

Immigration Detention Bed Quota Timeline

January 2017

What is the immigration detention bed quota?

U.S. Immigration and Customs Enforcement (ICE), the interior enforcement agency of the **Department of Homeland Security (DHS)**, **detains an average of 34,000 individuals daily—nearly half a million people annually**—in a network of over 250 county jails, privately-run contract facilities, and federal facilities. This costs taxpayers more than **\$2 billion** each year.¹ Since 2009, congressional appropriations laws have tied funding to a minimum number of required immigration detention beds, language now commonly referred to as the “detention bed quota.” No other law enforcement agency is subject to a real or perceived quota for its detainees.

The timeline below maps the origins of the bed quota and legislative developments influenced by the efforts of the National Immigrant Justice Center (NIJC) and nationwide partners to eliminate it.

2004	The Intelligence Reform and Terrorism Prevention Act of 2004 directs the Department of Homeland Security (DHS) to increase the immigration detention capacity by at least 8,000 beds each year from fiscal years (FY) 2006 to 2010. ²
2006	During the signing ³ of the DHS Appropriations Act for 2007 , ⁴ President Bush notes that the act “will allow us to add at least 6,700 new beds in detention centers,” providing for a total of 27,500 beds. ⁵
2007	The House Committee on Appropriations passes the DHS Appropriations Act for 2008 . ⁶ In the accompanying report ⁷ , the Committee provides funding for 28,450 average daily detention beds and states its expectation that “this increase in bed space is sufficient to maintain the Immigration and Customs Enforcement (ICE) practice of repatriating all illegal crossers apprehended at the borders.”
2009	Senator Robert Byrd (D-WV), chair of the Senate Appropriations Committee, introduces the bed quota into the DHS Appropriations Act of 2010 , where language mandating that DHS “maintain a level of not less than 33,400 detention beds” is first included. ⁸
2010	President Obama’s proposed budget for FY 2011 matches the same level of funding for 33,400 detention beds as FY 2010 congressional appropriations. ⁹ The DHS Appropriations Act of 2011 ¹⁰ includes the same language as the DHS Appropriations Act of 2010 , ¹¹ providing a mandate for 33,400 detention beds. However, Congress does not pass the bill and instead passes a series of continuing resolutions that maintain FY 2010 funding levels.
2011	The president requests to maintain a level of 33,400 detention beds in the FY 2012 budget . ¹² Congress does not pass the DHS appropriations bill for FY 2012, and instead passes the Consolidated Appropriations Act of 2012 , raising the level up to 34,000. ¹³
February 2012	The president’s proposed FY 2013 budget ¹⁴ slightly reduces requested detention spending to 32,800 beds. The Continuing Appropriations Act passed by the House maintains 34,000 beds, ¹⁵ while the DHS appropriations bill introduced but not passed by the Senate includes 33,400 beds. ¹⁶

