

Calendar No. 342

105TH CONGRESS
2D SESSION

S. 1360

To amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to clarify and improve the requirements for the development of an automated entry-exit control system, to enhance land border control and enforcement, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 4, 1997

Mr. ABRAHAM (for himself, Mr. KENNEDY, Mr. D'AMATO, Mr. LEAHY, Mr. GRAMS, Mr. DORGAN, Ms. COLLINS, Mrs. MURRAY, Mr. BURNS, Ms. SNOWE, Mr. GORTON, Mr. LEVIN, Mr. JEFFORDS, Mr. GRAHAM, Mr. MURKOWSKI, Mr. CRAIG, Mr. MOYNIHAN, Mr. DEWINE, Mr. THURMOND, Mr. COCHRAN, Mr. INOUE, Ms. LANDRIEU, Mr. BAUCUS, Mr. WELLSTONE, Mr. AKAKA, Mr. DURBIN, and Mr. KEMPTHORNE) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

APRIL 23, 1998

Reported by Mr. HATCH, with an amendment in the nature of a substitute

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to clarify and improve the requirements for the development of an automated entry-exit control system, to enhance land border control and enforcement, 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.**

4 This Act may be cited as the “Border Improvement
 5 and Immigration Act of 1997”.

6 **SEC. 2. AMENDMENT OF THE ILLEGAL IMMIGRATION RE-**
 7 **FORM AND IMMIGRANT RESPONSIBILITY ACT**
 8 **OF 1996.**

9 (a) IN GENERAL.—Section 110(a) of the Illegal Im-
 10 migration Reform and Immigrant Responsibility Act of
 11 1996 (8 U.S.C. 1221 note) is amended to read as follows:

12 “(a) SYSTEM.—

13 “(1) IN GENERAL.—Subject to paragraph (2),
 14 not later than 2 years after the date of the enact-
 15 ment of this Act, the Attorney General shall develop
 16 an automated entry and exit control system that
 17 will—

18 “(A) collect a record of departure for every
 19 alien departing the United States and match
 20 the record of departure with the record of the
 21 alien’s arrival in the United States; and

22 “(B) enable the Attorney General to iden-
 23 tify, through on-line searching procedures, law-
 24 fully admitted nonimmigrants who remain in

1 the United States beyond the period authorized
 2 by the Attorney General.

3 ~~“(2) EXCEPTION.—The system under para-~~
 4 ~~graph (1) shall not collect a record of arrival or de-~~
 5 ~~parture—~~

6 ~~“(A) at a land border of the United States~~
 7 ~~for any alien;~~

8 ~~“(B) for any alien lawfully admitted to the~~
 9 ~~United States for permanent residence; or~~

10 ~~“(C) for any alien for whom the documen-~~
 11 ~~tary requirements in section 212(a)(7)(B) of~~
 12 ~~the Immigration and Nationality Act have been~~
 13 ~~waived by the Attorney General and the Sec-~~
 14 ~~retary of State under section 212(d)(4)(B) of~~
 15 ~~the Immigration and Nationality Act.”.~~

16 ~~(b) EFFECTIVE DATE.—The amendment made by~~
 17 ~~subsection (a) shall take effect as if included in the enact-~~
 18 ~~ment of the Illegal Immigration Reform and Immigrant~~
 19 ~~Responsibility Act of 1996 (division C of Public Law 104-~~
 20 ~~208; 110 Stat. 3009–546).~~

21 **SEC. 3. REPORT.**

22 ~~(a) REQUIREMENT.—Not later than two years after~~
 23 ~~the date of enactment of this Act, the Attorney General~~
 24 ~~shall submit a report to the Committees on the Judiciary~~
 25 ~~of the Senate and the House of Representatives on the~~

1 feasibility of developing and implementing an automated
2 entry-exit control system that would collect a record of de-
3 parture for every alien departing the United States and
4 match the record of departure with the record of the
5 alien's arrival in the United States, including departures
6 and arrivals at the land borders of the United States.

