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S. 1639

The Secure Borders, Economic Opportunity and Immigration Reform Act of 2007 (Placed on Calendar in Senate)

Calendar No.
110th CONGRESS
1st Session
S.

To provide for comprehensive immigration reform and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. Kennedy (for himself and Mr. Specter) introduced the following bill; which was read the first time

A BILL

To provide for comprehensive immigration reform and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

1 **Secure Borders, Economic Opportunity and Immigration**
2 **Reform Act of 2007**
3

4 **SECTION 1. EFFECTIVE DATE TRIGGERS.**

5 (a) *In General.*--With the exception of the probationary benefits
6 conferred by section 601(h) of this Act, the provisions of subtitle C of
7 title IV, and the admission of aliens under section 101(a)(15)(H)(ii) of
8 the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)), as
9 amended by title IV, the programs established by title IV, and the
10 programs established by title VI that grant legal status to any
11 individual or that adjust the current status of any individual who is
12 unlawfully present in the United States to that of an alien lawfully
13 admitted for permanent residence, shall become effective on the date
14 that the Secretary submits a written certification to the President and
15 the Congress, based on analysis by and in consultation with the
16 Comptroller General, that each of the following border security and
17 other measures are established, funded, and operational:

18 (1) **OPERATIONAL CONTROL OF THE INTERNATIONAL BORDER**
19 **WITH MEXICO.**--The Secretary of Homeland Security has established
20 and demonstrated operational control of 100 percent of the
21 international land border between the United States and Mexico,
22 including the ability to monitor such border through available methods
23 and technology.

24 (2) **STAFF ENHANCEMENTS FOR BORDER PATROL.**--The United
25 States Customs and Border Protection Border Patrol has hired, trained,
26 and reporting for duty 20,000 full-time agents as of the date of the
27 certification under this subsection.

28 (3) **STRONG BORDER BARRIERS.**--There has been--

29 (A) installed along the international land border between the United
30 States and Mexico as of the date of the certification under this
31 subsection, at least--

32 (i) 300 miles of vehicle barriers;

33 (ii) 370 miles of fencing; and

34 (iii) 105 ground-based radar and camera towers; and

1 (B) deployed for use along the along the international land border
2 between the United States and Mexico, as of the date of the
3 certification under this subsection, 4 unmanned aerial vehicles, and
4 the supporting systems for such vehicles.

5 (4) CATCH AND RETURN.--The Secretary of Homeland Security is
6 detaining all removable aliens apprehended crossing the international
7 land border between the United States and Mexico in violation of
8 Federal or State law, except as specifically mandated by Federal or
9 State law or humanitarian circumstances, and United States
10 Immigration and Customs Enforcement has the resources to maintain
11 this practice, including the resources necessary to detain up to 31,500
12 aliens per day on an annual basis.

13 (5) WORKPLACE ENFORCEMENT TOOLS.--In compliance with the
14 requirements of title III of this Act, the Secretary of Homeland
15 Security has established, and is using, secure and effective
16 identification tools to prevent unauthorized workers from obtaining
17 employment in the United States. Such identification tools shall include
18 establishing--

19 (A) strict standards for identification documents that are required to
20 be presented by the alien to an employer in the hiring process,
21 including the use of secure documentation that--

22 (i) contains--

23 (I) a photograph of the alien; and

24 (II) biometric data identifying the alien; or

25 (ii) complies with the requirements for such documentation under
26 the REAL ID Act (Public Law 109-13; 119 Stat. 231); and

27 (B) an electronic employment eligibility verification system that is
28 capable of querying Federal and State databases in order to restrict
29 fraud, identity theft, and use of false social security numbers in the
30 hiring of aliens by an employer by electronically providing a digitized
31 version of the photograph on the alien's original Federal or State
32 issued document or documents for verification of that alien's identity
33 and work eligibility.