September 2012	Congress fails to pass the appropriations bills for FY 2013 and instead passes a six-month continuing resolution that maintains FY 2012 funding levels for detention. ¹⁷
February 2013	ICE releases approximately 2,000 detainees over a two-week period to plan for the possibility of sequestration and budget constraints as a result of the six-month continuing resolutions. ¹⁸
March 2013	<p>Congress passes a second continuing resolution for the remainder of FY 2013 that increases the bed quota, stating that DHS “shall maintain a level of not less than 34,000 detention beds.”¹⁹</p> <p>The House Judiciary Committee calls a hearing asking ICE to explain the February releases of detainees, providing an unprecedented discussion by both Republicans and Democrats about the overuse of immigration detention and the bed quota itself.²⁰ During the hearing, Rep. Spencer Bachus (R-AL) questions ICE’s use of detention, stating “It looks to me maybe there’s an overuse of detention by this administration.”²¹</p>
April 2013	<p>The president releases his proposed FY 2014 Budget, promoting the expansion of alternatives to detention programs in order to “ensure the most cost-effective use of federal dollars.”²² The proposed budget also prioritizes detention resources for priority and mandatory detainees calling for a 6.5 percent reduction in bed space to 31,800.²³</p> <p>In testimony before the House Appropriations Subcommittee on Homeland Security’s hearing on the president’s FY 2014 budget, DHS Secretary Janet Napolitano calls the bed quota “artificial” and states that “We ought to be managing the actual detention population to risk, not an arbitrary number.”²⁴</p>
June 2013	<p>The House votes on the first-ever amendment (HR 2217)²⁵ to eliminate the bed quota from the FY 14 DHS appropriations bill.²⁶ The amendment is sponsored by Reps. Bill Foster (D-IL) and Ted Deutch (D-FL) and receives the support of 190 Members, including eight Republicans.²⁷</p> <p>NGOs deliver a letter signed by 65 organizations to House Speaker John Boehner (R-OH) and House Minority Leader Nancy Pelosi (D-CA) asking them to support the amendment to eliminate the quota.²⁸</p>
September 2013	65 House Democrats send a letter to President Obama urging elimination of the bed quota from future budget requests. ²⁹
Sept. - Nov. 2013	<p>Flurry of media coverage³⁰ over the bed quota, including 10 prominent media stories in Bloomberg, Washington Post, Univision, Marketplace, The Hill, MSNBC, NPR, and the Houston Chronicle.³¹</p> <p>Bloomberg runs an editorial entitled “The Madness of U.S. Immigration Policy.”³²</p>
January 2014	<p>Advocates organize “Eliminate the Quota” sign-on letters to Congress³³ (Members of the Senate and House Appropriations Committees) and the White House³⁴ signed by 136 non-governmental organizations (NGOs).</p> <p>Reps. Bill Foster (D-IL) and Ted Deutch (D-FL) introduce an amendment to eliminate the bed quota in the FY 2014 omnibus appropriations bill.³⁵ Since the bill is voted on in a closed rule, votes on amendments are not permitted.³⁶ The final Consolidated Appropriations Act of 2014 states that DHS “shall maintain a level of not less than 34,000 detention beds.”³⁷</p>
February 2014	<p>Reps. Deutch and Foster, along with 26 other members of Congress, deliver a letter to the Office of Management and Budget requesting an end to the bed quota in order to “use detention beds based on actual need and the potential risk posed by individual detainees.”³⁸</p> <p>People detained at the Northwest Detention Center in Tacoma, Washington begin a hunger strike, citing poor detention conditions and capture the attention of Rep. Adam Smith (D-WA), who reaches out to DHS Secretary Johnson about his concerns.³⁹</p>

<p>March 2014</p>	<p>The president's 2015 proposed budget advocates to increase use of alternatives to detention and restricting detention to “mandatory and priority individuals, including violent criminals and those who pose a threat to national security.”⁴⁰ Although the proposed budget deletes language from the FY 2014 budget that required DHS to maintain at least 34,000 detention beds, the DHS Budget-In-Brief explains that its request for \$1.3 billion is to fund 30,539 detention beds.⁴¹ The DHS Congressional Budget Justification explains that the administration seeks removal of the reference to maintenance of 34,000 beds because “[t]he number of beds maintained should be based on actual need.”⁴² DHS Secretary Jeh Johnson explains to House appropriators that he views the quota as a requirement to “maintain the capability for 34,000 detainees” and not that DHS “must maintain 34,000 detainees at any one time.”⁴³</p>
<p>April 2014</p>	<p>The Office of Management and Budget states in writing that the FY 2015 budget request does not include appropriations language requiring ICE to maintain a specified number of beds per day, and instead urges the number of beds utilized to “be based on actual demand, to include those for whom detention is required by law (i.e., mandatory detainees) and higher-priority, non-mandatory individuals. Lower-priority individuals should be placed in alternatives to detention programs.”⁴⁴</p>
<p>May 2014</p>	<p>Rep. Adam Smith introduces the Accountability in Immigration Detention Act of 2014, which aims to improve standards and living conditions in detention centers across the country. The legislation eliminates the bed quota, stating that “the number of detention beds maintained shall be determined by the Secretary of Homeland Security and shall be based solely on detention needs.”⁴⁵</p> <p>The <i>Los Angeles Times</i> publishes an editorial, “Dump the Immigrant Detainee Quota.”⁴⁶</p>
<p>June 2014</p>	<p>Rep. Mike Quigley (D-IL) introduces an amendment⁴⁷ to eliminate the bed quota during the House Appropriations Committee hearing on June 11th. Reps. Mike Honda (D-CA), José Serrano (D-NY), and David Valadao (R-CA) all spoke in favor of the amendment.⁴⁸ Rep. Valadao’s comments marked the first time a Republican directly spoke out in opposition to the bed quota. Ultimately, Rep. Quigley withdrew the amendment; however, no one spoke out in opposition to the amendment.</p>
<p>August 2014</p>	<p>The DHS Office of the Inspector General (OIG) releases a revised report on the February 2013 release of Immigration and Customs Enforcement (ICE) immigration detainees due to sequestration.⁴⁹ In the report, the OIG acknowledges that “The [average daily population (ADP)] congressional mandate requires [Enforcement and Removal Operations (ERO)] to make release decisions based on bed space availability, not whether detention is necessary for public safety or to effect removals.”⁵⁰ The OIG recommends that ICE needs the authority to determine when individuals should be detained. Without this authority, OIG states that “ICE will continue to make detention decisions based on available funding rather than the most efficient use of detention bed space.”⁵¹</p>
<p>December 2014</p>	<p>Reps. Deutch and Foster introduce⁵² an amendment⁵³ to eliminate the bed quota from the FY 15 Omnibus Appropriations Bill.⁵⁴ Since the bill was considered under a closed rule with no amendments allowed, the amendment did not receive a vote. Although the omnibus funds the federal government through September 30, 2015, DHS is funded on a short-term continuing resolution that expires February 27, 2015. Consequently, Congress will debate DHS funding again early next year.</p>
<p>January 2015</p>	<p>Reps. Deutch and Foster introduce an amendment⁵⁵ to eliminate the bed quota from the DHS Appropriations Act of 2015 (HR 240).⁵⁶ Reps. Adam Smith, Joaquin Castro (D-TX), Beto O’Rourke (D-TX), and Jared Polis (D-CO) also co-sponsor the amendment, which ultimately is rejected.</p> <p>The House of Representatives pass the DHS Appropriations Act of 2015 (HR 240).⁵⁷ The bill increases Custody Operations funding by \$385 million to maintain the 34,000 bed quota.⁵⁸</p>

