To secure the borders of the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 15, 2005

Mr. REYES introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To secure the borders of the United States, and for other purposes.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,

3 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

4 (a) Short Title.—This Act may be cited as the
5 “Secure Borders Act”.

6 (b) Table of Contents.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—SECURING OUR BORDERS

Subtitle A—Infrastructure Enhancements
Sec. 101. Establishment of Land Border Infrastructure Improvement Fund.
Sec. 102. Requiring a vulnerability assessment of land ports of entry.
Sec. 103. Enhancing SENTRI, FAST, and NEXUS preenrollment programs.

Subtitle B—Enhancing Border Monitoring Technology
Sec. 111. Deployment of surveillance systems along the U.S.-Mexico border.
Sec. 112. Deployment of surveillance systems along the US-Canadian border.
Sec. 113. Level of K-9 units.
Sec. 114. Deployment of radiation portal monitors on the southern border.

Subtitle C—Ensuring Sufficient Well-Trained Personnel at Our Borders
Sec. 121. Double the number of CBP personnel.
Sec. 122. Assessing staffing needs at our borders.
Sec. 123. Additional and continuous training for inspectors.
Sec. 124. Requiring report on the “one face at the border initiative”.

Subtitle D—Establishing a Comprehensive Border Security Strategy
Sec. 131. Land border security strategy.
Sec. 132. Improved Information Sharing.
Sec. 133. Creation of northern and southern border coordinators.
Sec. 134. Smart Border Accord implementation.
Sec. 135. Sense of Congress on the period of admission for border crossing card holders.

Subtitle E—Enhancing Border Security Programs
Sec. 141. Creating a more effective entry-exit system.
Sec. 142. Transportation worker identification card.
Sec. 143. Standards and verification procedures for the security of intermodal cargo containers.
Sec. 144. Sense of Congress on the need for additional staff for the United States Consulate-General in Mexico.

Subtitle F—Securing Our Tribal and Federal Lands and Territories
Sec. 151. Office of Tribal Security.
Sec. 152. Transfer of “shadow wolves” from CBP to ICE.
Sec. 153. DHS and DOI coordination on border security; provision of temporary authority to DHS to transfer funds.

TITLE II—SECURING THE INTERIOR; TOOLS FOR BORDER SECURITY

Subtitle A—Increase in Staff for ICE
Sec. 201. ICE strategy and staffing assessment.

Subtitle B—Increase in Detention Space
Sec. 211. Sense of Congress regarding processing of criminal aliens while incarcerated.
Sec. 212. Sense of Congress regarding increase in prosecutors and immigration judges.

Subtitle C—Enhancing Law Enforcement Access to Informants
Sec. 221. New class of nonimmigrant aliens.
Sec. 222. Adjustment of status of nonimmigrant to that of person admitted for permanent residence.

Subtitle D—Increased Penalties for Smuggling

Sec. 231. Combating aggravated alien smuggling.
Sec. 232. Increased criminal sentences and fines for alien smuggling.
Sec. 233. Increased penalty for smuggling.

TITLE III—BEYOND OUR BORDERS (INTERNATIONAL)

Subtitle A—Coordinating DHS Mission Overseas

Sec. 301. Office of International Affairs; effective and efficient management and coordination of international assignments.
Sec. 302. Creation of an Office of Overseas Service.

Subtitle B—Implementing a More Effective Visa Security Program

Sec. 311. Implementing a more effective visa security program.

Subtitle C—Securing the Visa Waiver Program

Sec. 321. Visa waiver program passenger screening; biographical checks.
Sec. 322. Defining security Responsibilities of the Visa Waiver Program Office.
Sec. 323. Additional and continuous training for inspectors in fraud and imposter detection.
Sec. 324. Authorization of funds.

TITLE IV—SECURING THE IMMIGRATION BENEFITS PROCESS

Sec. 401. Immigration Ombudsman.
Sec. 402. CIS workflow, technology, and staffing assessment.
Sec. 403. Study on biometrics.
Sec. 404. Digitizing immigration functions.
Sec. 405. Study on digitizing immigration benefit applications.

TITLE I—SECURING OUR BORDERS

Subtitle A—Infrastructure Enhancements

SEC. 101. ESTABLISHMENT OF LAND BORDER INFRASTRUCTURE IMPROVEMENT FUND.

(a) IN GENERAL.—There is established in the general fund of the Treasury a separate account which shall be known as the “Land Border Infrastructure Improvement
Fund’. Amounts deposited in such fund shall remain available to the Secretary of Homeland Security until expended, subject to the provisions of appropriations Acts, to carry out infrastructure and technology improvement projects at our nation’s ports of entry, as assessed in section 102, to reduce and prevent the nation’s land border vulnerability to terrorist attack, and penetration by terrorists and criminals, while effectively facilitating the movement of goods, services, and legitimate travelers.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000,000 to carry out the projects described in subsection (c).

(c) PROJECTS DESCRIBED.—The Secretary of Homeland Security may carry out infrastructure and technology improvement projects recommended in the report submitted under section 102 in order to reduce the vulnerability of ports of entry.

SEC. 102. REQUIRING A VULNERABILITY ASSESSMENT OF LAND PORTS OF ENTRY.

(a) INITIAL ASSESSMENT.—

(1) IN GENERAL.—The Secretary of Homeland Security shall conduct an assessment of the vulnerability of each United States land port of entry to penetration by terrorists and criminals or terrorist attack. In carrying out assessments under this para-
graph, the Secretary shall categorize the vulnerability of each port of entry as “high”, “medium”, or “low” and shall prioritize the vulnerability of each port of entry within each such category. In conducting the assessment, the Secretary of Homeland Security shall consult with appropriate State, local, and private sector representatives.

(2) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall prepare and submit to the appropriate congressional committees (as that term is defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)) a report that contains—

(A) the results of the assessment conducted under paragraph (1);

(B) with respect to each port of entry categorized under paragraph (1) as either a “high” or “medium” vulnerability port of entry, descriptions of—

(i) infrastructure and technology improvement projects required for the port of entry in order to reduce its vulnerability; and

(ii) the resources required to make such improvements; and
(C) a description of how the funds will be used to implement technology and infrastructure improvement projects.

(b) **FOLLOW-UP ASSESSMENTS.**—The Secretary of Homeland Security shall conduct follow-up assessments of land border ports of entry every 2 years and shall submit such reports to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)).

**SEC. 103. ENHANCING SENTRI, FAST, AND NEXUS PREENROLLMENT PROGRAMS.**

(a) **SENSE OF CONGRESS.**—It is the sense of the Congress that preenrollment programs should be expanded to all major ports of entry because these programs assist our frontline officers in the fight against terrorism. These programs allow inspectors to focus more closely on unknown travelers by subjecting participants to in-depth background and watch list checks.

(b) **PERMANENT AUTHORIZATION.**—

(1) **IN GENERAL.**—The Secretary of Homeland Security shall make permanent pre-enrollment programs that subject participants who are aliens, and citizens of the United States, to criminal and watch list screenings and fingerprint checks prior to enroll-
ing in order to gain expedited inspections at ports of entry.

(2) **SPECIFIC PROGRAMS.**—The programs described in paragraph (1) shall include, at a minimum, the following:

(A) The Free and Secure Trade, or “FAST”, program authorized under subpart B of title IV of the Tariff Act of 1930 (19 U.S.C 1411 et seq).

