

PROVIDING FOR CONSIDERATION OF THE SENATE AMENDMENT TO THE BILL (H.R. 3979) TO AMEND THE INTERNAL REVENUE CODE OF 1986 TO ENSURE THAT EMERGENCY SERVICES VOLUNTEERS ARE NOT TAKEN INTO ACCOUNT AS EMPLOYEES UNDER THE SHARED RESPONSIBILITY REQUIREMENTS CONTAINED IN THE PATIENT PROTECTION AND AFFORDABLE CARE ACT; PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 5759) TO ESTABLISH A RULE OF CONSTRUCTION CLARIFYING THE LIMITATIONS ON EXECUTIVE AUTHORITY TO PROVIDE CERTAIN FORMS OF IMMIGRATION RELIEF; AND PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 5781) TO PROVIDE SHORT-TERM WATER SUPPLIES TO DROUGHT-STRICKEN CALIFORNIA

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DECEMBER 3, 2014.—Referred to the House Calendar and ordered to be printed

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Mr. NUGENT, from the Committee on Rules,  
submitted the following

## R E P O R T

[To accompany H. Res. 770]

The Committee on Rules, having had under consideration House Resolution 770, by a record vote of 6 to 4, report the same to the House with the recommendation that the resolution be adopted.

### SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for the consideration of the Senate amendment to H.R. 3979. The resolution makes in order a motion offered by the chair of the Committee on Armed Services or his designee that the House concur in the Senate amendment with an amendment consisting of the text of Rules Committee Print 113-58 modified by the amendments printed in part A of this report. The resolution waives all points of order against consideration of the motion. The resolution provides that the Senate amendment and the motion shall be considered as read. The resolution provides one hour of debate on the motion equally divided and controlled by the chair and ranking minority member of the Committee on Armed Services.

Section 2 of the resolution provides for consideration of H.R. 5759, the Executive Amnesty Prevention Act of 2014, under a closed rule. The resolution provides one hour of debate equally divided and controlled by the chair and ranking minority member of the Committee on the Judiciary. The resolution waives all points of order against consideration of the bill. The resolution provides

that the amendment in the nature of a substitute printed in part B of this report shall be considered as adopted, and the bill, as amended, shall be considered as read. The resolution waives all points of order against provisions in the bill, as amended. The resolution provides one motion to recommit with or without instructions.

Section 3 of the resolution provides for consideration of H.R. 5781, the California Emergency Drought Relief Act of 2014, under a closed rule. The resolution provides one hour of debate equally divided and controlled by the chair and ranking minority member of the Committee on Natural Resources. The resolution waives all points of order against consideration of the bill. The resolution provides that the amendment printed in part C of this report shall be considered as adopted, and the bill, as amended, shall be considered as read. The resolution waives all points of order against provisions in the bill, as amended. The resolution provides one motion to recommit with or without instructions.

Section 4 of the resolution provides that the chair of the Committee on Armed Services may insert in the Congressional Record at any time during the remainder of the second session of the 113th Congress such material as he may deem explanatory of defense authorization measures for the fiscal year 2015.

#### EXPLANATION OF WAIVERS

The waiver of all points of order against consideration of the motion includes waivers of the following:

Clause 4 of rule XXI, prohibiting consideration of an amendment proposing an appropriation to a bill reported by a committee not having that jurisdiction;

Clause 7 of rule XVI, requiring that no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment;

Section 302(f) of the Congressional Budget Act, which prohibits consideration of amendments providing new budget authority in excess of a 302(a) allocation of such authority; and

Section 306 of the Congressional Budget Act, prohibiting consideration of legislation within the jurisdiction of the Committee on the Budget unless referred to or reported by the Budget Committee.

Although the resolution waives all points of order against consideration of H.R. 5759, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against provisions in H.R. 5759, as amended, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against consideration of H.R. 5781, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against provisions in H.R. 5781, as amended, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

## COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

*Rules Committee record vote No. 196*

Motion by Mr. Cole to amend the rule for the Senate Amendment to H.R. 3979 to make in order and provide the appropriate waivers for amendment #4 to Rules Committee Print 113-58, offered by Rep. Cole (OK) and Rep. Mullin (OK), which strikes section 3003, relating to Southeast Arizona land exchange and conservation, from the bill. Defeated: 4-6

Majority Members	Vote	Minority Members	Vote
Ms. Foxx .....	Nay	Ms. Slaughter .....	Yea
Mr. Bishop of Utah .....	.....	Mr. McGovern .....	Yea
Mr. Cole .....	Yea	Mr. Hastings of Florida .....	Yea
Mr. Woodall .....	Nay	Mr. Polis .....	.....
Mr. Nugent .....	Nay		
Mr. Webster .....	Nay		
Ms. Ros-Lehtinen .....	.....		
Mr. Burgess .....	Nay		
Mr. Sessions, Chairman .....	Nay		

