

H.R. 5759, The Preventing Executive Overreach on Immigration Act of 2014
Introduced by Representative Ted Yoho

Need for the Legislation

- Pursuant to article 1, section 8, of the Constitution, only Congress has the power to write immigration laws. Our founding fathers established this separation of powers to prevent tyranny. As James Madison wrote: “No political truth is certainly of greater intrinsic value, or is stamped with the authority of more enlightened patrons of liberty than that . . . [t]he accumulation of all powers legislative, executive and judiciary, in the same hands whether of one, a few or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny.” Yet, President Obama is in effect rewriting our immigration laws by granting deferred action – relief from removal and affirmative immigration benefits such as work authorization – to more than four million unlawful aliens.
- Pursuant to article II, section 3, of the Constitution, the president is required to “take Care that the Laws be faithfully executed.” Yet, President Obama is refusing to enforce our immigration laws for these millions of unlawful aliens.
- President Obama justifies his actions by claiming that his administration is merely exercising the power of prosecutorial discretion. Yet, as Clinton Administration INS Commissioner Doris Meissner told her agency, “exercising prosecutorial discretion does not lessen the INS’s commitment to enforce the immigration laws to the best of our ability.”
- While previous presidents have provided immigration relief to groups of aliens, usually their actions were based on emergencies in foreign countries, thereby relying upon the broad constitutional power given to a president to conduct foreign affairs. Without any such foreign crisis, and in granting deferred action to a totally unprecedented number of aliens, President Obama has clearly exceeded his constitutional authority.

The Bill:

- reaffirms the constitutional principles that only Congress has the power to write immigration laws and that the President must enforce those laws;
- prevents President Obama or any future president from exempting or deferring the removal of categories of unlawful aliens except to the extent that the president is relying on his constitutional powers over foreign affairs or utilizing exceptions provided for in the bill for exceptional humanitarian and law enforcement circumstances;
- prevents President Obama or any future president from considering such aliens to be lawfully present in the United States (and thus ineligible for the rights and privileges available to lawfully present aliens);
- prevents President Obama or any future president from granting work authorization to such aliens; and
- takes effect as if enacted on November 20, 2014, thus nullifying the president’s recent executive action.