34 (6) PROCESSING APPLICATIONS OF ALIENS.--The Secretary of
35 Homeland Security has received, and is processing and adjudicating in

1 a timely manner, applications for Z nonimmigrant status under title VI
2 of this Act, including conducting all necessary background and security
3 checks required under that title.

4 (b) *Sense of Congress.*--It is the sense of Congress that the border
5 security and other measures described in subsection (a) shall be
6 completed as soon as practicable, subject to the necessary
7 appropriations.

8 (c) *Presidential Progress Report.*--

9 (1) IN GENERAL.--Not later than 90 days after the date of
10 enactment of this Act, and every 90 days thereafter until the
11 requirements under subsection (a) are met, the President shall submit
12 a report to Congress detailing the progress made in funding, meeting,
13 or otherwise satisfying each of the requirements described under
14 paragraphs (1) through (6) of subsection (a), including detailing any
15 contractual agreements reached to carry out such measures.

16 (2) PROGRESS NOT SUFFICIENT.--If the President determines that
17 sufficient progress is not being made, the President shall include in the
18 report required under paragraph (1) specific funding
19 recommendations, authorization needed, or other actions that are or
20 should be undertaken by the Secretary of Homeland Security.

21 (d) *GAO Report.*--Not later than 30 days after the certification is
22 submitted under subsection (a), the Comptroller General shall submit
23 a report to Congress on the accuracy of such certification.

24 **SECTION 2. Immigration Security Account .**

25 Section 286 of the Immigration and Nationality Act, as amended by
26 section 623, is further amended by adding at the end the following:

27 "(z) Immigration Security Account.-

29
30 (1) IN GENERAL.-- There is established in the general fund of the
31 Treasury a separate account, which shall be known as the
32 "Immigration Security Account".

33
34 (2) SOURCE OF FUNDS.- Immediately upon enactment,
35 \$4,400,000,000 shall be transferred from the general fund of the
36 Treasury to the Immigration Security Account.

37

1 (3) APPROPRIATIONS.-

2
3 (A) There are hereby appropriated such sums that are provided
4 under subsection 2 to remain available until five years after
5 enactment.

6
7 (B) These sums shall be available for the Secretary of Homeland
8 Security to meet the trigger requirements set forth in title I, section 1,
9 of this Act.

10
11 (C) To the extent funds are not exhausted pursuant to (b), they
12 shall be available to the Secretary of Homeland Security for one or
13 more of the following activities:

14
15 (i) Fencing and Infrastructure;

16
17 (ii) Towers;

18
19 (iii) Detention beds;

20
21 (iv) Employment Eligibility Verification System, including funds for
22 expenditures under section 306 of this Act, relating to the State
23 Records Improvement Grant Program;

24
25 (v) Implementation of programs authorized in titles IV and VI; and

26
27 (vi) Other federal border and interior enforcement requirements to
28 ensure the integrity of programs authorized in titles IV and VI.

29
30 (4) TRANSFERS.-The Secretary of Homeland Security shall have the
31 authority to transfer amounts out of the Immigration Security Account
32 as appropriate to carry out subsections (3)(b) and (3)(c) of this
33 section.

34
35 (5) REPORTING.- The Secretary of Homeland Security shall submit
36 to the Committees on the Judiciary and Appropriations of the Senate a
37 plan for expenditure of the funds under subsection 2 within 60 days of
38 enactment of this Act, and update the plan annually, that -

39
40 (i) identifies one-time and on-going costs;

41
42 (ii) identifies the level of funding for each program, project,
43 and activity, and if that funding will supplement an
44 appropriated program, project, or activity;

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(iii) identifies the amount of funding to be obligated in each fiscal year, by program, project, and activity;

(iv) includes milestones for completion of each identified program, project, or activity;

(v) demonstrates how activities will further the goals and objectives of this Act.

(6) NOTIFICATIONS.- The Secretary of Homeland Security shall notify the Committees on Judiciary and Appropriations of the Senate 15 days prior to reprogramming funds from the original allocation or transferring funds out of the Immigration Security Account.

