



A Brief Overview of H.R. 6657, the ‘Fund and Complete the Border Wall Act’

By Dan Cadman

Rep. Andy Biggs (R-Ariz.) has introduced into the House of Representatives H.R. 6657, the “Fund and Complete the Border Wall Act”.¹

The bill is relatively compact because it focuses on means to fund the border wall, as the title clearly suggests, although there are some interesting and, in my view, desirable additional provisions in the bill, as readers will shortly see.

Section 1. This section simply titles the bill as the “Fund and Complete the Border Wall Act”.

Unlike many bills introduced into either chamber of Congress these days, the first letter of each name in the title doesn’t result in a clever acronym or buzzword. What a relief since the titles of many of those bills are clearly manipulated to arrive at the buzzword, leaving one with a sense of the artificiality of the process, which in turn can cast a shadow over the substance of the bill itself.

Section 2. Creates a border security trust fund (the “Secure the Southern Border Fund”) from the revenue streams established in follow-on sections of the bill, as explained below. The fund is to be embedded in a new 31 U.S.C. Section 3334. The fund’s sole uses are for planning and construction of the wall (in fact defined as “physical barriers, roads, and technology” within the bill) and providing vehicles and equipment for the Border Patrol, although no more than 5 percent of the fund may be used for the latter purpose.

Although the revenue stream for vehicles and equipment will no doubt be a crowd-pleaser for the Border Patrol, it is shortsighted as written, insofar as it doesn’t recognize that Immigration and Customs Enforcement (ICE) plays a key role in border security as well, including through providing detention services for all detained border-crossers. That agency, too — or, at least, the Enforcement and Removal Operations (ERO) division within ICE, which handles the detention support — should be given access to an equal amount of the funding stream established for vehicles and equipment.

Section 3. Creates an incentive for foreign governments to cooperate with U.S. border security efforts by requiring the secretary of the Department of Homeland Security (DHS) to yearly tally illegal apprehensions on the southern border by nationality. This figure is then used to debit by \$2,000 per alien the amount in foreign assistance provided to the countries of nationality of those border-crossers. The amounts derived are all to be deposited into the Secure the Southern Border Fund created in Section 2. However, the secretary of State may exercise his/her authority to withhold those transfers in the case of certain military, narcotics, and law enforcement program funds provided to Mexico.

This proviso will no doubt be hotly debated and contested. There are arguments for both sides. One can envision that the secretary of State will so routinely exercise his/her authority not to permit transfers that it might well result in virtually no money being moved from Mexican foreign aid funds into the Secure the Southern Border Fund. That would be ironic indeed since not only is Mexico responsible for its own illegal border-crossers, but in some large measure for Central American illegal crossers as well since it often chooses to look the other way rather than take steps to interdict and return them prior to arrival at our shared frontier.

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Consider also that a significant portion of the foreign aid provided to countries of the Northern Triangle of Central America (El Salvador, Guatemala, and Honduras, whose nationals constitute the bulk of other-than-Mexican (OTM) illegal crossers) are apportioned for similar purposes: military, counternarcotics, and enforcement. Should those funds also be subject to the exercise of discretion by the State Department? If so, will any money at all end up moving from foreign aid into the Border Wall Fund? And if those countries' military/counternarcotics/enforcement funds are not subject to similar discretion, how do lawmakers justify the difference in treatment for Mexico?

Section 4. Creates a Treasury account, said provision to be embedded within 15 U.S.C. Section 1693o-1, which would be derived from a 5 percent fee on all outbound international remittances. Those monies will find their way into the "Secure the Southern Border Fund". Importantly, this section also provides strict penalties for those who attempt to evade the fee: \$500,000 or twice the amount of the fee to have been collected (whichever is greater), and/or 20 years imprisonment. The section also provides that foreign governments that abet an evasion attempt, or harbor those who evade the fees, will be ineligible for foreign aid or participation in the Visa Waiver Program and subject to any other measure deemed appropriate in the discretion of the secretaries of DHS, State, or Treasury.

Taxing remittances is a concept that the Center for Immigration Studies (CIS) has frequently explored.² Doing so may not act precisely as a disincentive to aliens who cross the border illegally or who overstay their nonimmigrant visas to engage in unauthorized work, but it would help recoup at least a small portion of the billions of dollars that fly out of our economy as remittances, never to be seen again.

We also have suggested that remittance fees be placed into precisely the kind of fund that this bill envisions:

*The resulting monies could be put into a special immigration enforcement fund, and apportioned out in three pieces according to some kind of formula — a portion for the border barrier, a portion to help pay the salaries of the 5,000 new Border Patrol agents the president has demanded, and the third portion to help pay the salaries of the 10,000 new interior ICE agents. There is a certain symmetric justice ... in using the proceeds from illegal aliens' remittances to help fund the agents whose job is to ferret them out.*³

In a single year — 2016 — an estimated \$138 billion was sent out of the United States, over \$28 billion to Mexico alone.⁴ There is no reason to think that the outflow amount has abated in the intervening couple of years. Using that figure for illustrative purposes, then recovering a modest 5 percent via the remittance fees levied by H.R. 6657 would result in "Secure the Southern Border Fund" revenues of nearly \$7 billion in just one year. This leaves us pondering whether a higher fee — such as 10 percent — would be more appropriate, given the staggering loss to our economy of nearly \$140 billion yearly.