(B) The Secure Electronic Network for Travelers Rapid Inspection, or “SENTRI”, program authorized under section 286(q) of the Immigration and Nationality Act (8 U.S.C. 1356(q)).

(C) The “NEXUS” program authorized under section 286(q) of the Immigration and Nationality Act (8 U.S.C. 1356(q)).

(D) Successor programs to the programs described in subparagraphs (A) through (C).

(e) **AUTHORIZATION OF FUNDS NECESSARY TO BUILD ADEQUATE INFRASTRUCTURE TO RENDER PROGRAMS EFFECTIVE.**—There are authorized to be appropriated such funds as may be necessary to improve infrastructure to enhance access to pre-enrollment lanes, and to accomplish all the other purposes outlined in this sec-
tion, in order to facilitate inspections and expedite the flow of travel and commerce.

(d) REDUCTION OF PROGRAM FEES.—The Secretary of Homeland Security may reduce the enrollment fees for the programs described in subsection (a) if necessary to encourage participation.

(e) CREATION OF REMOTE ENROLLMENT CENTERS.—The Secretary shall create a minimum of 4 remote enrollment centers, away from the borders of the United States, for such programs in major population centers where there is a demand for such a service.

(f) CREATION OF APPEALS PROCESS.—The Secretary of Homeland Security must establish a process to review actions that terminate the participation of travelers in pre-enrollment programs.

(g) REPORT ON BUDGET, PROGRAM USE, AND ENFORCEMENT.—The Secretary of Homeland Security annually shall submit to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)) a report on the programs described in subsection (a). The report should include a review of costs associated with the programs, including—

(1) areas of program expansion within a port-of-entry, to other ports-of-entry and to other modes
of travel including air, mass transit, bicycle and pe-
destrians;

(2) the cost of upgrade and maintenance needs;

(3) update on status and expansion of enroll-
ment centers;

(4) infrastructure needs on the US, Canadian,
and Mexican sides of the border to enhance the pro-
grams;

(5) universal access through ports;

(6) technology and database enhancements to
link watch lists to the programs;

(7) the feasibility of incorporating radio fre-
quency enabled travel documents into the programs,
such as passports, alien registration cards, and other
documents;

(8) the cost of enabling all inspection lanes with
pre-enrollment technology;

(9) public information campaign and relevant
associated costs; and

(10) for each pre-enrollment location—

(A) total vehicles processed per month;

(B) total pre-enrolled vehicles processed
per month;

(C) total pre-enrolled vehicles processed
per day;
(D) total nonenrolled vehicles processed per month;

(E) total nonenrolled vehicles processed per day;

(F) completed compliance checks performed per month;

(G) duration of inspections;

(H) number of passengers per vehicle;

(I) basis for apprehension of violator;

(J) types of violation; and

(K) enforcement actions.

Subtitle B—Enhancing Border Monitoring Technology

SEC. 111. DEPLOYMENT OF SURVEILLANCE SYSTEMS ALONG THE U.S.-MEXICO BORDER.

(a) Plan.—Not later than September 30, 2005, the Secretary of Homeland Security shall develop a comprehensive plan to fully deploy technological surveillance systems along the U.S.-Mexico border. Surveillance systems included in the deployment plan must—

(1) ensure continuous monitoring of every mile of the U.S.-Mexico border; and

(2) to the extent practicable, be fully interoperable with existing surveillance systems, such as the
Integrated Surveillance Intelligence Systems already in use by the Department of Homeland Security.

Additionally, the deployment plan should include, but not be limited to, the following elements:

(3) A description of the specific technology to be deployed.

(4) An assessment of the success of existing technologies to determine if one technology is better than another, or whether there is a way to combine the capabilities of various detection devices into a single device.

(5) A description of the technological features of surveillance systems allowing for compatibility, if practicable, with existing surveillance technologies.

(6) A description of how the U.S. Border Patrol is working, or will work, with the Directorate of Science and Technology to analyze high altitude monitoring technologies (such as unmanned aerial vehicles and tethered aerostat radar systems) for use with land-based monitoring technologies.

(7) A description of how radiation portal monitors will be deployed to ports of entry along the U.S.-Mexico border, and other border locations, consistent with section 114.
(8) A description of how K–9 detection units will be increased along the U.S.-Mexico border, consistent with section 113.

(9) A description of how surveillance technology will provide for continuous monitoring of the border.

(10) The identification of any obstacles that may impede full implementation of the deployment plan.

(11) A detailed estimate of all costs associated with the implementation of the deployment plan.

(b) DEPLOYMENT.—Not later than September 30, 2006, the Secretary of Homeland Security shall fully implement the plan described in subsection (a).

(c) REPORT.—Not later than September 30, 2005, the Secretary of Homeland Security shall submit the plan described in subsection (a) to the appropriate congressional committee (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $200,000,000 for each of fiscal years 2005 and 2006, and such sums as may be necessary for each succeeding fiscal year.
SEC. 112. DEPLOYMENT OF SURVEILLANCE SYSTEMS ALONG THE US-CANADIAN BORDER.

Not later than September 30, 2005, the Secretary of Homeland Security shall develop a plan to install surveillance systems along the U.S.-Canadian border and provide the appropriate congressional committees (as defined by section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)) with a cost estimate and deployment schedule designed to implement such plan.

SEC. 113. LEVEL OF K–9 UNITS.

(a) IN GENERAL.—The Secretary of Homeland Security shall increase the number of K–9 units working within U.S. Customs and Border Protection, including adding infrastructure, officers, and support staff necessary for each unit, by 20 percent above levels in existence at the end of fiscal year 2004.

(b) USE OF NEW UNITS.—The K–9 units added under subsection (a) shall be distributed proportionately to both the U.S.-Mexico border and the U.S.-Canadian border, and be used only for bomb, passenger, and currency detection purposes.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.
SEC. 114. DEPLOYMENT OF RADIATION PORTAL MONITORS ON THE SOUTHERN BORDER.

(a) IN GENERAL.—The Secretary of Homeland Security shall ensure radiation portal monitors are installed at all southern border ports of entry not later than September 30, 2005.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $49,000,000 to carry out this section.

Subtitle C—Ensuring Sufficient Well-Trained Personnel at Our Borders

SEC. 121. DOUBLE THE NUMBER OF CBP PERSONNEL.

(a) TEMPORARY INCREASE IN PERSONNEL.—Pending congressional consideration of the study described in section 122, there are authorized to be appropriated to the Secretary of Homeland Security such sums as may be necessary—

(1) to double, as compared to the number of such positions which existed at the end of fiscal year 2004, the number of positions for U.S. Customs and Border Protection personnel (including support personnel) at and between our nation’s ports of entry;

(2) to establish, not later than September 30, 2005, at least one Border Patrol unit for the Virgin Islands of the United States; and
(3) to establish facilities in which the additional personnel described in paragraph (1) may work.

(b) Waiver of Limitation.—The Secretary of Homeland Security is authorized to waive any limitation on the number of full-time equivalent personnel assigned to the Department of Homeland Security to fulfill the requirements of subsection (a).

SEC. 122. ASSESSING STAFFING NEEDS AT OUR BORDERS.

The Secretary of Homeland Security shall contract with an independent entity to undertake a study to determine the necessary level and allocation of personnel, including support staff, at United States ports of entry and border patrol sectors. The study shall take into account, at a minimum, the overall mission of U.S. Customs and Border Protection, threat and vulnerability information pertaining to the nation’s borders and ports of entry, the impact of new border security programs, policies and technologies, and an analysis of traffic volumes and wait times at ports of entry. The study is to be provided to the appropriate congressional committees, as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101), not later than 1 year after the date of the enactment of this Act.
SEC. 123. ADDITIONAL AND CONTINUOUS TRAINING FOR INSPECTORS.

