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109TH CONGRESS
1ST SESSION

H. R. 4312

[Report No. 109–329, Part I]

To establish operational control over the international land and maritime borders of the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 14, 2005

Mr. KING of New York (for himself, Mr. DANIEL E. LUNGREN of California, and Ms. LORETTA SANCHEZ of California) introduced the following bill; which was referred to the Committee on Homeland Security, and in addition to the Committees on the Judiciary and Armed Services, 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

DECEMBER 6, 2005

Reported from the Committee on Homeland Security with an amendment

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

Additional sponsors: Mr. SMITH of Texas, Mr. LINDER, Mr. SOUDER, Mr. GIBBONS, Mr. SIMMONS, Mr. ROGERS of Alabama, Mr. PEARCE, Ms. HARRIS, Mr. REICHERT, Mr. McCAUL of Texas, Mr. DENT, Ms. GINNY BROWN-WAITE of Florida, Mr. McHUGH, Mr. ROYCE, Mrs. MYRICK, Mr. GORDON, Mr. SHUSTER, and Mr. ISTOOK

Deleted sponsor: Ms. LORETTA SANCHEZ of California (added November 14, 2005; deleted December 6, 2005)

DECEMBER 6, 2005

Committees on the Judiciary and Armed Services discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To establish operational control over the international land and maritime 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 *“Border Security and Terrorism Prevention Act of 2005”.*

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

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

TITLE I—SECURING UNITED STATES BORDERS

Sec. 101. Achieving operational control on the border.

Sec. 102. National strategy for border security.

Sec. 103. Implementation of cross-border security agreements.

Sec. 104. Biometric data enhancements.

Sec. 105. One face at the border initiative.

Sec. 106. Secure communication.

Sec. 107. Border patrol agents.

Sec. 108. Port of entry inspection personnel.

Sec. 109. Canine detection teams.

Sec. 110. Secure border initiative financial accountability.

Sec. 111. Border patrol training capacity review.

Sec. 112. Airspace security mission impact review.

Sec. 113. Repair of private infrastructure on border.

Sec. 114. Border Patrol unit for Virgin Islands.

Sec. 115. Report on progress in tracking travel of Central American gangs along international border.

Sec. 116. Collection of data.

Sec. 117. Deployment of radiation detection portal equipment at United States ports of entry.

Sec. 118. Sense of Congress regarding the Secure Border Initiative.

TITLE II—BORDER SECURITY COOPERATION AND ENFORCEMENT

- Sec. 201. Joint strategic plan for United States border surveillance and support.*
Sec. 202. Border security on protected land.
Sec. 203. Border security threat assessment and information sharing test and evaluation exercise.
Sec. 204. Border Security Advisory Committee.
Sec. 205. Permitted use of Homeland Security grant funds for border security activities.
Sec. 206. Center of excellence for border security.
Sec. 207. Sense of Congress regarding cooperation with Indian Nations.

TITLE III—DETENTION AND REMOVAL

- Sec. 301. Mandatory detention for aliens apprehended at or between ports of entry.*
Sec. 302. Enhanced detention capacity.
Sec. 303. Expansion and effective management of detention facilities.
Sec. 304. Enhancing transportation capacity for unlawful aliens.
Sec. 305. Denial of admission to nationals of country denying or delaying accepting alien.
Sec. 306. Report on financial burden of repatriation.
Sec. 307. Training program.
Sec. 308. Expedited removal.

TITLE IV—EFFECTIVE ORGANIZATION OF BORDER SECURITY AGENCIES

- Sec. 401. Enhanced border security coordination and management.*
Sec. 402. Office of Air and Marine Operations.
Sec. 403. Shadow Wolves transfer.

1 SEC. 2. DEFINITIONS.

2 *In this Act:*

- 3 (1) *APPROPRIATE CONGRESSIONAL COM-***
4 *MITTEE.*—The term “appropriate congressional com-
5 *mittee” has the meaning given it in section 2(2) of*
6 *the Homeland Security Act of 2002 (6 U.S.C. 101(2)).*
7 (2) *STATE.*—The term “State” has the meaning
8 *given it in section 2(14) of the Homeland Security*
9 *Act of 2002 (6 U.S.C. 101(14)).*

**TITLE I—SECURING UNITED
STATES BORDERS**

SEC. 101. ACHIEVING OPERATIONAL CONTROL ON THE BORDER.

(a) IN GENERAL.—The Secretary of Homeland Security shall take all actions the Secretary determines necessary and appropriate to achieve and maintain operational control over the entire international land and maritime borders of the United States, to include the following—

(1) systematic surveillance of the international land and maritime borders of the United States through more effective use of personnel and technology, such as unmanned aerial vehicles, ground-based sensors, satellites, radar coverage, and cameras;

(2) physical infrastructure enhancements to prevent unlawful entry by aliens into the United States and facilitate access to the international land and maritime borders by United States Customs and Border Protection, such as additional checkpoints, all weather access roads, and vehicle barriers;

(3) hiring and training as expeditiously as possible additional Border Patrol agents authorized under section 5202 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458); and

1 (4) *increasing deployment of United States Cus-*
2 *toms and Border Protection personnel to areas along*
3 *the international land and maritime borders of the*
4 *United States where there are high levels of unlawful*
5 *entry by aliens and other areas likely to be impacted*
6 *by such increased deployment.*

7 (b) *OPERATIONAL CONTROL DEFINED.—In this sec-*
8 *tion, the term “operational control” means the prevention*
9 *of the entry into the United States of terrorists, other un-*
10 *lawful aliens, instruments of terrorism, narcotics, and other*
11 *contraband.*

12 **SEC. 102. NATIONAL STRATEGY FOR BORDER SECURITY.**

13 (a) *SURVEILLANCE PLAN.—Not later than six months*
14 *after the date of the enactment of this Act, the Secretary*
15 *of Homeland Security shall submit to the appropriate con-*
16 *gressional committees a comprehensive plan for the system-*
17 *atic surveillance of the international land and maritime*
18 *borders of the United States. The plan shall include the fol-*
19 *lowing:*

20 (1) *An assessment of existing technologies em-*
21 *ployed on such borders.*

22 (2) *A description of whether and how new sur-*
23 *veillance technologies will be compatible with existing*
24 *surveillance technologies.*

1 (3) *A description of how the United States Customs and Border Protection is working, or is expected*
2 *to work, with the Directorate of Science and Technology of the Department of Homeland Security to*
3 *identify and test surveillance technology.*

4 (4) *A description of the specific surveillance technology to be deployed.*

5 (5) *The identification of any obstacles that may impede full implementation of such deployment.*

6 (6) *A detailed estimate of all costs associated with the implementation of such deployment and continued maintenance of such technologies.*

7 (7) *A description of how the Department of Homeland Security is working with the Federal Aviation Administration on safety and airspace control issues associated with the use of unmanned aerial vehicles in the National Airspace System.*