7 (b) CONTENTS OF REPORT.—Such report shall—

8 (1) assess the costs and feasibility of various
9 means of operating such an automated entry-exit
10 control system, including exploring—

11 (A) how, if the automated entry-exit con-
12 trol system were limited to certain aliens arriv-
13 ing at airports, departure records of those
14 aliens could be collected when they depart
15 through a land border or seaport; and

16 (B) the feasibility of the Attorney General,
17 in consultation with the Secretary of State, ne-
18 gotiating reciprocal agreements with the gov-
19 ernments of contiguous countries to collect such
20 information on behalf of the United States and
21 share it in an acceptable automated format;

22 (2) consider the various means of developing
23 such a system, including the use of pilot projects if
24 appropriate, and assess which means would be most
25 appropriate in which geographical regions;

1 (3) evaluate how such a system could be imple-
 2 mented without increasing border traffic congestion
 3 and border crossing delays and, if any such system
 4 would increase border crossing delays, evaluate to
 5 what extent such congestion or delays would in-
 6 crease; and

7 (4) estimate the length of time that would be
 8 required for any such system to be developed and
 9 implemented.

10 **SEC. 4. INCREASED RESOURCES FOR BORDER CONTROL**
 11 **AND ENFORCEMENT.**

12 (a) INCREASED NUMBER OF INS INSPECTORS AT
 13 THE LAND BORDERS.—The Attorney General in each of
 14 fiscal years 1998, 1999, and 2000 shall increase by not
 15 less than 300 the number of full-time inspectors assigned
 16 to active duty at the land borders of the United States
 17 by the Immigration and Naturalization Service, above the
 18 number of such positions for which funds were made avail-
 19 able for the preceding fiscal year. Not less than one-half
 20 of the inspectors added under the preceding sentence in
 21 each fiscal year shall be assigned to the northern border
 22 of the United States.

23 (b) INCREASED NUMBER OF CUSTOMS INSPECTORS
 24 AT THE LAND BORDERS.—The Secretary of the Treasury
 25 in each of fiscal years 1998, 1999, and 2000 shall increase

1 by not less than 150 the number of full-time inspectors
 2 assigned to active duty at the land borders of the United
 3 States by the Customs Service, above the number of such
 4 positions for which funds were made available for the pre-
 5 ceeding fiscal year. Not less than one-half of the inspectors
 6 added under the preceding sentence in each fiscal year
 7 shall be assigned to the northern border of the United
 8 States.

9 **SECTION 1. SHORT TITLE.**

10 *This Act may be cited as the “Border Improvement*
 11 *and Immigration Act of 1998”.*

12 **SEC. 2. AMENDMENT OF THE ILLEGAL IMMIGRATION RE-**
 13 **FORM AND IMMIGRANT RESPONSIBILITY ACT**
 14 **OF 1996.**

15 *(a) IN GENERAL.—Section 110(a) of the Illegal Immi-*
 16 *gration Reform and Immigrant Responsibility Act of 1996*
 17 *(8 U.S.C. 1221 note) is amended to read as follows:*

18 *“(a) SYSTEM.—*

19 *“(1) IN GENERAL.—Subject to paragraph (2),*
 20 *not later than 2 years after the date of enactment of*
 21 *this Act, the Attorney General shall develop an auto-*
 22 *mated entry and exit control system that will—*

23 *“(A) collect a record of departure for every*
 24 *alien departing the United States and match the*

1 *record of departure with the record of the alien’s*
 2 *arrival in the United States; and*

3 *“(B) enable the Attorney General to iden-*
 4 *tify, through on-line searching procedures, law-*
 5 *fully admitted nonimmigrants who remain in*
 6 *the United States beyond the period authorized*
 7 *by the Attorney General.*

8 *“(2) EXCEPTION.—The system under paragraph*
 9 *(1) shall not collect a record of arrival or departure—*

10 *“(A) at a land border or seaport of the*
 11 *United States for any alien; or*

12 *“(B) for any alien for whom the documen-*
 13 *tary requirements in section 212(a)(7)(B) of the*
 14 *Immigration and Nationality Act have been*
 15 *waived by the Attorney General and the Sec-*
 16 *retary of State under section 212(d)(4)(B) of the*
 17 *Immigration and Nationality Act.”.*

18 *(b) EFFECTIVE DATE.—The amendment made by sub-*
 19 *section (a) shall take effect as if included in the enactment*
 20 *of the Illegal Immigration Reform and Immigrant Respon-*
 21 *sibility Act of 1996 (division C of Public Law 104–208;*
 22 *110 Stat. 3009–546).*

1 **SEC. 3. REPORT ON AUTOMATED ENTRY-EXIT CONTROL**
2 **SYSTEM.**

3 (a) *REQUIREMENT.*—Not later than 2 years after the
4 date of enactment of this Act, the Attorney General shall
5 submit a report to the Committees on the Judiciary of the
6 Senate and the House of Representatives on the feasibility
7 of developing and implementing an automated entry-exit
8 control system that would collect a record of departure for
9 every alien departing the United States and match the
10 record of departure with the record of the alien's arrival
11 in the United States, including departures and arrivals at
12 the land borders and seaports of the United States.

