

AMENDMENT NO. _____ Calendar No. _____

Purpose: To promote effective deterrents against unlawful border crossings and ensure that border fencing is limited to the Southern border.

IN THE SENATE OF THE UNITED STATES—113th Cong., 1st Sess.

S. 744

To provide for comprehensive immigration reform and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended to be proposed by Mr. LEAHY to the amendment (No. 4) proposed by Mr. LEAHY (for himself and Mr. CORNYN)

Viz:

1 Strike all after “Viz:” and insert the following:

2 Strike paragraph (7) of section 3(a) and insert the
3 following:

4 (7) SOUTHERN BORDER FENCING STRATEGY.—

5 The term “Southern Border Fencing Strategy”
6 means the strategy established by the Secretary pur-
7 suant to section 5(b) that identifies where fencing
8 (including double-layer fencing), infrastructure, and

1 technology, including at ports of entry, should be de-
2 ployed along the Southern border.

3 At the end of section 3(d), strike the period and in-
4 sert “of a notice that specifies each law that is being
5 waived and the Secretary’s explanation for the determina-
6 tion to waive that law. The waiver shall expire on the later
7 of the date that the Secretary submits the written certifi-
8 cation that the Southern Border Fencing Strategy is sub-
9 stantially completed as specified in subsection (c)(2)(A)(ii)
10 or the date that the Secretary submits the written certifi-
11 cation that the Comprehensive Southern Border Security
12 Strategy is substantially deployed and substantially oper-
13 ational as specified in subsection (c)(2)(A)(i).”.

14 Strike paragraph (1) of section 5(b) and insert the
15 following:

16 (1) ESTABLISHMENT.—Not later than 180 days
17 after the date of the enactment of this Act, the Sec-
18 retary shall establish a strategy, to be known as the
19 “Southern Border Fencing Strategy”, to identify
20 where fencing (including double-layer fencing), infra-
21 structure, and technology, including at ports of
22 entry, should be deployed along the Southern border.

1 At the end of section 5(b), add the following:

2 (4) CONSULTATION.—

3 (A) IN GENERAL.—In implementing the
4 Southern Border Fencing Strategy required by
5 this subsection, the Secretary shall consult with
6 the Secretary of the Interior, the Secretary of
7 Agriculture, States, local governments, Indian
8 tribes, and property owners in the United
9 States to minimize the impact on the environ-
10 ment, culture, commerce, and quality of life for
11 the communities and residents located near the
12 sites at which such fencing is to be constructed.

13 (B) SAVINGS PROVISION.—Nothing in this
14 paragraph may be construed to—

15 (i) create or negate any right of action
16 for a State or local government or other
17 person or entity affected by this sub-
18 section; or

19 (ii) affect the eminent domain laws of
20 the United States or of any State.

21 (5) LIMITATION ON REQUIREMENTS.—Notwith-
22 standing paragraph (1), nothing in this subsection
23 shall require the Secretary to install fencing, or in-
24 frastructure that directly results from the installa-
25 tion of such fencing, in a particular location along

1 the Southern border, if the Secretary determines
2 that the use or placement of such resources is not
3 the most appropriate means to achieve and maintain
4 effective control over the Southern border at such lo-
5 cation.

6 Strike clause (iii) of section 6(a)(3)(A) and insert the
7 following:

8 (iii) \$1,500,000,000 shall be made
9 available to the Secretary, during the 5-
10 year period beginning on the date of the
11 enactment of this Act, to procure and de-
12 ploy fencing, infrastructure, and tech-
13 nology in accordance with the Southern
14 Border Fencing Strategy established pur-
15 suant to section 5(b), not less than
16 \$1,000,000,000 of which shall be used to
17 deploy, repair, or replace fencing.

18 At the end of title I, add the following:

19 **SEC. 1117. RULE OF CONSTRUCTION.**

20 Nothing in this Act may be construed to authorize
21 the deployment, procurement, or construction of fencing
22 along the Northern border.

1 On page 59, line 17, insert “Northern border and
2 the” after “crossing the”.

3 On page 59, line 21, insert “Northern border and
4 the” after “the”.