

# Immigration and Border Riders in FY2016 Omnibus Appropriations

<i>Subject/Section</i>	<i>Summary</i>	<i>New/Continuing (Background)</i>
<b>Oath of Naturalization</b> <i>DHS Appropriations, Section 512</i>	Prohibits use of any funds to amend the Oath of Naturalization.	Continuing. This provision has been in place for many years after previous attempts by past administrations to revise the required oath of citizenship for applicants for naturalization.
<b>Background Checks for Immigration</b> <i>DHS Appropriations, Section 522</i>	Prohibits USCIS from approving any application for an immigration benefit until it receives the results of all required background checks.	Continuing. This provision has been in place for many years after it was discovered post-9/11 that USCIS might approve some benefits if the results of the background check took too long.
<b>National ID Card</b> <i>DHS Appropriations, Section 529</i>	Prohibits the use of funds for planning, testing, piloting or developing a National ID Card	Continuing. This provision has been in place for many years. Congress has expressed concern over the years that pushes for more secure identification for employment authorization or for state identification could result in a national ID card.
<b>No Employment of Illegal Workers</b> <i>DHS Appropriations, Section 534</i>	Prohibits use of any funds to employ workers who are not authorized to work in the United States.	Continuing. This provision was added after reports arose that some grantees or contractors may have hired unauthorized immigrants.
<b>Immigrant Integration Grants</b> <i>DHS Appropriations, Section 538</i>	Prohibits funds under immigrant integration grants programs from being used for services to other than lawful permanent residents.	Modified. Congress has prohibited funds from being used for services to immigrants who do not yet have green cards.
<b>Immigration Emergency</b> <i>DHS Appropriations, Section 544</i>	Allows DHS to transfer up to \$20 million to the Immigration Emergency Fund from its regular appropriations upon notification to the Appropriations Committees of the House and Senate.	Continued and Modified. The Immigration Emergency Fund was established in the Immigration Reform and Control Act of 1986 to fund increases in border security or enforcement and reimbursement of states and localities in response to an "immigration emergency" as decided by the Secretary.
<b>Immigration Enforcement</b> <i>DHS Appropriations, Section 545</i>	Requires the Secretary of Homeland Security to ensure enforcement of all immigration laws.	Continuing. This provision was added in the previous years bills after some in Congress accused the administration of failing to implement immigration enforcement provisions in the law.
<b>Immigration and Customs Enforcement Public Advocate</b> <i>DHS Appropriations, Section 549</i>	Prohibits the use of funds for the position of the Public Advocate, or any successor position at ICE.	Continuing. This provision was added a couple of years ago after some in Congress objected to the creation of the Public Advocate position within ICE to represent the interests of families of detained immigrants.
<b>Port of Entry Operations</b> <i>DHS Appropriations, Section 550</i>	Expands the authority of Customs and Border Protection to enter into public-private partnership agreements for reimbursements of	Modified. Under legislation passed in the last Congress which gave CBP this authority, up to five pilots could be conducted per year. This authority allows CBP to provide services at new

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	certain CBP services provided at ports of entry, to allow up to ten such pilot sites per year.	or additional land ports of entry funded and constructed by private entities.
<b>CBP Preclearance Operations</b> <i>DHS Appropriations, Section 553</i>	Requires that CBP certify to Congress before opening any new overseas preclearance operations that the location will improve homeland or national security and that United States air carriers service the airport.	Continuing. CBP has proposed significant expansion of preclearance sites overseas. Some in Congress expressed concern that some of the proposed locations might be harmful to U.S. security interests or that the airports in question were unfairly disadvantaging U.S. air carriers competing in those locations.
<b>Public Posting of Reports</b> <i>DHS Appropriations, Section 558</i>	Requires agencies publicly post on their websites any reports required to be submitted to Congress, unless the Secretary believes it is not in the national interest, will compromise homeland or national security, or contains proprietary information, and only after the report has been available to Congress for 45 days.	Continuing. In spite of the requirement, many Congressional reports are not posted on the DHS website, presumably due to one or more of the exceptions allowed by the provision.
<b>Land Border Crossing Fees</b> <i>DHS Appropriations, Section 559</i>	Prohibits DHS from imposing any new fees on individuals crossing the U.S.-Canada or U.S.-Mexico land borders, or from conducting any studies relating to the imposition of such fees.	Continuing. In past years the administration has proposed funding certain budget increases by imposing or increasing fees on land border crossings, the only ports of entry that do not collect such fees. Many in Congress view such fees as deterrents to travel and tourism.
<b>Humanitarian Relief for unaccompanied immigrant children and families</b> <i>DHS Appropriations, Section 560:</i>	Allows states and localities along the Southern Border receiving Homeland Security Grants to use those grants to cover "costs, or reimbursement of costs, related to providing humanitarian relief to unaccompanied alien children and alien adults accompanied by an alien minor."	Continuing. The provision was added in last year's bill to help states who dealt with the increase in Central American children who entered over the U.S.-Mexico border.
<b>H-2B Cap Amendments</b> <i>DHS Appropriations, Section 565</i>	Provides that foreign workers who entered on H-2B (temporary visas for seasonal or short-term jobs) in any of the last three years, and who enter again in fiscal year 2016, are not counted toward the annual 66,000 cap on the category. The provision is <i>only</i> for FY2016.	New. A similar provision was in place during FY 2007 to provide relief to certain seasonal employers who were not able to obtain workers late in the fiscal year because the cap was reached. CBO estimated an additional 8,000 visas might be issued. Under the provision in 2007 approximately 70,000 additional H-2B visas were granted according to State Department data.
<b>CBP reimbursements for preclearance</b> <i>DHS Appropriations, Section 566</i>	Authorizes CBP to be reimbursed up to \$14 million by airlines for provision of preclearance operations at foreign airports.	New. Provision was not included in either the House or Senate bill. CBP and Congress support increasing overseas preclearance operations, but costs to staff are multiple times those at U.S. airports, and CBP has not been able to charge airport or airlines for those services in the past.
<b>E-Verify reauthorization</b> <i>DHS Appropriations, Section 572</i>	Reauthorizes the E-Verify electronic employment verification program through September 30, 2016.	New. Congress has supported extension of the program for multiple years in the past. The one year extension for all of the expiring immigration provisions—E-Verify, Religious Workers, and EB-5—is likely to allow Congress more time to negotiate additional reforms to the programs.

