



## **Vote Recommendations for Amendments to Titles II and III of S. 744**

### **Title II**

#### **Blumenthal 1**

This amendment would expand the path to citizenship by allowing children who are under age 18 at the time they apply for legal permanent resident status and were brought to the U. S. when they were under age 16 to access the five year road to citizenship available to DREAMers, provided they meet all the requirements of the DREAM Act except the high school graduation/GED requirement and the college/military requirement.

**Vote Recommendation: Yes**

#### **Blumenthal 11**

This amendment would exempt RPIs from the minimum income or resources requirement if his income was adversely impacted due to a labor or employment law violation

**Vote Recommendation: Yes**

#### **Blumenthal 12**

This amendment would broaden eligibility by permitting immigrants with Registered Provisional Immigrant (“RPI”) status who entered the U.S. while under the age of 16 and served honorably in the Armed Forces to become naturalized US citizens.

**Vote Recommendation: Yes**

#### **Blumenthal 13**

Suspends worksite immigration enforcement action at worksite that government agency is investigating for violations of labor or employment laws or where employees are engaged in protected workplace activity

**Vote Recommendation: Yes**

#### **Blumenthal 15; Feinstein 14**

These amendments would broaden eligibility by changing the cutoff date by which applicants must have been present in the U.S. in order to qualify for RPI status from December 31, 2011. Blumenthal 13 changes the date to April 17, 2013 and Feinstein 14 changes the date to the date of enactment of S. 744.

**Vote Recommendation: Yes**

**Coons 9**

This amendment would ease the eligibility criteria for lawful permanent residency (“LPR”) cancellation of removal by requiring three years of lawful permanent residence rather than five and three years of continuous residence in the U.S. rather than seven. It would also ease the eligibility criteria for non-LPR cancellation of removal by requiring five years of residence rather than ten, and by easing the hardship showing required of a spouse, parent or child who is a U.S. citizen or LPR.

**Vote Recommendation: Yes**

**Coons 10**

This amendment clarifies that individuals authorized to work in the United States shall not be ineligible for commercial, professional, and business licenses on the basis of their immigration status, thereby ensuring that RPIs and other immigrants with work authorization are not prevented from pursuing their professions and businesses due to immigration-related licensure denial.

**Vote Recommendation: Yes**

**Cornyn 3**

This amendment would add a disqualification for RPI status for any single misdemeanor involving domestic violence, child abuse and neglect, assault resulting in bodily injury, violation of a protective order, or driving while intoxicated. It also would amend the three-misdemeanor disqualification provision to remove the requirement that the three misdemeanors be convictions on three separate dates and remove the provision giving the Secretary the option under special circumstances to grant special dispensation to aspiring citizens who have three misdemeanor convictions.

**Vote Recommendation: No**

**Cornyn 4**

This amendment would require DHS to identify and consult with crime victims before granting a waiver if the applicant has committed any crime. This is a poison pill amendment that fails to acknowledge existing victim opt-in mechanisms and the practical realities that many victims are unreachable or uninterested in responding to agency outreach.

**Vote Recommendation: No**

**Cornyn 5**

This amendment replaces the current provision limiting disclosure of legalization application information with a provision that would mandate much broader disclosure. S. 744 prohibits disclosure of legalization application information in a variety of circumstances. This amendment would narrow those circumstances by allowing disclosure 1) after an application has been denied and all appeals exhausted; 2) in a removal proceeding or other civil or criminal proceeding after an application has been granted, if the proceeding is based on conduct that occurred after the grant. The

amendment heightens privacy risks and doesn't provide a substantial benefit to the government in return.

**Vote Recommendation: No**

### **Cruz 2**

This amendment would indefinitely disqualify any immigrant who has entered or remained in the US while not in lawful status from any Affordable Care Act benefit or any other federal, state, or local public benefit, even after the immigrant subsequently adjusts and achieves lawful presence or even LPR.

**Vote Recommendation: No**

### **Grassley 7**

This amendment would substantially increase penalties, remove provisions allowing for flexibility in the process, and eliminate provisions protecting those eligible under the DREAM Act.

