

Calendar No. 420

108TH CONGRESS }
1st Session }

SENATE

{ REPORT
108-214

HOMELAND SECURITY TECHNICAL
CORRECTIONS ACT OF 2003

R E P O R T

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

H.R. 1416

TO MAKE TECHNICAL CORRECTIONS TO THE HOMELAND
SECURITY ACT OF 2002

together with

ADDITIONAL VIEWS



NOVEMBER 25, 2003.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

29-010

WASHINGTON : 2003

COMMITTEE ON GOVERNMENTAL AFFAIRS

SUSAN M. COLLINS, Maine, *Chairman*

TED STEVENS, Alaska	JOSEPH I. LIEBERMAN, Connecticut
GEORGE V. VOINOVICH, Ohio	CARL LEVIN, Michigan
NORM COLEMAN, Minnesota	DANIEL K. AKAKA, Hawaii
ARLEN SPECTER, Pennsylvania	RICHARD J. DURBIN, Illinois
ROBERT F. BENNETT, Utah	THOMAS R. CARPER, Delaware
PETER G. FITZGERALD, Illinois	MARK DAYTON, Mississippi
JOHN E. SUNUNU, New Hampshire	FRANK LAUTENBERG, New Jersey
RICHARD C. SHELBY, Alabama	MARK PRYOR, Arkansas

MICHAEL D. BOPP, *Staff Director and Chief Counsel*

ROB OWEN, *Counsel*

JOYCE A. RECHTSCHAFFEN, *Minority Staff Director and Counsel*

HOLLY A. IDELSON, *Minority Counsel*

AMY B. NEWHOUSE, *Chief Clerk*

Calendar No. 420

108TH CONGRESS }
1st Session }

SENATE

{ REPORT
{ 108-214

HOMELAND SECURITY TECHNICAL CORRECTIONS ACT OF
2003

NOVEMBER 25, 2003.—Ordered to be printed

Ms. COLLINS, from the Committee on Governmental Affairs,
submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 1416]

The Committee on Governmental Affairs, to whom was referred the bill (H.R. 1416) to make technical corrections to the Homeland Security Act of 2002, having considered the same reports favorably thereon with amendments and recommends that the bill as amended do pass.

CONTENTS

	Page
I. Purpose and Summary	1
II. Background	2
III. Legislative History	2
IV. Section-by-Section Analysis	2
V. Estimated Cost of Legislation	4
VI. Evaluation of Regulatory Impact	5
VII. Additional Views	6
VIII. Changes in Existing Law	7

I. PURPOSE AND SUMMARY

H.R. 1416 makes technical corrections to the Homeland Security Act of 2002.

II. BACKGROUND

On November 25, 2002, the President signed into law the Homeland Security Act of 2002—Public Law 107–296. The Act created the Department of Homeland Security with the mission of preventing terrorist attacks within the United States, reducing the United States’ vulnerability to terrorism and minimizing the damage and assisting in recovery from any attacks that do occur, and ensuring that the overall economic security of the United States is not diminished by efforts, activities, and programs aimed at securing the homeland.

As is customary with the drafting of lengthy and complex pieces of legislation, mistakes and omissions are often discovered after the fact. The Homeland Security Act of 2002 was no different. H.R. 1416 intends to correct these mistakes and omissions while adhering to the original intent of Congress at the time the Act was drafted.

III. LEGISLATIVE HISTORY

On March 25, 2003, Representative Chris Cox introduced H.R. 1416, the Homeland Security Technical Corrections Act of 2003, which was referred to the Select Committee on Homeland Security.

The House Select Committee on Homeland Security held a hearing on this legislation on March 28, 2003, and marked-up the legislation on March 31, 2003. The Committee favorably reported the legislation, with one amendment in the nature of a substitute, by voice vote.

The House of Representatives passed the bill by a vote of 415–0 on June 24, 2003. On June 25, 2003, it was received in the Senate and referred to the Governmental Affairs Committee.

On October 22, 2003, the Senate Governmental Affairs Committee considered H.R. 1416. During the mark-up, an amendment was offered by Senators Collins and Lieberman that would add the Senate Governmental Affairs Committee to the reporting requirements of Section 11 of H.R. 1416. The amendment was accepted by voice vote and the bill was reported by voice vote.