8 (b) *NATIONAL STRATEGY FOR BORDER SECURITY.—*
9 *Not later than one year after the date of the enactment of*
10 *this Act, the Secretary of Homeland Security, in consultation with the heads of other appropriate Federal agencies,*
11 *shall submit to the appropriate congressional committees a*
12 *National Strategy for Border Security to achieve operational control over all ports of entry into the United States*
13 *and the international land and maritime borders of the*

1 *United States. The Secretary shall update the Strategy as*
2 *needed and shall submit to the Committee, not later than*
3 *30 days after each such update, the updated Strategy. The*
4 *National Strategy for Border Security shall include the fol-*
5 *lowing:*

6 (1) *The implementation timeline for the surveil-*
7 *lance plan described in subsection (a).*

8 (2) *An assessment of the threat posed by terror-*
9 *ists and terrorist groups that may try to infiltrate the*
10 *United States at points along the international land*
11 *and maritime borders of the United States.*

12 (3) *A risk assessment of all ports of entry to the*
13 *United States and all portions of the international*
14 *land and maritime borders of the United States with*
15 *respect to—*

16 (A) *preventing the entry of terrorists, other*
17 *unlawful aliens, instruments of terrorism, nar-*
18 *cotics, and other contraband into the United*
19 *States; and*

20 (B) *protecting critical infrastructure at or*
21 *near such ports of entry or borders.*

22 (4) *An assessment of the most appropriate, prac-*
23 *tical, and cost-effective means of defending the inter-*
24 *national land and maritime borders of the United*
25 *States against threats to security and illegal transit,*

1 *including intelligence capacities, technology, equip-*
2 *ment, personnel, and training needed to address secu-*
3 *rity vulnerabilities.*

4 *(5) An assessment of staffing needs for all border*
5 *security functions, taking into account threat and*
6 *vulnerability information pertaining to the borders*
7 *and the impact of new security programs, policies,*
8 *and technologies.*

9 *(6) A description of the border security roles and*
10 *missions of Federal, State, regional, local, and tribal*
11 *authorities, and recommendations with respect to how*
12 *the Department of Homeland Security can improve*
13 *coordination with such authorities, to enable border*
14 *security enforcement to be carried out in an efficient*
15 *and effective manner.*

16 *(7) A prioritization of research and development*
17 *objectives to enhance the security of the international*
18 *land and maritime borders of the United States.*

19 *(8) A description of ways to ensure that the free*
20 *flow of legitimate travel and commerce of the United*
21 *States is not diminished by efforts, activities, and*
22 *programs aimed at securing the international land*
23 *and maritime borders of the United States.*

24 *(9) An assessment of additional detention facili-*
25 *ties and bed space needed to detain unlawful aliens*

1 *apprehended at United States ports of entry or along*
2 *the international land borders of the United States in*
3 *accordance with the National Strategy for Border Se-*
4 *curity required under this subsection and the manda-*
5 *tory detention requirement described in section 301 of*
6 *this Act.*

7 *(10) A description of how the Secretary shall en-*
8 *sure accountability and performance metrics within*
9 *the appropriate agencies of the Department of Home-*
10 *land Security responsible for implementing the border*
11 *security measures determined necessary upon comple-*
12 *tion of the National Strategy for Border Security.*

13 *(11) A timeline for the implementation of the ad-*
14 *ditional security measures determined necessary as*
15 *part of the National Strategy for Border Security, in-*
16 *cluding a prioritization of security measures, realistic*
17 *deadlines for addressing the security and enforcement*
18 *needs, and resource estimates and allocations.*

19 *(c) CONSULTATION.—In creating the National Strat-*
20 *egy for Border Security described in subsection (b), the Sec-*
21 *retary shall consult with—*

22 *(1) State, local, and tribal authorities along the*
23 *international land and maritime borders of the*
24 *United States; and*

1 (2) *an appropriate cross-section of private sector*
2 *and nongovernmental organizations with relevant ex-*
3 *pertise.*

4 (d) *PRIORITY OF NATIONAL STRATEGY.*—*The National*
5 *Strategy for Border Security described in subsection (b)*
6 *shall be the controlling document for security and enforce-*
7 *ment efforts related to securing the international land and*
8 *maritime borders of the United States.*

9 (e) *IMMEDIATE ACTION.*—*Nothing in this section shall*
10 *be construed to relieve the Secretary of the responsibility*
11 *to take all actions necessary and appropriate to achieve and*
12 *maintain operational control over the entire international*
13 *land and maritime borders of the United States pursuant*
14 *to section 101 of this Act or any other provision of law.*

15 (f) *REPORTING OF IMPLEMENTING LEGISLATION.*—
16 *After submittal of the National Strategy for Border Secu-*
17 *rity described in subsection (b) to the Committee on Home-*
18 *land Security of the House of Representatives, such Com-*
19 *mittee shall promptly report to the House legislation au-*
20 *thorizing necessary security measures based on its evalua-*
21 *tion of the National Strategy for Border Security.*

22 **SEC. 103. IMPLEMENTATION OF CROSS-BORDER SECURITY**
23 **AGREEMENTS.**

24 (a) *IN GENERAL.*—*Not later than six months after the*
25 *date of the enactment of this Act, the Secretary of Homeland*

1 *Security shall submit to the appropriate congressional com-*
 2 *mittees a report on the implementation of the cross-border*
 3 *security agreements signed by the United States with Mex-*
 4 *ico and Canada, including recommendations on improving*
 5 *cooperation with such countries to enhance border security.*

6 (b) *UPDATES.—The Secretary shall regularly update*
 7 *the Committee concerning such implementation.*

8 **SEC. 104. BIOMETRIC DATA ENHANCEMENTS.**

9 *Not later than October 1, 2006, the Secretary of Home-*
 10 *land Security shall—*

11 (1) *in consultation with the Attorney General,*
 12 *enhance connectivity between the IDENT and IAFIS*
 13 *fingerprint databases to ensure more expeditious data*
 14 *searches; and*

15 (2) *in consultation with the Secretary of State,*
 16 *collect ten fingerprints from each alien required to*
 17 *provide fingerprints during the alien's initial enroll-*
 18 *ment in the integrated entry and exit data system de-*
 19 *scribed in section 110 of the Illegal Immigration Re-*
 20 *form and Immigrant Responsibility Act of 1996 (8*
 21 *U.S.C. 1221 note).*

22 **SEC. 105. ONE FACE AT THE BORDER INITIATIVE.**

23 *Not later than 90 days after the date of the enactment*
 24 *of this Act, the Secretary of Homeland Security shall sub-*
 25 *mit to Congress a report—*

1 (1) *describing the tangible and quantifiable bene-*
2 *fits of the One Face at the Border Initiative estab-*
3 *lished by the Department of Homeland Security;*