**Vote Recommendation: No**

### **Grassley 8**

This amendment would make the criminal conviction bars to RPI status more severe. Any felony would disqualify an applicant, including those where immigration status was an essential element of the offense. Three misdemeanors occurring on the same day would also disqualify an applicant if they were not part of one scheme of criminal conduct.

**Vote Recommendation: No**

### **Grassley 9**

This amendment would eliminate the Secretary's discretion to extend the one-year period for submitting applications for RPI status and Blue Card status under the agricultural worker program. There would be a hard, one-year deadline for both programs.

**Vote Recommendation: No**

### **Grassley 10**

This amendment would direct the Secretary to commence removal proceedings against any alien who is ineligible for RPI status "unless there are compelling humanitarian interests, as determined on a case by case review." The amendment would also eliminate a provision preserving the Secretary's discretion not to initiate removal proceedings against particular aliens.

**Vote Recommendation: No**

### **Grassley 11**

This amendment would eliminate the prohibition on removing individuals prima facie eligible for RPI status; remove the Secretary's ability to allow individuals who have previously been removed to apply for RPI status under certain circumstances; and

remove the sections providing that those with pending RPI applications may receive advanced parole, shall not be considered unlawfully present, shall not be considered unauthorized aliens, and may maintain their employment.

**Vote Recommendation: No**

### **Grassley 12**

Currently, the Secretary “may revoke” an individual’s RPI status under certain circumstances and after exhaustion or waiver of administrative processes. This amendment would change “may revoke” to “shall revoke,” and deletes the reference to revocation coming after administrative processes.

**Vote Recommendation: No**

### **Grassley 13**

This amendment would disallow the use of affidavits to prove satisfaction of work requirement

**Vote Recommendation: No**

### **Grassley 17**

This amendment would severely restrict judicial review over legalization and adjustment of status decisions and result in manifestly unfair denials of legalization and adjustment of status in cases where a single agency employee makes a mistake that cannot be corrected.

**Vote Recommendation: No**

### **Grassley 18**

This amendment would make a requirement that RPIs must disclose all Social Security Numbers used to obtain work in the U.S. and permits the Secretary to disclose that information to other federal agencies

**Vote Recommendation: No**

### **Grassley 21 and 22**

These amendments restrict a modest attempt to restore discretion on limited basis to allow family reunification and cancellation of deportations that are against the public interest.

**Vote Recommendation: No**

### **Grassley 27**

This amendment deletes sections 3401 and 3404 in their entirety. Section 3401 deletes the one-year bar to asylum, and allows people who have been previously denied asylum to apply again upon proof of changed circumstances. Section 3404 improves upon the credible fear process in expedited removal by allowing asylum officers at the border to grant asylum applications to aliens after a credible fear determination, rather than requiring the application to be referred to immigration court and subjecting the alien to continued detention. The amendment also deletes

provisions allowing people who have filed frivolous asylum applications or who have failed to comply with an order of voluntary departure to apply for RPI status.

**Vote Recommendation: No**

### **Hatch 3**

This amendment requires DNA identification for every adult immigrant seeking RPI status (age 18 and over). The amendment also provides for permanent retention of the DNA sample, with the ability to apply for expungement after six years, so long as there are no further qualifying arrests or convictions. Such data collection and retention is an unwarranted intrusion into individual privacy in the absence of good cause and a judicial determination.

**Vote Recommendation: No**

### **Hatch 21**

This amendment, while not immigrant specific, would eliminate HHS' current waiver authority for TANF's work requirements

**Vote Recommendation: No**

### **Hatch 22**

This amendment would require those applying for RPI status to prove that they have completed the payment of back taxes from any period in the U.S.

**Vote Recommendation: No**

### **Hatch 23**

This amendment adds 5-year bar after LPR status for ACA subsidies for RPIs, DREAMers, and people with blue cards.

**Vote Recommendation: No**

### **Hatch 24**

This amendment would deny Social Security credit for any periods of unauthorized work.

