 – 191](#) vote.

H.R. 240 was introduced on January 9, 2015, and referred to the Committee on Appropriations and the Committee on the Budget. No further action was taken by either Committee.

On December 11, 2014, the House passed H.R. 83, the Consolidated and Further Continuing Appropriations Act, 2015, by a [219 – 206](#) vote. H.R. 83 provided full appropriations language for Fiscal Year 2015 for 11 of the 12 regular appropriations bills, while also providing funding for the Department of Homeland Security until February 27, 2015. The bill provided the DHS flexibility with regards to Secret Service protection for Presidential candidates and the National Bio- and Agro-defense Facility. H.R. 83 was signed into law on December 16, 2014.

The Appropriations Committee marked up and approved the FY 2015 DHS Appropriations bill on [June 11, 2015](#), by voice vote. The House took no further action on the bill in the 113th Congress.

The House Appropriations Committee held [several hearings](#) on the DHS appropriations provisions, including a [Budget Hearing on United States Immigration and Customs Enforcement](#) on March 13, 2014, and a [Budget Hearing on United States Customs and Border Protection](#) on April 2, 2014.

On December 2, 2014, the House Homeland Security Committee held a hearing titled "[Open Borders: The Impact of Presidential Amnesty on Border Security](#)," featuring DHS Secretary Jeh Johnson.

On December 2, 2014, the House Judiciary Committee held a hearing titled "[President Obama's Executive Overreach on Immigration](#)."

OUTSIDE GROUPS: Heritage Action – [Key Vote No.](#)

ADMINISTRATION POSITION: A statement of administration policy on the Senate amendment is not available at this time.

CONSTITUTIONAL AUTHORITY: "Congress has the power to enact this legislation pursuant to the following: The principal constitutional authority for this legislation is clause 7 of section 9 of article I of the Constitution of the United States (the appropriation power), which states: "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law" In addition, clause 1 of section 8 of article I of the Constitution (the spending power) provides: "The Congress shall have the Power . . . to pay the Debts and provide for the common Defence and general Welfare of the United States. . . ." Together, these specific constitutional provisions establish the congressional power of the purse, granting Congress the authority to appropriate funds, to determine their purpose, amount, and period of availability, and to set forth terms and conditions governing their use."

NOTE: *RSC Legislative Bulletins are for informational purposes only and should not be taken as statements of support or opposition from the Republican Study Committee.*

###