(a) IN GENERAL.—The Secretary of Homeland Security shall provide appropriate training for inspectors, and associated support staff on an ongoing basis to utilize new technologies and to ensure that the proficiency levels of such personnel are acceptable to protect the borders of the United States.

(b) LANGUAGE TRAINING.—The Secretary of Homeland Security ensure that inspectors assigned to the southern border are proficient in Spanish language, and shall provide training to inspectors in Spanish and other languages determined to be necessary in carrying out anti-terrorism and law enforcement functions. The Secretary of Homeland Security shall provide, where necessary, appropriate language training to inspectors and border patrol agents on the northern border.

(c) RETENTION AND DEVELOPMENT OF EXPERTS.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Homeland Security shall make recommendations to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)) on how the current Department of Homeland Security personnel system should be modified to allow for the retention and development of
immigration and customs experts, to include the creation
of new positions.

SEC. 124. REQUIRING REPORT ON THE “ONE FACE AT THE
BORDER INITIATIVE”.

(a) In General.—Not later than September 30 of
each of the calendar years 2005 and 2006, the Commis-
sioner of Customs shall prepare and submit to Congress
a report—

(1) describing and analyzing the goals, success,
and shortfalls of the One Face at the Border Initia-
tive at enhancing security and facilitating travel;

(2) providing a breakdown of the number of
personnel of U.S. Customs and Border Protection
that were personnel of the United States Customs
Service prior to the establishment of the Department
of Homeland Security, that were personnel of the
Immigration and Naturalization Service prior to the
establishment of the Department of Homeland Secu-
ry, and that were hired after the establishment of
the Department of Homeland Security;

(3) describing the training time provided to
each employee on an annual basis for the various
training components of the One Face at the Border
Initiative;
(4) outlining the steps taken by U.S. Customs and Border Protection to ensure that expertise is retained with respect to customs, immigration, and agriculture inspection functions under the One Face at the Border Initiative; and

(5) reviewing whether the missions of customs, agriculture, and immigration are equally emphasized.

(b) ASSESSMENT OF REPORT.—The Comptroller General of the United States shall review the reports submitted under subsection (a) and shall provide an assessment to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)) regarding the effectiveness of the One Face at the Border Initiative.

Subtitle D—Establishing a Comprehensive Border Security Strategy

SEC. 131. LAND BORDER SECURITY STRATEGY.

(a) IN GENERAL.—The Secretary of Homeland Security, in consultation with the heads of all other Federal agencies with border-related functions or with facilities or lands on or along the border, shall submit to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101))
unclassified and classified versions of a unified, comprehensive strategy to secure the land borders of the United States not later than 6 months after the date of the enactment of this Act. The submission should include a description of the actions already taken to implement the strategy.

(b) CONTENTS.—The report shall cover the following areas:

(1) Personnel.

(2) Infrastructure.

(3) Technology.

(4) Coordination of intelligence among agencies.

(5) Legal responsibilities.

(6) Criminal statutes.

(7) Apprehension goals.

(8) Prosecutorial guidelines.

(9) Economic impact.

(10) Flow of commerce.

(c) CONSULTATION.—In creating the strategy described in subsection (a), the Federal agencies described in such subsection shall consult private sector organizations and nongovernmental organizations with national security, privacy, agriculture, immigration, customs, transportation, technology, legal, and business expertise.
(d) IMPLEMENTATION.—The Secretary shall implement the strategy not later than 12 months after the date of the enactment of this Act.

(e) EVALUATION.—The Comptroller General of the United States shall track, monitor, and evaluate such strategy to secure our borders to determine its efficacy.

(f) REPORT.—Not later than 15 months after the date of the enactment of this Act, and every year thereafter for the succeeding 5 years, the Comptroller General of the United States shall submit a report to the Congress on the results of the activities undertaken under subsection (a) during the previous year. Each such report shall include an analysis of the degree to which the border security strategy has been effective in securing our borders. Each such report shall include a collection and systematic analysis of data, including workload indicators, related to activities to improve and increase border security.

SEC. 132. IMPROVED INFORMATION SHARING.

The Secretary of Homeland Security shall, not later than October 1, 2005—

(1) integrate the IDENT and IAFIS databases;

and

(2) make interoperable databases used by inspectors in secondary inspections.
SEC. 133. CREATION OF NORTHERN AND SOUTHERN BORDER COORDINATORS.

(a) In General.—Title IV of the Homeland Security Act of 2002 (6 U.S.C. 201 seq.) is amended—

(1) in section 402, by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following:

“(8) Increasing the security of the United States at the ports of entry located along the northern and southern borders, and improving the coordination among the agencies responsible for maintaining that security.”; and

(2) in subtitle C, by adding at the end the following:

“SEC. 431. BORDER COORDINATORS.

“(a) In General.—There shall be within the Directorate of Border and Transportation Security the positions of Northern Border Coordinator and Southern Border Coordinator, who shall be appointed by the Secretary and who shall report directly to the Under Secretary for Border and Transportation Security.

“(b) Responsibilities.—The Northern Border Coordinator and the Southern Border Coordinator shall undertake the following responsibilities along the northern and southern borders, respectively—

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“(1) serve as the primary official of the Department responsible for coordinating all Federal security activities along the border, especially at land border ports of entry;

“(2) provide enhanced communication and data-sharing between Federal, State, local, and tribal agencies on law enforcement, emergency response, or security-related responsibilities for areas on or adjacent to the borders of the United States with Canada or Mexico;

“(3) work to improve the communications systems within the Department to facilitate the integration of communications of matters relating to border security;

“(4) oversee the implementation of the pertinent bilateral agreement (the United States-Canada ‘Smart Border’ Declaration applicable to the northern border and the United States-Mexico Partnership Agreement applicable to the southern border) to improve border functions, ensure security, and promote trade and tourism;

“(5) consistent with section 102, assess all land border ports of entry along the appropriate border and develop a list of infrastructure and technology improvement projects for submission to the Sec-
retary based on the ability of a project to fulfill im-
mediate security requirements and facilitate trade
across the borders of the United States; and
“(6) serve as a liaison to the foreign agencies
with responsibility for the appropriate border with
the United States.”.
(b) Clerical Amendment.—Section 1(b) of such
Act is amended in the table of contents by inserting after
the item relating to section 430 the following:
“431. Border coordinators.”.

SEC. 134. SMART BORDER ACCORD IMPLEMENTATION.
The President shall submit to the appropriate con-
gressional committees (as defined in section 2 of the
Homeland Security Act of 2002 (6 U.S.C. 101)) informa-
tion about the ongoing progress on implementation of the
Smart Border Accords through quarterly updates on meet-
ings of the Smart Border Working Group.

SEC. 135. SENSE OF CONGRESS ON THE PERIOD OF ADMIS-
sion for Border Crossing Card Hold-
ers.
(a) Sense of Congress.—It is the sense of the Con-
gress that citizens and nationals of Mexico should be treat-
ed with parity in relation to citizens and nationals of Can-
ada in establishing the periods of time they are lawfully
permitted to remain in the United States.
(b) Modification to Documentary Requirements.—Notwithstanding any other provision of law, once section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1221 note) is fully implemented, the period of admission for an alien entering the United States under a border crossing card shall be 6 months.