*Rules Committee record vote No. 197*

Motion by Ms. Slaughter to report open rules for H.R. 5759 and H.R. 5781. Defeated: 3-7

Majority Members	Vote	Minority Members	Vote
Ms. Foxx .....	Nay	Ms. Slaughter .....	Yea
Mr. Bishop of Utah .....	.....	Mr. McGovern .....	Yea
Mr. Cole .....	Nay	Mr. Hastings of Florida .....	Yea
Mr. Woodall .....	Nay	Mr. Polis .....	.....
Mr. Nugent .....	Nay		
Mr. Webster .....	Nay		
Ms. Ros-Lehtinen .....	.....		
Mr. Burgess .....	Nay		
Mr. Sessions, Chairman .....	Nay		

*Rules Committee record vote No. 198*

Motion by Ms. Slaughter to amend the Senate Amendment to H.R. 3979 to make in order and provide the appropriate waivers for amendment #5 to Rules Committee Print 113-58, offered by Rep. Coffman (CO), which prohibits U.S. funds from being used to pay the salaries of the Iraqi security forces or to provide weapons or equipment to the Iraqi security forces. Defeated: 3-7

Majority Members	Vote	Minority Members	Vote
Ms. Foxx .....	Nay	Ms. Slaughter .....	Yea
Mr. Bishop of Utah .....	.....	Mr. McGovern .....	Yea
Mr. Cole .....	Nay	Mr. Hastings of Florida .....	Yea
Mr. Woodall .....	Nay	Mr. Polis .....	.....
Mr. Nugent .....	Nay		
Mr. Webster .....	Nay		
Ms. Ros-Lehtinen .....	.....		
Mr. Burgess .....	Nay		
Mr. Sessions, Chairman .....	Nay		

*Rules Committee record vote No. 199*

Motion by Mr. McGovern to amend the rule for the Senate Amendment to H.R. 3979 to make in order and provide the appropriate waivers for amendment #1 to Rules Committee Print 113-58, offered by Rep. McGovern (MA) and Rep. Jones (NC), which provides that no funds are authorized for military operations related to Operation Inherent Resolve (war against the Islamic State in Iraq, Syria and elsewhere) until Congress authorizes such operations. Defeated: 3-7

Majority Members	Vote	Minority Members	Vote
Ms. Foxx .....	Nay	Ms. Slaughter .....	Yea
Mr. Bishop of Utah .....	.....	Mr. McGovern .....	Yea
Mr. Cole .....	Nay	Mr. Hastings of Florida .....	Yea
Mr. Woodall .....	Nay	Mr. Polis .....	.....
Mr. Nugent .....	Nay		
Mr. Webster .....	Nay		
Ms. Ros-Lehtinen .....	.....		
Mr. Burgess .....	Nay		
Mr. Sessions, Chairman .....	Nay		

*Rules Committee record vote No. 200*

Motion by Mr. McGovern to amend the rule for the Senate Amendment to H.R. 3979 to make in order and provide the appropriate waivers for amendment #2 to Rules Committee Print 113-58, offered by Rep. McGovern (MA) and Rep. Smith (WA) and Rep. Jones (NC), which requires that the President must send to Congress determination describing post-2014 deployment of U.S. troops in Afghanistan by no later than March 31, 2015 and Congress must vote on a joint resolution to authorize this deployment no later than 30 days after receiving the President's determination. Defeated: 3-7

Majority Members	Vote	Minority Members	Vote
Ms. Foxx .....	Nay	Ms. Slaughter .....	Yea
Mr. Bishop of Utah .....	.....	Mr. McGovern .....	Yea
Mr. Cole .....	Nay	Mr. Hastings of Florida .....	Yea
Mr. Woodall .....	Nay	Mr. Polis .....	.....
Mr. Nugent .....	Nay		
Mr. Webster .....	Nay		
Ms. Ros-Lehtinen .....	.....		
Mr. Burgess .....	Nay		
Mr. Sessions, Chairman .....	Nay		

*Rules Committee record vote No. 201*

Motion by Mr. McGovern to amend the rule for the Senate Amendment to H.R. 3979 to make in order and provide the appropriate waivers for amendment #3 to Rules Committee Print 113-58, offered by Rep. McGovern (MA) and Rep. Jones (NC) and Rep. Van Hollen (MD), which provides that none of the funds authorized to be appropriated in this Act may be used to deploy U.S. ground forces in a combat role to Iraq, Syria, or other countries in the region related to Operation Inherent Resolve. Defeated: 3-7