1 **TITLE I—BORDER ENFORCEMENT**

2 **Subtitle A—Assets for Controlling United States Borders.**

3 **SEC. 101. ENFORCEMENT PERSONNEL.**

4 (a) Additional Personnel-

5 (1) U.S. CUSTOMS AND BORDER PROTECTION OFFICERS -
6 In each of the fiscal years 2008 through 2012, the
7 Secretary shall, subject to the availability of
8 appropriations, increase by not less than 500 the number
9 of positions for full-time active duty CBP officers and
10 provide appropriate training, equipment, and support to
11 such additional CBP officers.

12 (2) INVESTIGATIVE PERSONNEL-

13 (A) IMMIGRATION AND CUSTOMS ENFORCEMENT
14 INVESTIGATORS- Section 5203 of the Intelligence
15 Reform and Terrorism Prevention Act of 2004 (Public
16 Law 108-458; 118 Stat. 3734) is amended by
17 striking `800' and inserting `1000'.

18 (B) ADDITIONAL PERSONNEL- In addition to the
19 positions authorized under section 5203 of the
20 Intelligence Reform and Terrorism Prevention Act of
21 2004, as amended by subparagraph (A), during each
22 of the fiscal years 2008 through 2012, the Secretary
23 shall, subject to the availability of appropriations,
24 increase by not less than 200 the number of
25 positions for personnel within the Department
26 assigned to investigate alien smuggling.

27 (3) DEPUTY UNITED STATES MARSHALS- In each of the
28 fiscal years 2008 through 2012, the Attorney General
29 shall, subject to the availability of appropriations, increase
30 by not less than 50 the number of positions for full-time
31 active duty Deputy United States Marshals that assist in
32 matters related to immigration.

33 (4) RECRUITMENT OF FORMER MILITARY PERSONNEL-

34 (A) IN GENERAL- The Commissioner of United States
35 Customs and Border Protection, in conjunction with
36 the Secretary of Defense or a designee of the
37 Secretary of Defense, shall establish a program to
38 actively recruit members of the Army, Navy, Air
39 Force, Marine Corps, and Coast Guard who have

1 elected to separate from active duty.

2 (B) REPORT- Not later than 180 days after the date
3 of the enactment of this Act, the Commissioner shall
4 submit a report on the implementation of the
5 recruitment program established pursuant to
6 subparagraph (A) to the Committee on the Judiciary
7 of the Senate and the Committee on the Judiciary of
8 the House of Representatives.

9 (b) Authorization of Appropriations-

10 (1) U.S. CUSTOMS AND BORDER PROTECTION OFFICERS -
11 There are authorized to be appropriated to the Secretary
12 such sums as may be necessary for each of the fiscal years
13 2008 through 2012 to carry out paragraph (1) of
14 subsection (a).

15 (2) DEPUTY UNITED STATES MARSHALS- There are
16 authorized to be appropriated to the Attorney General such
17 sums as may be necessary for each of the fiscal years
18 2008 through 2012 to carry out subsection (a)(3).

19 (3) BORDER PATROL AGENTS- Section 5202 of the
20 Intelligence Reform and Terrorism Prevention Act of 2004
21 (118 Stat. 3734) is amended to read as follows:

22 **SEC. 5202. INCREASE IN FULL-TIME BORDER PATROL**
23 **AGENTS.**

24 (a) Annual Increases- The Secretary of Homeland Security
25 shall, subject to the availability of appropriations for such
26 purpose, increase the number of positions for full-time active-
27 duty border patrol agents within the Department of Homeland
28 Security (above the number of such positions for which funds
29 were appropriated for the preceding fiscal year), by not less
30 than—

31 (1) 2,000 in fiscal year 2007;

32 (2) 2,400 in fiscal year 2008;

33 (3) 2,400 in fiscal year 2009;

34 (4) 2,400 in fiscal year 2010;

35 (5) 2,400 in fiscal year 2011; and

36 (6) 2,400 in fiscal year 2012.

