



News Release **JEFF SESSIONS** UNITED STATES SENATOR | ALABAMA

Triggers In Gang Of Eight Bill Aren't Triggers At All

Proposal Would Actually Weaken Security Requirements Previously Enacted

The central sales pitch for the Gang of Eight's immigration legislation has been the claim of strong border security triggers that are supposed to be the "toughest border immigration enforcement measures in U.S. history." But a close examination of the legislation reveals that the promised enforcement is nowhere to be found. The triggers aren't triggers at all—and in fact would actually weaken requirements previously enacted by Congress—while granting extraordinary new discretion to the Department of Homeland Security to waive security protocols, removal proceedings, and denials of entry.

The day the bill passes, there will be an effective amnesty for the vast majority of illegal immigrants—abandoning the Gang of Eight's public promise of enforcement first. All that needs to occur to make this legal status official is for Sec. Napolitano to submit to Congress, within six months of enactment, a mere "fencing strategy" and a plan on how to achieve and maintain "effective control" in just 3 out of 9 border sectors.

- "Effective control" is defined as "persistent surveillance"—which is not defined—and "an effectiveness rate of 90 percent or higher." Sec. Napolitano all but acknowledged during her recent testimony before the Senate Judiciary Committee that the effectiveness rate is meaningless because by definition, DHS has no idea how many border crossings go completely undetected. As such, the measure is subject to almost limitless manipulation. By contrast, the rejected 2007 immigration bill set a stronger target of 100 percent operational control of the entire border as the ultimate goal.
- No language in the bill requires the Secretary to construct any fence at all. Given that Sec. Napolitano has said multiple times that no further fencing is necessary, Americans can be certain that very little fencing will ever be built. (In effect, this legislation further weakens a 2006 law which required 700 miles of double-layer fencing, only 36 miles of which were constructed.)

The second so-called trigger, the "Southern Border Security Commission," is not even formed unless the Secretary determines, five years after legalization has already been granted, that she failed to meet the bill's weak targets. It is entirely up to the Secretary whether her plans are "substantially completed" and "substantially implemented"—both undefined. Thus, the existence of the Commission is entirely up to her, and the Commission itself only issues recommendations (if it chooses) with no enforcement power.

The bill also repeals the proven E-Verify workplace enforcement system. That system is then replaced with a new, untested system from which day laborers appear to be exempt—and which does not even have to be fully in place for five years, leaving a huge gap for new illegal workers to enter the workforce.

The bill is promoted as requiring the Secretary to establish an "electronic" entry/exit system to track those who depart from air and sea ports—but not land ports. In doing so, the legislation rolls back a 20-year-old law that mandated a *biometric* exit system at all air, sea, and land ports. GAO has said that a system like the one called for in S.744 will not be successful in tracking visa overstays. Thus, the bill reverses current law and ignores a 9/11 Commission recommendation considered necessary for national security.

Finally, the bill requires the Secretary to grant legal permanent residence to illegal immigrants after 10 years—regardless of whether any of the "triggers" have been met—if just one of them is tied up in litigation or delayed by an "act of God." Collectively, given all the flaws and loopholes, it is virtually guaranteed that illegal immigrants will be granted permanent residency and citizenship and that effective enforcement will never be achieved.