Subtitle E—Enhancing Border Security Programs

SEC. 141. CREATING A MORE EFFECTIVE ENTRY-EXIT SYSTEM.

(a) Creation of a US–VISIT Outreach Office.—

(1) In General.—The Secretary of Homeland Security shall create an “Office of US–VISIT Outreach” that will inform on a regular basis local border officials, residents, and businesses about developments in the US–VISIT program. Specifically, this office shall provide information to local border officials, residents, and businesses, and seek guidance from such persons and entities about, the practical effects to border communities of the implementation of US–VISIT.
(2) Authorization of Appropriations.—

There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

(b) Task Force on Integrated Entry and Exit System.—

(1) Sense of Congress.—It is the sense of the Congress that the work of the task force established under section 3 of the Immigration and Naturalization Service Data Management Improvement Act of 2000 (8 U.S.C. 1365a note) was prematurely terminated, robbing the Department of Homeland Security of the very expertise needed to properly set the requirements for, and validate the work of, contractors on information technology programs, particularly the US–VISIT program.

(2) Termination.—Section 3(i) of the Immigration and Naturalization Service Data Management Improvement Act of 2000 (8 U.S.C. 1365a note) is amended to read as follows:

“(i) Termination.—The Task Force shall terminate on a date designated by the Secretary of Homeland Security as the date on which the work of the Task Force has been completed, except that such designated date may not be earlier than December 21, 2008.”.

c) Electronic Arrival/Departure Records.—
(1) Not later than December 31, 2005, the Secretary of Homeland Security—

(A) shall ensure that the functions served by Department of Homeland Security paper Form Number I–94 (Arrival/Departure Record) and Form Number I–94W (NIV Waiver Arrival/Departure Record) are being carried out by electronic means; and

(B) shall eliminate such forms.

(2) IMPLEMENTATION PLAN.—Not later than December 31, 2004, the Secretary of Homeland Security shall submit to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C.101)) a plan describing the measures the Secretary is taking to carry out subsection (e) before the deadline described in such subsection.

SEC. 142. TRANSPORTATION WORKER IDENTIFICATION CARD.

(a) IN GENERAL.—The Secretary of Homeland Security shall submit a report to the Congress not later than December 31, 2004, regarding the development and distribution of a transportation worker identification card.

(b) CONTENTS.—The report described in subsection (a) shall include information on—
(1) the plan for distribution of the card;
(2) the eligibility of Canadian and Mexican truck drivers who are certified under the Free and Secure Trade ("FAST") initiative;
(3) selected biometric feature and other security features of the card; and
(4) the cost of, and deployment schedule for, card-reading equipment.

SEC. 143. STANDARDS AND VERIFICATION PROCEDURES FOR THE SECURITY OF INTERMODAL CARGO CONTAINERS.

(a) Standards and Verification Procedures.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security, acting through the Under Secretary for Border and Transportation Security, shall establish standards and verification procedures for the security of intermodal cargo containers moving within the intermodal transportation system, including standards for sealing and procedures for seal verifications for cargo containers at loading.

(b) Requirements.—The standards and verification procedures established pursuant to subsection (a) shall be consistent with the cargo container security recommendations of the Interagency Container Working Group and
the Smart and Secure Trade Lane program and shall meet the following additional requirements:

(1) **SEAL STANDARDS.**—Intermodal cargo containers shall at a minimum be affixed with a security seal equivalent to the level “D” high security seal (as certified by the International Organization for Standardization (ISO); Certification No. 17712) at loading.

(2) **SEAL VERIFICATION.**—Procedures shall be established for the verification of security seals described in paragraph (1), including procedures to determine which individuals and entities in the intermodal transportation system are responsible for sealing intermodal cargo containers, recording of seal numbers, changes to such numbers if a container is opened, and anomalies to security seals.

**SEC. 144. SENSE OF CONGRESS ON THE NEED FOR ADDITIONAL STAFF FOR THE UNITED STATES CONSULATE-GENERAL IN MEXICO.**

It is the sense of the Congress that—

(1) the United States Mission to Mexico plays an important part in ensuring the security of our southern border;

(2) this mission must have sufficient staff in order to adequately fulfill their consular responsibil-
ities, an important part of a comprehensive strategy
to secure our border;

(3) the level of staffing has not kept pace with
rising consular workloads; and

(4) therefore, appropriations should be author-
ized for a 25 percent staff increase for the United
States mission to Mexico.

Subtitle F—Securing Our Tribal
and Federal Lands and Territories

SEC. 151. OFFICE OF TRIBAL SECURITY.

(a) Establishment.—There is established within
the Department of Homeland Security the Office of Tribal
Security.

(b) Director.—The Office of Tribal Security shall
be administered by a Director, who shall be appointed by
the President by and with the advice and consent of the
Senate. The Director shall report directly to the Secretary

(c) Duties.—The Director shall be responsible for
coordinating relations between the Federal Government
and federally recognized Indian tribes on issues relating
to homeland security, which shall include the following du-
ties:
(1) Providing a point of contact within Department of Homeland Security which shall be responsible for—

(A) meeting the broad and complex Federal responsibilities owed to federally recognized Indian tribes by the Department of Homeland Security; and

(B) soliciting and, where appropriate, addressing the homeland security concerns of feder- 
ally recognized Indian tribes and other parties interested in Indian affairs.

(2) Communicating relevant policies of the Department of Homeland Security to federally recog-

nized Indian tribes and the public.

(3) Promoting internal uniformity of Department of Homeland Security policies relating to In-

dian country (as defined in section 1151 of title 18, United States Code).

(4) Coordinating with the Directorate of Border and Transportation Security and tribal governments to develop a comprehensive border security policy that addresses law enforcement, personnel, and funding issues in Indian country (as defined in section 1151 of title 18, United States Code) on the United States borders with Canada and with Mexico.
(5) Coordinating with the Directorate for Information Analysis and Infrastructure Protection and tribal governments to develop appropriate policies for infrastructure protection on Indian lands, as well as information sharing mechanisms with tribal governments.

(6) Coordinating with the Directorate of Emergency Preparedness and Response and the Office of State and Local Government Coordination and Preparedness to help ensure that tribal governments are fully informed of, have access to, and may apply for all Department of Homeland Security grant opportunities for emergency response providers, and to develop and achieve preparedness goals for tribal governments that are consistent with national goals for terrorism preparedness, as determined by the Department.

(7) Coordinating with the Director of Science and Technology to identify opportunities to conduct research and development of homeland security technologies or scientific understanding for tribal universities or private sector entities.

(8) Coordinating with the Office of Citizenship and Immigration Services and other relevant offices within the Department of Homeland Security with
immigration service and enforcement related functions to develop policies on issues related to citizenship and the movement of members of federally recognized Indian tribes across the United States border, taking into consideration the unique characteristics of certain federally recognized Indian tribes with jurisdiction over lands adjacent to the Canadian and Mexican borders.

(9) Coordinating with other offices within the Department of Homeland Security to develop and implement sound policies regarding Indian country (as defined in section 1151 of title 18, United States Code) and tribal governments.

SEC. 152. TRANSFER OF “SHADOW WOLVES” FROM CPB TO ICE.