IV. SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This Act may be cited as the “Homeland Security Technical Corrections Act of 2003”.

Section 2. Technical corrections relating to critical infrastructure information

Amends section 212(3) of the Homeland Security Act of 2002 by striking “systems—” and inserting “systems insofar as such information pertains to—”.

This additional language is intended to address a grammatical error within Section 212(3) of the Homeland Security Act of 2002. This language is not intended to expand or limit the scope of the definition of “critical infrastructure information” as defined by Section 212(3) or as used in any other section within the Act.

Section 3. Visa issuance

Amends Section 428(a) of the Homeland Security Act of 2002 by striking “subsection,” and inserting “section,” and by striking “office” and inserting “officer”.

Section 4. Responsibilities of Under Secretary for Emergency Preparedness and Response

Amends Section 502 of the Homeland Security Act of 2002 by striking “shall include—” and inserting “shall be responsible for—”.

Section 5. Military activities of the Coast Guard

Amends Section 876 of the Homeland Security Act of 2002 by clarifying the roles of the Secretary of Homeland Security and the Secretary of Defense with respect to warfighting, the military defense of the United States, or other military activities. This section specifies that the Homeland Security Act of 2002 does not limit the existing authority of the Secretary of Defense over warfighting, the military defense of the United States, or other military activities including such activities of the Coast Guard when it is operating as a service in the Navy under section 3 of title 14 of the United States Code.

Section 6. Annual independent evaluation of Information Security Program and practices of agencies

Amends 44 U.S.C. 3535(b)(1), as amended by Section 1001(b) of the Homeland Security Act of 2002, by inserting “or any other law” after “the Inspector General Act of 1978,”.

Section 7. Immigration-related powers and duties of the Secretary and the Attorney General

Makes technical and conforming changes to Section 1102 of the Homeland Security Act of 2002 relating to Sections 103 and 287(g) of the Immigration and Nationality Act.

Section 8. Effective date of modifications to reorganization plan

Amends Section 1502(d) of the Homeland Security Act of 2002 by striking “subsection (d)” each place it appears and inserting “subsection (c)”.

Section 9. Report on war risk insurance for air carriers

Amends Section 1204 of the Homeland Security Act of 2002 by redesignating certain paragraphs, striking “the Secretary” and inserting “the Secretary of Transportation”, and striking “the Department” and inserting “the Department of Transportation”.

Section 10. Authority to arm flight deck crew with less-than-lethal weapons

Amends Section 1405(a) of the Homeland Security Act of 2002 by striking “section 6 of this Act” and inserting “section 1406 of this Act”.

Section 11. Requirement to submit reports and notifications to Select Committee

Amends the Homeland Security Act of 2002 by adding a Section 5 to the Homeland Security Act of 2002 requiring that the Senate Governmental Affairs Committee and House Select Committee on Homeland Security be added to all Congressional reporting requirements set forth in the Act.

Section 12. Clarification of reporting requirement concerning electronic Communications Privacy Act emergency disclosure exception

Amends Section 225(d)(2) of the Homeland Security Act of 2002 by striking “2702(b) of title 18, United States Code,” and inserting “2702(b)(7) of title 18, United States Code (as added by paragraph (1)(D))”.

Section 13. Effective date

States that the amendments made by this Act shall take effect as if included in the enactment of the Homeland Security Act of 2002.

V. ESTIMATED COST OF LEGISLATION

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 24, 2003.

Hon. SUSAN M. COLLINS,
Chairman, Committee on Governmental Affairs,
U.S. Senate, Washington, DC.

DEAR MADAM CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1416, the Homeland Security Technical Corrections Act of 2003.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

ELIZABETH M. ROBINSON
(For Douglas Holtz-Eakin, Director).

Enclosure.

H.R. 1416—Homeland Security Technical Corrections Act of 2003

H.R. 1416 would make technical and clerical amendments to the Homeland Security Act of 2002 and conforming amendments to immigration laws. The legislation also would direct that any reports or notifications required to be submitted to the Congress under that act also be submitted to the Senate Committee on Governmental Affairs and the House Select Committee on Homeland Security. Finally, H.R. 1416 would clarify that nothing in the Homeland Security Act would confer any military authority on the Secretary of Homeland Security or limit the authority of the Secretary of Defense.

CBO estimates that implementing H.R. 1416 would have no significant effect on the federal budget because it would not authorize any new activities for the Department of Homeland Security. Enacting the legislation would not affect direct spending or revenues.

H.R. 1416 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

On April 2, 2003, CBO transmitted a cost estimate for H.R. 1416 as ordered reported by the House Select Committee on Homeland Security. The two versions of the legislation are similar, and our cost estimates are identical.

The CBO staff contact for this estimate is Matthew Pickford. The estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

VI. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill. CBO states that there are no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and no costs on state, local, or tribal governments. The legislation contains no other regulatory impact.

VII. ADDITIONAL VIEWS

ADDITIONAL VIEWS OF SENATORS CARL LEVIN, JOSEPH LIEBERMAN, AND DANIEL AKAKA

Section 2 of H.R. 1416 seeks to make a technical correction to section 212(3) of the Homeland Security Act of 2002 in the definition provided for the term “critical infrastructure information.” The Committee report states that the additional language inserted into the definition “is intended to address a grammatical error” and “is not intended to expand or limit the scope of the definition of ‘critical infrastructure information’” or to expand or limit how that term is “used in any other section within the Act.” This Committee report language makes it clear that the proposed change is intended to be truly “technical” in nature—to clarify existing law—and not to make any substantive change in the law, and I concur in its import.

The significance of the definition of “critical infrastructure information” lies primarily in how this term affects the scope of the provisions in Section 214 of the Homeland Security Act. Section 214 limits the ability of the Homeland Security Department to use or disclose to other federal and state agencies (and to the public when required by the Freedom of Information Act) a certain narrow category of information termed “critical infrastructure information.” As Sections 212(3) and 214 make clear when read together, the information subject to Section 214’s limitations is information which is not in the public domain, which has been voluntarily submitted to the Department of Homeland Security for use by the Department to secure critical infrastructure from actual or potential attack, and which has been expressly designated by the submitter as protected information under the law. The limitations in Section 214 were constructed to apply to only this narrowly prescribed category of information, which the proposed technical correction helps to delineate. Again, the technical correction is not intended to broaden or narrow the reach of Section 214, but to carry out the original intent of Congress which is to apply Section 214’s limitations to only a certain category of information described with specificity in the statute.

CARL LEVIN.
JOSEPH LIEBERMAN.
DANIEL AKAKA.

VII. CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic and existing law, in which no change is proposed, is shown in roman):

HOMELAND SECURITY ACT OF 2002

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) * * *

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

* * * * *

Sec. 5. Requirement to submit reports and notifications to Committee on Governmental Affairs of the Senate and Select Committee on Homeland Security.

* * * * *

TITLE XI—DEPARTMENT OF JUSTICE DIVISIONS

Subtitle A—Executive Office for Immigration Review

Sec. 1101. Legal status of EOIR.

* * * * *

Sec. 1104. Effective date.

* * * * *

SEC. 5. REQUIREMENT TO SUBMIT REPORTS AND NOTIFICATIONS TO COMMITTEE ON GOVERNMENTAL AFFAIRS OF THE SENATE AND SELECT COMMITTEE ON HOMELAND SECURITY.

In any case in which a report or notification is required by this Act or an amendment made by this Act to be submitted to the Congress or to a committee of the Congress, such report shall also be submitted to the Committee on Governmental Affairs of the Senate and the Select Committee on Homeland Security of the House of Representatives.

* * * * *

TITLE II—INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

* * * * *

Subtitle B—Critical Infrastructure Information

* * * * *

SEC. 212. DEFINITIONS.