**Vote Recommendation: No**

### **Hirono 12**

This amendment would allow any penalty to be paid in installments

**Vote Recommendation: Yes**

### **Hirono 16**

This amendment would expand eligibility to otherwise eligible lawfully present immigrants for Medicaid, CHIP, SNAP and Medicare; expands Medicaid & CHIP to children and pregnant women regardless of status

**Vote Recommendation: Yes**

**Hirono 17**

This amendment would allow time in RPI status to be deemed/applied to ward 5-year waiting period for “federal means-tested public benefits;” state option to eliminate 5-year bar in Medicaid and provide coverage to all lawfully present individuals

**Vote Recommendation: Yes**

**Hirono 22**

This amendment would provide greater protections for unaccompanied immigrant children.

**Vote Recommendation: Yes**

**Lee 7**

This amendment changes the physical presence requirement for RPI eligibility by moving the cutoff date to December 31, 2009, thereby drastically limiting the number of individuals covered and increasing those who would continue to live in the shadows.

**Vote Recommendation: No**

**Lee 8**

This amendment would make ineligible for RPI status anyone with an outstanding order of removal or anyone who has been previously ordered removed and seeks to reenter.

**Vote Recommendation: No**

**Lee 9**

This amendment declares a person ineligible for RPI status for “any act committed outside the United States, except for a purely political act,” if the act is equivalent to a U.S. crime that would make that person inadmissible or deportable. The provision ignores basic due process protections associated with criminal procedures that would have otherwise occurred within the U.S.

**Vote Recommendation: No**

**Lee 10**

This amendment places the affirmative burden on immigrants seeking RPI status to prove they have satisfied any back tax liability for their entire history in the U.S., including payment of any applicable interest and penalties.

**Vote Recommendation: No**

**Lee 11**

This amendment mandates that penalties for RPI applicants may not be waived, limited, or reduced regardless of special circumstances.

**Vote Recommendation: No**

**Sessions 2**

This amendment would 1) limit the number of people who may gain RPI status during the ten fiscal years after enactment to 200,000, and 2) require the Secretary to issue

employment authorization documents to all nonimmigrants authorized to work in the U.S., limited to not more than 1,000,000 during each of the ten fiscal years after enactment and 10,000,000 in the aggregate during that ten year period.

**Vote Recommendation: No**

### **Sessions 17, 18, 19, 25, 26, 27, 28**

These amendments would Expand existing Public Charge rules to discourage immigrants from seeking health, nutrition or state “means-tested” benefits; can prevent immigrants from eligibility for path to citizenship

**Vote Recommendation: No**

### **Sessions 15**

This amendment would eliminate all judicial review over visa refusals and revocations issued pursuant to Subtitle C of Title II covering "Future Immigration."

**Vote Recommendation: No**

### **Sessions 21**

This amendment would strike provisions prohibiting detention and removal of individuals who may be eligible for RPI status and providing for suspension of removal during the pendency of RPI application.

**Vote Recommendation: No**

### **Sessions 22**

This amendment declares a person to be ineligible for RPI status if he or she has one misdemeanor conviction other than for minor traffic offenses or offenses for which the essential element was the person’s immigration status.

**Vote Recommendation: No**

### **Sessions 24**

This amendment would strike provisions granting eligibility for RPI status for persons who have departed or been removed from the United States under certain special circumstances.

**Vote Recommendation: No**

### **Sessions 30**

This amendment would make a SSN mandatory in order to be eligible for the Child Tax Credit (CTC); denies ITIN filers eligibility for the CTC

**Vote Recommendation: No**

## **Title III**

### **Blumenthal 2**

This amendment would establish a framework for the use of solitary confinement in housing immigration detainees, place presumptive limits on the use of such confinement

in non-disciplinary settings, and require the Department of Homeland Security (“DHS”) to develop effective oversight mechanisms.

**Vote Recommendation: Yes**

### **Blumenthal 8; Coons 13**

This amendment codifies limitations that currently exist in ICE and CBP policies regarding enforcement actions, including “raids”, by ICE and CBP at sensitive community locations. Off-limits locations include schools, hospitals and health clinics, places of worship, public religious ceremonies (Coons 13 only), community centers (Coons 13 only), public demonstrations (Coons 13 only), public gatherings attended by parents and children (Coons 13 only), organizations assisting crime victims (Coons 13 also includes organizations assisting children, pregnant women, or disabled individuals), and other locations that could reasonably be viewed as sensitive (Blumenthal 8 requires other locations to be specified by the Secretary).