4 (2) *identifying goals for and challenges to in-*
5 *creased effectiveness of the One Face at the Border*
6 *Initiative;*

7 (3) *providing a breakdown of the number of in-*
8 *spectors who were—*

9 (A) *personnel of the United States Customs*
10 *Service before the date of the establishment of the*
11 *Department of Homeland Security;*

12 (B) *personnel of the Immigration and Nat-*
13 *uralization Service before the date of the estab-*
14 *lishment of the Department;*

15 (C) *personnel of the Department of Agri-*
16 *culture before the date of the establishment of the*
17 *Department; or*

18 (D) *hired after the date of the establishment*
19 *of the Department;*

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

24 (5) *outlining the steps taken by the Department*
25 *to ensure that expertise is retained with respect to*

1 *customs, immigration, and agriculture inspection*
 2 *functions under the One Face at the Border Initia-*
 3 *tive.*

4 **SEC. 106. SECURE COMMUNICATION.**

5 *The Secretary of Homeland Security shall, as expedi-*
 6 *tiously as practicable, develop and implement a plan to en-*
 7 *sure clear and secure two-way communication capabili-*
 8 *ties—*

9 *(1) among all Border Patrol agents conducting*
 10 *operations between ports of entry;*

11 *(2) between Border Patrol agents and their re-*
 12 *spective Border Patrol stations;*

13 *(3) between Border Patrol agents and residents*
 14 *in remote areas along the international land border*
 15 *who do not have mobile communications, as the Sec-*
 16 *retary determines necessary; and*

17 *(4) between all appropriate Department of*
 18 *Homeland Security border security agencies and*
 19 *State, local, and tribal law enforcement agencies.*

20 **SEC. 107. BORDER PATROL AGENTS.**

21 *There are authorized to be appropriated to the Sec-*
 22 *retary of Homeland Security such sums as may be nec-*
 23 *essary for each of fiscal years 2007 through 2010 to carry*
 24 *out section 5202 of the Intelligence Reform and Terrorism*
 25 *Prevention Act of 2004 (requiring the Secretary to increase*

1 *by not less than 2,000 the number of positions for full-time*
2 *active-duty Border Patrol agents within the Department of*
3 *Homeland Security above the number of such positions for*
4 *which funds were allotted for the preceding fiscal year)*
5 *(Public Law 108–458; 118 Stat. 3734).*

6 **SEC. 108. PORT OF ENTRY INSPECTION PERSONNEL.**

7 *In each of fiscal years 2007 through 2010, the Sec-*
8 *retary of Homeland Security shall, subject to the avail-*
9 *ability of appropriations, increase by not less than 250 the*
10 *number of positions for full-time active duty port of entry*
11 *inspectors. There are authorized to be appropriated to the*
12 *Secretary such sums as may be necessary for each such fis-*
13 *cal year to hire, train, equip, and support such additional*
14 *inspectors under this section.*

15 **SEC. 109. CANINE DETECTION TEAMS.**

16 *In each of fiscal years 2007 through 2011, the Sec-*
17 *retary of Homeland Security shall, subject to the avail-*
18 *ability of appropriations, increase by not less than 25 per-*
19 *cent above the number of such positions for which funds*
20 *were allotted for the preceding fiscal year the number of*
21 *trained detection canines for use at United States ports of*
22 *entry and along the international land and maritime bor-*
23 *ders of the United States.*

1 **SEC. 110. SECURE BORDER INITIATIVE FINANCIAL AC-**
2 **COUNTABILITY.**

3 (a) *IN GENERAL.*—*The Inspector General of the De-*
4 *partment of Homeland Security shall review each contract*
5 *action related to the Department’s Secure Border Initiative*
6 *having a value greater than \$20,000,000, to determine*
7 *whether each such action fully complies with applicable cost*
8 *requirements, performance objectives, program milestones,*
9 *inclusion of small, minority, and women-owned business,*
10 *and timelines. The Inspector General shall complete a re-*
11 *view under this subsection with respect to a contract ac-*
12 *tion—*

13 (1) *not later than 60 days after the date of the*
14 *initiation of the action; and*

15 (2) *upon the conclusion of the performance of the*
16 *contract.*

17 (b) *REPORT BY INSPECTOR GENERAL.*—*Upon comple-*
18 *tion of each review described in subsection (a), the Inspector*
19 *General shall submit to the Secretary of Homeland Security*
20 *a report containing the findings of the review, including*
21 *findings regarding any cost overruns, significant delays in*
22 *contract execution, lack of rigorous departmental contract*
23 *management, insufficient departmental financial oversight,*
24 *bundling that limits the ability of small business to com-*
25 *pete, or other high risk business practices.*

1 (c) *REPORT BY SECRETARY.*—Not later than 30 days
 2 after the receipt of each report required under subsection
 3 (b), the Secretary of Homeland Security shall submit to the
 4 appropriate congressional committees a report on the find-
 5 ings of the report by the Inspector General and the steps
 6 the Secretary has taken, or plans to take, to address the
 7 problems identified in such report.

8 (d) *AUTHORIZATION OF APPROPRIATIONS.*—In addi-
 9 tion to amounts that are otherwise authorized to be appro-
 10 priated to the Office of the Inspector General, an additional
 11 amount equal to at least five percent for fiscal year 2007,
 12 at least six percent for fiscal year 2008, and at least seven
 13 percent for fiscal year 2009 of the overall budget of the Of-
 14 fice for each such fiscal year is authorized to be appro-
 15 priated to the Office to enable the Office to carry out this
 16 section.

17 **SEC. 111. BORDER PATROL TRAINING CAPACITY REVIEW.**

18 (a) *IN GENERAL.*—The Comptroller General of the
 19 United States shall conduct a review of the basic training
 20 provided to Border Patrol agents by the Department of
 21 Homeland Security to ensure that such training is provided
 22 as efficiently and cost-effectively as possible.

23 (b) *COMPONENTS OF REVIEW.*—The review under sub-
 24 section (a) shall include the following components:

1 (1) *An evaluation of the length and content of*
2 *the basic training curriculum provided to new Border*
3 *Patrol agents by the Federal Law Enforcement Train-*
4 *ing Center, including a description of how the cur-*
5 *riculum has changed since September 11, 2001.*

6 (2) *A review and a detailed breakdown of the*
7 *costs incurred by United States Customs and Border*
8 *Protection and the Federal Law Enforcement Train-*
9 *ing Center to train one new Border Patrol agent.*

10 (3) *A comparison, based on the review and*
11 *breakdown under paragraph (2) of the costs, effective-*
12 *ness, scope, and quality, including geographic charac-*
13 *teristics, with other similar law enforcement training*
14 *programs provided by State and local agencies, non-*
15 *profit organizations, universities, and the private sec-*
16 *tor.*

17 (4) *An evaluation of whether and how utilizing*
18 *comparable non-Federal training programs, pro-*
19 *iciency testing to streamline training, and long-dis-*
20 *tance learning programs may affect—*

21 *(A) the cost-effectiveness of increasing the*
22 *number of Border Patrol agents trained per year*
23 *and reducing the per agent costs of basic train-*
24 *ing; and*

1 (B) the scope and quality of basic training
2 needed to fulfill the mission and duties of a Bor-
3 der Patrol agent.