37 (b) Northern Border- In each of the fiscal years 2008 through
38 2012, in addition to the border patrol agents assigned along the

1 northern border of the United States during the previous fiscal
2 year, the Secretary shall assign a number of border patrol
3 agents equal to not less than 20 percent of the net increase in
4 border patrol agents during each such fiscal year.

5 `(c) Authorization of Appropriations- There are authorized to be
6 appropriated such sums as may be necessary for each of fiscal
7 years 2008 through 2012 to carry out this section.'

8 (c) *Shadow Wolves Apprehension and Tracking*.--

9 (1) PURPOSE.--The purpose of this subsection is to authorize the
10 Secretary, acting through the Assistant Secretary of Immigration and
11 Customs Enforcement (referred to in this subsection as the
12 ``Secretary''), to establish new units of Customs Patrol Officers
13 (commonly known as ``Shadow Wolves'') during the 5-year period
14 beginning on the date of enactment of this Act.

15 (2) ESTABLISHMENT OF NEW UNITS.--

16 (A) IN GENERAL.--During the 5-year period beginning on the date
17 of enactment of this Act, the Secretary is authorized to establish within
18 United States Immigration and Customs Enforcement up to 5
19 additional units of Customs Patrol Officers in accordance with this
20 subsection, as appropriate.

21 (B) MEMBERSHIP.--Each new unit established pursuant to
22 subparagraph (A) shall consist of up to 15 Customs Patrol Officers.

23 (3) DUTIES.--The additional Immigration and Customs Enforcement
24 units established pursuant to paragraph (2)(A) shall operate on Indian
25 reservations (as defined in section 3 of the Indian Financing Act of
26 1974 (25 U.S.C. 1452)) located on or near (as determined by the
27 Secretary) an international border with Canada or Mexico, and such
28 other Federal land as the Secretary determines to be appropriate, by--

29 (A) investigating and preventing the entry of terrorists, other
30 unlawful aliens, instruments of terrorism, narcotics, and other
31 contraband into the United States; and

32 (B) carrying out such other duties as the Secretary determines to
33 be necessary.

1 (4) AUTHORIZATION OF APPROPRIATIONS.--There are authorized
2 to be appropriated to carry out this subsection such sums as are
3 necessary for each of fiscal years 2008 through 2013.

4 **SEC. 102. TECHNOLOGICAL ASSETS.**

5 (a) Acquisition—Subject to the availability of appropriations for such
6 purpose, the Secretary shall procure additional unmanned aerial
7 vehicles, cameras, poles, sensors, and other technologies necessary to
8 achieve operational control of the borders of the United States.

9 (b) Increased Availability of Equipment—The Secretary and the
10 Secretary of Defense shall develop and implement a plan to use
11 authorities provided to the Secretary of Defense under chapter 18 of
12 title 10, United States Code, to increase the availability and use of
13 Department of Defense equipment, including unmanned aerial
14 vehicles, tethered aerostat radars, and other surveillance equipment,
15 to assist the Secretary in carrying out surveillance activities conducted
16 at or near the international land borders of the United States to
17 prevent illegal immigration.

18 (c) Authorization of Appropriations—There are authorized to be
19 appropriated to the Secretary such sums as may be necessary for each
20 of the fiscal years 2008 through 2012 to carry out subsection (a).

21 **SEC. 103. INFRASTRUCTURE.**

22 Section 102 of the Illegal Immigration Reform and Immigrant
23 Responsibility Act of 1996 (8 U.S.C. 1103 note) is amended—

24 (1) in subsection (a), by striking "Attorney General, in
25 consultation with the Commissioner of Immigration and
26 Naturalization," and inserting "Secretary of Homeland Security";
27 and

28 (2) in subsection (b)—

29 (A) by redesignating paragraphs (1), (2), (3), and (4) as
30 paragraphs (2), (3), (4), and (5), respectively;

31 (B) by inserting before paragraph (2), as redesignated, the
32 following:

33 "(1) FENCING NEAR SAN DIEGO, CALIFORNIA —In carrying out
34 subsection (a), the Secretary shall provide for the construction
35 along the 14 miles of the international land border of the United
36 States, starting at the Pacific Ocean and extending eastward, of
37 second and third fences, in addition to the existing reinforced
38 fence, and for roads between the fences."

