

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

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TO THE MEMBERS OF THE U.S. SENATE COMMITTEE ON THE JUDICIARY:

The U.S. Chamber of Commerce believes that S. 744, the “Border Security, Economic Opportunity and Immigration Modernization Act of 2013,” is a strong, positive step towards establishing a sensible legal framework and enforceable guidelines that respect the rule of law, helping protect U.S. borders, and meeting the economic and social needs of America.

Congress must recognize that America’s current immigration system is broken and does not meet the needs of our citizens or businesses. A broad based approach is needed to fix it, and the Chamber applauds the efforts of Sens. Schumer, McCain, Durbin, Graham, Menendez, Rubio, Bennet, and Flake to craft this legislation.

The Chamber recognizes that the legislation will likely be improved through the Committee markup process and, therefore, urges the Committee to continue its work and ultimately report this legislation to the full Senate for consideration. However, the Chamber strongly opposes any amendments that would weaken this bill or upset the delicate balance the sponsors of this legislation achieved when they crafted it.

Trade and Travel through an Efficient and Controlled Border

The Chamber considers securing the nation’s borders and ensuring safe border communities critically important. Fortunately, over the last decade many needed improvements have been implemented at the border and in systems to protect the U.S. from the entry of inadmissible foreign nationals. S. 744 recognizes that further border security actions, with metrics, are needed, and that such steps must balance the twin goals of enhancing national security and strengthening the U.S. economy through the facilitation of trade and travel to the United States.

The Chamber will continue to champion efforts to maximize efficiency, improve infrastructure, and increase staffing at ports of entry, consistent with ensuring national security. Similarly, the Chamber believes that immigration reform should include provisions that upgrade and expand the Visa Waiver Program and otherwise address key barriers in the visa processing system that deter international business and leisure travel.

Work Visa Programs that Allow the Economy to Grow

Existing employment-based programs are very limited, overly complex, and difficult to use. Fundamental change to the structure of immigration laws must institute workable visa programs for lesser-skilled workers, ensure sufficient numbers of visas for the highly skilled, including STEM graduates, and reform visas for production agriculture.

These changes would allow employers to hire high- or lesser-skilled immigrants in accordance

with the demands of the economy when U.S. workers are unavailable. Such programs would also improve national security and deter illegal immigration by creating a functional, controlled system meeting workforce needs – a requirement not met by prior immigration legislation.

As the Committee considers S. 744, the Chamber urges that the sound structure in the bill for W-1 visas be retained, allowing employers to participate in a program run by the Department of Homeland Security (DHS) for lesser-skilled occupations. The Chamber is committed to establishing a new visa classification for the wide spectrum of lesser-skilled, non-agricultural occupations, which are not covered effectively by current visa programs.

In the high-skilled area, increased H-1B visas over current law are vital, and should be regulated in a manner responsive to market demand. In addition, expanded access to green card status for both highly skilled and lesser-skilled workers is a critical part of effectual immigration reform efforts. For Fiscal Year 2012, DHS reported that of the approximately one million new green cards issued, only 59,000 went to either highly skilled or lesser-skilled workers selected for status based on their skills.

The Chamber welcomes provisions that would increase foreign investment and promote free enterprise, such as provisions that would create a new visa category to provide immigrant entrepreneurs with a chance to start a business in the U.S. and create jobs.

While the Chamber advocates for protections to ensure that U.S. workers would get the “first crack” at jobs that might be offered to foreign workers – a key to both high-skilled and lesser-skilled visa programs – efforts by Congress to regulate in this area should not micromanage business decisions.

The Chamber is very concerned about provisions of the bill and, potentially, amendments regarding layoffs, displacement, recruitment, outplacement, and enforcement, which do not reflect real-world realities of how businesses are run, create uncertain, new obligations with employment law implications, and fundamentally fail to recognize that decisions on where to utilize company resources may have ripple effects across a company. The Chamber believes such provisions could, depending on details and specifics, make these vital programs unworkable for employers.

Employment Verification

The Chamber has previously opposed mandatory expansion of E-Verify or associated employment verification enforcement because of unworkable, burdensome, or unreliable employment verification systems, including expansion of verification obligations beyond the direct employer-employee relationship. The technical aspects of the E-Verify system have improved, allowing the Chamber, with our members, to reassess our position. We now accept that a uniform national policy expanding the use of E-Verify is integral to immigration reform.

For the Chamber, the most important factors that led to a change in our position to support a nationwide mandate of E-Verify are: strong preemption provisions for all state and local laws related to the use of E-Verify or establishing state or local investigation or enforcement schemes; the need to mirror existing Federal Acquisition Regulation (FAR) rules with respect to federal contractor obligations to use E-Verify; no obligation to reverify the entire current workforce for private employers; an integrated single employment verification obligation (integrating the I-9 process into E-Verify) available fully electronically as well as telephonically; no obligations beyond the direct employer-employee relationship; and creation of a very clear safe harbor for good faith efforts by

employers.

Provisions that would leave employers with inconsistent obligations, punish unintentional actions or technical errors, and do not provide businesses with clarity regarding employment verification requirements are of great concern to the Chamber.

Legalization

The Chamber believes that immigration reform must include a workable means for people to come out of the shadows who are currently undocumented, without creating a permanent underclass of people who do not have the opportunity to become citizens.

Legalization is important to our member companies because they need a stable workforce. It is estimated that in excess of seven million undocumented workers are interwoven into the American workforce. Moreover, legalization – by requiring all undocumented persons to complete criminal background checks – would “shrink the haystack” and allow law enforcement to be more strategic, and effective, in looking for truly dangerous foreign nationals who should be removed, thus enhancing national security.

Conclusion

Immigration reform is one of the compelling challenges of our time. The Chamber will continue to utilize its resources and promote support among our members for broad immigration reform because America cannot compete and win in a global economy without the world’s best talent, hardest workers, or biggest dreamers.

The Chamber supports reform that would improve U.S. competitiveness, support efforts to attract and retain the best talent and the workers, secure U.S. borders, and keep faith with America’s legacy as an open and welcoming society.

We believe that S. 744 amplifies a detailed blueprint to do exactly that, by addressing the four critical elements of reform the Chamber has long identified: increased border security, expansion of temporary worker programs and employer-sponsored green cards, a balanced and workable employment verification system, and some type of legalization program with tight criteria and eventual citizenship.

The U.S. Chamber of Commerce is the world’s largest business federation representing the interests of more than three million members and organizations of every size, sector, and region, as well as state and local chambers and industry associations, and is dedicated to promoting, protecting, and defending America’s free enterprise system. The Chamber supports comprehensive immigration reform in the 113th Congress, and believes it is time to put politics and narrow agendas aside and do what is right for the country. The Chamber welcomes this legislation as a critical step toward a final law.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Bruce Josten". The signature is fluid and cursive, with a large initial "R" and a long, sweeping tail.

R. Bruce Josten