(a) Transfer of Existing Unit.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall transfer to the Immigration and Customs Enforcement all functions (including the personnel, assets, and obligations held by or available in connection with such functions) of the Customs Patrol Officers unit of U.S. Customs and Border Protection operating on the Tohono O’odham Indian reservation (commonly known as the “Shadow Wolves” unit).
(b) **Establishment of New Units.**—The Secretary is authorized to establish within U.S. Immigration and Customs Enforcement additional units of Customs Patrol Officers in accordance with this section.

(c) **Duties.**—The Customs Patrol Officer unit transferred pursuant to subsection (a) and the additional units established pursuant to subsection (b) shall enforce the customs laws of the United States on Indian lands by preventing the smuggling of narcotics, weapons of mass destruction, and other contraband.

(d) **Basic Pay for Journeyman Officers.**—The rate of basic pay for a journeyman Customs Patrol Officer in a unit described in this section shall be not greater than the rate of basic pay for GS–13 of the General Schedule.

**SEC. 153. DHS AND DOI Coordination on Border Security; Provision of Temporary Authority to DHS to Transfer Funds.**

(a) **In General.**—Until the completion and implementation of the border security strategy described in section 131 of this Act, the Secretary of Homeland Security is authorized to transfer appropriated funds to the Secretary of Interior in accordance with the memorandum of understanding described in subsection (b) to support the security needs of the Department of the Interior, its bu-
(b) MEMORANDUM.—The Secretary of Homeland Security and the Secretary of Interior shall enter into a memorandum of understanding regarding the funds described in subsection (a). This memorandum shall—

(1) establish criteria for Department of Interior projects to receive such funding;

(2) establish priorities among such projects; and

(3) include a description of the scope of activities for such projects, including equipment, recurring maintenance, construction of facilities, recapitalization of facilities, and operations.

(c) REPORT.—The appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)) shall be notified 15 days prior to any transfer of funds. Not later than September 30, 2005, the Secretary of Interior shall submit to the appropriate congressional committees (as so defined) a copy of the memorandum of understanding described in subsection (b).
TITLE II—SECURING THE INTERIOR; TOOLS FOR BORDER SECURITY

Subtitle A—Increase in Staff for ICE

SEC. 201. ICE STRATEGY AND STAFFING ASSESSMENT.

(a) In general.—Not later than December 31 of each year, the Secretary of Homeland Security shall submit to the Government Accountability Office and the appropriate congressional committees (as defined by section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)) a written report describing its strategy for deploying human resources (including investigators and support personnel) to accomplish its border security mission.

(b) Review.—Not later than 90 days after receiving any report under subsection (a), the Government Accountability Office shall submit to each appropriate congressional committee (as defined by section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)) a written evaluation of such report, including recommendations pertaining to how U.S. Immigration and Customs Enforcement could better deploy human resources to achieve its border security mission through legislative or administrative action.
Subtitle B—Increase in Detention Space

SEC. 211. SENSE OF CONGRESS REGARDING PROCESSING OF CRIMINAL ALIENS WHILE INCARCERATED.

It is the sense of the Congress that immigration cases involving incarcerared criminal aliens should be processed while the criminal alien is in prison. In order to maximize the use of existing detention space, the Department of Homeland Security should work with prisons in which criminal aliens are incarcerared to complete their removal or deportation proceeding before such aliens are released from prison and sent to Federal detention.

SEC. 212. SENSE OF CONGRESS REGARDING INCREASE IN PROSECUTORS AND IMMIGRATION JUDGES.

It is the sense of the Congress that—

(1) prosecutors and immigration judges are critical for the prompt and proper enforcement of our immigration laws, and are an important part of a comprehensive strategy;

(2) an insufficient number of prosecutors and immigration judges currently exists to enforce the immigration laws of the United States; and

(3) therefore, appropriations should be author-
prosecutorial offices, commensurate with other personnel increases directed in this Act.

**Subtitle C—Enhancing Law Enforcement Access to Informants**

**SEC. 221. NEW CLASS OF NONIMMIGRANT ALIENS.**

(a) IN GENERAL.—Section 101(a)(15)(S) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(S)) is amended—

(1) in clause (i), by striking “or” at the end;

(2) in clause (ii), by striking the comma at the end and inserting “; or”;

(3) by inserting after clause (ii) the following:

“(iii) who the Secretary of Homeland Security, the Secretary of State, or the Attorney General determines—

“(I) is in possession of critical reliable information concerning a commercial alien smuggling organization or enterprise;

“(II) is willing to supply or has supplied such information to a Federal or State court; and

“(III) whose presence in the United States the Secretary of Homeland Security, the Secretary of State, or the Attorney General determines is essential to the
success of an authorized criminal investigation, the successful prosecution of an individual involved in the commercial alien smuggling organization or enterprise, or the disruption of such organization or enterprise,”;

(4) by inserting “, or with respect to clause (iii), the Secretary of Homeland Security, the Secretary of State, or the Attorney General” after “jointly”; and

(5) by striking “(i) or (ii)” and inserting “(i), (ii), or (iii)”.

(b) Admission of Nonimmigrants.—Section 214(k) of the Immigration and Nationality Act (8 U.S.C. 1184(k)) is amended—

(1) by adding at the end of paragraph (1) the following: “The number of aliens who may be provided a visa as nonimmigrants under section 101(a)(15)(S)(iii) in any fiscal year may not exceed 400.”; and

(2) by adding at the end the following:

“(5) If the Secretary of Homeland Security, the Secretary of State, or the Attorney General determines that the identity of a nonimmigrant described in clause (iii) of section 101(a)(15)(S), or that of any family member of...
such a nonimmigrant who is provided nonimmigrant status pursuant to such section, must be protected, such official may take such lawful action as the official considers necessary to effect such protection.”.

SEC. 222. ADJUSTMENT OF STATUS OF NONIMMIGRANT TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE.

Section 245(j) of the Immigration and Nationality Act (8 U.S.C. 1255(j)) is amended—

(1) in paragraph (3), by striking “(1) or (2),” and inserting “(1), (2), (3), or (4),”;

(2) by redesignating paragraph (3) as paragraph (5);

(3) by inserting after paragraph (2) the following:

“(3) If, in the opinion of the Secretary of Homeland Security, the Secretary of State, or the Attorney General—

“(A) a nonimmigrant admitted into the United States under section 101(a)(15)(S)(iii) has supplied information described in subclause (I) of such section; and

“(B) the provision of such information has substantially contributed to the success of a commercial alien smuggling investigation, the disruption of a
commercial alien smuggling operation, or the pros-
ection of an individual described in subclause (III)
of that section,
the Secretary of Homeland Security may adjust the status
of the alien (and the spouse, married and unmarried sons
and daughters, and parents of the alien if admitted under
that section) to that of an alien lawfully admitted for per-
manent residence if the alien is not described in section
212(a)(3)(E).
“(4) The Secretary of Homeland Security may adjust
the status of a nonimmigrant admitted into the United
States under section 101(a)(15)(S)(iii) (and the spouse,
married and unmarried sons and daughters, and parents
of the nonimmigrant if admitted under that section) to
that of an alien lawfully admitted for permanent residence
on the basis of a recommendation of the Secretary of State
or the Attorney General.”; and
(4) by adding at the end the following:
“(6) If the Secretary of Homeland Security, the Sec-
retary of State, or the Attorney General determines that
the identity of a person whose status is adjusted under
this subsection must be protected, such official may take
such lawful action as the official considers necessary to
effect such protection.”.
Subtitle D—Increased Penalties for Smuggling

SEC. 231. COMBATING AGGRAVATED ALIEN SMUGGLING.