1 (C) in paragraph (2), as redesignated –

2 (i) in the header, by striking ``**SECURITY FEATURES**''
3 and inserting ``**ADDITIONAL FENCING ALONG**''
4 **SOUTHWEST BORDER**''; and

5 (ii) by striking subparagraphs (A) through (C) and
6 inserting the following:

7 `` (A) REINFORCED FENCING.--In carrying out subsection (a), the
8 Secretary of Homeland Security shall construct reinforced fencing
9 along not less than 700 miles of the southwest border where fencing
10 would be most practical and effective and provide for the installation of
11 additional physical barriers, roads, lighting, cameras, and sensors to
12 gain operational control of the southwest border.

13 `` (B) PRIORITY AREAS.--In carrying out this section, the Secretary
14 of Homeland Security shall--

15 `` (i) identify the 370 miles along the southwest border where
16 fencing would be most practical and effective in deterring smugglers
17 and aliens attempting to gain illegal entry into the United States; and

18 `` (ii) not later than December 31, 2008, complete construction of
19 reinforced fencing along the 370 miles identified under clause (i).

20 `` (C) CONSULTATION.--

21 `` (i) IN GENERAL.--In carrying out this section, the Secretary of
22 Homeland Security shall consult with the Secretary of Interior, the
23 Secretary of Agriculture, States, local governments, Indian tribes, and
24 property owners in the United States to minimize the impact on the
25 environment, culture, commerce, and quality of life for the
26 communities and residents located near the sites at which such fencing
27 is to be constructed.

28 `` (ii) SAVINGS PROVISION.--Nothing in this subparagraph may be
29 construed to--

30 `` (I) create any right of action for a State, local government, or
31 other person or entity affected by this subsection; or

32 `` (II) affect the eminent domain laws of the United States or of any
33 State.

1 “(D) LIMITATION ON REQUIREMENTS.--Notwithstanding
2 subparagraph (A), nothing in this paragraph shall require the
3 Secretary of Homeland Security to install fencing, physical barriers,
4 roads, lighting, cameras, and sensors in a particular location along an
5 international border of the United States, if the Secretary determines
6 that the use or placement of such resources is not the most
7 appropriate means to achieve and maintain operational control over
8 the international border at such location.”; and

9 (D) in paragraph (5), as redesignated, by striking “to carry out
10 this subsection not to exceed \$12,000,000” and inserting “such sums
11 as may be necessary to carry out this subsection”.

12 **SEC. 104. PORTS OF ENTRY.**

13 Section 102 of the Illegal Immigration Reform and Immigrant
14 Responsibility Act of 1996, Division C of Public Law 104-208, is
15 amended by the addition, at the end of that section, of the following
16 new subsection:

17 “(e) Construction and Improvements —The Secretary is authorized
18 to—

19 (1) construct additional ports of entry along the international
20 land borders of the United States, at locations to be determined by
21 the Secretary; and

22 (2) make necessary improvements to the ports of entry.”.

24 **Subtitle B—Other Border Security Initiatives**

25 **SEC. 111. BIOMETRIC ENTRY-EXIT SYSTEM.**

26 (a) Collection of Biometric Data From Aliens Entering and Departing
27 the United States —Section 215 (8 U.S.C. 1185) is amended—

28 (1) by redesignating subsection (c) as subsection (g);

29 (2) by moving subsection (g), as redesignated by paragraph (1),
30 to the end; and

31 (3) by inserting after subsection (b) the following:

32 “(c) The Secretary is authorized to require aliens entering and
33 departing the United States to provide biometric data and other
34 information relating to their immigration status.”.