4 **SEC. 112. AIRSPACE SECURITY MISSION IMPACT REVIEW.**

5 Not later than 120 days after the date of the enactment
6 of this Act, the Secretary of Homeland Security shall sub-
7 mit to the Committee on Homeland Security of the House
8 of Representatives a report detailing the impact the air-
9 space security mission in the National Capital Region (in
10 this section referred to as the “NCR”) will have on the abil-
11 ity of the Department of Homeland Security to protect the
12 international land and maritime borders of the United
13 States. Specifically, the report shall address:

14 (1) The specific resources, including personnel,
15 assets, and facilities, devoted or planned to be devoted
16 to the NCR airspace security mission, and from where
17 those resources were obtained or are planned to be ob-
18 tained.

19 (2) An assessment of the impact that diverting
20 resources to support the NCR mission has or is ex-
21 pected to have on the traditional missions in and
22 around the international land and maritime borders
23 of the United States.

1 **SEC. 113. REPAIR OF PRIVATE INFRASTRUCTURE ON BOR-**
2 **DER.**

3 (a) *IN GENERAL.*—Subject to the amount appropriated
4 in subsection (d) of this section, the Secretary of Homeland
5 Security shall reimburse property owners for costs associ-
6 ated with repairing damages to the property owners' pri-
7 vate infrastructure constructed on a United States Govern-
8 ment right-of-way delineating the international land border
9 when such damages are—

10 (1) *the result of unlawful entry of aliens; and*
11 (2) *confirmed by the appropriate personnel of the*
12 *Department of Homeland Security and submitted to*
13 *the Secretary for reimbursement.*

14 (b) *VALUE OF REIMBURSEMENTS.*—Reimbursements
15 for submitted damages as outlined in subsection (a) shall
16 not exceed the value of the private infrastructure prior to
17 damage.

18 (c) *REPORTS.*—Not later than six months after the
19 date of the enactment of this Act and every subsequent six
20 months until the amount appropriated for this section is
21 expended in its entirety, the Secretary of Homeland Secu-
22 rity shall submit to the Committee on Homeland Security
23 of the House of Representatives a report that details the
24 expenditures and circumstances in which those expenditures
25 were made pursuant to this section.

1 (d) *AUTHORIZATION OF APPROPRIATIONS.*—*There*
 2 *shall be authorized to be appropriated an initial \$50,000*
 3 *for each fiscal year to carry out this section.*

4 **SEC. 114. BORDER PATROL UNIT FOR VIRGIN ISLANDS.**

5 *Not later than September 30, 2006, the Secretary of*
 6 *Homeland Security shall establish at least one Border Pa-*
 7 *trol unit for the Virgin Islands of the United States.*

8 **SEC. 115. REPORT ON PROGRESS IN TRACKING TRAVEL OF**

9 **CENTRAL AMERICAN GANGS ALONG INTER-**
 10 **NATIONAL BORDER.**

11 *Not later than one year after the date of the enactment*
 12 *of this Act, the Secretary of Homeland Security shall report*
 13 *to the Committee on Homeland Security of the House of*
 14 *Representatives on the progress of the Department of Home-*
 15 *land Security in tracking the travel of Central American*
 16 *gangs across the international land border of the United*
 17 *States and Mexico.*

18 **SEC. 116. COLLECTION OF DATA.**

19 *Beginning on October 1, 2006, the Secretary of Home-*
 20 *land Security shall annually compile data on the following*
 21 *categories of information:*

22 (1) *The number of unauthorized aliens who re-*
 23 *quire medical care taken into custody by Border Pa-*
 24 *trol officials.*

1 (2) *The number of unauthorized aliens with seri-*
2 *ous injuries or medical conditions Border Patrol offi-*
3 *cials encounter, and refer to local hospitals or other*
4 *health facilities.*

5 (3) *The number of unauthorized aliens with seri-*
6 *ous injuries or medical conditions who arrive at*
7 *United States ports of entry and subsequently are ad-*
8 *mitted into the United States for emergency medical*
9 *care, as reported by United States Customs and Bor-*
10 *der Protection.*

11 (4) *The number of unauthorized aliens described*
12 *in paragraphs (2) and (3) who subsequently are taken*
13 *into custody by the Department of Homeland Secu-*
14 *rity after receiving medical treatment.*

15 **SEC. 117. DEPLOYMENT OF RADIATION DETECTION PORTAL**
16 **EQUIPMENT AT UNITED STATES PORTS OF**
17 **ENTRY.**

18 (a) *DEPLOYMENT.*—Not later than one year after the
19 *date of the enactment of this Act, the Secretary of Homeland*
20 *Security shall deploy radiation portal monitors at all*
21 *United States ports of entry and facilities as determined*
22 *by the Secretary to facilitate the screening of all inbound*
23 *cargo for nuclear and radiological material.*

24 (b) *REPORT.*—Not later than 180 days after the date
25 *of the enactment of this Act, the Secretary shall submit to*

1 *the Committee on Homeland Security of the House of Rep-*
 2 *resentatives and the Committee on Homeland Security and*
 3 *Governmental Affairs of the Senate a report on the Depart-*
 4 *ment's progress toward carrying out the deployment de-*
 5 *scribed in subsection (a).*

6 (c) *AUTHORIZATION OF APPROPRIATIONS.—There is*
 7 *authorized to be appropriated to the Secretary to carry out*
 8 *subsection (a) such sums as may be necessary for each of*
 9 *fiscal years 2006 and 2007.*

10 **SEC. 118. SENSE OF CONGRESS REGARDING THE SECURE**
 11 **BORDER INITIATIVE.**

12 *It is the sense of Congress that—*

13 (1) *as the Secretary of Homeland Security devel-*
 14 *ops and implements the Secure Border Initiative and*
 15 *other initiatives to strengthen security along the Na-*
 16 *tion's borders, the Secretary shall conduct extensive*
 17 *outreach to the private sector, including small, minor-*
 18 *ity-owned, women-owned, and disadvantaged busi-*
 19 *nesses; and*

20 (2) *the Secretary also shall consult with firms*
 21 *that are practitioners of mission effectiveness at the*
 22 *Department of Homeland Security, homeland security*
 23 *business councils, and associations to identify existing*
 24 *and emerging technologies and best practices and*
 25 *business processes, to maximize economies of scale,*

