

Coburn Amendment ~~XXXX~~1362— Requiring Removal Proceedings for Visa Overstays

Summary: This amendment would require U.S. Immigration and Customs Enforcement (ICE) to initiate removal proceedings for 90 percent of visa overstays 120 days after the enactment of the act.

It would apply only to visa overstays who came here after the date of the enactment of the act.

The problem of illegal immigration extends further than border crossings – a big contributor is visa overstays.

“Overstays” are individuals who were admitted into the country legally on a temporary basis but then remain in the United States beyond their authorized periods of admission.

According to the latest estimates by the DHS Office of Immigration Statistics, about 10.8 million unauthorized aliens were living in the United States in January 2009.

The GAO’s most recent estimates (based on 2006 data) put the number of overstays at 31% to 57% of the unauthorized population.

Taken together, these figures provide an approximation of 3.3 to 6.2 million overstays.

As of 2012, CBP has estimated the duration of an average overstay to be approximately 2.7 years.¹

Fixing visa overstays is a matter of national security – 5 of the 19 hijackers on September 11, 2011 were visa overstays.

Although many overstays are motivated by economic opportunities to stay in the United States, some also present a severe threat to national security.

¹ <http://www.gao.gov/assets/660/654752.pdf>

5 of the 19 September 11th hijackers were overstays,² as were 2 of the conspirators in the 1993 World Trade Center bombing.³

In another instance, Amine El Khalifi of Morocco entered the U.S. on a visa, but overstayed it by 12 years.⁴

He was later caught in a plan to bomb the U.S. Capitol using an explosive vest, though fortunately he was prevented from carrying it out.⁵

Had apprehension procedures been enforced on any one of these, it is possible that these terror plans might have been discovered or stopped.

S.744 almost exclusively on border security and does nothing to require DHS to address visa overstays.

Since overstays likely number into the millions of people, we should not be satisfied with a few thousand yearly overstay apprehensions.

In 2005, ICE caught about 8,000 visa overstays, mostly as a byproduct of other investigations such as using the terrorist watch list.⁶

Within 120 days of enactment, this amendment would require ICE to initiate removal proceedings against *at least* 90 percent of non-immigrants who overstayed their authorized period of admission.

Because pinpointing current overstays is difficult without a reliable entry and exit data system for foreign nationals, this provision would only apply prospectively.

As such, ICE will be required by law to initiate removal proceedings against *any new visitor* who overstays their visa.

According to Mike Cutler, a former investigator with the Immigration and Naturalization Service, securing the border yet neglecting visa overstays is

² Id.

³ <http://www.startribune.com/local/209255861.html>

⁴ <http://www.foxnews.com/us/2012/03/06/immigrants-with-long-expired-visas-tough-to-track/>

⁵ <http://www.foxnews.com/us/2012/03/06/immigrants-with-long-expired-visas-tough-to-track/>

⁶ <http://www.npr.org/templates/story/story.php?storyid=5485917>

“kind of like securing your house and then giving out keys to your house to anybody walking by.”⁷

If we are planning to “secure the border” once and for all, we should also finally address the problem of visa overstays.

⁷ <http://www.npr.org/templates/story/story.php?storyId=5485917>