In this subtitle:

(1) * * *

* * * * *

(3) CRITICAL INFRASTRUCTURE INFORMATION.—The term “critical infrastructure information” means information not customarily in the public domain and related to the security of critical infrastructure or protected [systems—] *systems insofar as such information pertains to—*

(A) * * *

* * * * *

Subtitle C—Information Security

* * * * *

SEC. 225. CYBER SECURITY ENHANCEMENT ACT OF 2002.

(a) * * *

* * * * *

(d) EMERGENCY DISCLOSURE EXCEPTION.—

(1) * * *

(2) REPORTING OF DISCLOSURES.—A government entity that receives a disclosure under section [2702(b) of title 18, United States Code,] *2702(b)(7) of title 18, United States Code (as added by paragraph (1)(D))*, shall file, not later than 90 days after such disclosure, a report to the Attorney General stating the paragraph of that section under which the disclosure was made, the date of the disclosure, the entity to which the disclosure was made, the number of customers or subscribers to whom the information disclosed pertained, and the number of communications, if any, that were disclosed. The Attorney General shall publish all such reports into a single report to be submitted to Congress 1 year after the date of enactment of this Act.

* * * * *

TITLE IV—DIRECTORATE OF BORDER AND TRANSPORTATION SECURITY

* * * * *

Subtitle C—Miscellaneous Provisions

* * * * *

SEC. 428. VISA ISSUANCE.

(a) DEFINITION.—In this [subsection,] *section*, the term “consular [office] *officer*” has the meaning given that term under section 101(a)(9) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(9)).

* * * * *

**TITLE V—EMERGENCY PREPAREDNESS AND
RESPONSE**

* * * * *

SEC. 502. RESPONSIBILITIES.

The Secretary, acting through the Under Secretary for Emergency Preparedness and Response, ~~shall include—~~ *shall be responsible for—*

(1) * * *

* * * * *

**TITLE VIII—COORDINATION WITH NON-
FEDERAL ENTITIES; INSPECTOR GENERAL;
UNITED STATES SECRET SERVICE; COAST
GUARD; GENERAL PROVISIONS**

* * * * *

Subtitle H—Miscellaneous Provisions

* * * * *

SEC. 876. MILITARY ACTIVITIES.

~~Nothing in this Act shall confer upon the Secretary any authority to engage in warfighting, the military defense of the United States, or other military activities, nor shall anything in this Act limit the existing authority of the Department of Defense or the Armed Forces to engage in warfighting, the military defense of the United States, or other military activities.~~

SEC. 876. MILITARY ACTIVITIES.

Nothing in this Act confers on the Secretary any authority over warfighting, the military defense of the United States, or other military activities that are authorized to be directed by the Secretary of Defense. This Act shall not be construed to limit the existing authority of the Secretary of Defense over warfighting, the military defense of the United States, or other military activities, including such activities of the Coast Guard when it is operating as a service in the Navy under section 3 of title 14, United States Code.

* * * * *

**TITLE XI—DEPARTMENT OF JUSTICE
DIVISIONS**

Subtitle A—Executive Office for Immigration Review

* * * * *

SEC. 1102. AUTHORITIES OF THE ATTORNEY GENERAL.

Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) ~~as amended by this Act, is further amended by—~~ *is amended—*

[(1) amending the heading to read as follows:

“POWERS AND DUTIES OF THE SECRETARY, THE UNDER SECRETARY,
AND THE ATTORNEY GENERAL”;

(1) by amending the section heading to read as follows:

“POWERS AND DUTIES OF THE SECRETARY OF HOMELAND SECURITY
AND THE ATTORNEY GENERAL”

(2) in subsection (a)—

(A) * * *

* * * * *

[(D) by redesignating paragraphs (8), (9), (8) (as added by section 372 of Public Law 104–208), and (9) (as added by section 372 of Public Law 104–208) as paragraphs (8), (9), (10), and (11), respectively; and]

(D) by redesignating the paragraph (8) added by section 372(3) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, and the paragraph (9) added by section 373 of such Act, as paragraphs (10) and (11), respectively; and

(3) by adding at the end the following new subsection:

“(g) ATTORNEY GENERAL.—

“(1) IN GENERAL.—The Attorney General shall have such authorities and functions under this Act and all other laws relating to the immigration and naturalization of aliens as were exercised by the Executive Office for Immigration Review, or by the Attorney General with respect to the Executive Office for Immigration Review, on the day before the effective date of the [Immigration Reform, Accountability and Security Enhancement Act of 2002.] *the Homeland Security Act of 2002.*

“(2) POWERS.—The Attorney General shall establish such regulations, prescribe such forms of bond, reports, entries, and other papers, issue such instructions, review such administrative determinations in immigration proceedings, delegate such authority, and perform such other acts as the Attorney General determines to be necessary for carrying out [this section] *this subsection.*”

* * * * *

TITLE XII—AIRLINE WAR RISK

INSURANCE LEGISLATION

* * * * *

SEC. 1204. REPORT.

Not later than 90 days after the date of enactment of this Act, the [Secretary] *Secretary of Transportation* shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that—

[(A)] (1) evaluates the availability and cost of commercial war risk insurance for air carriers and other aviation entities for passengers and third parties;

[(B)] (2) analyzes the economic effect upon air carriers and other aviation entities of available commercial war risk insurance; and

[(C)] (3) describes the manner in which the [Department] Department of Transportation could provide an alternative means of providing aviation war risk reinsurance covering passengers, crew, and third parties through use of a risk-retention group or by other means.

* * * * *

TITLE XIV—ARMING PILOTS AGAINST TERRORISM

* * * * *

SEC. 1405. AUTHORITY TO ARM FLIGHT DECK CREW WITH LESS-THAN-LETHAL WEAPONS.

(a) IN GENERAL.—Section 44903(i) of title 49, United States Code (as redesignated by [section 6 of this Act] section 1406 of this Act) is amended by adding at the end the following:

“(3) REQUEST OF AIR CARRIERS TO USE LESS-THAN-LETHAL WEAPONS.—If, after the date of enactment of this paragraph, the Under Secretary receives a request from an air carrier for authorization to allow pilots of the air carrier to carry less-than-lethal weapons, the Under Secretary shall respond to that request within 90 days.”.

* * * * *

TITLE XV—TRANSITION

Subtitle A—Reorganization Plan

* * * * *

SEC. 1502. REORGANIZATION PLAN.

(a) * * *

* * * * *

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The reorganization plan described in this section, including any modifications or revisions of the plan under [subsection (d)] subsection (c), shall become effective for an agency on the earlier of—(A) the date specified in the plan (or the plan as modified pursuant to [subsection (d)] subsection (c)), except that such date may not be earlier than 90 days after the date the President has transmitted the reorganization plan to the appropriate congressional committees pursuant to subsection (a); or

* * * * *



SECTION 3535 OF TITLE 44, UNITED STATES CODE

§ 3535. Annual independent evaluation

(a) * * *

(b) Subject to subsection (c)—

(1) for each agency with an Inspector General appointed under the Inspector General Act of 1978, *or any other law*, the annual evaluation required by this section shall be performed by the Inspector General or by an independent external auditor, as determined by the Inspector General of the agency; and

* * * * *

IMMIGRATION AND NATIONALITY ACT

* * * * *

TABLE OF CONTENTS

TITLE I—GENERAL

Sec. 101. Definitions.

* * * * *

[Sec. 103. Powers and duties of the Attorney General and the Commissioner.]

Sec. 103. Powers and duties of the Secretary of Homeland Security and the Attorney General.

* * * * *

TITLE I—GENERAL

* * * * *

**POWERS AND DUTIES OF THE SECRETARY, THE UNDER SECRETARY,
AND THE ATTORNEY GENERAL**

SEC. 103. (a)(1) * * *

(2) **[He]** *The Secretary of Homeland Security shall have control, direction, and supervision of all employees and of all the files and records [of the Service.] of the Department of Homeland Security relating to the powers, functions, and duties conferred upon the Secretary by this Act and all other laws relating to the immigration and naturalization of aliens.*

(3) **[He]** *The Secretary of Homeland Security shall establish such regulations; prescribe such forms of bond, reports, entries, and other papers; issue such instructions; and perform such other acts as [he deems] the Secretary deems necessary for carrying out [his authority] the Secretary's authority under the provisions of this Act.*

