

Coburn Amendment #1311 – An amendment requiring that existing border security and immigration laws be enforced and approved by Congress before the amnesty in this bill can be granted.

The federal government has an obligation to secure the U.S. borders and enforce U.S. laws. The American people expect that their laws will be upheld. Yet, the U.S. borders are not secure and illegal immigrants are not being deported. The American people have history since the 1986 amnesty of being over-promised and under-sold. The federal government has failed and has rightfully lost the trust of the public. How can the public trust that this time anything will be different?

The Coburn amendment is the first step to help restore some of the trust Congress has lost. It says that before the Kennedy-Bush bill can go forward, the president must demonstrate to Congress that current laws are being enforced. This amendment is common sense. If the Agencies can demonstrate that U.S. borders are secure and immigration laws are enforced, then it will help restore public trust and ensure that this time things will be different.

What this Trigger Will Do

Simply put, the “trigger” is the legislative mechanism for ensuring that the Federal government meets certain legal obligations before the process for legalizing illegal immigrants can begin.

This amendment is simple.

This trigger amendment will **add** to the current trigger in the bill.

This amendment takes several provisions of **existing law** and requires that they be fully implemented before aliens can adjust to legal status.

It then requires the President to certify and Congress to approve.

The provisions of existing law that must be implemented, as previously directed by Congress include:

1. The Department of Homeland Security (DHS) must achieve and maintain operational control over the international and maritime borders of the U.S. as required by the Secure Fence Act of 2006 (P.L. 109-367). The Secure Fence Act was approved in the Senate 80 -19.
2. The total miles of fence required in the Secure Fence Act of 2006 are constructed.
3. All databases maintained by DHS with information on aliens shall be fully integrated as required by Section 202 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 USC 1722).
4. The exit portion of the US-VISIT system be fully implemented as required by section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1221).
5. That the provision of law that prevents states and localities from adopting "sanctuary" policies are fully enforced as required by section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373).
6. That DHS employ fully operational equipment at each port of entry in accordance with Section 303 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1732).
7. Aliens with border crossing cards are prevented from entering unless their biometric card is matched to them as required by Section 1101 (a) (6) of Title 8 of the U.S. Code.
8. Aliens likely to become a public charge must be denied entry pursuant to section 212 (a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182 (a)(4)).

How the Trigger Works

This amendment requires that the Agencies responsible for implementing the various provisions of law report to the President when they have fully implemented the law; **and that the President review the certifications and either approve or deny them.**

If the President denies that the agency has fulfilled the requirement according to law, the President must instruct the agency where they have been deficient and wait until they comply with the law.

If the President approves the assertion that the laws are being correctly enforced, he must then certify to Congress that the requirements have been met and provide a report to Congress with the information necessary for members to make an independent determination.

Congress shall then, on an expedited basis, review the report to and pass a Resolution affirming that the laws have been properly implemented.

Why this Trigger is Needed

This amendment builds in accountability first between the Agencies and the President and then between the President and the Legislature.

It provides a check to make sure that our laws are being enforced and it returns control to the American people.

The Gregg Amendment # 1172 that was adopted made significant improvements to the trigger provision. It did six things to enhance enforcement of our immigration laws. It requires:

1. Operational control of the U.S.-Mexico border.

2. DHS to hire, train and have 20,000 full-time agents reporting for duty.
3. Enhanced border control including –
 - at least 300 miles of vehicle barriers,
 - 370 miles of fencing,
 - and 105 ground-based radar and camera towers,
 - and that 4 unmanned aerial vehicles are deployed
4. The secretary of Homeland Security to detain all removable aliens apprehended crossing the international border between the United States and Mexico.
5. The U.S. Immigration and Customs Enforcement to have the resources to detain up to 31,500 aliens per day.
6. That Title III of this act, the Employment Verification System, is established and that the secretary of Homeland Security is using secure and effective identification tools to prevent unauthorized workers from obtaining employment.

However, it lacked two key elements:

- 1. It did not require that existing laws be implemented and enforced.**
- 2. It did not require Congressional approval, which would provide accountability between the President and Congress.**

Public Trust

- A recent Rasmussen Report found that 66% of those polled believe it does not make sense to debate *new immigration* laws until we can first control our borders and enforce existing laws.^[1]

First Problem Addressed

This bill is flawed because it allows those here illegally to adjust to legal status *before* any of the new or old enforcement provisions are in place.

Specifically, it allows illegal aliens to become legal before we have operational control of the border, as required by law.

The United States has a porous border. The Pew Hispanic Center estimates that between 6 and 7 million illegal aliens in the United States, entered the country illegally, by evading Border Patrol and other law enforcement authorities.^[2]

Congress must take the necessary steps to secure the border. That will only happen if the amnesty is not granted until U.S. laws are being enforced.

This amendment will get rid of the immediate amnesty called the 'probationary Z-visa' and will delay the issuance of any Z-visa until the border is secure and our current immigration laws are enforced.

In this bill, illegal aliens are almost immediately given full "probationary benefits."

^[1] May 30, 2007 report.

http://www.rasmussenreports.com/public_content/politics/just_16_believe_senate_bill_will_reduce_illegal_immigration

^[2] Pew Hispanic Research Center, "Modes of Entry for the Unauthorized Migrant Population," May 22, 2006.

These benefits include the ability to legally live and work in the U.S., the ability to travel outside of the U.S. and return, and the issuance of a social security card.