(a) CRIMINAL PENALTIES.—Section 274(a) of the Immigration and Nationality Act (8 U.S.C. 1324(a)) is amended by adding at the end the following:

“(4) In the case of a person who has brought aliens into the United States in violation of this subsection, the sentence otherwise provided for may be increased by up to 10 years if—

“(A) the offense was part of an ongoing commercial organization or enterprise;

“(B) aliens were transported in groups of 10 or more;

“(C) aliens were transported in a manner that endangered their lives or the aliens presented a life-threatening health risk to people in the United States; or

“(D) aliens were transported for purposes of prostitution or involuntary servitude.”.

(b) REWARDS PROGRAM.—Section 274 of the Immigration and Nationality Act (8 U.S.C. 1324) is amended by adding at the end the following:

“(e) REWARDS PROGRAM.—
“(1) PURPOSE.—The rewards program shall be designed to assist in the elimination of aggravated alien smuggling.

“(2) DEFINITION.—For purposes of this subsection, the term ‘aggravated alien smuggling’ means a violation for which increased penalties are provided under subsection (a)(4).

“(3) ADMINISTRATION.—The rewards program shall be administered by the Secretary of Homeland Security, in consultation, as appropriate, with the Attorney General and the Secretary of State.

“(4) REWARDS AUTHORIZED.—In the sole discretion of the Secretary of Homeland Security, such Secretary, in consultation, as appropriate, with the Attorney General and the Secretary of State, may pay a reward to any individual who furnishes information or testimony leading to—

“(A) the arrest or conviction of any individual conspiring or attempting to commit an act of aggravated alien smuggling;

“(B) the arrest or conviction of any individual committing such an act;

“(C) the arrest or conviction of any individual aiding or abetting the commission of such an act;
“(D) the prevention, frustration, or favorable resolution of such an act, including the dismantling of an aggravated alien smuggling organization in whole or in significant part; or

“(E) the identification or location of an individual who holds a key leadership position in an aggravated alien smuggling operation.

“(5) Authorization of Appropriations.—

There are authorized to be appropriated such sums as may be necessary to carry out this subsection. Amounts appropriated under this paragraph shall remain available until expended.

“(6) Ineligibility.—An officer or employee of any Federal, State, local, or foreign government who, while in performance of his or her official duties, furnishes information described in paragraph (4) shall not be eligible for a reward under this subsection for such furnishing.

“(7) Protection Measures.—If the Secretary of Homeland Security, the Secretary of State, or the Attorney General determines that the identity of an individual who furnishes information or testimony described in paragraph (4), or the identity of any spouse, parent, son, or daughter of such an individual, must be protected, such official may take
such lawful action as the official considers necessary
to effect such protection.

“(8) LIMITATIONS AND CERTIFICATION.—

“(A) MAXIMUM AMOUNT.—No reward
under this subsection may exceed $100,000, ex-
cept as personally authorized by the Secretary
of Homeland Security if such Secretary deter-
mines, in consultation, as appropriate, with the
Attorney General and the Secretary of State,
that the offer or payment of an award of a larg-
er amount is necessary to combat a aggravated
alien smuggling operation.

“(B) APPROVAL.—Any reward under this
subsection exceeding $50,000 shall be person-
ally approved by the Secretary of Homeland Se-
curity.

“(C) CERTIFICATION FOR PAYMENT.—Any
reward granted under this subsection shall be
certified for payment by the Secretary of Home-
land Security.”.

(c) OUTREACH PROGRAM.—Section 274 of the Immi-
grantion and Nationality Act (8 U.S.C. 1324), as amended
by subsection (b), is further amended by adding at the
end the following:
“(f) OUTREACH PROGRAM.—The Secretary of Homeland Security, in consultation, as appropriate, with the Attorney General and the Secretary of State, shall develop and implement an outreach program to educate the public in the United States and abroad about—

“(1) the penalties for bringing in and harboring aliens in violation of this section; and

“(2) the financial rewards and other incentives available under subsection (e) for assisting in the investigation, disruption, or prosecution of an aggravated alien smuggling operation.”.

SEC. 232. INCREASED CRIMINAL SENTENCES AND FINES FOR ALIEN SMUGGLING.

(a) In General.—Subject to subsection (b), pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate sentencing guidelines or amend existing sentencing guidelines for smuggling, transporting, harboring, or inducing aliens under sections 274(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1324(a)(1)(A)) so as to—

(1) triple the minimum term of imprisonment under that section for offenses involving the smuggling, transporting, harboring, or inducing of—
(A) 1 to 5 aliens from 10 months to 30 months;

(B) 6 to 24 aliens from 18 months to 54 months;

(C) 25 to 100 aliens from 27 months to 81 months; and

(D) 101 aliens or more from 37 months to 111 months;

(2) increase the minimum level of fines for each of the offenses described in subparagraphs (A) through (D) of paragraph (1) to the greater of $25,000 per alien or 3 times the amount the defendant received or expected to receive as compensation for the illegal activity;

(3) increase by at least 2 offense levels above the applicable enhancement in effect on the date of the enactment of this Act the sentencing enhancements for intentionally or recklessly creating a substantial risk of serious bodily injury or causing bodily injury, serious injury, or permanent or life threatening injury;

(4) for actions causing death, increase the offense level to be equivalent to that for involuntary manslaughter under section 1112 of title 18, United States Code; and
(5) for corporations or other business entities that knowingly benefit from such offenses, increase the minimum level of fines for each of the offenses described in subparagraphs (A) through (D) of paragraph (1) to $50,000 per alien employed directly, or indirectly through contract, by the corporation or entity.

(b) Exception.—Subsection (a) shall not apply to an offense that involved the smuggling, transporting, or harboring only of the defendant’s spouse or child (or both the defendant’s spouse and child).

(c) Deadline.—The United States Sentencing Commission shall carry out subsection (a) not later than the date that is 6 months after the date of the enactment of this Act.

SEC. 233. INCREASED PENALTY FOR SMUGGLING.

(a) In General.—The third undesignated paragraph of section 545 of title 18, United States Code, is amended by striking “five years” and inserting “20 years”.

(b) Enhanced Penalty for Causing Death.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to provide sentencing enhancements for an offense under sec-
tion 545 of title 18, United States Code, as amended by subsection (a), that results in the death of a person.

(c) Consistency With Other Guidelines.—In carrying out this section, the United States Sentencing Commission—

(1) shall ensure that there is reasonable consistency with other Federal sentencing guidelines; and

(2) shall avoid duplicative punishments for substantially the same offense.

TITLE III—BEYOND OUR BORDERS (INTERNATIONAL)
Subtitle A—Coordinating DHS Mission Overseas
SEC. 301. OFFICE OF INTERNATIONAL AFFAIRS; EFFECTIVE AND EFFICIENT MANAGEMENT AND COORDINATION OF INTERNATIONAL ASSIGNMENTS.

Section 879(b) of the Homeland Security Act of 2002 (6 U.S.C. 459(b)) is amended by adding at the end the following:

“(5) To manage all overseas assignments of personnel of the Department, including by coordinating with the Department of State with respect to such assignments and related support matters.”.
SEC. 302. CREATION OF AN OFFICE OF OVERSEAS SERVICE.