1 *cost-effectiveness, systems integration, and resource al-*
 2 *location, and to identify the most appropriate con-*
 3 *tract mechanisms to enhance financial accountability*
 4 *and mission effectiveness of border security programs.*

5 ***TITLE II—BORDER SECURITY CO-***
 6 ***OPERATION AND ENFORCE-***
 7 ***MENT***

8 ***SEC. 201. JOINT STRATEGIC PLAN FOR UNITED STATES***
 9 ***BORDER SURVEILLANCE AND SUPPORT.***

10 *(a) IN GENERAL.—The Secretary of Homeland Secu-*
 11 *rity and the Secretary of Defense shall develop a joint stra-*
 12 *tegic plan to use the authorities provided to the Secretary*
 13 *of Defense under chapter 18 of title 10, United States Code,*
 14 *to increase the availability and use of Department of De-*
 15 *fense equipment, including unmanned aerial vehicles, teth-*
 16 *ered aerostat radars, and other surveillance equipment, to*
 17 *assist with the surveillance activities of the Department of*
 18 *Homeland Security conducted at or near the international*
 19 *land and maritime borders of the United States.*

20 *(b) REPORT.—Not later than six months after the date*
 21 *of the enactment of this Act, the Secretary of Homeland Se-*
 22 *curity and the Secretary of Defense shall submit to Congress*
 23 *a report containing—*

24 *(1) a description of the use of Department of De-*
 25 *fense equipment to assist with the surveillance by the*

1 *Department of Homeland Security of the inter-*
2 *national land and maritime borders of the United*
3 *States;*

4 *(2) the joint strategic plan developed pursuant to*
5 *subsection (a);*

6 *(3) a description of the types of equipment and*
7 *other support to be provided by the Department of*
8 *Defense under the joint strategic plan during the one-*
9 *year period beginning after submission of the report*
10 *under this subsection; and*

11 *(4) a description of how the Department of*
12 *Homeland Security and the Department of Defense*
13 *are working with the Department of Transportation*
14 *on safety and airspace control issues associated with*
15 *the use of unmanned aerial vehicles in the National*
16 *Airspace System.*

17 *(c) RULE OF CONSTRUCTION.—Nothing in this section*
18 *shall be construed as altering or amending the prohibition*
19 *on the use of any part of the Army or the Air Force as*
20 *a posse comitatus under section 1385 of title 18, United*
21 *States Code.*

22 **SEC. 202. BORDER SECURITY ON PROTECTED LAND.**

23 *(a) IN GENERAL.—The Secretary of Homeland Secu-*
24 *rity, in consultation with the Secretary of the Interior, shall*
25 *evaluate border security vulnerabilities on land directly ad-*

1 *jaacent to the international land border of the United States*
 2 *under the jurisdiction of the Department of the Interior re-*
 3 *lated to the prevention of the entry of terrorists, other un-*
 4 *lawful aliens, narcotics, and other contraband into the*
 5 *United States.*

6 (b) *SUPPORT FOR BORDER SECURITY NEEDS.—Based*
 7 *on the evaluation conducted pursuant to subsection (a), the*
 8 *Secretary of Homeland Security shall provide appropriate*
 9 *border security assistance on land directly adjacent to the*
 10 *international land border of the United States under the*
 11 *jurisdiction of the Department of the Interior, its bureaus,*
 12 *and tribal entities.*

13 **SEC. 203. BORDER SECURITY THREAT ASSESSMENT AND IN-**
 14 **FORMATION SHARING TEST AND EVALUA-**
 15 **TION EXERCISE.**

16 *Not later than one year after the date of the enactment*
 17 *of this Act, the Secretary of Homeland Security shall design*
 18 *and carry out a national border security exercise for the*
 19 *purposes of—*

20 (1) *involving officials from Federal, State, terri-*
 21 *torial, local, tribal, and international governments*
 22 *and representatives from the private sector;*

23 (2) *testing and evaluating the capacity of the*
 24 *United States to anticipate, detect, and disrupt*
 25 *threats to the integrity of United States borders; and*

1 (3) *testing and evaluating the information shar-*
 2 *ing capability among Federal, State, territorial, local,*
 3 *tribal, and international governments.*

4 **SEC. 204. BORDER SECURITY ADVISORY COMMITTEE.**

5 (a) *ESTABLISHMENT OF COMMITTEE.*—Not later than
 6 *one year after the date of the enactment of this Act, the*
 7 *Secretary of Homeland Security shall establish an advisory*
 8 *committee to be known as the Border Security Advisory*
 9 *Committee (in this section referred to as the “Committee”).*

10 (b) *DUTIES.*—The Committee shall advise the Sec-
 11 *retary on issues relating to border security and enforcement*
 12 *along the international land and maritime border of the*
 13 *United States.*

14 (c) *MEMBERSHIP.*—The Secretary shall appoint mem-
 15 *bers to the Committee from the following:*

16 (1) *State and local government representatives*
 17 *from States located along the international land and*
 18 *maritime borders of the United States.*

19 (2) *Community representatives from such States.*

20 (3) *Tribal authorities in such States.*

21 **SEC. 205. PERMITTED USE OF HOMELAND SECURITY GRANT**

22 **FUNDS FOR BORDER SECURITY ACTIVITIES.**

23 (a) *REIMBURSEMENT.*—The Secretary of Homeland
 24 *Security may allow the recipient of amounts under a cov-*

1 *ered grant to use those amounts to reimburse itself for costs*
 2 *it incurs in carrying out any activity that—*

3 *(1) relates to the enforcement of Federal laws*
 4 *aimed at preventing the unlawful entry of persons or*
 5 *things into the United States, including activities*
 6 *such as detecting or responding to such an unlawful*
 7 *entry or providing support to another entity relating*
 8 *to preventing such an unlawful entry;*

9 *(2) is usually a Federal duty carried out by a*
 10 *Federal agency; and*

11 *(3) is carried out under agreement with a Fed-*
 12 *eral agency.*

13 *(b) USE OF PRIOR YEAR FUNDS.—Subsection (a) shall*
 14 *apply to all covered grant funds received by a State, local*
 15 *government, or Indian tribe at any time on or after October*
 16 *1, 2001.*

17 *(c) COVERED GRANTS.—For purposes of subsection*
 18 *(a), the term “covered grant” means grants provided by the*
 19 *Department of Homeland Security to States, local govern-*
 20 *ments, or Indian tribes administered under the following*
 21 *programs:*

22 *(1) STATE HOMELAND SECURITY GRANT PRO-*
 23 *GRAM.—The State Homeland Security Grant Pro-*
 24 *gram of the Department, or any successor to such*
 25 *grant program.*

1 (2) *URBAN AREA SECURITY INITIATIVE.*—*The*
 2 *Urban Area Security Initiative of the Department, or*
 3 *any successor to such grant program.*