13 (b) *CONTENTS OF REPORT.*—Such report shall—

14 (1) *assess the costs and feasibility of various*
15 *means of operating such an automated entry-exit con-*
16 *trol system, including exploring—*

17 (A) *how, if the automated entry-exit control*
18 *system were limited to certain aliens arriving at*
19 *airports, departure records of those aliens could*
20 *be collected when they depart through a land bor-*
21 *der or seaport; and*

22 (B) *the feasibility of the Attorney General,*
23 *in consultation with the Secretary of State, nego-*
24 *tiating reciprocal agreements with the govern-*
25 *ments of contiguous countries to collect such in-*

1 *formation on behalf of the United States and*
 2 *share it in an acceptable automated format;*

3 *(2) consider the various means of developing*
 4 *such a system, including the use of pilot projects if*
 5 *appropriate, and assess which means would be most*
 6 *appropriate in which geographical regions;*

7 *(3) evaluate how such a system could be imple-*
 8 *mented without increasing border traffic congestion*
 9 *and border crossing delays and, if any such system*
 10 *would increase border crossing delays, evaluate to*
 11 *what extent such congestion or delays would increase;*
 12 *and*

13 *(4) estimate the length of time that would be re-*
 14 *quired for any such system to be developed and imple-*
 15 *mented.*

16 **SEC. 4. ANNUAL REPORTS ON ENTRY-EXIT CONTROL AND**
 17 **USE OF ENTRY-EXIT CONTROL DATA.**

18 *(a) ANNUAL REPORTS ON IMPLEMENTATION OF*
 19 *ENTRY-EXIT CONTROL AT AIRPORTS.—Not later than 30*
 20 *days after the end of each fiscal year until the fiscal year*
 21 *in which Attorney General certifies to Congress that the*
 22 *entry-exit control system required by section 110(a) of the*
 23 *Illegal Immigration Reform and Immigrant Responsibility*
 24 *Act of 1996, as amended by section 2 of this Act, has been*
 25 *developed, the Attorney General shall submit to the Commit-*

tees on the Judiciary of the Senate and the House of Representatives a report that—

(1) provides an accurate assessment of the status of the development of the entry-exit control system;

(2) includes a specific schedule for the development of the entry-exit control system that the Attorney General anticipates will be met; and

(3) includes a detailed estimate of the funding, if any, needed for the development of the entry-exit control system.

(b) ANNUAL REPORTS ON VISA OVERSTAYS IDENTIFIED THROUGH THE ENTRY-EXIT CONTROL SYSTEM.—Not later than June 30 of each year, the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and the Senate a report that sets forth—

(1) the number of arrival records of aliens and the number of departure records of aliens that were collected during the preceding fiscal year under the entry-exit control system under section 110(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as so amended, with a separate accounting of such numbers by country of nationality;

(2) the number of departure records of aliens that were successfully matched to records of such aliens' prior arrival in the United States, with a sep-

1 *arate accounting of such numbers by country of na-*
 2 *tionality and by classification as immigrant or non-*
 3 *immigrant; and*

4 *(3) the number of aliens who arrived as non-*
 5 *immigrants, or as visitors under the visa waiver pro-*
 6 *gram under section 217 of the Immigration and Na-*
 7 *tionality Act, for whom no matching departure record*
 8 *has been obtained through the system, or through*
 9 *other means, as of the end of such aliens' authorized*
 10 *period of stay, with an accounting by country of na-*
 11 *tionality and approximate date of arrival in the*
 12 *United States.*

13 *(c) INCORPORATION INTO OTHER DATABASES.—Infor-*
 14 *mation regarding aliens who have remained in the United*
 15 *States beyond their authorized period of stay that is identi-*
 16 *fied through the system referred to in subsection (a) shall*
 17 *be integrated into appropriate databases of the Immigra-*
 18 *tion and Naturalization Service and the Department of*
 19 *State, including those used at ports-of-entry and at con-*
 20 *sular offices.*