(4) **[He]** *Except as otherwise provided by law, the Secretary of Homeland Security may require or authorize any employee of [the Service or the Department of Justice] the Department of Homeland Security to perform or exercise any of the powers, privileges, or duties conferred or imposed by this Act or regulations issued thereunder upon any other [employee of the Service.] employee of the Department.*

(5) **[He]** *Except as otherwise provided by law, the Secretary of Homeland Security shall have the power and duty to control and*

guard the boundaries and borders of the United States against the illegal entry of aliens and shall, [in his discretion,] *in the Secretary's discretion*, appoint for that purpose [such number of employees of the Service as to him shall appear necessary and proper.] *such number of employees of the Department of Homeland Security as shall appear necessary and proper to the Secretary.*

(6) [He] *The Secretary of Homeland Security* is authorized to confer or impose upon any employee of the United States, with the consent of the head of the Department or other independent establishment under whose jurisdiction the employee is serving, any of the powers, privileges, or duties conferred or imposed by this Act or regulations issued thereunder upon officers or employees [of the Service.] *of the Department of Homeland Security.*

(7) [He] *The Secretary of Homeland Security* may, with the concurrence of the Secretary of State, establish offices [of the Service] *of the Department of Homeland Security* in foreign countries; and, after consultation with the Secretary of State, [he may,] *the Secretary of Homeland Security may*, whenever [in his judgment] *in the Secretary's judgment* such action may be necessary to accomplish the purposes of this Act, detail employees [of the Service] *of the Department of Homeland Security* for duty in foreign countries.

(8) After consultation with the Secretary of State, the [Attorney General] *Secretary of Homeland Security* may authorize officers of a foreign country to be stationed at preclearance facilities in the United States for the purpose of ensuring that persons traveling from or through the United States to that foreign country comply with that country's immigration and related laws.

* * * * *

(10) In the event the [Attorney General] *Secretary of Homeland Security* determines that an actual or imminent mass influx of aliens arriving off the coast of the United States, or near a land border, presents urgent circumstances requiring an immediate Federal response, the [Attorney General] *Secretary of Homeland Security* may authorize any State or local law enforcement officer, with the consent of the head of the department, agency, or establishment under whose jurisdiction the individual is serving, to perform or exercise any of the powers, privileges, or duties conferred or imposed by this Act or regulations issued thereunder upon officers or employees [of the Service.] *of the Department.*

(11) The [Attorney General] *Secretary of Homeland Security*, in support of persons in administrative detention in non-Federal institutions, is authorized—

(A) to make payments from funds appropriated for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration for necessary clothing, medical care, necessary guard hire, and the housing, care, and security of persons detained [by the Service] *by the Department* pursuant to Federal law under an agreement with a State or political subdivision of a State; and

(B) to enter into a cooperative agreement with any State, territory, or political subdivision thereof, for the necessary construction, physical renovation, acquisition of equipment, supplies or materials required to establish acceptable conditions of confinement and detention services in any State or unit of local

government which agrees to provide guaranteed bed space for persons detained **[by the Service]** *by the Department.*

* * * * *

(b)(1) The **[Attorney General]** *Secretary of Homeland Security* may contract for or buy any interest in land, including temporary use rights, adjacent to or in the vicinity of an international land border when the **[Attorney General]** *Secretary of Homeland Security* deems the land essential to control and guard the boundaries and borders of the United States against any violation of this Act.

(2) The **[Attorney General]** *Secretary of Homeland Security* may contract for or buy any interest in land identified pursuant to paragraph (1) as soon as the lawful owner of that interest fixes a price for it and the **[Attorney General]** *Secretary of Homeland Security* considers that price to be reasonable.

(3) When the **[Attorney General]** *Secretary of Homeland Security* and the lawful owner of an interest identified pursuant to paragraph (1) are unable to agree upon a reasonable price, the **[Attorney General]** *Secretary of Homeland Security* may commence condemnation proceedings pursuant to the Act of August 1, 1888 (Chapter 728; 25 Stat. 357).

(4) The **[Attorney General]** *Secretary of Homeland Security* may accept for the United States a gift of any interest in land identified pursuant to paragraph (1).