This amendment requires that before any illegal alien is allowed to adjust to legal status that Congress certify that the Department of Homeland Security has operational control of the border and that certain miles of fencing have been constructed according to the Secure Fence Act of 2006 which was passed during the last Congress.

Second Problem Addressed

This bill is flawed because it creates a *new* temporary worker program without first having a mechanism in place to verify that temporary workers and visitors leave when their visa expires.

In 1996, Congress decided, in order to protect and secure our sovereignty, to create a system to record the entrance and exit of all aliens permitted to enter our country legally.

This system was intended to record the departure of every alien and match the record of departure with the record of the alien's arrival in the United States.

Currently, DHS records those who enter the United States on a visa. However, the department has not yet created or implemented a system to record those exiting.

This system, called US-VISIT, is important because it will help law enforcement identify aliens who have overstayed their visas.

Without the US-VISIT exit portion, the United States has no method to ensure that workers, or their visiting families, do not overstay their visas.

It is estimated that the current illegal population in the United States includes 4 million to 5.5 million visa overstays.

The U.S. VISIT exit component is key to a successful new temporary worker program.

This amendment will require that the exit portion of the US-VISIT system be fully implemented *before* anyone can adjust to a legal status.

Requiring the implementation of the exit portion of the US-VISIT system is critical because the implementation has repeatedly been delayed.

The system created in the 1996 bill was supposed to be in place by September 30, 1998. The deadline was changed to October 15, 1998 and again to March 30, 2001.^[3]

Yet, the exit portion was never implemented, despite the congressional mandate and despite the fact that it was required by law.

In 2000, Congress passed the Immigration and Naturalization Service Data Management Improvement Act (DMIA) to enhance the 1996 statute with the biometric identifiers required by the US-VISIT system.

This entry and exit data system was required to be implemented at airports and seaports by December 31, 2003, and at the busiest land ports of entry by December 31, 2004, and at all remaining ports of entry by December 31, 2005.

Yet, one year and 6 months later there is not an exit system in place at any airport, seaport, or land port of entry.

According to a recent report on the status of the US-VISIT system, "DHS will begin deployment [of the exit portion of the US-VISIT

^[3] GAO Testimony by Richard M. Stana, Director Homeland Security and Justice Issues. "Border Security US-VISIT Program Faces Strategic, Operational, and Technological Challenges at Land Ports of Entry."

system] within the commercial air environment in FY 2007.” Yet, this was required to be implemented by December 31, 2003.

DHS plans to deploy the exit portion of US-VISIT at seaports after all airports have a biometric exit component. There is no expected date for this; despite the Congressional mandate that this be implemented by December 31, 2003.

Furthermore, the report states that “DHS has not yet determined a timeframe or cost estimates for initiation of land exit.”

This is disheartening as the ‘integrated entry and exit data system’ was supposed to be implemented at the busiest land ports of entry by December 31, 2004 and at all remaining ports of entry by December 31, 2005.

How can Congress expect the American people to accept the legalization of those here illegally with the promise of increased enforcement if 11 years after a law was passed, it is still not being enforced?

This amendment will solve the problem. It requires that the exit portion of the US-VISIT system be fully implemented *before* anyone can adjust to a legal status.

Third Problem Addressed

The federal government has a problem. The American public does not trust that we will enforce the laws we have. Namely, the public does not trust that the enforcement provisions in this bill, like the employer verification system will be implemented.

Congress continues to pass laws that do not get enforced and then does nothing to ensure that they are enforced.

Part of the purpose of the last amnesty was to enhance our enforcement so that Americans could maintain “sovereignty” as President Reagan put it.

Specifically, on November 6, when President Reagan signed into law the Immigration Reform and Control Act of 1986 (HR 1200) he stated that this legislation would help meet the challenge to our sovereignty caused by illegal immigration.^[4]

President Reagan highlighted three key provisions of the 1986 bill including employer sanctions, measures to increase enforcement of our immigration laws and legalization of those here illegally (for more than 4 years).

Yet, the amnesty happened and significant portions of the employer sanctions and the increased enforcement measures have been delayed or, in some cases never implemented.

Americans are right to fear that nothing will be different this time.

This amendment will help ensure that the employer verification system, required by the current trigger is actually implemented and properly functioning.

It is not enough to allow a presidential certification that will likely not be reviewed, to allow the amnesty to take effect. Congress must review, discuss, have hearings, and then publicly vote to certify that the provisions required in this bill and by prior laws are functioning properly.

Congressional certification will provide the transparency and accountability to the public that Americans want. Not only that, if the public views the enforcement as inadequate and not in compliance with our laws then they will be able to hold their elected officials accountable at the voting booth.

Public Trust

A May 30, 2007 Rasmussen Report reveals that the public does not support or trust this immigration bill.

^[4] <http://www.reagan.utexas.edu/archives/speeches/1986/110686b.htm>

- Specifically, 74% of those polled do not believe that illegal immigration will decline if the Senate bill is passed.
- In fact, 41% believe this bill will actually lead to an increase in illegal immigration.
- If those polled had a chance to improve the legislation, 75% would “make changes to increase border security measures and reduce illegal immigration.”
- However, the Rasmussen Reports have also found that 65% would accept a compromise “provided that it accomplished the primary goal of reducing illegal immigration.”

72% of voters believe it is “very important for the government to improve its enforcement of the borders and reduce illegal immigration.”

This trigger will help improve enforcement of the borders and reduce illegal immigration. Furthermore, it will give the public confidence and give their elected officials the opportunity to vote on the status of border enforcement.