21 **SEC. 5. LIMITATION ON CERTAIN BORDER CROSSING-RE-**
 22 **LATED VISA FEES.**

23 *(a) LIMITATION.—*

24 *(1) IN GENERAL.—Notwithstanding any other*
 25 *provision of law, the Secretary of State may not*

1 *charge a fee in excess of the following amounts for the*
 2 *processing of any application for the issuance of a*
 3 *visa under section 101(a)(15)(B) of the Immigration*
 4 *and Nationality Act if the appropriate consular offi-*
 5 *cer has reason to believe that the visa will be used*
 6 *only for travel in the United States within 25 miles*
 7 *of the international border between the United States*
 8 *and Mexico and for a period of less than 72 hours:*

9 *(i) In the case of any alien 18 years of age*
 10 *or older, \$45.*

11 *(ii) In the case of any alien under 18 years*
 12 *of age, zero.*

13 (2) *PERIOD OF VALIDITY OF VISAS FOR CERTAIN*
 14 *MINOR CHILDREN.—If a consular officer has reason to*
 15 *believe that a visa issued under section 101(a)(15)(B)*
 16 *of the Immigration and Nationality Act to a child*
 17 *under 18 years of age will be used only for travel in*
 18 *the United States within 25 miles of the international*
 19 *border between the United States and Mexico for a pe-*
 20 *riod of less than 72 hours, then the visa shall be*
 21 *issued to expire on the date on which the child attains*
 22 *the age of 18.*

23 (b) *DELAY IN BORDER CROSSING RESTRICTIONS.—*

24 *Section 104(b)(2) of the Illegal Immigration Reform and*

1 *Immigrant Responsibility Act of 1996 is amended by strik-*
 2 *ing “3 years” and inserting “4 years”.*

3 (c) *PROCESSING IN MEXICAN BORDER CITIES.—The*
 4 *Secretary of State shall continue until at least October 1,*
 5 *2000, to process applications for visas under section*
 6 *101(a)(15)(B) of the Immigration and Nationality Act at*
 7 *the following cities in Mexico located near the international*
 8 *border with the United States: Nogales, Nuevo Laredo, Ciu-*
 9 *dad Acuna, Piedras Negras, Agua Prieta, and Reynosa.*

10 **SEC. 6. AUTHORIZATIONS OF APPROPRIATIONS FOR BOR-**
 11 **DER CONTROL AND ENFORCEMENT ACTIVI-**
 12 **TIES OF THE IMMIGRATION AND NATU-**
 13 **RALIZATION SERVICE.**

14 (a) *IN GENERAL.—*

15 (1) *INS.—In order to enhance enforcement and*
 16 *inspection resources on the land borders of the United*
 17 *States, enhance investigative resources for*
 18 *anticorruption efforts and efforts against drug smug-*
 19 *gling and money-laundering organizations, process*
 20 *cargo, reduce commercial and passenger traffic wait-*
 21 *ing times, and open all primary lanes during peak*
 22 *hours at major land border ports of entry on the*
 23 *Southwest and Northern land borders of the United*
 24 *States, in addition to any other amounts appro-*
 25 *priated, there are authorized to be appropriated for*

1 *salaries, expenses, and equipment for the Immigration*
 2 *and Naturalization Service for purposes of carrying*
 3 *out this section—*

4 *(A) \$113,604,000 for fiscal year 1999;*

5 *(B) \$121,064,000 for fiscal year 2000; and*

6 *(C) such sums as may be necessary in each*
 7 *fiscal year thereafter.*

8 *(b) FISCAL YEAR 1999.—*

9 *(1) INS.—Of the amounts authorized to be ap-*
 10 *propriated under subsection (a)(2)(A) for fiscal year*
 11 *1999 for the Immigration and Naturalization Service,*
 12 *\$15,090,000 shall be available until expended for ac-*
 13 *quisition and other expenses associated with imple-*
 14 *mentation and full deployment of narcotics enforce-*
 15 *ment and cargo processing technology along the land*
 16 *borders of the United States, including—*

17 *(A) \$11,000,000 for 5 mobile truck x-rays*
 18 *with transmission and backscatter imaging to be*
 19 *distributed to border patrol checkpoints;*

20 *(B) \$200,000 for 10 ultrasonic container in-*
 21 *spection units to be distributed to border patrol*
 22 *checkpoints;*

23 *(C) \$240,000 for 10 Portable Treasury En-*
 24 *forcement Communications System (TECS) ter-*

1 *minals to be distributed to border patrol check-*
 2 *points;*

3 *(D) \$1,000,000 for 20 remote watch surveil-*
 4 *lance camera systems to be distributed to border*
 5 *patrol checkpoints;*

6 *(E) \$180,000 for 36 AM radio “Welcome to*
 7 *the United States” stations located at permanent*
 8 *border patrol checkpoints;*

9 *(F) \$875,000 for 36 spotter camera systems*
 10 *located at permanent border patrol checkpoints;*
 11 *and*

12 *(G) \$1,600,000 for 40 narcotics vapor and*
 13 *particle detectors to be distributed to border pa-*
 14 *trol checkpoints.*

15 *(c) FISCAL YEAR 2000 AND THEREAFTER.—*

16 *(1) INS.—Of the amounts authorized to be ap-*
 17 *propriated under this section for the Immigration*
 18 *and Naturalization Service for fiscal year 2000 and*
 19 *each fiscal year thereafter, \$1,509,000 shall be for the*
 20 *maintenance and support of the equipment and train-*
 21 *ing of personnel to maintain and support the equip-*
 22 *ment described in subsection (b)(1), based on an esti-*
 23 *mate of 10 percent of the cost of such equipment.*

24 *(d) NEW TECHNOLOGIES; USE OF FUNDS.—*

1 (1) *IN GENERAL.*—*The Attorney General may*
 2 *use the amounts authorized to be appropriated for*
 3 *equipment under this section for equipment other*
 4 *than the equipment specified in this section if such*
 5 *other equipment—*

6 *(A)(i) is technologically superior to the*
 7 *equipment specified; and*

8 *(ii) will achieve at least the same results at*
 9 *a cost that is the same or less than the equip-*
 10 *ment specified; or*

11 *(B) can be obtained at a lower cost than the*
 12 *equipment authorized.*

13 (2) *TRANSFER OF FUNDS.*—*Notwithstanding any*
 14 *other provision of this section, the Attorney General*
 15 *may reallocate an amount not to exceed 10 percent of*
 16 *the amount specified for equipment specified in this*
 17 *section.*

18 (e) *PEAK HOURS AND INVESTIGATIVE RESOURCE EN-*
 19 *HANCEMENT.*—

20 (1) *INS.*—*Of the amounts authorized to be ap-*
 21 *propriated under this section for fiscal years 1999*
 22 *and 2000, \$98,514,000 in fiscal year 1999 and*
 23 *\$119,555,000 for fiscal year 2000 shall be for—*

24 *(A) a net increase of 535 inspectors for the*
 25 *Southwest land border and 375 inspectors for the*

1 *Northern land border, in order to open all pri-*
2 *mary lanes on the Southwest and Northern bor-*
3 *ders during peak hours and enhance investiga-*
4 *tive resources;*

5 *(B) a net increase of 100 inspectors and ca-*
6 *nine enforcement officers for border patrol check-*
7 *points;*

8 *(C) 100 canine enforcement vehicles to be*
9 *used by the Border Patrol for inspection and en-*
10 *forcement, and to reduce waiting times, at the*
11 *land borders of the United States;*

12 *(D) a net increase of 40 intelligence ana-*
13 *lysts and additional resources to be distributed*
14 *among border patrol sectors that have jurisdic-*
15 *tion over major metropolitan drug or narcotics*
16 *distribution and transportation centers for in-*
17 *tensification of efforts against drug smuggling*
18 *and money-laundering organizations;*

19 *(E) a net increase of 68 positions and addi-*
20 *tional resources to the Office of the Inspector*
21 *General of the Department of Justice to enhance*
22 *investigative resources for anticorruption efforts;*
23 *and*

1 (F) the costs incurred as a result of the in-
2 crease in personnel hired pursuant to this sec-
3 tion.

4 **SEC. 7. SENSE OF THE SENATE CONCERNING AUTHORIZA-**
5 **TION OF APPROPRIATIONS FOR BORDER**
6 **CONTROL AND ENFORCEMENT ACTIVITIES OF**
7 **THE UNITED STATES CUSTOMS SERVICE.**

8 Given that the Customs Service is cross-designated to
9 enforce immigration laws and given the important border
10 control role played by the Customs Service, it is the sense
11 of the Senate that authorization for appropriations should
12 be granted to the Customs Service similar to those granted
13 to the Immigration and Naturalization Service under sec-
14 tion 6.

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APRIL 23, 1998

Reported with an amendment in the nature of a substitute