Majority Members	Vote	Minority Members	Vote
Ms. Foxx .....	Nay	Ms. Slaughter .....	Yea
Mr. Bishop of Utah .....	.....	Mr. McGovern .....	Yea
Mr. Cole .....	Nay	Mr. Hastings of Florida .....	Yea
Mr. Woodall .....	Nay	Mr. Polis .....	.....
Mr. Nugent .....	Nay		
Mr. Webster .....	Nay		
Ms. Ros-Lehtinen .....	.....		
Mr. Burgess .....	Nay		
Mr. Sessions, Chairman .....	Nay		

*Rules Committee record vote No. 202*

Motion by Mr. Hastings of Florida to amend the rule for the Senate Amendment to H.R. 3979 to make in order and provide the appropriate waivers for amendment #7 to Rules Committee Print 113–58, offered by Rep. Polis (CO), which adds a provision prohibiting employers, employment agencies, labor organizations, and joint labor-management committees from engaging in employment discrimination on the basis of an individual’s actual or perceived sexual orientation or gender identity. Defeated: 3–7

Majority Members	Vote	Minority Members	Vote
Ms. Foxx .....	Nay	Ms. Slaughter .....	Yea
Mr. Bishop of Utah .....	.....	Mr. McGovern .....	Yea
Mr. Cole .....	Nay	Mr. Hastings of Florida .....	Yea
Mr. Woodall .....	Nay	Mr. Polis .....	.....
Mr. Nugent .....	Nay		
Mr. Webster .....	Nay		
Ms. Ros-Lehtinen .....	.....		
Mr. Burgess .....	Nay		
Mr. Sessions, Chairman .....	Nay		

*Rules Committee record vote No. 203*

Motion by Ms. Foxx to report the rule. Adopted: 6–4

Majority Members	Vote	Minority Members	Vote
Ms. Foxx .....	Yea	Ms. Slaughter .....	Nay
Mr. Bishop of Utah .....	.....	Mr. McGovern .....	Nay
Mr. Cole .....	Nay	Mr. Hastings of Florida .....	Nay
Mr. Woodall .....	Yea	Mr. Polis .....	.....
Mr. Nugent .....	Yea		
Mr. Webster .....	Yea		
Ms. Ros-Lehtinen .....	.....		
Mr. Burgess .....	Yea		
Mr. Sessions, Chairman .....	Yea		

SUMMARY OF THE AMENDMENTS TO THE HOUSE AMENDMENT TO THE SENATE AMENDMENT TO H.R. 3979 IN PART A CONSIDERED AS ADOPTED

1. Sessions (TX): Makes technical changes to the amendatory instructions.

2. Royce (CA): Inserts language identical to H.R. 5681 to extend for another ten years the United States-United Kingdom Mutual Defense Agreement, an agreement in place since 1958 that governs nuclear cooperation with our closest NATO partner.

SUMMARY OF THE AMENDMENT TO H.R. 5759 IN PART B CONSIDERED  
AS ADOPTED

Yoho (FL): Changes the short title to “Preventing Executive Overreach on Immigration Act”; adds six congressional findings related to the President’s unconstitutional actions; adds necessary exceptions for imminent humanitarian and law enforcement reasons; and makes the effective date November 20, 2014.

SUMMARY OF THE AMENDMENT TO H.R. 5781 IN PART C CONSIDERED  
AS ADOPTED

Hastings, Doc (WA): Makes technical and conforming changes to the bill.

PART A—TEXT OF AMENDMENTS TO THE HOUSE AMENDMENT TO THE  
SENATE AMENDMENT TO H.R. 3979 CONSIDERED AS ADOPTED

AMENDMENT NO. 1

Strike the amendatory instructions on page 1 of Rules Committee Print 113–58 and insert the following: “In lieu of the matter proposed to be inserted by the Senate amendment to H.R. 3979, insert the following:”.

AMENDMENT NO. 2

At the end of subtitle E of title XII of division A (page 764, after line 10), add the following:

**SEC. 1280. APPROVAL OF THE AMENDMENT TO THE AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND FOR COOPERATION ON THE USES OF ATOMIC ENERGY FOR MUTUAL DEFENSE PURPOSES.**

(a) **IN GENERAL.**—Notwithstanding the provisions for congressional consideration of a proposed agreement for cooperation in subsection d. of section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153), the amendments to the Agreement Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland for Cooperation on the Uses of Atomic Energy for Mutual Defense Purposes, done at Washington, July 22, 2014, and transmitted to Congress on July 24, 2014, including all portions thereof (hereinafter in this section referred to as the “Amendment”), may be brought into effect on after the date of the enactment of this Act as if all the requirements in such section 123 for consideration of the Amendment had been satisfied, subject to subsection (b) of this section.