**Vote Recommendation: Yes**

### **Blumenthal 13**

As currently proposed, this amendment codifies vital current practices within and between DHS and the Department of Labor which ensure that enforcement of our nation’s immigration laws does not undermine enforcement of our national labor and employment laws.

**Vote Recommendation: Yes**

### **Blumenthal 14**

This amendment restores integrity to the immigration removal process by attaching immigration consequences only to conduct that was a basis for removal at the time it was committed; deferring to the criminal justice process and imposing immigration penalties only when a criminal court judge has found someone guilty and has decided the conviction should remain on their record; providing due process protections; and ensuring that immigration penalties are proportionate to the seriousness of the criminal offense.

**Vote Recommendation: Yes**

### **Blumenthal 18**

This amendment makes it an unfair immigration-related employment practice for employers to withhold employment records that are required under Federal, State, or local law from employees who request them. The amendment does not create a new obligation on employers, as they are already required to maintain these records. It simply requires employers to disclose their records to employees who request them.

**Vote Recommendation: Yes**

### **Coons 1**

S. 744 currently provides that the Secretary may, but is not required, to develop protocols to alert a worker when an E-verify query has been made concerning him/her.



The bill currently requires the Secretary to develop procedures for notifying the worker directly of further action notices, and confirmations/non-confirmations. This amendment makes the protocol to notify workers of queries mandatory, as well.

**Vote Recommendation: Yes**

### **Coons 5**

This amendment requires the Department of Homeland Security to provide any immigrant placed in deportation proceedings with a copy of certain immigration records.

**Vote Recommendation: Yes**

### **Coons 6**

Requires interoperability of ICE, CIS, CBP, and EOIR databases containing information on all immigrants in detention. Specifies categories of information that must be maintained in the database of each agency and establishes regular reporting requirements to Congress. Makes reports available to public without FOIA request.

**Recommended vote: Yes.**

### **Franken 1, 2, 3, 4, 5, and 6**

These amendments require increased accuracy standards in E-Verify and help workers and small businesses address errors in the system once they occur.

**Vote Recommendation: Yes**

### **Graham 3**

This amendment adds an additional requirement for certain aliens before granting them RPI status by requiring that aliens from countries where there are national security concerns be subject to additional screening. No.

### **Grassley 26-27**

Would strip from the bill two important reforms to protect stateless persons and asylum-seekers, the latter from the fundamentally unfair one-year filing deadline. Grassley 27 would also impose an unreasonable barrier to legalization for aspiring citizens without examining their individual circumstances.

**Vote Recommendation: No**

### **Grassley 31**

This amendment requires a weekly report from CIS to ICE with detailed information about every individual (and employer) who received a final non-confirmation in the E-Verify system. It also requires the Secretary to use this information to enforce compliance with immigration laws and thus represents an expansion of the E-Verify system and its accompanying inherent problems for privacy and mission creep.

**Vote Recommendation: No**

### **Grassley 34; Hatch 1**

These amendments amend 18 USC 1028 by stating that the transfer, possession or use of identification "other than his or her own" with intent to commit a crime is a federal

offense. It also makes identification document fraud a crime punishable by up to 20 years imprisonment if such offense is committed to facilitate or assist in harboring or hiring unauthorized workers. Creating new crimes with harsh sentences is at odds with long-term goals to reduce the nationwide problems of overincarceration.

**Vote Recommendation: No**

### **Grassley 37**

S. 744 defines which documents can be used by workers to prove identity and work authorization (as part of the verification process). It also already significantly narrows the documents that workers can use to prove identity and work authorization compared with existing law and regulation. This amendment removes the Secretary of Homeland Security's ability to determine that another document, or class of documents like those issued by a federally recognized Indian tribe, can be used to prove identity and work authorization. This amendment makes the burden of identification even more burdensome and would have a disproportionate impact on certain groups.

**Vote Recommendation: No**

### **Grassley 39**

Would deprive the immigration courts of much-needed additional resources (as does Grassley Amendment 48).