Section 879 of the Homeland Security Act of 2002 (6 U.S.C. 459) is amended by adding at the end the following:

“(c) Office of Overseas Service.—

“(1) In general.—The Secretary shall create an Office of Overseas Service within the Office of International Affairs similar to the Foreign Agricultural Service of the Department of Agriculture and the United States and Foreign Commercial Service of the Department of Commerce. The Director of the Office of International Affairs shall be responsible for administering the Office of Overseas Service.

“(2) Functions.—The Office of Overseas Service shall be responsible for the following functions:

“(A) Serving as the contact for the Department of Homeland Security with the State Department to coordinate overseas assignments.

“(B) Recruitment of personnel for overseas service.

“(C) Retention of personnel for overseas service.

“(D) Oversight of training of personnel for overseas service.
“(3) **Study and report.—**

“(A) **Study.**—Prior to creating the Office of Overseas Service, the Secretary shall direct the Director of the Office of International Affairs to conduct a study on how best to create a foreign service component for the Department for the purpose of adequately recruiting and retaining personnel who are willing and able to serve in the Department in an overseas capacity.

“(B) **Report.**—Not later than January 1, 2005, the Director of the Office of International Affairs shall prepare and submit to the appropriate congressional committees (as defined by section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)) a report that contains the results of the study on creating an Office of Overseas Service conducted pursuant to subparagraph (A) and an implementation plan for carrying out such study’s recommendations.”.
Subtitle B—Implementing a More Effective Visa Security Program

SEC. 311. IMPLEMENTING A MORE EFFECTIVE VISA SECURITY PROGRAM.

(a) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the Congress a report—


(2) detailing such department’s progress in implementing each of the recommendations described in paragraph (1); and

(3) examining the visa security program’s effectiveness as a counter-terrorism program.

(b) CONSULTATION.—In preparing the report described in subsection (a), the Secretary of Homeland Security shall consult with the Secretary of State.

(c) CONTENTS.—The report shall also include the following:
(1) **OVERSEAS PLACEMENT OF VISA SECURITY OFFICERS.**—The report shall assess the criteria used in deciding where to station or not to station visa security officers.

(2) **QUALIFICATIONS OF VISA SECURITY OFFICERS.**—The report shall assess the skills required of a visa security officer, including required foreign language skills.

(3) **DUTIES.**—The report shall contain both the model visa security officer position description and the current duties of the visa security officers stationed overseas.

(4) **PLACEMENT WITHIN DEPARTMENT.**—The report shall contain a recommendation on the proper location of the program within Department of Homeland Security to maximize its value as a counter-terrorism program.

**Subtitle C—Securing the Visa Waiver Program**

**SEC. 321. VISA WAIVER PROGRAM PASSENGER SCREENING; BIOGRAPHICAL CHECKS.**

(a) **IN GENERAL.**—The Secretary of Homeland Security shall establish, as part of the integrated entry and exit data system required under section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of
1996 (8 U.S.C. 1365a), an electronic system through which an alien seeking to enter the United States without a visa under the visa waiver program described in section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) is required to submit biographical information prior to embarkation.

(b) ELEMENTS.—The electronic system required to be established under subsection (a) shall satisfy the following requirements:

(1) ELECTRONIC DETERMINATION OF ELIGIBILITY.—The system shall include a method for an electronic determination to be made, and an electronic response to be provided, in 30 minutes or less, as to whether or not an alien submitting information as described in subsection (a) is eligible to be admitted to the United States as a nonimmigrant visitor described in section 101(a)(15)(B) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(B)).

(2) CARRIER OBLIGATIONS.—The system shall include a method for requiring—

(A) carriers and other corporations described in section 217(a)(5) of such Act (8 U.S.C. 1187(a)(5)) to inquire electronically, prior to an alien passenger’s embarkation without a visa, whether the alien has been deter-
mined, using the system described in this sec-

(B) the electronic response to such inquiry
to be provided in 90 seconds or less.

(3) DEPLOYMENT.—The system shall be de-

ployed as soon as possible after the date of the en-

actment of this Act.

(4) FEE.—The Secretary of Homeland Security

shall establish a fee to be charged to aliens described
in subsection (a) that is set at a level that will en-
sure the recovery of the full costs of establishing and
operating the system.

(e) CONSULTATION.—In developing the system, the
Secretary of Homeland Security shall consult with, and
allow for the system’s review by, a private sector group
consisting of individuals with expertise in immigration,
travel, tourism, privacy, national security, or computer se-

urity issues.

SEC. 322. DEFINING SECURITY RESPONSIBILITIES OF THE

VISA WAIVER PROGRAM OFFICE.

(a) IN GENERAL.—The Secretary of Homeland Secu-

rity shall create a Visa Waiver Program Office.

(b) FUNCTIONS.—The functions of the head of the
Visa Waiver Program Office shall include the following:
(1) Developing a plan to submit the annual re-
port required under section 110(e) of the Illegal Im-
migration Reform and Immigrant Responsibility Act

(2) Developing protocols and a plan to conduct
biennial country reviews.

(3) Determining funding levels necessary to
support the conduct of country reviews and to carry
out the other responsibilities of the office.

(4) Developing a process to comprehensively
check all lost and stolen passport data provided
countries designated as visa waiver program coun-
tries under section 217 of the Immigration and Na-
tionality Act (8 U.S.C. 1187) against entry and exit
data in information systems of the United States.

(5) Developing procedures to collect and ana-
lyze data concerning the fraudulent use of visa waiv-
er program passports.

(6) Including in the country review protocols
provisions to review document manufacturing and
issuing security practices.

(7) Coordinating with the Department of State
to establish standard operating procedure for sys-
temic and proactive collection of lost and stolen
passport information.
(8) Requiring that inventory control numbers and passport numbers be queried in lookout systems.

(9) Reviewing policies that allow the return of fraudulent travel documents to those who presented them when they are sent back to their countries of origin.

SEC. 323. ADDITIONAL AND CONTINUOUS TRAINING FOR INSPECTORS IN FRAUD AND IMPOSTER DETECTION.

(a) FRAUD DETECTION.—The Secretary of Homeland Security shall provide inspectors conducting inspections of aliens entering the United States pursuant to the visa waiver program described in section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) with enhanced and continuous training in detecting imposters and in passport and document fraud detection. Additional training should be provided when any program country designated under such section makes changes in its passports. The Secretary shall report to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)) on the amount and the type of training received such inspectors on detecting and handling fraudulent documents.

(b) FOREIGN LANGUAGES.—The Secretary of Homeland Security shall provide inspectors described in sub-
section (a) with foreign language training in languages de-
termined to be necessary to carrying out the anti-ter-
rorism and law enforcement functions of such inspectors.

(c) Authorization of Appropriations.—There
are authorized to be appropriated such funds as may be
necessary to develop the capability to scan fraudulent doc-
uments and to transmit a high quality color image to the
forensic document laboratory. The Secretary of Homeland
Security shall ensure that staff is available in the Forensic
Document Laboratory on a 24-hour basis to assist in de-
terminating the validity of the scanned document.

SEC. 324. AUTHORIZATION OF FUNDS.

There are authorized to be appropriated such sums
as may be necessary to carry out the functions described
in this subtitle.

TITLE IV—SECURING THE IMMIGRATION BENEFITS PROCESS

SEC. 401. IMMIGRATION OMBUDSMAN.