4 (3) *LAW ENFORCEMENT TERRORISM PREVENTION*
 5 *PROGRAM.*—*The Law Enforcement Terrorism Preven-*
 6 *tion Program of the Department, or any successor to*
 7 *such grant program.*

8 **SEC. 206. CENTER OF EXCELLENCE FOR BORDER SECURITY.**

9 (a) *ESTABLISHMENT.*—*The Secretary of Homeland*
 10 *Security shall establish a university-based Center of Excel-*
 11 *lence for Border Security following the merit-review proc-*
 12 *esses and procedures and other limitations that have been*
 13 *established for selecting and supporting University Pro-*
 14 *grams Centers of Excellence.*

15 (b) *ACTIVITIES OF THE CENTER.*—*The Center shall*
 16 *prioritize its activities on the basis of risk to address the*
 17 *most significant threats, vulnerabilities, and consequences*
 18 *posed by United States borders and border control systems.*
 19 *The activities shall include the conduct of research, the ex-*
 20 *amination of existing and emerging border security tech-*
 21 *nology and systems, and the provision of education, tech-*
 22 *nical, and analytical assistance for the Department of*
 23 *Homeland Security to effectively secure the borders.*

1 **SEC. 207. SENSE OF CONGRESS REGARDING COOPERATION**
 2 **WITH INDIAN NATIONS.**

3 *It is the sense of Congress that—*

4 *(1) the Department of Homeland Security should*
 5 *strive to include as part of a National Strategy for*
 6 *Border Security recommendations on how to enhance*
 7 *Department cooperation with sovereign Indian Na-*
 8 *tions on securing our borders and preventing terrorist*
 9 *entry, including, specifically, the Department should*
 10 *consider whether a Tribal Smart Border working*
 11 *group is necessary and whether further expansion of*
 12 *cultural sensitivity training, as exists in Arizona*
 13 *with the Tohono O’odham Nation, should be expanded*
 14 *elsewhere; and*

15 *(2) as the Department of Homeland Security de-*
 16 *velops a National Strategy for Border Security, it*
 17 *should take into account the needs and missions of*
 18 *each agency that has a stake in border security and*
 19 *strive to ensure that these agencies work together co-*
 20 *operatively on issues involving Tribal lands.*

21 **TITLE III—DETENTION AND**
 22 **REMOVAL**

23 **SEC. 301. MANDATORY DETENTION FOR ALIENS APPRE-**
 24 **HENDED AT OR BETWEEN PORTS OF ENTRY.**

25 *(a) IN GENERAL.—Beginning on October 1, 2006, an*
 26 *alien who is attempting to illegally enter the United States*

1 *and who is apprehended at a United States port of entry*
2 *or along the international land and maritime border of the*
3 *United States shall be detained until removed or a final*
4 *decision granting admission has been determined, unless the*
5 *alien—*

6 *(1) is permitted to withdraw an application for*
7 *admission under section 235(a)(4) of the Immigration*
8 *and Nationality Act (8 U.S.C. 1225(a)(4)) and im-*
9 *mediately departs from the United States pursuant to*
10 *such section; or*

11 *(2) is paroled into the United States by the Sec-*
12 *retary of Homeland Security for urgent humani-*
13 *tarian reasons or significant public benefit in accord-*
14 *ance with section 212(d)(5)(A) of such Act (8 U.S.C.*
15 *1182(d)(5)(A)).*

16 *(b) REQUIREMENTS DURING INTERIM PERIOD.—Be-*
17 *ginning 60 days after the date of the enactment of this Act*
18 *and before October 1, 2006, an alien described in subsection*
19 *(a) may be released with a notice to appear only if—*

20 *(1) the Secretary of Homeland Security deter-*
21 *mines, after conducting all appropriate background*
22 *and security checks on the alien, that the alien does*
23 *not pose a national security risk; and*

24 *(2) the alien provides a bond of not less than*
25 *\$5,000.*

1 (c) *RULES OF CONSTRUCTION.*—

2 (1) *ASYLUM AND REMOVAL.*—*Nothing in this sec-*
 3 *tion shall be construed as limiting the right of an*
 4 *alien to apply for asylum or for relief or deferral of*
 5 *removal based on a fear of persecution.*

6 (2) *TREATMENT OF CERTAIN ALIENS.*—*Nothing*
 7 *in this section shall be construed to change or alter*
 8 *any provision of the Immigration and Nationality*
 9 *Act (8 U.S.C. 1101 et seq.) relating to an alien who*
 10 *is a native or citizen of a country in the Western*
 11 *Hemisphere with whose government the United States*
 12 *does not have full diplomatic relations.*

13 **SEC. 302. ENHANCED DETENTION CAPACITY.**

14 *There are authorized to be appropriated to the Sec-*
 15 *retary of Homeland Security such sums as may be nec-*
 16 *essary for each of fiscal years 2007 through 2010 to carry*
 17 *out Section 5204 of the Intelligence Reform and Terrorism*
 18 *Prevention Act of 2004 (related to an increase in the num-*
 19 *ber of beds by not less than 8,000 each fiscal year available*
 20 *for immigration detention and removal operations of the*
 21 *Department of Homeland Security) (Public Law 108–458;*
 22 *118 Stat. 3734).*

1 **SEC. 303. EXPANSION AND EFFECTIVE MANAGEMENT OF**
2 **DETENTION FACILITIES.**

3 *Subject to the availability of appropriations, the Sec-*
4 *retary of Homeland Security shall fully utilize—*

5 *(1) all available detention facilities operated or*
6 *contracted by the Department of Homeland Security;*
7 *and*

8 *(2) all possible options to cost effectively increase*
9 *available detention capacities, including the use of*
10 *temporary detention facilities, the use of State and*
11 *local correctional facilities, private space, and secure*
12 *alternatives to detention.*

13 **SEC. 304. ENHANCING TRANSPORTATION CAPACITY FOR**
14 **UNLAWFUL ALIENS.**

15 *(a) IN GENERAL.—The Secretary of Homeland Secu-*
16 *rity is authorized to enter into contracts with private enti-*
17 *ties for the purpose of providing secure domestic transport*
18 *of aliens who are apprehended at or along the international*
19 *land or maritime borders from the custody of United States*
20 *Customs and Border Protection to detention facilities and*
21 *other locations as necessary.*

22 *(b) CRITERIA FOR SELECTION.—Notwithstanding any*
23 *other provision of law, to enter into a contract under para-*
24 *graph (1), a private entity shall submit an application to*
25 *the Secretary at such time, in such manner, and containing*
26 *such information as the Secretary may require. The Sec-*

1 *retary shall select from such applications those entities*
 2 *which offer, in the determination of the Secretary, the best*
 3 *combination of service, cost, and security.*

4 **SEC. 305. DENIAL OF ADMISSION TO NATIONALS OF COUN-**
 5 **TRY DENYING OR DELAYING ACCEPTING**
 6 **ALIEN.**

7 *Section 243(d) of the Immigration and Nationality*
 8 *Act (8 U.S.C. 1253(d)) is amended to read as follows:*