<p>March 2015</p>	<p>The Congressional Progressive Caucus releases their FY 2016 budget alternative called The People's Budget: A Raise for America.⁵⁹ The budget blueprint includes elimination of the bed quota.</p> <p>Reps. Deutch and Foster, along with 60 members of Congress, write a letter to the House Appropriations Committee calling for elimination of the bed quota in FY 2016 appropriations.⁶⁰</p>
<p>April 2015</p>	<p>Rep. John Culberson (R-TX) insists that U.S. Immigration and Customs Enforcement (ICE) must enforce the immigration detention bed quota during a House Appropriations Homeland Security Subcommittee hearing⁶¹ on ICE's 2016 budget request.⁶² In her testimony, Sarah R. Saldana, ICE Director, reiterated DHS's position that the bed quota requires DHS to maintain 34,000 beds, not detain 34,000 people per day.</p>
<p>May 2015</p>	<p>Democratic presidential candidate Hillary Clinton criticizes the bed quota stating that "People go out and round up people in order to get paid on a per-bed basis. That just makes no sense at all to me. That's not the way we should be running any detention facility."⁶³</p> <p>Rep. Smith reintroduces the Accountability in Immigration Detention Act. Originally introduced in 2014, the bill seeks to end the bed quota in addition to other immigration detention reforms. Reps. Suzan DelBene (D-WA), Deutch, Foster, Raúl Grijalva (D-AZ), Rick Larsen (D-WA), Jim McDermott (D-WA), O'Rourke, and Quigley co-sponsor the bill.⁶⁴</p>
<p>June 2015</p>	<p>The Senate Appropriations Committee passes the DHS Appropriations Bill for 2016. In the accompanying report,⁶⁵ the Committee recommends that funding provide the "resources necessary to maintain 34,000 detention beds" and states its expectation for "ICE to vigorously enforce all immigration laws under its purview."</p> <p>Rep. Deutch introduces the Protecting Taxpayers and Communities from Local Detention Quotas Act (H.R. 2808). The bill seeks to end the practice of including guaranteed bed minimums in immigration detention contracts. Reps. Foster, Lloyd Doggett (D-TX), Grijalva, Jan Schakowsky (D-IL), Adam Smith, and Bonnie Watson Coleman (D-NJ) co-sponsor the bill.</p>
<p>July 2015</p>	<p>The House Committee on Appropriations passes the DHS Appropriations Act for 2016.⁶⁶ The accompanying Committee report⁶⁷ increases the bed quota to 34,040 average daily detention beds: 31,280 for adults at an estimated cost of \$123.54 per bed and 2,760 family detention beds at an estimated daily cost of \$342.73.</p>
<p>September 2015</p>	<p>Senator Bernie Sanders (I-VT) introduces the Justice is Not for Sale Act of 2015,⁶⁸ which seeks to end the bed quota among other criminal justice and immigration detention reforms. The bill is the first effort in the U.S. Senate to eliminate the bed quota. In addition, Reps. Grijalva, Keith Ellison (D-MN), and Bobby Rush (D-IL) introduce the bill⁶⁹ in the U.S. House of Representatives.</p> <p>Reps. Smith,⁷⁰ Deutch,⁷¹ Foster, Watson Coleman, Castro, and Polis offer an amendment to remove the detention bed quota from the short-term FY 2016 Continuing Resolution.⁷² The amendment is ultimately rejected.</p>
<p>December 2015</p>	<p>Congress passes the Consolidated Appropriations Act, 2016 to provide funding for the remainder of FY 2016.⁷³ The bill maintains the 34,000 detention bed quota.</p>
<p>February 2016</p>	<p>President Obama releases his FY 2017 budget request, which reduces the bed quota to 30,913 detention beds: 29,953 adult beds at an average rate of \$126.46 per day and 960 family beds at an average rate of \$161.36 per day.⁷⁴ The DHS budget justification states that "These detention bed levels ensure the most cost-effective use of Federal dollars by focusing the more costly detention capabilities on priority aliens and those who are subject to mandatory detention by law (mandatory aliens). This strategy allows ICE to place low-risk, non-mandatory aliens in [Alternative to Detention] ATD programs, such as electronic monitoring and intensive supervision."⁷⁵</p>