**Vote Recommendation: No**

### **Grassley 40**

Sec. 3502 of S. 744 not only guarantees fundamental fairness in immigration proceedings, but also ensures that our new immigration system is more just and efficient – at a net savings for taxpayers. This amendment would nullify Sec. 3502's provisions by making the appointment of counsel optional for unaccompanied children and people with significant mental disabilities even in cases where the proceedings would otherwise be fundamentally unfair.

**Vote Recommendation: No**

### **Grassley 41**

This amendment would eliminate S. 744's expansion of the Department of Justice's Legal Orientation Program (LOP) to all detained migrants and the requirement that these programs screen for individuals who need appointed counsel. With approximately 84% of detained immigrants appearing before the courts without an attorney, immigration judges regularly preside over cases presented by respondents who are ill-informed and unprepared to make educated decisions about their cases, which adds to the already immense backlog in the immigration courts. These respondents include asylum-seekers, torture survivors and long-term residents of the United States. The LOP informs participants about their legal rights and responsibilities and decreases length of detention by preparing detainees to represent themselves and make more informed decisions about whether to pursue their cases or accept removal.

**Vote Recommendation: No**

**Grassley 42**

This amendment would undermine the judicial review system by eliminating review of an immigration judge's decision by a 3-judge panel and also strikes the requirement of issuing a written opinion.

**Vote Recommendation: No**

**Grassley 43**

This amendment creates a new definition of criminal gang that is unworkably broad and includes such minor crimes as obstruction of justice. Moreover, the amendment shifts the burden to individuals to prove that they could not reasonably have known they were in a gang that committed qualifying offenses. The amendment would also sweep in individuals who have never been convicted of a crime and are merely suspected of being in a gang. This kind of dragnet approach targets the wrong people and risks deporting, and separating from their families, individuals who are not gang members.

**Vote Recommendation: No**

**Grassley 44**

This amendment adds a new aggravated felony based on a third DUI conviction regardless of the State in which the convictions occurred or whether the offenses are classified as misdemeanors or felonies under Federal or State law. Inconsistent definitions create an inherently inconsistent and in many cases unfair system. Aggravated felonies deprive immigration judges of discretion to consider a case's individual facts and should not, contrary to this amendment, be applied retroactively to completed conduct.

**Vote Recommendation: No**

**Grassley 45**

This amendment changes section. 3704 on illegal entry and section 3705 on reentry of removed aliens by eliminating the requirements that convictions for crimes occur on different dates and that the alien be sentenced or serve a term of imprisonment. It also creates an enhanced penalty for aliens convicted of aggravated felonies and amends the language under sec. 3707 in reference to trafficking in passports.

**Vote Recommendation: No**

**Grassley 46**

This amendment adds domestic violence, stalking, child abuse, child neglect and child abandonment to the grounds of inadmissibility without regard to whether the person was imprisoned for the crime. This amendment also eliminates the language in S.744 that would require one of the listed crimes to arise out of a single scheme and provides that a person who violates portions of an order of protection (even though the violation does not constitute criminal contempt) is inadmissible.

**Vote Recommendation: No**

**Grassley 47**

Strikes Section 3717, which provides for custody hearings for all detained immigrants and increases fairness of custody review and stipulated orders of removal procedures.

**Recommended vote: No.**

**Grassley 49**

This amendment narrows the bill's ban on federal law enforcement profiling on the basis of national origin.

**Vote Recommendation: No**

**Grassley 50**

Current law permits revocation of visas by consular officers or the Secretary of State, and generally prohibits judicial review of those revocations, with an exception in removal cases where the revocation of the visa is the only ground for the removal case. In such cases there currently is judicial review, not for review of legitimate exercises of discretion, but for accuracy and legal abuses. This amendment eliminates that exception, and thus in effect prevents judicial review of removal orders based on visa revocations, which affect students, business people, and tourists.

**Vote Recommendation: No**

**Grassley 51**

This amendment strikes section 3715, which would require that DHS expand secure alternatives to detention (ATDs) and individualized assessments over custodial determinations, mandate a monthly review of an individual's level of supervision, and clarify that ATDs constitute custody. ATDs have repeatedly been found to accomplish law enforcement goals, promote efficiency and be cost-effective, and should be available nationwide as proposed in S. 744. Moreover, a robust system of ATDs would also better protect against the arbitrary detention of migrants and asylum-seekers.