[(c) The Commissioner shall be a citizen of the United States and shall be appointed by the President, by and with the advice and consent of the Senate. He shall be charged with any and all responsibilities and authority in the administration of the Service and of this Act which are conferred upon the Attorney General as may be delegated to him by the Attorney General or which may be prescribed by the Attorney General. The Commissioner may enter into cooperative agreements with State and local law enforcement agencies for the purpose of assisting in the enforcement of the immigration laws.]

(c) The Secretary of Homeland Security may enter into cooperative agreements with State and local law enforcement agencies for the purpose of assisting in the enforcement of the immigration laws.

(d)(1) **[The Commissioner,]** *The Secretary of Homeland Security*, in consultation with interested academicians, government agencies, and other parties, shall provide for a system for collection and dissemination, to Congress and the public, of information (not in individually identifiable form) useful in evaluating the social, economic, environmental, and demographic impact of immigration laws.

* * * * *

(e)(1) **[The Commissioner]** *The Secretary of Homeland Security* shall submit to Congress annually a report which contains a summary of the information collected under subsection (d) and an analysis of trends in immigration and naturalization.

(2) Each annual report shall include information on the number, and rate of denial administratively, of applications for naturalization, for each **[district office of the Service]** *field office of the Department of Homeland Security* and by national origin group.

(f) The **[Attorney General]** *Secretary of Homeland Security* shall allocate to each State not fewer than 10 full-time active duty

agents [of the Immigration and Naturalization Service] of the Directorate of Border and Transportation Security of the Department of Homeland Security to carry out [the functions of the Service,] the functions of the Directorate, in order to ensure the effective enforcement of this Act.

* * * * *

TITLE II—IMMIGRATION

* * * * *

CHAPTER 9—MISCELLANEOUS

* * * * *

POWERS OF IMMIGRATION OFFICERS AND EMPLOYEES

SEC. 287. (a) * * *

* * * * *

(g)(1) Notwithstanding section 1342 of title 31, United States Code, the [Attorney General] Secretary of Homeland Security may enter into a written agreement with a State, or any political subdivision of a State, pursuant to which an officer or employee of the State or subdivision, who is determined by the [Attorney General] Secretary of Homeland Security to be qualified to perform a function of an immigration officer in relation to the investigation, apprehension, or detention of aliens in the United States (including the transportation of such aliens across State lines to detention centers), may carry out such function at the expense of the State or political subdivision and to the extent consistent with State and local law.

* * * * *

(3) In performing a function under this subsection, an officer or employee of a State or political subdivision of a State shall be subject to the direction and supervision of the [Attorney General] Secretary of Homeland Security.

(4) In performing a function under this subsection, an officer or employee of a State or political subdivision of a State may use Federal property or facilities, as provided in a written agreement between the [Attorney General] Secretary of Homeland Security and the State or subdivision.

(5) With respect to each officer or employee of a State or political subdivision who is authorized to perform a function under this subsection, the specific powers and duties that may be, or are required to be, exercised or performed by the individual, the duration of the authority of the individual, and the position of the agency of the [Attorney General] Secretary of Homeland Security who is required to supervise and direct the individual, shall be set forth in a written agreement between the [Attorney General] Secretary of Homeland Security and the State or political subdivision.

(6) The **【Attorney General】** *Secretary of Homeland Security* may not accept a service under this subsection if the service will be used to displace any Federal employee.

* * * * *

(9) Nothing in this subsection shall be construed to require any State or political subdivision of a State to enter into an agreement with the **【Attorney General】** *Secretary of Homeland Security* under this subsection.

(10) Nothing in this subsection shall be construed to require an agreement under this subsection in order for any officer or employee of a State or political subdivision of a State—

(A) to communicate with the **【Attorney General】** *Secretary of Homeland Security* regarding the immigration status of any individual, including reporting knowledge that a particular alien is not lawfully present in the United States; or

(B) otherwise to cooperate with the **【Attorney General】** *Secretary of Homeland Security* in the identification, apprehension, detention, or removal of aliens not lawfully present in the United States.