<p>March 2016</p>	<p>Reps. Deutch and Foster, along with 55 members of Congress, write a letter to the House DHS Appropriations Subcommittee calling for elimination of the bed quota in FY 2017 appropriations.⁷⁶</p>
<p>July 2016</p>	<p>The ICE average daily population exceeds 37,000 people for the first time, with 37,350 people detained as of July 16.⁷⁷</p>
<p>August 2016</p>	<p>The Department of Justice (DOJ) announces that it is ending its use of private prisons, stating that “They simply do not provide the same level of correctional services, programs, and resources; they do not save substantially on costs; and as noted in a recent report by the DOJ’s Office of Inspector General, they do not maintain the same level of safety and security.”⁷⁸ Following the announcement, DHS Secretary Johnson announces a review by a specially designated subcommittee of the Homeland Security Advisory Council (HSAC) to consider whether ICE should follow suit.⁷⁹</p> <p>An ICE official admits that the agency sets bond amounts based on meeting bed quotas, and that “rates are lower when there are fewer beds available since there is nowhere to detain the individual and vice versa.”⁸⁰</p>
<p>September 2016</p>	<p>Members of Congress write letters to DHS Secretary Johnson and ICE Director Saldaña in response to the HSAC review of DHS’s use of private prisons. Reps. Grijalva and Schakowsky urge DHS and ICE to phase out the use of private prisons in immigration detention, not renew any contracts with private prisons, and reverse policies that have led to greater use of detention.⁸¹ Sens. Leahy, Durbin, and 10 senators state their opposition to using of for-profit prison companies in immigration detention. They also express concern about Director Saldaña’s comments that closing privately run facilities would “turn our system upside down” and whether the review process would be “genuine” or have a “predetermined outcome.”⁸²</p>
<p>October 2016</p>	<p>The Wall Street Journal reports that ICE is detaining a historic high of more than 40,000 people. The agency expects to detain an average of 45,000 in the coming weeks and months, and up to 47,000 by June 2017 if current policies continue.⁸³ In addition, DHS faces a \$136 million shortfall and will burn through its \$2 billion budget to detain people by early November.⁸⁴</p> <p>Despite the ongoing HSAC review, ICE extends the contract for the privately-run Dilley Family Detention Center, TX;⁸⁵ expands capacity at Yakima County Jail, WA;⁸⁶ and establishes new detention facilities at Al Cannon Detention Center, SC⁸⁷ and Kankakee County Jail, IL. Rumors also emerge that ICE is eyeing jail space at Anne Arundel County Jail, MD⁸⁸ and at a privately run facility in Youngstown, OH.⁸⁹ Lastly, Corrections Corporation of America (CCA) announces a new contract with ICE to house up to 1,116 people at the Cibola County Corrections Center in New Mexico.⁹⁰ The DOJ’s Bureau of Prisons had terminated the facility’s contract following reports of questionable deaths and substandard medical care.⁹¹</p>
<p>December 2016</p>	<p>The HSAC subcommittee report on DHS’s use of private prisons is released. The report recommends that DHS exercise stronger oversight over its detention facilities and reduce reliance on county jails, but states that DHS’s reliance on private prisons will continue due to fiscal constraints.⁹² One member of the subcommittee dissents from the recommendation that private prisons continue, stating that “a measured but deliberate shift away from the private prison model is warranted.”⁹³ Seventeen out of 22 HSAC members vote to adopt this position.⁹⁴</p> <p>DHS continues to expand detention through new contracts with CCA in Folkston, GA and Youngstown, OH. The new facilities expand ICE detention capacity by at least 3,000.⁹⁵</p>

Endnotes

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