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<b>Religious Worker Reauthorization</b> <i>DHS Appropriations, Section 573</i>	Reauthorizes the green card category for foreign religious workers through September 30, 2016.	New. Congress has supported extension of the program for multiple years in the past.
<b>EB-5 Reauthorization</b> <i>DHS Appropriations, Section 574</i>	Reauthorizes the EB-5 Regional Center Program for foreign investors through September 30, 2016.	New. Congress has supported extension of the program for multiple years in the past.
<b>H-2B Provisions For Seafood Industry</b> <i>DOL Appropriations, Section 111</i>	Creates new H-2B rules for temporary foreign workers in the seafood industry, to allow staggered entry of workers any time within 120 days prior to the start date on the approved petition.	New. This change had long been sought by seafood processors, especially those in Maryland and Virginia. The employers complained that the vagaries of the harvest season meant that their need extended beyond a set start date. 2015 DOL regulations had already included this provision. The language affirms the change in statute.
<b>H-2B Prevailing Wage Determinations</b> <i>DOL Appropriations, Section 112</i>	Allows use of private wage surveys to support a prevailing wage determination for H-2B workers unless the government determines that the private survey methodology or date are not "statistically supported."	New. Previous DOL rules had prohibited use of private surveys where a government survey existed for the occupation and the area of employment. Employers argued that private surveys were just as acceptable and sometimes better.
<b>H-2B Regulations</b> <i>DOL Appropriations, Section 113-114</i>	Section 113 prohibits funds from being used to enforce DOL regulations published in 2015 that imposed some requirements on the H-2B category requiring employers to give US workers the same wages and working conditions as H-2B workers and guaranteeing pay for three-fourths of the promised work, regardless of the actual work available. Section 114 prohibits funds to enforce DOL regulations that allow the department to audit previously approved labor certifications or order additional "assisted recruitment" where it finds a failure in the previous recruitment for US workers.	New. DOL and DHS issued interim final rules on the H-2B program in 2015 in response to a series of court cases that challenged the DOL's authority in the H-2B program. Employers objected strongly to several of the provisions of these regulations that had not been previously part of the H-2B program. The language here does not overturn the underlying regulation, but does not allow the Department to penalize employers for violations during this fiscal year.
<b>Terrorist Travel Prevention and Visa Waiver Program</b> <i>Division O "Other Matters", Title II</i>	Includes the House-passed HR 158, the <a href="#">Visa Waiver Program Improvement and Terrorist Travel Prevention Act</a> .	New. The House passed the legislation and similar legislation was pending in the Senate. The Administration had also proposed <a href="#">similar changes</a> to the program following the attacks in Paris.
<b>9-11 Response and Biometric Entry-Exit Fees from H-1B and L-1 Petitions</b> <i>Division O, Title IV, Section 402(g)</i>	<ul style="list-style-type: none"> <li>Increase L-1 Visa Fee through September 30, 2025, by an additional \$4,500 for employers with more than 50 percent of employees in the US on H-1B or L-1 Visas and have</li> </ul>	Modified. Similar fees were in place in statute but expired in September 2015. Similar fee hike provisions are also regular features of high-skilled reform bills. The current provision more than doubles the previous fees and provides that a portion of the fees now go to support 9/11

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	<p>more than 50 employees (large IT services most affected).</p> <ul style="list-style-type: none"> <li>• Increase H-1B fee through September 30, 2025, by an additional \$4,000 for companies with 50 or more employees and 50 percent or more of those employees on L-1 visas.</li> </ul>	<p>responders and to support development of a biometric exit solution.</p>