9 *“(d) DENIAL OF ADMISSION TO NATIONALS OF COUN-*
 10 *TRY DENYING OR DELAYING ACCEPTING ALIEN.—Whenever*
 11 *the Secretary of Homeland Security determines that the*
 12 *government of a foreign country has denied or unreasonably*
 13 *delayed accepting an alien who is a citizen, subject, na-*
 14 *tional, or resident of that country after the alien has been*
 15 *ordered removed, the Secretary, after consultation with the*
 16 *Secretary of State, may deny admission to any citizen, sub-*
 17 *ject, national, or resident of that country until the country*
 18 *accepts the alien who was ordered removed.”.*

19 **SEC. 306. REPORT ON FINANCIAL BURDEN OF REPATRI-**
 20 **ATION.**

21 *Not later than October 31 of each year, the Secretary*
 22 *of Homeland Security shall submit to the Secretary of State*
 23 *and Congress a report that details the cost to the Depart-*
 24 *ment of Homeland Security of repatriation of unlawful*
 25 *aliens to their countries of nationality or last habitual resi-*

1 dence, including details relating to cost per country. The
 2 Secretary shall include in each such report the rec-
 3 ommendations of the Secretary to more cost effectively repa-
 4 triate such aliens.

5 **SEC. 307. TRAINING PROGRAM.**

6 Not later than six months after the date of the enact-
 7 ment of this Act, the Secretary of Homeland Security—

8 (1) review and evaluate the training provided to
 9 Border Patrol agents and port of entry inspectors re-
 10 garding the inspection of aliens to determine whether
 11 an alien is referred for an interview by an asylum of-
 12 ficer for a determination of credible fear;

13 (2) based on the review and evaluation described
 14 in paragraph (1), take necessary and appropriate
 15 measures to ensure consistency in referrals by Border
 16 Patrol agents and port of entry inspectors to asylum
 17 officers for determinations of credible fear.

18 **SEC. 308. EXPEDITED REMOVAL.**

19 (a) *IN GENERAL.*—Section 235(b)(1)(A)(iii) of the Im-
 20 migration and Nationality Act (8 U.S.C.
 21 1225(b)(1)(A)(iii)) is amended—

22 (1) in subclause (I), by striking “Attorney Gen-
 23 eral” and inserting “Secretary of Homeland Secu-
 24 rity” each place it appears; and

1 (2) *by adding at the end the following new sub-*
2 *clause:*

3 “(III) *EXCEPTION.—Notwith-*
4 *standing subclauses (I) and (II), the*
5 *Secretary of Homeland Security shall*
6 *apply clauses (i) and (ii) of this sub-*
7 *paragraph to any alien (other than an*
8 *alien described in subparagraph (F))*
9 *who is not a national of a country con-*
10 *tiguous to the United States, who has*
11 *not been admitted or paroled into the*
12 *United States, and who is apprehended*
13 *within 100 miles of an international*
14 *land border of the United States and*
15 *within 14 days of entry.”.*

16 (b) *EXCEPTIONS.—Section 235(b)(1)(F) of the Immi-*
17 *gration and Nationality Act (8 U.S.C. 1225(b)(1)(F)) is*
18 *amended by inserting before the period at the end the fol-*
19 *lowing: “or in any manner at or between a land border*
20 *port of entry”.*

21 (c) *EFFECTIVE DATE.—The amendments made by this*
22 *section shall take effect on the date of the enactment of this*
23 *Act and shall apply to all aliens apprehended on or after*
24 *such date.*

1 **TITLE IV—EFFECTIVE ORGANI-**
 2 **ZATION OF BORDER SECU-**
 3 **RITY AGENCIES**

4 **SEC. 401. ENHANCED BORDER SECURITY COORDINATION**
 5 **AND MANAGEMENT.**

6 *The Secretary of Homeland Security shall ensure full*
 7 *coordination of border security efforts among agencies with-*
 8 *in the Department of Homeland Security, including United*
 9 *States Immigration and Customs Enforcement, United*
 10 *States Customs and Border Protection, and United States*
 11 *Citizenship and Immigration Services, and shall identify*
 12 *and remedy any failure of coordination or integration in*
 13 *a prompt and efficient manner. In particular, the Secretary*
 14 *of Homeland Security shall—*

15 *(1) oversee and ensure the coordinated execution*
 16 *of border security operations and policy;*

17 *(2) establish a mechanism for sharing and co-*
 18 *ordinating intelligence information and analysis at*
 19 *the headquarters and field office levels pertaining to*
 20 *counter-terrorism, border enforcement, customs and*
 21 *trade, immigration, human smuggling, human traf-*
 22 *ficking, and other issues of concern to both United*
 23 *States Immigration and Customs Enforcement and*
 24 *United States Customs and Border Protection;*

1 (3) *establish Department of Homeland Security*
2 *task forces (to include other Federal, State, Tribal*
3 *and local law enforcement agencies as appropriate) as*
4 *necessary to better coordinate border enforcement and*
5 *the disruption and dismantling of criminal organiza-*
6 *tions engaged in cross-border smuggling, money laun-*
7 *dering, and immigration violations;*

8 (4) *enhance coordination between the border se-*
9 *curity and investigations missions within the Depart-*
10 *ment by requiring that, with respect to cases involv-*
11 *ing violations of the customs and immigration laws*
12 *of the United States, United States Customs and Bor-*
13 *der Protection coordinate with and refer all such*
14 *cases to United States Immigration and Customs En-*
15 *forcement;*

16 (5) *examine comprehensively the proper alloca-*
17 *tion of the Department's border security related re-*
18 *sources, and analyze budget issues on the basis of De-*
19 *partment-wide border enforcement goals, plans, and*
20 *processes;*

21 (6) *establish measures and metrics for deter-*
22 *mining the effectiveness of coordinated border enforce-*
23 *ment efforts; and*

24 (7) *develop and implement a comprehensive plan*
25 *to protect the northern and southern land borders of*

1 *the United States and address the different challenges*
 2 *each border faces by—*

3 *(A) coordinating all Federal border security*
 4 *activities;*

5 *(B) improving communications and data*
 6 *sharing capabilities within the Department and*
 7 *with other Federal, State, local, tribal, and for-*
 8 *ign law enforcement agencies on matters relat-*
 9 *ing to border security; and*

10 *(C) providing input to relevant bilateral*
 11 *agreements to improve border functions, includ-*
 12 *ing ensuring security and promoting trade and*
 13 *tourism.*

14 **SEC. 402. OFFICE OF AIR AND MARINE OPERATIONS.**

15 *(a) ESTABLISHMENT.—Subtitle C of title IV of the*
 16 *Homeland Security Act of 2002 (6 U.S.C. 201 et seq.) is*
 17 *amended by adding at the end the following new section:*