**Vote Recommendation: No**

**Grassley 53**

This amendment perpetuates the indefinite—or potentially lifelong—detention of immigrants who cannot be deported, limits alternatives to detention in S. 744, reverses court decisions that require bond hearings for prolonged detention, and decreases the authority of immigration judges over bond hearings or to order someone to be enrolled in alternatives to detention programs. This amendment violates our fundamental commitments to due process and human rights. All individuals held in detention should receive individualized assessments to ensure that their detention is necessary, reasonable and proportionate. Prolonged and indefinite detention also results in significant costs to U.S. taxpayers and the federal government.

**Vote Recommendation: No**

**Hatch 2**

This amendment establishes a new aggravated penalty of cultivating marijuana on federal lands and mandates that it be served consecutively to any term of imprisonment for the underlying offense of manufacturing and distribution of a controlled substance (21 USC 841). This provision directs the United States Sentencing Commission to implement a two level sentence enhancement for certain special offense characteristics. New crimes and enhancements contribute to the further exacerbation of the nationwide problem of overincarceration and are unrelated to the goals of immigration reform.

**Vote Recommendation: No**

**Hirono 19**

This amendment expands protections from racial profiling on the basis of national origin and religion.

**Vote Recommendation: Yes**

**Hirono 22**

This Amendment requires, among other things, that all unaccompanied minors be transported to the care of the Office of Refugee Resettlement no later than 72 hours after their initial detention, absent exigent circumstances, and that the minors are immediately informed of their rights – including their right to confer with counsel and family while in custody and to report any abuse or misconduct they experienced.

**Vote Recommendation: Yes**

**Lee 16**

S.744, as proposed, strikes an existing provision of law, 18 USC §1546(b), which criminalizes the knowing use of a false identity document to prove employment eligibility. In its place, S.744 includes a new Social Security fraud provision that reaches more broadly than 18 USC §1546(b) to criminalize the knowing misuse of a Social Security number or Social Security card for any reason. The amendment would not only leave the new Social Security fraud provision in place, but would also retain 18 USC §1546(b).

**Vote Recommendation: No**

**Sessions 5**

This amendment creates a 60 day mandatory minimum sentence for a person who overstays their visa unless the person can be removed within 90 days. Mandatory minimums for minor, non-violent offenses are one of the chief causes of the overincarceration crisis in America, and this amendment could put hundreds of thousands of people annually in legal jeopardy even for inadvertence.

**Vote Recommendation: No**

**Sessions 12**

This amendment mandates bond levels of no less than \$5,000 for nationals of non-contiguous countries, who have not been admitted or paroled, and who are apprehended within 100 miles of the border or present a flight risk as determined by ICE. This amendment will lead to significant across the board increases in bond levels, thus increasing unnecessary detention of people who pose no threat to public safety at added taxpayer cost.

**Vote Recommendation: No**

**Sessions 14**

This amendment would provide inadequate oversight for DHS inadmissibility determinations.

**Vote Recommendation: No**

**Sessions 32, 34, and 35**

These amendments would overrule the Supreme Court's decision in *Arizona v. United States* by authorizing the inherent authority of state and local law enforcement to participate in immigration enforcement without requiring that such activities be in cooperation with the federal authorities. This could create a patchwork of inconsistent and in some cases discriminatory enforcement practices across the country.

**Vote Recommendation: No**

**Sessions 33**

This amendment threatens to withhold Community Oriented Policing Services Program (COPS) funding from jurisdictions that have adopted certain community policing or confidentiality policies to suit their local policing needs and promote trust of law enforcement by victims and witnesses of crime.

**Vote Recommendation: No**

**Sessions 39**

This Amendment removes the language from the racial profiling section of the bill that says that officers can only consider race or ethnicity in specific investigations to the extent that it is "relevant to the locality or time frame, that links persons of a particular race or ethnicity to an identified criminal incident, scheme or organization. This standard applies even where the use of race or ethnicity might be lawful." In so doing, the amendment narrows the restrictions on racial profiling, making sanctioned discrimination more likely.

**Vote Recommendation: No**