(a) Extension of Authority to All Immigration
Functions.—Section 452 of the Homeland Security
Act of 2002 (6 U.S.C. 272) is amended—

(1) in subsection (a), by striking “Citizenship
and Immigration Services” and inserting “Immigra-
tion”;

(2) in subsection (b)—
(A) in paragraph (1), by striking “the Bureau of Citizenship and Immigration Services” and inserting “U.S. Citizenship and Immigration Services, U.S. Immigration and Customs Enforcement, or U.S. Customs and Border Protection”; and

(B) in each of paragraphs (2) and (3), by striking “the Bureau of Citizenship and Immigration Services” each place such term appears and inserting “such entities”; 

(3) in subsection (c)—

(A) in paragraph (1), by striking “the Bureau of Citizenship and Immigration Services” each place such term appears and inserting “the entities described in subsection (b)”; and

(B) in paragraph (2), by striking “Director of the Bureau of Citizenship and Immigration Services,” and inserting “Director of U.S. Citizenship and Immigration Services, Assistant Secretary for U.S. Immigration and Customs Enforcement, U.S. Customs and Border Protection Commissioner”; 

(4) in subsection (d)—

(A) in paragraph (2), by striking “the Bureau of Citizenship and Immigration Services”
and inserting “the entities described in subsection (b)”;

(B) in paragraph (4), by striking “Director of the Bureau of Citizenship and Immigration Services,” and inserting “Director of U.S. Citizenship and Immigration Services, Assistant Secretary for U.S. Immigration and Customs Enforcement, and U.S. Customs and Border Protection Commissioner”;

(5) in subsection (e)(2), by striking “the Bureau of Citizenship and Immigration Services” and inserting “the entities described in subsection (b)”;

(6) in subsection (f)—

(A) by amending the subsection heading to read as follows: “Responsibilities.—”;

(B) by striking “Director of the Bureau of Citizenship and Immigration Services,” and inserting “Director of U.S. Citizenship and Immigration Services, Assistant Secretary for U.S. Immigration and Customs Enforcement, and the U.S. Customs and Border Protection Commissioner”; and

(C) by striking “director” each place such term appears and inserting “person”; and
(7) in subsection (g), by striking “the Bureau of Citizenship and Immigration Services” each place such term appears and inserting “the entities described in subsection (b)”.

(b) PUBLIC INFORMATION CAMPAIGN; PRIVATE SECTOR INPUT.—

(1) IN GENERAL.—Section 452(d) of the Homeland Security Act of 2002 (6 U.S.C. 272(d)) is amended—

(A) in paragraph (3), by striking “and” at the end;

(B) in paragraph (4), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

“(5) shall launch a public information campaign; and

“(6) shall establish a group, which shall consist of private individuals, and Federal, State, and local government officials, with expertise in migration, travel, trade, or national security issues, to provide the Ombudsman with private sector input.”.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for such sums as may be necessary to carry out the amendments made by paragraph (1).
(c) ADDITIONAL REPORTING REQUIREMENTS.—Section 452(c) of the Homeland Security Act of 2002 (6 U.S.C. 272(c)) is amended—

(1) in subparagraph (F), by striking “and” at the end;

(2) by redesignating subparagraph (G) as subparagraph (I); and

(3) by inserting after subparagraph (F) the following:

“(G) shall state the percentage of complaints that can be traced to delays in benefits processing; and

“(H) shall describe the extent to which delays in benefits processing are attributable to entities outside of the Department, particularly government agencies conducting background checks.”.

SEC. 402. CIS WORKFLOW, TECHNOLOGY, AND STAFFING ASSESSMENT.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a comprehensive assessment of U.S. Citizenship and Immigration Services within the Department of Homeland Security. Such assessment shall include study of personnel, administrative and technical support positions, technology, training, and facilities.
(b) WorkFlow.—As part of the study, the Comptroller General shall examine all elements of such unit’s workflow, in order to determine the most efficient way to handle its work without compromising security. Any obstacles associated with security matters should be identified and recommendations should be made on ways to minimize such obstacles without compromising security. The Comptroller General should assess the division of work, adequacy of infrastructure (particularly information technology), as well as personnel needs.

(c) Interactions With Other Organizations.—As part of the study, the Comptroller General shall examine the unit’s interactions with other government organizations. Specifically, the Comptroller General shall determine whether existing memoranda of understanding and divisions of responsibility, especially any which pre-date the establishment of the Department of Homeland Security, need to be revised in order to improve the bureau’s service delivery.

(d) Backlog Cost.—As part of the study, the Comptroller General shall assess the current cost of maintaining the backlog (as defined in section 203 of the Immigration Services and Infrastructure Improvements Act of 2000 (8 U.S.C. 1572)).
(e) **INTERVIEWS.**—The Comptroller General may interview any front-line personnel, without supervisors present, to determine priorities and needs.

(f) **INFORMATION TECHNOLOGY.**—Aspects of this study related to information technology should be coordinated with the Chief Information Officer for the Department of Homeland Security and should build on the findings of the task force established by section 3 of the Immigration and Naturalization Service Data Management Improvement Act of 2000 (Public Law 106–215).

(g) **SUBMISSION.**—The study should be completed not later than January 1, 2005, and shall be submitted to the Secretary of Homeland Security, the Secretary of State, and the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)). It shall include recommendations for resource allocation.

**SEC. 403. STUDY ON BIOMETRICS.**

(a) **IN GENERAL.**—The Secretary of Homeland Security, in consultation with the Director of the National Institute of Standards and Technology, shall conduct a study of all biometric identifiers that might be collected for purposes of processing and adjudicating applications and petitions for immigration benefits, and shall determine which among these identifiers would be most appro-
appropriate for the purposes described in subsection (b). The Secretary shall provide the resources necessary properly to conduct the study.

(b) USES.—In carrying out subsection (a), the Secretary shall consider the use of a biometric identifier—

(1) to register or catalogue a petition or application for an immigration benefit upon submission to the appropriate Federal agency;

(2) to check the petitioner or applicant against watch lists;

(3) as part of the integrated entry and exit data system required under section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a); and

(4) to conduct background checks with Federal intelligence agencies.

(c) FACTORS.—The Secretary shall consider the following factors in making the determination under subsection (a):

(1) Accuracy

(2) The technology available.

(3) Economic considerations.

(4) Storage.

(5) Efficiency.
(d) Submission.—The study should be completed within one year of enactment, and shall be submitted to the Secretary of State and the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)).

SEC. 404. DIGITIZING IMMIGRATION FUNCTIONS.

(a) Digitized Fingerprints.—Not later than January 1, 2005, all fingerprints taken for purposes of adjudicating an application or petition for an immigration benefit shall be digitized.

(b) Registering Applications by Biometric.—Not later than January 1, 2005, all applications and petitions for an immigration benefit shall be registered or catalogued by the receiving agency using a biometric identifier. Initially, such biometric identifier shall be a fingerprint. Subsequently, the Secretary of Homeland Security may select one or more alternative biometric identifiers to be used for such purposes, taking into account factors such as efficiency, accuracy, the technology available, economic considerations, and storage requirements.

SEC. 405. STUDY ON DIGITIZING IMMIGRATION BENEFIT APPLICATIONS.

(a) In General.—The Comptroller General of the United States shall conduct a comprehensive study on digitizing all applications and petitions for an immigration benefit.
benefit, including digital storage, cataloguing, and the ability to apply for all types of immigration benefits through digital means. The study should consider costs for both the Federal Government and the applicant or petitioner, as well as the feasibility for all types of persons to apply by digital means.

(b) SUBMISSION.—The study should be completed not later than January 1, 2005, and shall be submitted to the Secretary of Homeland Security, the Secretary of State, and the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)).