18 **“SEC. 431. OFFICE OF AIR AND MARINE OPERATIONS.**

19 *“(a) ESTABLISHMENT.—There is established in the De-*
 20 *partment an Office of Air and Marine Operations (referred*
 21 *to in this section as the ‘Office’).*

22 *“(b) ASSISTANT SECRETARY.—The Office shall be*
 23 *headed by an Assistant Secretary for Air and Marine Oper-*
 24 *ations who shall be appointed by the President, by and with*
 25 *the advice and consent of the Senate, and who shall report*

1 *directly to the Secretary. The Assistant Secretary shall be*
2 *responsible for all functions and operations of the Office.*

3 “(c) *MISSIONS.*—

4 “(1) *PRIMARY MISSION.*—*The primary mission*
5 *of the Office shall be the prevention of the entry of ter-*
6 *rorists, other unlawful aliens, instruments of ter-*
7 *rorism, narcotics, and other contraband into the*
8 *United States.*

9 “(2) *SECONDARY MISSION.*—*The secondary mis-*
10 *sion of the Office shall be to assist other agencies to*
11 *prevent the entry of terrorists, other unlawful aliens,*
12 *instruments of terrorism, narcotics, and other contra-*
13 *band into the United States.*

14 “(d) *AIR AND MARINE OPERATIONS CENTER.*—

15 “(1) *IN GENERAL.*—*The Office shall operate and*
16 *maintain the Air and Marine Operations Center in*
17 *Riverside, California, or at such other facility of the*
18 *Office as is designated by the Secretary.*

19 “(2) *DUTIES.*—*The Center shall provide com-*
20 *prehensive radar, communications, and control serv-*
21 *ices to the Office and to eligible Federal, State, or*
22 *local agencies (as determined by the Assistant Sec-*
23 *retary for Air and Marine Operations), in order to*
24 *identify, track, and support the interdiction and ap-*
25 *prehension of individuals attempting to enter United*

1 *States airspace or coastal waters for the purpose of*
2 *narcotics trafficking, trafficking of persons, or other*
3 *terrorist or criminal activity.*

4 “(e) *ACCESS TO INFORMATION.*—*The Office shall en-*
5 *sure that other agencies within the Department of Home-*
6 *land Security, the Department of Defense, the Department*
7 *of Justice, and such other Federal, State, or local agencies,*
8 *as may be determined by the Secretary, shall have access*
9 *to the information gathered and analyzed by the Center.*

10 “(f) *REQUIREMENT.*—*Beginning not later than 180*
11 *days after the date of the enactment of this Act, the Sec-*
12 *retary shall require that all information concerning all*
13 *aviation activities, including all airplane, helicopter, or*
14 *other aircraft flights, that are undertaken by the either the*
15 *Office, United States Immigration and Customs Enforce-*
16 *ment, United States Customs and Border Protection, or any*
17 *subdivisions thereof, be provided to the Air and Marine Op-*
18 *erations Center. Such information shall include the identifi-*
19 *able transponder, radar, and electronic emissions and codes*
20 *originating and resident aboard the aircraft or similar*
21 *asset used in the aviation activity.*

22 “(g) *TIMING.*—*The Secretary shall require the infor-*
23 *mation described in subsection (f) to be provided to the Air*
24 *and Marine Operations Center in advance of the aviation*
25 *activity whenever practicable for the purpose of timely co-*

1 *ordination and conflict resolution of air missions by the*
 2 *Office, United States Immigration and Customs Enforce-*
 3 *ment, and United States Customs and Border Protection.*

4 “(h) *RULE OF CONSTRUCTION.*—*Nothing in this sec-*
 5 *tion shall be construed to alter, impact, diminish, or in any*
 6 *way undermine the authority of the Administrator of the*
 7 *Federal Aviation Administration to oversee, regulate, and*
 8 *control the safe and efficient use of the airspace of the*
 9 *United States.”.*

10 (b) *TECHNICAL AND CONFORMING AMENDMENTS.*—

11 (1) *ADDITIONAL ASSISTANT SECRETARY.*—*Sec-*
 12 *tion 103(a)(9) of the Homeland Security Act of 2002*
 13 *(6 U.S.C. 113(a)(9)) is amended by striking “12” and*
 14 *inserting “13”.*

15 (2) *CLERICAL AMENDMENT.*—*The table of con-*
 16 *tents in section 1(b) of such Act (6 U.S.C. 101) is*
 17 *amended by inserting after the item relating to sec-*
 18 *tion 430 the following new item:*

“*Sec. 431. Office of Air and Marine Operations.*”.

19 **SEC. 403. SHADOW WOLVES TRANSFER.**

20 (a) *TRANSFER OF EXISTING UNIT.*—*Not later than 90*
 21 *days after the date of the enactment of this Act, the Sec-*
 22 *retary of Homeland Security shall transfer to United States*
 23 *Immigration and Customs Enforcement all functions (in-*
 24 *cluding the personnel, assets, and liabilities attributable to*
 25 *such functions) of the Customs Patrol Officers unit oper-*

1 *ating on the Tohono O’odham Indian reservation (com-*
2 *monly known as the “Shadow Wolves” unit).*

3 *(b) ESTABLISHMENT OF NEW UNITS.—The Secretary*
4 *is authorized to establish within United States Immigration*
5 *and Customs Enforcement additional units of Customs Pa-*
6 *trol Officers in accordance with this section, as appropriate.*

7 *(c) DUTIES.—The Customs Patrol Officer unit trans-*
8 *ferred pursuant to subsection (a), and additional units es-*
9 *tablished pursuant to subsection (b), shall operate on In-*
10 *dian lands by preventing the entry of terrorists, other un-*
11 *lawful aliens, instruments of terrorism, narcotics, and other*
12 *contraband into the United States.*

13 *(d) BASIC PAY FOR JOURNEYMAN OFFICERS.—A Cus-*
14 *toms Patrol Officer in a unit described in this section shall*
15 *receive equivalent pay as a special agent with similar com-*
16 *petencies within United States Immigration and Customs*
17 *Enforcement pursuant to the Department of Homeland Se-*
18 *curity’s Human Resources Management System established*
19 *under section 841 of the Homeland Security Act (6 U.S.C.*
20 *411).*

21 *(e) SUPERVISORS.—Each unit described in this section*
22 *shall be supervised by a Chief Customs Patrol Officer, who*
23 *shall have the same rank as a resident agent-in-charge of*
24 *the Office of Investigations within United States Immigra-*
25 *tion and Customs Enforcement.*

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109TH CONGRESS
1ST Session

H. R. 4312

[Report No. 109-329, Part I]

A BILL

To establish operational control over the international land and maritime borders of the United States, and for other purposes.

DECEMBER 6, 2005

Committees on the Judiciary and Armed Services discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed