

109TH CONGRESS
1ST SESSION

H. R. 1320

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 CPB 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.

1 **TITLE I—SECURING OUR**
 2 **BORDERS**

3 **Subtitle A—Infrastructure**
 4 **Enhancements**

5 **SEC. 101. ESTABLISHMENT OF LAND BORDER INFRASTRUC-**
 6 **TURE IMPROVEMENT FUND.**

7 (a) IN GENERAL.—There is established in the general
 8 fund of the Treasury a separate account which shall be
 9 known as the “Land Border Infrastructure Improvement

1 Fund”. Amounts deposited in such fund shall remain
2 available to the Secretary of Homeland Security until ex-
3 pended, subject to the provisions of appropriations Acts,
4 to carry out infrastructure and technology improvement
5 projects at our nation’s ports of entry, as assessed in sec-
6 tion 102, to reduce and prevent the nation’s land border
7 vulnerability to terrorist attack, and penetration by terror-
8 ists and criminals, while effectively facilitating the move-
9 ment of goods, services, and legitimate travelers.

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

13 (c) PROJECTS DESCRIBED.—The Secretary of Home-
14 land Security may carry out infrastructure and technology
15 improvement projects recommended in the report sub-
16 mitted under section 102 in order to reduce the vulner-
17 ability of ports of entry.

18 **SEC. 102. REQUIRING A VULNERABILITY ASSESSMENT OF**
19 **LAND PORTS OF ENTRY.**

20 (a) INITIAL ASSESSMENT.—

21 (1) IN GENERAL.—The Secretary of Homeland
22 Security shall conduct an assessment of the vulner-
23 ability of each United States land port of entry to
24 penetration by terrorists and criminals or terrorist
25 attack. In carrying out assessments under this para-

1 graph, the Secretary shall categorize the vulner-
2 ability of each port of entry as “high”, “medium”,
3 or “low” and shall prioritize the vulnerability of each
4 port of entry within each such category. In con-
5 ducting the assessment, the Secretary of Homeland
6 Security shall consult with appropriate State, local,
7 and private sector representatives.

8 (2) REPORT.—Not later than one year after the
9 date of the enactment of this Act, the Secretary
10 shall prepare and submit to the appropriate congres-
11 sional committees (as that term is defined in section
12 2 of the Homeland Security Act of 2002 (6 U.S.C.
13 101)) a report that contains—

14 (A) the results of the assessment con-
15 ducted under paragraph (1);

16 (B) with respect to each port of entry cat-
17 egorized under paragraph (1) as either a
18 “high” or “medium” vulnerability port of entry,
19 descriptions of—

20 (i) infrastructure and technology im-
21 provement projects required for the port of
22 entry in order to reduce its vulnerability;
23 and

24 (ii) the resources required to make
25 such improvements; and

1 (C) a description of how the funds will be
2 used to implement technology and infrastruc-
3 ture improvement projects.

4 (b) FOLLOW-UP ASSESSMENTS.—The Secretary of
5 Homeland Security shall conduct follow-up assessments of
6 land border ports of entry every 2 years and shall submit
7 such reports to the appropriate congressional committees
8 (as defined in section 2 of the Homeland Security Act of
9 2002 (6 U.S.C. 101)).

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

12 (a) SENSE OF CONGRESS.—It is the sense of the Con-
13 gress that preenrollment programs should be expanded to
14 all major ports of entry because these programs assist our
15 frontline officers in the fight against terrorism. These pro-
16 grams allow inspectors to focus more closely on unknown
17 travelers by subjecting participants to in depth back-
18 ground and watch list checks.

19 (b) PERMANENT AUTHORIZATION.—

20 (1) IN GENERAL.—The Secretary of Homeland
21 Security shall make permanent pre-enrollment pro-
22 grams that subject participants who are aliens, and
23 citizens of the United States, to criminal and watch
24 list screenings and fingerprint checks prior to enroll-

1 ing in order to gain expedited inspections at ports
2 of entry.

3 (2) SPECIFIC PROGRAMS.—The programs de-
4 scribed in paragraph (1) shall include, at a min-
5 imum, the following:

6 (A) The Free and Secure Trade, or
7 “FAST”, program authorized under subpart B
8 of title IV of the Tariff Act of 1930 (19 U.S.C.
9 1411 et seq).

10 (B) The Secure Electronic Network for
11 Travelers Rapid Inspection, or “SENTRI”, pro-
12 gram authorized under section 286(q) of the
13 Immigration and Nationality Act (8 U.S.C.
14 1356(q)).

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

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

20 (e) AUTHORIZATION OF FUNDS NECESSARY TO
21 BUILD ADEQUATE INFRASTRUCTURE TO RENDER PRO-
22 GRAMS EFFECTIVE.—There are authorized to be appro-
23 priated such funds as may be necessary to improve infra-
24 structure to enhance access to pre-enrollment lanes, and
25 to accomplish all the other purposes outlined in this sec-

1 tion, in order to facilitate inspections and expedite the flow
2 of travel and commerce.

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

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

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

16 (g) REPORT ON BUDGET, PROGRAM USE, AND EN-
17 FORCEMENT.—The Secretary of Homeland Security annu-
18 ally shall submit to the appropriate congressional commit-
19 tees (as defined in section 2 of the Homeland Security
20 Act of 2002 (6 U.S.C. 101)) a report on the programs
21 described in subsection (a). The report should include a
22 review of costs associated with the programs, including—

23 (1) areas of program expansion within a port-
24 of-entry, to other ports-of-entry and to other modes

1 of travel including air, mass transit, bicycle and pe-
2 destrians;

3 (2) the cost of upgrade and maintenance needs;

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

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

9 (5) universal access through ports;

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

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

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

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

20 (10) for each pre-enrollment location—

21 (A) total vehicles processed per month;

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

24 (C) total pre-enrolled vehicles processed
25 per day;

1 (D) total nonenrolled vehicles processed
2 per month;

3 (E) total nonenrolled vehicles processed
4 per day;

5 (F) completed compliance checks per-
6 formed per month;

7 (G) duration of inspections;

8 (H) number of passengers per vehicle;

9 (I) basis for apprehension of violator;

10 (J) types of violation; and

11 (K) enforcement actions.

12 **Subtitle B—Enhancing Border**
13 **Monitoring Technology**

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

16 (a) PLAN.—Not later than September 30, 2005, the
17 Secretary of Homeland Security shall develop a com-
18 prehensive plan to fully deploy technological surveillance
19 systems along the U.S.-Mexico border. Surveillance sys-
20 tems included in the deployment plan must—

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

23 (2) to the extent practicable, be fully interoper-
24 able with existing surveillance systems, such as the

1 Integrated Surveillance Intelligence Systems already
2 in use by the Department of Homeland Security.

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

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

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

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

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

21 (7) A description of how radiation portal mon-
22 itors will be deployed to ports of entry along the
23 U.S.-Mexico border, and other border locations, con-
24 sistent with section 114.

1 (8) A description of how K–9 detection units
2 will be increased along the U.S.-Mexico border, con-
3 sistent with section 113.

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

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

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

11 (b) DEPLOYMENT.—Not later than September 30,
12 2006, the Secretary of Homeland Security shall fully im-
13 plement the plan described in subsection (a).

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

19 (d) AUTHORIZATION OF APPROPRIATIONS.—There
20 are authorized to be appropriated to carry out this section
21 \$200,000,000 for each of fiscal years 2005 and 2006, and
22 such sums as may be necessary for each succeeding fiscal
23 year.

1 **SEC. 112. DEPLOYMENT OF SURVEILLANCE SYSTEMS**
2 **ALONG THE US-CANADIAN BORDER.**

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

10 **SEC. 113. LEVEL OF K-9 UNITS.**

11 (a) IN GENERAL.—The Secretary of Homeland Secu-
12 rity shall increase the number of K-9 units working within
13 U.S. Customs and Border Protection, including adding in-
14 frastructure, officers ,and support staff necessary for each
15 unit, by 20 percent above levels in existence at the end
16 of fiscal year 2004.

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

22 (c) AUTHORIZATION OF APPROPRIATIONS.—There
23 are authorized to be appropriated such sums as may be
24 necessary to carry out this section.

1 **SEC. 114. DEPLOYMENT OF RADIATION PORTAL MONITORS**
2 **ON THE SOUTHERN BORDER.**

3 (a) IN GENERAL.—The Secretary of Homeland Secu-
4 rity shall ensure radiation portal monitors are installed at
5 all southern border ports of entry not later than Sep-
6 tember 30, 2005.

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

10 **Subtitle C—Ensuring Sufficient**
11 **Well-Trained Personnel at Our**
12 **Borders**

13 **SEC. 121. DOUBLE THE NUMBER OF CBP PERSONNEL.**

14 (a) TEMPORARY INCREASE IN PERSONNEL.—Pend-
15 ing congressional consideration of the study described in
16 section 122, there are authorized to be appropriated to
17 the Secretary of Homeland Security such sums as may
18 be necessary—

19 (1) to double, as compared to the number of
20 such positions which existed at the end of fiscal year
21 2004, the number of positions for U.S. Customs and
22 Border Protection personnel (including support per-
23 sonnel) at and between our nation's ports of entry;

24 (2) to establish, not later than September 30,
25 2005, at least one Border Patrol unit for the Virgin
26 Islands of the United States; and

1 (3) to establish facilities in which the additional
2 personnel described in paragraph (1) may work.

3 (b) **WAIVER OF LIMITATION.**—The Secretary of
4 Homeland Security is authorized to waive any limitation
5 on the number of full-time equivalent personnel assigned
6 to the Department of Homeland Security to fulfill the re-
7 quirements of subsection (a).

8 **SEC. 122. ASSESSING STAFFING NEEDS AT OUR BORDERS.**

9 The Secretary of Homeland Security shall contract
10 with an independent entity to undertake a study to deter-
11 mine the necessary level and allocation of personnel, in-
12 cluding support staff, at United States ports of entry and
13 border patrol sectors. The study shall take into account,
14 at a minimum, the overall mission of U.S. Customs and
15 Border Protection, threat and vulnerability information
16 pertaining to the nation’s borders and ports of entry, the
17 impact of new border security programs, policies and tech-
18 nologies, and an analysis of traffic volumes and wait times
19 at ports of entry. The study is to be provided to the appro-
20 priate congressional committees, as defined in section 2
21 of the Homeland Security Act of 2002 (6 U.S.C. 101),
22 not later than 1 year after the date of the enactment of
23 this Act.

1 **SEC. 123. ADDITIONAL AND CONTINUOUS TRAINING FOR**
2 **INSPECTORS.**

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

9 (b) LANGUAGE TRAINING.—The Secretary of Home-
10 land Security ensure that inspectors assigned to the south-
11 ern border are proficient in Spanish language, and shall
12 provide training to inspectors in Spanish and other lan-
13 guages determined to be necessary in carrying out anti-
14 terrorism and law enforcement functions. The Secretary
15 of Homeland Security shall provide, where necessary, ap-
16 propriate language training to inspectors and border pa-
17 trol agents on the northern border.

18 (c) RETENTION AND DEVELOPMENT OF EXPERTS.—
19 Not later than 6 months after the date of the enactment
20 of this Act, the Secretary of Homeland Security shall
21 make recommendations to the appropriate congressional
22 committees (as defined in section 2 of the Homeland Secu-
23 rity Act of 2002 (6 U.S.C. 101)) on how the current De-
24 partment of Homeland Security personnel system should
25 be modified to allow for the retention and development of

1 immigration and customs experts, to include the creation
2 of new positions.

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

5 (a) IN GENERAL.—Not later than September 30 of
6 each of the calendar years 2005 and 2006, the Commis-
7 sioner of Customs shall prepare and submit to Congress
8 a report—

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

12 (2) providing a breakdown of the number of
13 personnel of U.S. Customs and Border Protection
14 that were personnel of the United States Customs
15 Service prior to the establishment of the Department
16 of Homeland Security, that were personnel of the
17 Immigration and Naturalization Service prior to the
18 establishment of the Department of Homeland Secu-
19 rity, and that were hired after the establishment of
20 the Department of Homeland Security;

21 (3) describing the training time provided to
22 each employee on an annual basis for the various
23 training components of the One Face at the Border
24 Initiative;

1 (4) outlining the steps taken by U.S. Customs
2 and Border Protection to ensure that expertise is re-
3 tained with respect to customs, immigration, and ag-
4 riculture inspection functions under the One Face at
5 the Border Initiative; and

6 (5) reviewing whether the missions of customs,
7 agriculture, and immigration are equally empha-
8 sized.

9 (b) ASSESSMENT OF REPORT.—The Comptroller
10 General of the United States shall the review the reports
11 submitted under subsection (a) and shall provide an as-
12 sessment to the appropriate congressional committees (as
13 defined in section 2 of the Homeland Security Act of 2002
14 (6 U.S.C. 101)) regarding the effectiveness of the One
15 Face at the Border Initiative.

16 **Subtitle D—Establishing a Com-**
17 **prehensive Border Security**
18 **Strategy**

19 **SEC. 131. LAND BORDER SECURITY STRATEGY.**

20 (a) IN GENERAL.—The Secretary of Homeland Secu-
21 rity, in consultation with the heads of all other Federal
22 agencies with border-related functions or with facilities or
23 lands on or along the border, shall submit to the appro-
24 priate congressional committees (as defined in section 2
25 of the Homeland Security Act of 2002 (6 U.S.C. 101))

1 unclassified and classified versions of a unified, com-
2 prehensive strategy to secure the land borders of the
3 United States not later than 6 months after the date of
4 the enactment of this Act. The submission should include
5 a description of the actions already taken to implement
6 the strategy.

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

- 9 (1) Personnel.
- 10 (2) Infrastructure.
- 11 (3) Technology.
- 12 (4) Coordination of intelligence among agencies.
- 13 (5) Legal responsibilities.
- 14 (6) Criminal statutes.
- 15 (7) Apprehension goals.
- 16 (8) Prosecutorial guidelines.
- 17 (9) Economic impact.
- 18 (10) Flow of commerce.

19 (c) CONSULTATION.—In creating the strategy de-
20 scribed in subsection (a), the Federal agencies described
21 in such subsection shall consult private sector organiza-
22 tions and nongovernmental organizations with national se-
23 curity, privacy, agriculture, immigration, customs, trans-
24 portation, technology, legal, and business expertise.

1 (d) IMPLEMENTATION.—The Secretary shall imple-
2 ment the strategy not later than 12 months after the date
3 of the enactment of this Act.

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

7 (f) REPORT.—Not later than 15 months after the
8 date of the enactment of this Act, and every year there-
9 after for the succeeding 5 years, the Comptroller General
10 of the United States shall submit a report to the Congress
11 on the results of the activities undertaken under sub-
12 section (a) during the previous year. Each such report
13 shall include an analysis of the degree to which the border
14 security strategy has been effective in securing our bor-
15 ders. Each such report shall include a collection and sys-
16 tematic analysis of data, including workload indicators, re-
17 lated to activities to improve and increase border security.

18 **SEC. 132. IMPROVED INFORMATION SHARING.**

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

21 (1) integrate the IDENT and IAFIS databases;

22 and

23 (2) make interoperable databases used by in-
24 spectors in secondary inspections.

1 **SEC. 133. CREATION OF NORTHERN AND SOUTHERN BOR-**
2 **DER COORDINATORS.**

3 (a) IN GENERAL.—Title IV of the Homeland Secu-
4 rity Act of 2002 (6 U.S.C. 201 seq.) is amended—

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

8 “(8) Increasing the security of the United
9 States at the ports of entry located along the north-
10 ern and southern borders, and improving the coordi-
11 nation among the agencies responsible for maintain-
12 ing that security.”; and

13 (2) in subtitle C, by adding at the end the fol-
14 lowing:

15 **“SEC. 431. BORDER COORDINATORS.**

16 “(a) IN GENERAL.—There shall be within the Direc-
17 torate of Border and Transportation Security the posi-
18 tions of Northern Border Coordinator and Southern Bor-
19 der Coordinator, who shall be appointed by the Secretary
20 and who shall report directly to the Under Secretary for
21 Border and Transportation Security.

22 “(b) RESPONSIBILITIES.—The Northern Border Co-
23 ordinator and the Southern Border Coordinator shall un-
24 dertake the following responsibilities along the northern
25 and southern borders, respectively—

1 “(1) serve as the primary official of the Depart-
2 ment responsible for coordinating all Federal secu-
3 rity activities along the border, especially at land
4 border ports of entry;

5 “(2) provide enhanced communication and
6 data-sharing between Federal, State, local, and trib-
7 al agencies on law enforcement, emergency response,
8 or security-related responsibilities for areas on or ad-
9 jacent to the borders of the United States with Can-
10 ada or Mexico;

11 “(3) work to improve the communications sys-
12 tems within the Department to facilitate the integra-
13 tion of communications of matters relating to border
14 security;

15 “(4) oversee the implementation of the perti-
16 nent bilateral agreement (the United States-Canada
17 ‘Smart Border’ Declaration applicable to the north-
18 ern border and the United States-Mexico Partner-
19 ship Agreement applicable to the southern border) to
20 improve border functions, ensure security, and pro-
21 mote trade and tourism;

22 “(5) consistent with section 102, assess all land
23 border ports of entry along the appropriate border
24 and develop a list of infrastructure and technology
25 improvement projects for submission to the Sec-

1 retary based on the ability of a project to fulfill im-
2 mediate security requirements and facilitate trade
3 across the borders of the United States; and

4 “(6) serve as a liaison to the foreign agencies
5 with responsibility for the appropriate border with
6 the United States.”.

7 (b) CLERICAL AMENDMENT.—Section 1(b) of such
8 Act is amended in the table of contents by inserting after
9 the item relating to section 430 the following:

 “431. Border coordinators.”.

10 **SEC. 134. SMART BORDER ACCORD IMPLEMENTATION.**

11 The President shall submit to the appropriate con-
12 gressional committees (as defined in section 2 of the
13 Homeland Security Act of 2002 (6 U.S.C. 101)) informa-
14 tion about the ongoing progress on implementation of the
15 Smart Border Accords through quarterly updates on meet-
16 ings of the Smart Border Working Group.

17 **SEC. 135. SENSE OF CONGRESS ON THE PERIOD OF ADMIS-**
18 **SION FOR BORDER CROSSING CARD HOLD-**
19 **ERS.**

20 (a) SENSE OF CONGRESS.—It is the sense of the Con-
21 gress that citizens and nationals of Mexico should be treat-
22 ed with parity in relation to citizens and nationals of Can-
23 ada in establishing the periods of time they are lawfully
24 permitted to remain in the United States.

1 (b) MODIFICATION TO DOCUMENTARY REQUIRE-
2 MENTS.—Notwithstanding any other provision of law,
3 once section 110 of the Illegal Immigration Reform and
4 Immigrant Responsibility Act of 1996 (8 U.S.C. 1221
5 note) is fully implemented, the period of admission for an
6 alien entering the United States under a border crossing
7 card shall be 6 months.

8 **Subtitle E—Enhancing Border**
9 **Security Programs**

10 **SEC. 141. CREATING A MORE EFFECTIVE ENTRY-EXIT SYS-**
11 **TEM.**

12 (a) CREATION OF A US–VISIT OUTREACH OF-
13 FICE.—

14 (1) IN GENERAL.—The Secretary of Homeland
15 Security shall create an “Office of US–VISIT Out-
16 reach” that will inform on a regular basis local bor-
17 der officials, residents, and businesses about develop-
18 ments in the US–VISIT program. Specifically, this
19 office shall provide information to local border offi-
20 cials, residents, and businesses, and seek guidance
21 from such persons and entities about, the practical
22 effects to border communities of the implementation
23 of US–VISIT.

1 (2) AUTHORIZATION OF APPROPRIATIONS.—

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

4 (b) TASK FORCE ON INTEGRATED ENTRY AND EXIT
5 SYSTEM.—

6 (1) SENSE OF CONGRESS.—It is the sense of
7 the Congress that the work of the task force estab-
8 lished under section 3 of the Immigration and Natu-
9 ralization Service Data Management Improvement
10 Act of 2000 (8 U.S.C. 1365a note) was prematurely
11 terminated, robbing the Department of Homeland
12 Security of the very expertise needed to properly set
13 the requirements for, and validate the work of, con-
14 tractors on information technology programs, par-
15 ticularly the US-VISIT program.

16 (2) TERMINATION.—Section 3(i) of the Immi-
17 gration and Naturalization Service Data Manage-
18 ment Improvement Act of 2000 (8 U.S.C. 1365a
19 note) is amended to read as follows:

20 “(i) TERMINATION.—The Task Force shall terminate
21 on a date designated by the Secretary of Homeland Secu-
22 rity as the date on which the work of the Task Force has
23 been completed, except that such designated date may not
24 be earlier than December 21, 2008.”.

25 (c) ELECTRONIC ARRIVAL/DEPARTURE RECORDS.—

1 (1) Not later than December 31, 2005, the Sec-
2 retary of Homeland Security—

3 (A) shall ensure that the functions served
4 by Department of Homeland Security paper
5 Form Number I-94 (Arrival/Departure Record)
6 and Form Number I-94W (NIV Waiver Ar-
7 rival/Departure Record) are being carried out
8 by electronic means; and

9 (B) shall eliminate such forms.

10 (2) IMPLEMENTATION PLAN.—Not later than
11 December 31, 2004, the Secretary of Homeland Se-
12 curity shall submit to the appropriate congressional
13 committees (as defined in section 2 of the Homeland
14 Security Act of 2002 (6 U.S.C.101)) a plan describ-
15 ing the measures the Secretary is taking to carry
16 out subsection (c) before the deadline described in
17 such subsection.

18 **SEC. 142. TRANSPORTATION WORKER IDENTIFICATION**

19 **CARD.**

20 (a) IN GENERAL.—The Secretary of Homeland Secu-
21 rity shall submit a report to the Congress not later than
22 December 31, 2004, regarding the development and dis-
23 tribution of a transportation worker identification card.

24 (b) CONTENTS.—The report described in subsection

25 (a) shall include information on—

- 1 (1) the plan for distribution of the card;
- 2 (2) the eligibility of Canadian and Mexican
3 truck drivers who are certified under the Free and
4 Secure Trade (“FAST”) initiative;
- 5 (3) selected biometric feature and other security
6 features of the card; and
- 7 (4) the cost of, and deployment schedule for,
8 card-reading equipment.

9 **SEC. 143. STANDARDS AND VERIFICATION PROCEDURES**
10 **FOR THE SECURITY OF INTERMODAL CARGO**
11 **CONTAINERS.**

12 (a) STANDARDS AND VERIFICATION PROCEDURES.—
13 Not later than 180 days after the date of the enactment
14 of this Act, the Secretary of Homeland Security, acting
15 through the Under Secretary for Border and Transpor-
16 tation Security, shall establish standards and verification
17 procedures for the security of intermodal cargo containers
18 moving within the intermodal transportation system, in-
19 cluding standards for sealing and procedures for seal
20 verifications for cargo containers at loading.

21 (b) REQUIREMENTS.—The standards and verification
22 procedures established pursuant to subsection (a) shall be
23 consistent with the cargo container security recommenda-
24 tions of the Interagency Container Working Group and

1 the Smart and Secure Trade Lane program and shall meet
2 the following additional requirements:

3 (1) SEAL STANDARDS.—Intermodal cargo con-
4 tainers shall at a minimum be affixed with a secu-
5 rity seal equivalent to the level “D” high security
6 seal (as certified by the International Organization
7 for Standardization (ISO); Certification No. 17712)
8 at loading.

9 (2) SEAL VERIFICATION.—Procedures shall be
10 established for the verification of security seals de-
11 scribed in paragraph (1), including procedures to de-
12 termine which individuals and entities in the inter-
13 modal transportation system are responsible for seal-
14 ing intermodal cargo containers, recording of seal
15 numbers, changes to such numbers if a container is
16 opened, and anomalies to security seals.

17 **SEC. 144. SENSE OF CONGRESS ON THE NEED FOR ADDI-**
18 **TIONAL STAFF FOR THE UNITED STATES**
19 **CONSULATE-GENERAL IN MEXICO.**

20 It is the sense of the Congress that—

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

24 (2) this mission must have sufficient staff in
25 order to adequately fulfill their consular responsibil-

1 ities, an important part of a comprehensive strategy
2 to secure our border;

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

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

8 **Subtitle F—Securing Our Tribal**
9 **and Federal Lands and Territories**

10 **SEC. 151. OFFICE OF TRIBAL SECURITY.**

11 (a) ESTABLISHMENT.—There is established within
12 the Department of Homeland Security the Office of Tribal
13 Security.

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

19 (c) DUTIES.—The Director shall be responsible for
20 coordinating relations between the Federal Government
21 and federally recognized Indian tribes on issues relating
22 to homeland security, which shall include the following du-
23 ties:

1 (1) Providing a point of contact within Depart-
2 ment of Homeland Security which shall be respon-
3 sible for—

4 (A) meeting the broad and complex Fed-
5 eral responsibilities owed to federally recognized
6 Indian tribes by the Department of Homeland
7 Security; and

8 (B) soliciting and, where appropriate, ad-
9 dressing the homeland security concerns of fed-
10 erally recognized Indian tribes and other parties
11 interested in Indian affairs.

12 (2) Communicating relevant policies of the De-
13 partment of Homeland Security to federally recog-
14 nized Indian tribes and the public.

15 (3) Promoting internal uniformity of Depart-
16 ment of Homeland Security policies relating to In-
17 dian country (as defined in section 1151 of title 18,
18 United States Code).

19 (4) Coordinating with the Directorate of Border
20 and Transportation Security and tribal governments
21 to develop a comprehensive border security policy
22 that addresses law enforcement, personnel, and
23 funding issues in Indian country (as defined in sec-
24 tion 1151 of title 18, United States Code) on the
25 United States borders with Canada and with Mexico.

1 (5) Coordinating with the Directorate for Infor-
2 mation Analysis and Infrastructure Protection and
3 tribal governments to develop appropriate policies
4 for infrastructure protection on Indian lands, as well
5 as information sharing mechanisms with tribal gov-
6 ernments.

7 (6) Coordinating with the Directorate of Emer-
8 gency Preparedness and Response and the Office of
9 State and Local Government Coordination and Pre-
10 paredness to help ensure that tribal governments are
11 fully informed of, have access to, and may apply for
12 all Department of Homeland Security grant oppor-
13 tunities for emergency response providers, and to de-
14 velop and achieve preparedness goals for tribal gov-
15 ernments that are consistent with national goals for
16 terrorism preparedness, as determined by the De-
17 partment.

18 (7) Coordinating with the Director of Science
19 and Technology to identify opportunities to conduct
20 research and development of homeland security tech-
21 nologies or scientific understanding for tribal univer-
22 sities or private sector entities.

23 (8) Coordinating with the Office of Citizenship
24 and Immigration Services and other relevant offices
25 within the Department of Homeland Security with

1 immigration service and enforcement related func-
2 tions to develop policies on issues related to citizen-
3 ship and the movement of members of federally rec-
4 ognized Indian tribes across the United States bor-
5 der, taking into consideration the unique character-
6 istics of certain federally recognized Indian tribes
7 with jurisdiction over lands adjacent to the Canadian
8 and Mexican borders.

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

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

16 (a) TRANSFER OF EXISTING UNIT.—Not later than
17 180 days after the date of the enactment of this Act, the
18 Secretary of Homeland Security shall transfer to the Im-
19 migration and Customs Enforcement all functions (includ-
20 ing the personnel, assets, and obligations held by or avail-
21 able in connection with such functions) of the Customs
22 Patrol Officers unit of U.S. Customs and Border Protec-
23 tion operating on the Tohono O’odham Indian reservation
24 (commonly known as the “Shadow Wolves” unit).

1 (b) ESTABLISHMENT OF NEW UNITS.—The Sec-
2 retary is authorized to establish within U.S. Immigration
3 and Customs Enforcement additional units of Customs
4 Patrol Officers in accordance with this section.

5 (c) DUTIES.—The Customs Patrol Officer unit trans-
6 ferred pursuant to subsection (a) and the additional units
7 established pursuant to subsection (b) shall enforce the
8 customs laws of the United States on Indian lands by pre-
9 venting the smuggling of narcotics, weapons of mass de-
10 struction, and other contraband.

11 (d) BASIC PAY FOR JOURNEYMAN OFFICERS.—The
12 rate of basic pay for a journeyman Customs Patrol Officer
13 in a unit described in this section shall be not greater than
14 the rate of basic pay for GS–13 of the General Schedule.

15 **SEC. 153. DHS AND DOI COORDINATION ON BORDER SECU-**
16 **RITY; PROVISION OF TEMPORARY AUTHOR-**
17 **ITY TO DHS TO TRANSFER FUNDS.**

18 (a) IN GENERAL.—Until the completion and imple-
19 mentation of the border security strategy described in sec-
20 tion 131 of this Act, the Secretary of Homeland Security
21 is authorized to transfer appropriated funds to the Sec-
22 retary of Interior in accordance with the memorandum of
23 understanding described in subsection (b) to support the
24 security needs of the Department of the Interior, its bu-

1 reaus, and tribal entities, including, the protection of bor-
2 der lands, critical infrastructure, and key resources.

3 (b) MEMORANDUM.—The Secretary of Homeland Se-
4 curity and the Secretary of Interior shall enter into a
5 memorandum of understanding regarding the funds de-
6 scribed in subsection (a). This memorandum shall—

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

9 (2) establish priorities among such projects;
10 and

11 (3) include a description of the scope of activi-
12 ties for such projects, including equipment, recurring
13 maintenance, construction of facilities, recapitaliza-
14 tion of facilities, and operations.

15 (c) REPORT.—The appropriate congressional com-
16 mittees (as defined in section 2 of the Homeland Security
17 Act of 2002 (6 U.S.C. 101)) shall be notified 15 days prior
18 to any transfer of funds. Not later than September 30,
19 2005, the Secretary of Interior shall submit to the appro-
20 priate congressional committees (as so defined) a copy of
21 the memorandum of understanding described in sub-
22 section (b).

1 **TITLE II—SECURING THE INTE-**
2 **RIOR; TOOLS FOR BORDER**
3 **SECURITY**

4 **Subtitle A—Increase in Staff for**
5 **ICE**

6 **SEC. 201. ICE STRATEGY AND STAFFING ASSESSMENT.**

7 (a) IN GENERAL.—Not later than December 31 of
8 each year, the Secretary of Homeland Security shall sub-
9 mit to the Government Accountability Office and the ap-
10 propriate congressional committees (as defined by section
11 2 of the Homeland Security Act of 2002 (6 U.S.C. 101))
12 a written report describing its strategy for deploying
13 human resources (including investigators and support per-
14 sonnel) to accomplish its border security mission.

15 (b) REVIEW.—Not later than 90 days after receiving
16 any report under subsection (a), the Government Account-
17 ability Office shall submit to each appropriate congres-
18 sional committee (as defined by section 2 of the Homeland
19 Security Act of 2002 (6 U.S.C. 101)) a written evaluation
20 of such report, including recommendations pertaining to
21 how U.S. Immigration and Customs Enforcement could
22 better deploy human resources to achieve its border secu-
23 rity mission through legislative or administrative action.

1 **Subtitle B—Increase in Detention**
2 **Space**

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

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

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

15 It is the sense of the Congress that—

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

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

23 (3) therefore, appropriations should be author-
24 ized for appropriate staff increases for judicial and

1 prosecutorial offices, commensurate with other per-
2 sonnel increases directed in this Act.

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

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

6 (a) IN GENERAL.—Section 101(a)(15)(S) of the Im-
7 migration and Nationality Act (8 U.S.C. 1101(a)(15)(S))
8 is amended—

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

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

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

13 “(iii) who the Secretary of Homeland Se-
14 curity, the Secretary of State, or the Attorney
15 General determines—

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

19 “(II) is willing to supply or has sup-
20 plied such information to a Federal or
21 State court; and

22 “(III) whose presence in the United
23 States the Secretary of Homeland Secu-
24 rity, the Secretary of State, or the Attor-
25 ney General determines is essential to the

1 success of an authorized criminal investiga-
2 tion, the successful prosecution of an indi-
3 vidual involved in the commercial alien
4 smuggling organization or enterprise, or
5 the disruption of such organization or en-
6 terprise,”;

7 (4) by inserting “, or with respect to clause
8 (iii), the Secretary of Homeland Security, the Sec-
9 retary of State, or the Attorney General” after
10 “jointly”; and

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

13 (b) ADMISSION OF NONIMMIGRANTS.—Section
14 214(k) of the Immigration and Nationality Act (8 U.S.C.
15 1184(k)) is amended—

16 (1) by adding at the end of paragraph (1) the
17 following: “The number of aliens who may be pro-
18 vided a visa as nonimmigrants under section
19 101(a)(15)(S)(iii) in any fiscal year may not exceed
20 400.”; and

21 (2) by adding at the end the following:

22 “(5) If the Secretary of Homeland Security, the Sec-
23 retary of State, or the Attorney General determines that
24 the identity of a nonimmigrant described in clause (iii) of
25 section 101(a)(15)(S), or that of any family member of

1 commercial alien smuggling operation, or the pros-
2 ecution of an individual described in subclause (III)
3 of that section,

4 the Secretary of Homeland Security may adjust the status
5 of the alien (and the spouse, married and unmarried sons
6 and daughters, and parents of the alien if admitted under
7 that section) to that of an alien lawfully admitted for per-
8 manent residence if the alien is not described in section
9 212(a)(3)(E).

10 “(4) The Secretary of Homeland Security may adjust
11 the status of a nonimmigrant admitted into the United
12 States under section 101(a)(15)(S)(iii) (and the spouse,
13 married and unmarried sons and daughters, and parents
14 of the nonimmigrant if admitted under that section) to
15 that of an alien lawfully admitted for permanent residence
16 on the basis of a recommendation of the Secretary of State
17 or the Attorney General.”; and

18 (4) by adding at the end the following:

19 “(6) If the Secretary of Homeland Security, the Sec-
20 retary of State, or the Attorney General determines that
21 the identity of a person whose status is adjusted under
22 this subsection must be protected, such official may take
23 such lawful action as the official considers necessary to
24 effect such protection.”.

1 **Subtitle D—Increased Penalties for**
2 **Smuggling**

3 **SEC. 231. COMBATING AGGRAVATED ALIEN SMUGGLING.**

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

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

11 “(A) the offense was part of an ongoing com-
12 mercial organization or enterprise;

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

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

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

21 (b) **REWARDS PROGRAM.**—Section 274 of the Immi-
22 gration and Nationality Act (8 U.S.C. 1324) is amended
23 by adding at the end the following:

24 “(e) **REWARDS PROGRAM.**—

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

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

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

12 “(4) REWARDS AUTHORIZED.—In the sole dis-
13 cretion of the Secretary of Homeland Security, such
14 Secretary, in consultation, as appropriate, with the
15 Attorney General and the Secretary of State, may
16 pay a reward to any individual who furnishes infor-
17 mation or testimony leading to—

18 “(A) the arrest or conviction of any indi-
19 vidual conspiring or attempting to commit an
20 act of aggravated alien smuggling;

21 “(B) the arrest or conviction of any indi-
22 vidual committing such an act;

23 “(C) the arrest or conviction of any indi-
24 vidual aiding or abetting the commission of
25 such an act;

1 “(D) the prevention, frustration, or favor-
2 able resolution of such an act, including the dis-
3 mantling of an aggravated alien smuggling or-
4 ganization in whole or in significant part; or

5 “(E) the identification or location of an in-
6 dividual who holds a key leadership position in
7 an aggravated alien smuggling operation.

8 “(5) AUTHORIZATION OF APPROPRIATIONS.—
9 There are authorized to be appropriated such sums
10 as may be necessary to carry out this subsection.
11 Amounts appropriated under this paragraph shall
12 remain available until expended.

13 “(6) INELIGIBILITY.—An officer or employee of
14 any Federal, State, local, or foreign government
15 who, while in performance of his or her official du-
16 ties, furnishes information described in paragraph
17 (4) shall not be eligible for a reward under this sub-
18 section for such furnishing.

19 “(7) PROTECTION MEASURES.—If the Secretary
20 of Homeland Security, the Secretary of State, or the
21 Attorney General determines that the identity of an
22 individual who furnishes information or testimony
23 described in paragraph (4), or the identity of any
24 spouse, parent, son, or daughter of such an indi-
25 vidual, must be protected, such official may take

1 such lawful action as the official considers necessary
2 to effect such protection.

3 “(8) LIMITATIONS AND CERTIFICATION.—

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

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

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

21 (c) OUTREACH PROGRAM.—Section 274 of the Immi-
22 gration and Nationality Act (8 U.S.C. 1324), as amended
23 by subsection (b), is further amended by adding at the
24 end the following:

1 “(f) OUTREACH PROGRAM.—The Secretary of Home-
2 land Security, in consultation, as appropriate, with the At-
3 torney General and the Secretary of State, shall develop
4 and implement an outreach program to educate the public
5 in the United States and abroad about—

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

8 “(2) the financial rewards and other incentives
9 available under subsection (e) for assisting in the in-
10 vestigation, disruption, or prosecution of an aggra-
11 vated alien smuggling operation.”.

12 **SEC. 232. INCREASED CRIMINAL SENTENCES AND FINES**
13 **FOR ALIEN SMUGGLING.**

14 (a) IN GENERAL.—Subject to subsection (b), pursu-
15 ant to its authority under section 994(p) of title 28,
16 United States Code, the United States Sentencing Com-
17 mission shall promulgate sentencing guidelines or amend
18 existing sentencing guidelines for smuggling, transporting,
19 harboring, or inducing aliens under sections 274(a)(1)(A)
20 of the Immigration and Nationality Act (8 U.S.C.
21 1324(a)(1)(A)) so as to—

22 (1) triple the minimum term of imprisonment
23 under that section for offenses involving the smug-
24 gling, transporting, harboring, or inducing of—

1 (A) 1 to 5 aliens from 10 months to 30
2 months;

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

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

7 (D) 101 aliens or more from 37 months to
8 111 months;

9 (2) increase the minimum level of fines for each
10 of the offenses described in subparagraphs (A)
11 through (D) of paragraph (1) to the greater of
12 \$25,000 per alien or 3 times the amount the defend-
13 ant received or expected to receive as compensation
14 for the illegal activity;

15 (3) increase by at least 2 offense levels above
16 the applicable enhancement in effect on the date of
17 the enactment of this Act the sentencing enhance-
18 ments for intentionally or recklessly creating a sub-
19 stantial risk of serious bodily injury or causing bod-
20 ily injury, serious injury, or permanent or life
21 threatening injury;

22 (4) for actions causing death, increase the of-
23 fense level to be equivalent to that for involuntary
24 manslaughter under section 1112 of title 18, United
25 States Code; and

1 (5) for corporations or other business entities
2 that knowingly benefit from such offenses, increase
3 the minimum level of fines for each of the offenses
4 described in subparagraphs (A) through (D) of para-
5 graph (1) to \$50,000 per alien employed directly, or
6 indirectly through contract, by the corporation or
7 entity.

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

12 (c) **DEADLINE.**—The United States Sentencing Com-
13 mission shall carry out subsection (a) not later than the
14 date that is 6 months after the date of the enactment of
15 this Act.

16 **SEC. 233. INCREASED PENALTY FOR SMUGGLING.**

17 (a) **IN GENERAL.**—The third undesignated para-
18 graph of section 545 of title 18, United States Code, is
19 amended by striking “five years” and inserting “20
20 years”.

21 (b) **ENHANCED PENALTY FOR CAUSING DEATH.**—
22 Pursuant to its authority under section 994 of title 28,
23 United States Code, the United States Sentencing Com-
24 mission shall amend the Federal sentencing guidelines to
25 provide sentencing enhancements for an offense under sec-

1 tion 545 of title 18, United States Code, as amended by
2 subsection (a), that results in the death of a person.

3 (c) CONSISTENCY WITH OTHER GUIDELINES.—In
4 carrying out this section, the United States Sentencing
5 Commission—

6 (1) shall ensure that there is reasonable consist-
7 ency with other Federal sentencing guidelines; and

8 (2) shall avoid duplicative punishments for sub-
9 stantially the same offense.

10 **TITLE III—BEYOND OUR**
11 **BORDERS (INTERNATIONAL)**
12 **Subtitle A—Coordinating DHS**
13 **Mission Overseas**

14 **SEC. 301. OFFICE OF INTERNATIONAL AFFAIRS; EFFECTIVE**
15 **AND EFFICIENT MANAGEMENT AND COORDI-**
16 **NATION OF INTERNATIONAL ASSIGNMENTS.**

17 Section 879(b) of the Homeland Security Act of 2002
18 (6 U.S.C. 459(b)) is amended by adding at the end the
19 following:

20 “(5) To manage all overseas assignments of
21 personnel of the Department, including by coordi-
22 nating with the Department of State with respect to
23 such assignments and related support matters.”.

1 **SEC. 302. CREATION OF AN OFFICE OF OVERSEAS SERVICE.**

2 Section 879 of the Homeland Security Act of 2002
3 (6 U.S.C. 459) is amended by adding at the end the fol-
4 lowing:

5 “(c) OFFICE OF OVERSEAS SERVICE.—

6 “(1) IN GENERAL.—The Secretary shall create
7 an Office of Overseas Service within the Office of
8 International Affairs similar to the Foreign Agricul-
9 tural Service of the Department of Agriculture and
10 the United States and Foreign Commercial Service
11 of the Department of Commerce. The Director of
12 the Office of International Affairs shall be respon-
13 sible for administering the Office of Overseas Serv-
14 ice.

15 “(2) FUNCTIONS.—The Office of Overseas
16 Service shall be responsible for the following func-
17 tions:

18 “(A) Serving as the contact for the De-
19 partment of Homeland Security with the State
20 Department to coordinate overseas assignments.

21 “(B) Recruitment of personnel for overseas
22 service.

23 “(C) Retention of personnel for overseas
24 service.

25 “(D) Oversight of training of personnel for
26 overseas service.

1 “(3) STUDY AND REPORT.—

2 “(A) STUDY.—Prior to creating the Office
3 of Overseas Service, the Secretary shall direct
4 the Director of the Office of International Af-
5 fairs to conduct a study on how best to create
6 a foreign service component for the Department
7 for the purpose of adequately recruiting and re-
8 taining personnel who are willing and able to
9 serve in the Department in an overseas capac-
10 ity.

11 “(B) REPORT.—Not later than January 1,
12 2005, the Director of the Office of Inter-
13 national Affairs shall prepare and submit to the
14 appropriate congressional committees (as de-
15 fined by section 2 of the Homeland Security
16 Act of 2002 (6 U.S.C. 101)) a report that con-
17 tains the results of the study on creating an Of-
18 fice of Overseas Service conducted pursuant to
19 subparagraph (A) and an implementation plan
20 for carrying out such study’s recommenda-
21 tions.”.