Levying a remittance fee also makes good fiscal sense governmentally, because it would substantially ease the burden to federal taxpayers of paying for border barriers and security. Furthermore, it levels the playing field because it does not single out Mexico, but instead assesses the fee as regards any country whose nationals send remittances home. It might interest readers to know that, after Mexico, China is the second highest recipient, followed by India and the Philippines.

Section 5. Elevates the fees for obtaining alien admission form I-94 from \$6 to \$25. Provides that the *increased* revenue will be divided between the border wall fund and Border Patrol salaries. By statute, then, the apportionment would be as follows: \$6 per form into the Land Border Inspection Fee Account; \$9 per form into the Secure the Southern Border Fund for wall construction and Border Patrol equipment and vehicles; and, subject to advance appropriation authorization, \$10 per form for Border Patrol salaries.

The raise in the I-94 fee is past due. It is a niggling thing, but one must also ask whether the same charge structure should be assessed for alien crewman admission forms I-95. While the shipping and cruise industries might object, so too will airline and tourist industries object to the I-94 fee increases. Should any of their objections override the need to raise the fees commensurate with inspection and system processing costs?

In fact, it is our view that the entire fee structure for nonimmigrant admissions is out of date and has been kept artificially low, in no small measure because various border senators have interposed objections to raising the fees, notwithstanding their importance to providing an appropriate structure and staffing levels with which to protect and secure our borders.

Last and most importantly: As with providing equipment and vehicles only to the Border Patrol out of the Secure the Southern Border Fund, we believe it is shortsighted not to also include ICE ERO within the proviso relating to salaries. After all, if the Border Patrol makes apprehensions of aliens who, for lack of detention beds or facility staff or equipment, ICE cannot detain, then by the rule of unintended consequences, lawmakers will have set up a continuation of the catch-and-release policies that have already wreaked such damage to our system of immigration controls.

It is also particularly ironic that I-94 increases should be dedicated solely to Border Patrol funding since I-94s relate to lawful nonimmigrant entries, not illegal border-crossers. To the extent that those nonimmigrants later violate the terms of their admission through overstaying or unauthorized employment, their apprehension and removal is a responsibility of ICE, not Border Patrol, agents.

Section 6. Requires and authorizes the DHS secretary to “design, test, construct, and install physical barriers, roads, and technology [including secondary physical barriers where deemed necessary, despite the presence of existing fencing] along the international land border between the United States and Mexico to prevent illegal crossings in all areas”. This is done through amendment of existing law at 8 U.S.C. 1103 note (relating to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996). The section also provides the secretary authority to waive existing limitations related to environmental impact, etc., although consultations with other federal, state, local, and tribal governmental entities is required.

Section 7. As the official summary accompanying the act states: “Removes the exemption from the Fair Labor Standards Act for Border Patrol agents, restoring the overtime pay that they received prior to the Border Patrol Pay Reform Act.”

Section 8. Establishes severability, in that should any portion of the law be found unconstitutional or otherwise unlawful, the remainder continues in effect.

Conclusion

It is unlikely this bill will get through the relevant committee(s) — let alone passing through to consideration by the full House. And with midterm elections coming, if control of the House of Representatives were to change party hands, there would be no chance whatsoever. Interestingly, though, on October 12, “House Majority Leader Kevin McCarthy announced ... a new get-tough immigration bill that would build the rest of President Trump’s border wall, punish sanctuary cities and stiffen penalties on repeat-illegal immigrants.”⁵

The details of such a bill are at this point unknown, and in the broader context there is strong reason to doubt that it would go anywhere since it would likely die in the Senate, where Majority Leader Mitch McConnell hews to the filibuster and cloture rules that ensure nothing will pass that chamber with fewer than 60 votes.

Even so, one would like to think that the bill envisioned by McCarthy and other House Republican leaders will incorporate some of the features contained in H.R. 6657 — most particularly establishment of remittance fees and dedication of those collections into a border enforcement fund.

However, as discussed above, it is singularly inappropriate that the Border Patrol is the only immigration enforcement agency designated by this bill to receive equipment, vehicle, or salary assistance from the various funding streams that would make up the new fund. There are two prime reasons for arguing that ICE should be included in the funding stream:

1. Many of the aliens sending remittances home are individuals who did not cross the border illegally, but instead entered on various nonimmigrant visas and simply overstayed and found unlawful employment in the interior of the United States (as evidenced by the high placement of countries such as China, India, and the Philippines on the list of remittance-receiving countries).
2. Even in the context of illegal border-crossers, the work that ICE does in detaining and transporting such aliens to hearings, and removing them from the United States, should be recognized and supported in the language of this bill.

End Notes

¹ A PDF version of the bill can be found on the Govtrack.us [website](#).

² For a sampling of our views, particularly but not exclusively those of Center Fellow David North and the author, see the Center for Immigration Studies [website](#).

³ Dan Cadman, [“News on Sanctuaries and Remittances”](#), Center for Immigration Studies blog, April 7, 2017.

⁴ [“Remittance Flows Worldwide in 2016: \\$138,165,000,000 in remittances was sent from United States to other countries in 2016”](#), Pew Research Center, January 23, 2018.

⁵ Stephen Dinan, [“House GOP leader announces get-tough immigration bill”](#), *Washington Times*, October 12, 2018.