(b) **APPLICABILITY OF ATOMIC ENERGY ACT OF 1954 AND OTHER PROVISIONS OF LAW.**—Upon coming into effect, the Amendment shall be subject to the provisions of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) and any other applicable United States law as if the Amendment had come into effect in accordance with the requirements of section 123 of the Atomic Energy Act of 1954.

## PART B—TEXT OF AMENDMENT TO H.R. 5759 CONSIDERED AS ADOPTED

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Preventing Executive Overreach on Immigration Act of 2014”.

**SEC. 2. FINDINGS.**

The Congress finds as follows:

(1) Under article I, section 8, of the Constitution, the Congress has the power to “establish an uniform Rule of Naturalization”. As the Supreme Court found in *Galvan v. Press*, “that the formulation of . . . policies [pertaining to the entry of aliens and their right to remain here] is entrusted exclusively to Congress has become about as firmly imbedded in the legislative and judicial tissues of our body politic as any aspect of our government”.

(2) Under article II, section 3, of the Constitution, the President is required to “take Care that the Laws be faithfully executed”.

(3) Historically, executive branch officials have legitimately exercised their prosecutorial discretion through their constitutional power over foreign affairs to permit individuals or narrow groups of noncitizens to remain in the United States temporarily due to extraordinary circumstances in their country of origin that pose an imminent threat to the individuals’ life or physical safety.

(4) Prosecutorial discretion generally ought to be applied on a case-by-case basis and not to whole categories of persons.

(5) President Obama himself has stated at least 22 times in the past that he can’t ignore existing immigration law or create his own immigration law.

(6) President Obama’s grant of deferred action to more than 4,000,000 unlawfully present aliens, as directed in a November 20, 2014, memorandum issued by Secretary of Homeland Security Jeh Charles Johnson, is without any constitutional or statutory basis.

**SEC. 3. RULE OF CONSTRUCTION.**

(a) **IN GENERAL.**—Notwithstanding any other law, the executive branch of the Government shall not—

(1) exempt or defer, by Executive order, regulation, or any other means, categories of aliens considered under the immigration laws (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17))) to be unlawfully present in the United States from removal under such laws;

(2) treat such aliens as if they were lawfully present or had a lawful immigration status; or

(3) treat such aliens other than as unauthorized aliens (as defined in section 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(3))).

(b) **EXCEPTIONS.**—Subsection (a) shall apply except—

(1) to the extent prohibited by the Constitution;

(2) upon the request of Federal, State, or local law enforcement agencies, for purposes of maintaining aliens in the

United States to be tried for crimes or to be witnesses at trial;  
or

(3) for humanitarian purposes where the aliens are at imminent risk of serious bodily harm or death.

(c) EFFECT OF EXECUTIVE ACTION.—Any action by the executive branch with the purpose of circumventing the objectives of this section shall be null and void and without legal effect.

(d) EFFECTIVE DATE.—This section shall take effect as if enacted on November 20, 2014, and shall apply to requests (regardless of whether the request is original or for reopening of a previously denied request) submitted on or after such date for —

(1) work authorization; or

(2) exemption from, or deferral of, removal.

PART C—TEXT OF AMENDMENT TO H.R. 5781 CONSIDERED AS ADOPTED

Page 14, line 2, strike “Commissioner of Reclamation” and insert “Secretary of the Interior”.

Page 14, line 25, strike “Commissioner” and insert “Secretary of the Interior”.

Page 15, beginning on line 19, strike “Commissioner” and insert “Secretary of the Interior”.

Page 16, line 1, strike “Commissioner” and insert “Secretary of the Interior”.

Page 18, beginning on line 1, strike “Smelt Biological Opinion and the Salmonid Biological Opinion” and insert “smelt biological opinion and the salmonid biological opinion”.

Page 18, beginning on line 8, strike “Smelt Biological Opinion and the Salmonid Biological Opinion” and insert “smelt biological opinion and the salmonid biological opinion”.

Page 18, beginning on line 20, strike “Biological Opinions” and insert “smelt biological opinion and the salmonid biological opinion”.

Page 19, beginning on line 12, strike “Secretary of the Interior or the Secretary of Commerce” and insert “Secretaries”.

Page 19, line 20, strike “NEPA” and insert “ENDANGERED SPECIES ACT”.

Page 23, line 18, strike “Secretary of the Interior’s” and insert “Secretary’s”.

Page 23, line 21, strike the comma before “(Public”.

Page 24, line 5, strike “of the Interior”.

Page 24, line 8, strike “of the Interior”.

Page 24, line 13, strike “Secretary of the Interior’s” and insert “Secretary’s”.

Page 25, beginning on line 2, strike “direct that the United States Bureau of Reclamation”.