1 **Subtitle B—Implementing a More**
2 **Effective Visa Security Program**

3 **SEC. 311. IMPLEMENTING A MORE EFFECTIVE VISA SECUR-**
4 **RITY PROGRAM.**

5 (a) **IN GENERAL.**—Not later than 120 days after the
6 date of the enactment of this Act, the Secretary of Home-
7 land Security shall submit to the Congress a report—

8 (1) outlining how the Department of Homeland
9 Security will implement the recommendations of the
10 report issued in August 2004 by the Office of the
11 Inspector General of the Department of Homeland
12 Security entitled “An Evaluation of DHS Activities
13 to Implement Section 428 of the Homeland Security
14 Act of 2002”;

15 (2) detailing such department’s progress in im-
16 plementing each of the recommendations described
17 in paragraph (1); and

18 (3) examining the visa security program’s effec-
19 tiveness as a counter-terrorism program.

20 (b) **CONSULTATION.**—In preparing the report de-
21 scribed in subsection (a), the Secretary of Homeland Secu-
22 rity shall consult with the Secretary of State.

23 (c) **CONTENTS.**—The report shall also include the fol-
24 lowing:

1 (1) OVERSEAS PLACEMENT OF VISA SECURITY
2 OFFICERS.—The report shall assess the criteria used
3 in deciding where to station or not to station visa se-
4 curity officers

5 (2) QUALIFICATIONS OF VISA SECURITY OFFI-
6 CERS.—The report shall assess the skills required of
7 a visa security officer, including required foreign
8 language skills.

9 (3) DUTIES.—The report shall contain both the
10 model visa security officer position description and
11 the current duties of the visa security officers sta-
12 tioned overseas.

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

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

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

22 (a) IN GENERAL.—The Secretary of Homeland Secu-
23 rity shall establish, as part of the integrated entry and
24 exit data system required under section 110 of the Illegal
25 Immigration Reform and Immigrant Responsibility Act of

1 1996 (8 U.S.C. 1365a), an electronic system through
2 which an alien seeking to enter the United States without
3 a visa under the visa waiver program described in section
4 217 of the Immigration and Nationality Act (8 U.S.C.
5 1187) is required to submit biographical information prior
6 to embarkation.

7 (b) ELEMENTS.—The electronic system required to
8 be established under subsection (a) shall satisfy the fol-
9 lowing requirements:

10 (1) ELECTRONIC DETERMINATION OF ELIGI-
11 BILITY.—The system shall include a method for an
12 electronic determination to be made, and an elec-
13 tronic response to be provided, in 30 minutes or less,
14 as to whether or not an alien submitting information
15 as described in subsection (a) is eligible to be admit-
16 ted to the United States as a nonimmigrant visitor
17 described in section 101(a)(15)(B) of the Immigra-
18 tion and Nationality Act (8 U.S.C. 1101(a)(15)(B)).

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

21 (A) carriers and other corporations de-
22 scribed in section 217(a)(5) of such Act (8
23 U.S.C. 1187(a)(5)) to inquire electronically,
24 prior to an alien passenger's embarkation with-
25 out a visa, whether the alien has been deter-

1 (1) Developing a plan to submit the annual re-
2 port required under section 110(e) of the Illegal Im-
3 migration Reform and Immigrant Responsibility Act
4 of 1996 (8 U.S.C. 1221 note).

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

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

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

16 (5) Developing procedures to collect and ana-
17 lyze data concerning the fraudulent use of visa wai-
18 ver program passports.

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

22 (7) Coordinating with the Department of State
23 to establish standard operating procedure for sys-
24 temic and proactive collection of lost and stolen
25 passport information.

1 (8) Requiring that inventory control numbers
2 and passport numbers be queried in lookout systems.

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

7 **SEC. 323. ADDITIONAL AND CONTINUOUS TRAINING FOR**
8 **INSPECTORS IN FRAUD AND IMPOSTER DE-**
9 **TECTION.**

10 (a) FRAUD DETECTION.—The Secretary of Home-
11 land Security shall provide inspectors conducting inspec-
12 tions of aliens entering the United States pursuant to the
13 visa waiver program described in section 217 of the Immi-
14 gration and Nationality Act (8 U.S.C. 1187) with en-
15 hanced and continuous training in detecting imposters and
16 in passport and document fraud detection. Additional
17 training should be provided when any program country
18 designated under such section makes changes in its pass-
19 ports. The Secretary shall report to the appropriate con-
20 gressional committees (as defined in section 2 of the
21 Homeland Security Act of 2002 (6 U.S.C. 101)) on the
22 amount and the type of training received such inspectors
23 on detecting and handling fraudulent documents.

24 (b) FOREIGN LANGUAGES.—The Secretary of Home-
25 land Security shall provide inspectors described in sub-

1 section (a) with foreign language training in languages de-
2 termined to be necessary to carrying out the anti-ter-
3 rorism and law enforcement functions of such inspectors.

4 (c) AUTHORIZATION OF APPROPRIATIONS.—There
5 are authorized to be appropriated such funds as may be
6 necessary to develop the capability to scan fraudulent doc-
7 uments and to transmit a high quality color image to the
8 forensic document laboratory. The Secretary of Homeland
9 Security shall ensure that staff is available in the Forensic
10 Document Laboratory on a 24-hour basis to assist in de-
11 termining the validity of the scanned document.

12 **SEC. 324. AUTHORIZATION OF FUNDS.**

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

16 **TITLE IV—SECURING THE IMMI-**
17 **GRATION BENEFITS PROCESS**

18 **SEC. 401. IMMIGRATION OMBUDSMAN.**

19 (a) EXTENSION OF AUTHORITY TO ALL IMMIGRA-
20 TION FUNCTIONS.—Section 452 of the Homeland Security
21 Act of 2002 (6 U.S.C. 272) is amended—

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

25 (2) in subsection (b)—

1 (A) in paragraph (1), by striking “the Bu-
2 reau of Citizenship and Immigration Services”
3 and inserting “U.S. Citizenship and Immigra-
4 tion Services, U.S. Immigration and Customs
5 Enforcement, or U.S. Customs and Border Pro-
6 tection”; and

7 (B) in each of paragraphs (2) and (3), by
8 striking “the Bureau of Citizenship and Immi-
9 gration Services” each place such term appears
10 and inserting “such entities”;

11 (3) in subsection (c)—

12 (A) in paragraph (1), by striking “the Bu-
13 reau of Citizenship and Immigration Services”
14 each place such term appears and inserting
15 “the entities described in subsection (b)”;

16 (B) in paragraph (2), by striking “Director
17 of the Bureau of Citizenship and Immigration
18 Services,” and inserting “Director of U.S. Citi-
19 zenship and Immigration Services, Assistant
20 Secretary for U.S. Immigration and Customs
21 Enforcement, U.S. Customs and Border Protec-
22 tion Commissioner”;

23 (4) in subsection (d)—

24 (A) in paragraph (2), by striking “the Bu-
25 reau of Citizenship and Immigration Services”

1 and inserting “the entities described in sub-
2 section (b)”;

3 (B) in paragraph (4), by striking “Director
4 of the Bureau of Citizenship and Immigration
5 Services,” and inserting “Director of U.S. Citi-
6 zenship and Immigration Services, Assistant
7 Secretary for U.S. Immigration and Customs
8 Enforcement, and U.S. Customs and Border
9 Protection Commissioner”;

10 (5) in subsection (e)(2), by striking “the Bu-
11 reau of Citizenship and Immigration Services” and
12 inserting “the entities described in subsection (b)”;

13 (6) in subsection (f)—

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

16 (B) by striking “Director of the Bureau of
17 Citizenship and Immigration Services,” and in-
18 serting “Director of U.S. Citizenship and Immi-
19 gration Services, Assistant Secretary for U.S.
20 Immigration and Customs Enforcement, and
21 the U.S. Customs and Border Protection Com-
22 missioner”;

23 (C) by striking “director” each place such
24 term appears and inserting “person”;

1 (7) in subsection (g), by striking “the Bureau
2 of Citizenship and Immigration Services” each place
3 such term appears and inserting “the entities de-
4 scribed in subsection (b)”.

5 (b) PUBLIC INFORMATION CAMPAIGN; PRIVATE SEC-
6 TOR INPUT.—

7 (1) IN GENERAL.—Section 452(d) of the Home-
8 land Security Act of 2002 (6 U.S.C. 272(d)) is
9 amended—

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

12 (B) in paragraph (4), by striking the pe-
13 riod at the end and inserting a semicolon; and

14 (C) by adding at the end the following:

15 “(5) shall launch a public information cam-
16 paign; and

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

22 (2) AUTHORIZATION OF APPROPRIATIONS.—
23 There are authorized to be appropriated for such
24 sums as may be necessary to carry out the amend-
25 ments made by paragraph (1).

1 (c) ADDITIONAL REPORTING REQUIREMENTS.—Sec-
2 tion 452(c) of the Homeland Security Act of 2002 (6
3 U.S.C. 272(c)) is amended—

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

6 (2) by redesignating subparagraph (G) as sub-
7 paragraph (I); and

8 (3) by inserting after subparagraph (F) the fol-
9 lowing:

10 “(G) shall state the percentage of com-
11 plaints that can be traced to delays in benefits
12 processing; and

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

18 **SEC. 402. CIS WORKFLOW, TECHNOLOGY, AND STAFFING**
19 **ASSESSMENT.**

20 (a) IN GENERAL.—The Comptroller General of the
21 United States shall conduct a comprehensive assessment
22 of U.S. Citizenship and Immigration Services within the
23 Department of Homeland Security. Such assessment shall
24 include study of personnel, administrative and technical
25 support positions, technology, training, and facilities.

1 (b) WORKFLOW.—As part of the study, the Comp-
2 troller General shall examine all elements of such unit’s
3 workflow, in order to determine the most efficient way to
4 handle its work without compromising security. Any obsta-
5 cles associated with security matters should be identified
6 and recommendations should be made on ways to mini-
7 mize such obstacles without compromising security. The
8 Comptroller General should assess the division of work,
9 adequacy of infrastructure (particularly information tech-
10 nology), as well as personnel needs.

11 (c) INTERACTIONS WITH OTHER ORGANIZATIONS.—
12 As part of the study, the Comptroller General shall exam-
13 ine the unit’s interactions with other government organi-
14 zations. Specifically, the Comptroller General shall deter-
15 mine whether existing memoranda of understanding and
16 divisions of responsibility, especially any which pre-date
17 the establishment of the Department of Homeland Secu-
18 rity, need to be revised in order to improve the bureau’s
19 service delivery.

20 (d) BACKLOG COST.—As part of the study, the
21 Comptroller General shall assess the current cost of main-
22 taining the backlog (as defined in section 203 of the Immi-
23 gration Services and Infrastructure Improvements Act of
24 2000 (8 U.S.C. 1572)).

1 (e) INTERVIEWS.—The Comptroller General may
2 interview any front-line personnel, without supervisors
3 present, to determine priorities and needs.

4 (f) INFORMATION TECHNOLOGY.—Aspects of this
5 study related to information technology should be coordi-
6 nated with the Chief Information Officer for the Depart-
7 ment of Homeland Security and should build on the find-
8 ings of the task force established by section 3 of the Immi-
9 gration and Naturalization Service Data Management Im-
10 provement Act of 2000 (Public Law 106–215).

11 (g) SUBMISSION.—The study should be completed
12 not later than January 1, 2005, and shall be submitted
13 to the Secretary of Homeland Security, the Secretary of
14 State, and the appropriate congressional committees (as
15 defined in section 2 of the Homeland Security Act of 2002
16 (6 U.S.C. 101)). It shall include recommendations for re-
17 source allocation.

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

19 (a) IN GENERAL.—The Secretary of Homeland Secu-
20 rity, in consultation with the Director of the National In-
21 stitute of Standards and Technology, shall conduct a
22 study of all biometric identifiers that might be collected
23 for purposes of processing and adjudicating applications
24 and petitions for immigration benefits, and shall deter-
25 mine which among these identifiers would be most appro-

1 piate for the purposes described in subsection (b). The
2 Secretary shall provide the resources necessary properly
3 to conduct the study.

4 (b) USES.—In carrying out subsection (a), the Sec-
5 retary shall consider the use of a biometric identifier—

6 (1) to register or catalogue a petition or appli-
7 cation for an immigration benefit upon submission
8 to the appropriate Federal agency;

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

11 (3) as part of the integrated entry and exit data
12 system required under section 110 of the Illegal Im-
13 migration Reform and Immigrant Responsibility Act
14 of 1996 (8 U.S.C. 1365a); and

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

17 (c) FACTORS.—The Secretary shall consider the fol-
18 lowing factors in making the determination under sub-
19 section (a):

20 (1) Accuracy

21 (2) The technology available.

22 (3) Economic considerations.

23 (4) Storage.

24 (5) Efficiency.

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

6 **SEC. 404. DIGITIZING IMMIGRATION FUNCTIONS.**

7 (a) DIGITIZED FINGERPRINTS.—Not later than Jan-
8 uary 1, 2005, all fingerprints taken for purposes of adjudi-
9 cating an application or petition for an immigration ben-
10 efit shall be digitized.

11 (b) REGISTERING APPLICATIONS BY BIOMETRIC.—
12 Not later than January 1, 2005, all applications and peti-
13 tions for an immigration benefit shall be registered or
14 catalogued by the receiving agency using a biometric iden-
15 tifier. Initially, such biometric identifier shall be a finger-
16 print. Subsequently, the Secretary of Homeland Security
17 may select one or more alternative biometric identifiers to
18 be used for such purposes, taking into account factors
19 such as efficiency, accuracy, the technology available, eco-
20 nomic considerations, and storage requirements.

21 **SEC. 405. STUDY ON DIGITIZING IMMIGRATION BENEFIT**
22 **APPLICATIONS.**

23 (a) IN GENERAL.—The Comptroller General of the
24 United States shall conduct a comprehensive study on
25 digitizing all applications and petitions for an immigration

1 benefit, including digital storage, cataloguing, and the
2 ability to apply for all types of immigration benefits
3 through digital means. The study should consider costs for
4 both the Federal Government and the applicant or peti-
5 tioner, as well as the feasibility for all types of persons
6 to apply by digital means.

7 (b) SUBMISSION.—The study should be completed
8 not later than January 1, 2005, and shall be submitted
9 to the Secretary of Homeland Security, the Secretary of
10 State, and the appropriate congressional committees (as
11 defined in section 2 of the Homeland Security Act of 2002
12 (6 U.S.C. 101)).

○