35 (b) Inspection of Applicants for Admission—Section 235(d) (8 U.S.C.
36 1225(d)) is amended by adding at the end the following:

1 “(5) AUTHORITY TO COLLECT BIOMETRIC DATA—In conducting
2 inspections under subsections (a) and (b), immigration officers are
3 authorized to collect biometric data from—

4 “(A) any applicant for admission or any alien who is paroled
5 under section 212(d)(5), seeking to or permitted to land
6 temporarily as an alien crewman, or seeking to or permitted
7 transit through the United States; or

8 “(B) any lawful permanent resident who is entering the
9 United States and who is not regarded as seeking admission
10 pursuant to section 101(a)(13)(C).”.

11 (c) Collection of Biometric Data From Alien Crewmen—Section 252
12 (8 U.S.C. 1282) is amended by adding at the end the following:

13 “(d) An immigration officer is authorized to collect biometric data
14 from an alien crewman seeking permission to land temporarily in the
15 United States.”.

16 (d) Grounds of Inadmissibility—Section 212 (8 U.S.C. 1182) is
17 amended—

18 (1) in subsection (a)(7), by adding at the end the following:

19 “(C) WITHHOLDERS OF BIOMETRIC DATA—Any alien who fails or
20 has failed to comply with a lawful request for biometric data
21 under section 215(c), 235(d), or 252(d) is inadmissible.”; and

22 (2) in subsection (d), by inserting after paragraph (1) the
23 following:

24 “(2) The Secretary may waive the application of subsection
25 (a)(7)(C) for an individual alien or class of aliens.”.

26 (e) Implementation.—Section 7208 of the 9/11 Commission
27 Implementation Act of 2004 (8 U.S.C. 1365b) is amended—

28 (1) in subsection (c), by adding at the end the following:

29 “(3) IMPLEMENTATION.—In fully implementing the automated
30 biometric entry and exit data system under this section, the
31 Secretary is not required to comply with the requirements of
32 chapter 5 of title 5, United States Code (commonly referred to as
33 the Administrative Procedure Act) or any other law relating to
34 rulemaking, information collection, or publication in the Federal
35 Register.”; and

36 (2) in subsection (l)—

37 (A) by striking “There are authorized” and inserting the
38 following:

1 “(1) IN GENERAL—There are authorized”; and

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

3 “(2) IMPLEMENTATION AT ALL LAND BORDER PORTS OF ENTRY—There are
4 authorized to be appropriated such sums as may be necessary for
5 each of fiscal years 2008 and 2009 to implement the automated
6 biometric entry and exit data system at all land border ports of
7 entry.”.

8 **SEC. 112. UNLAWFUL FLIGHT FROM IMMIGRATION OR**
9 **CUSTOMS CONTROLS.**

10 (a) In General- Section 758 of Title 18, United States Code, is
11 amended to read as follows:

12 **“758. Unlawful Flight from Immigration or Customs Controls**

13 “(a) Evading a checkpoint- Any person who, while operating a
14 motor vehicle or vessel, knowingly flees or evades a checkpoint
15 operated by the Department of Homeland Security or any other
16 Federal law enforcement agency, and then knowingly or recklessly
17 disregards or disobeys the lawful command of any law enforcement
18 agent, shall be fined under this title, imprisoned not more than five
19 years, or both.

20 “(b) Failure to stop- Any person who, while operating a motor
21 vehicle, aircraft, or vessel, knowingly or recklessly disregards or
22 disobeys the lawful command of an officer of the Department of
23 Homeland Security engaged in the enforcement of the immigration,
24 customs, or maritime laws, or the lawful command of any law
25 enforcement agent assisting such officer, shall be fined under this
26 title, imprisoned not more than two years, or both.

27 “(c) Alternative penalties- Notwithstanding the penalties provided
28 in subsection (a) or (b), any person who violates such subsection
29 shall—

30 “(1) be fined under this title, imprisoned not more than 10
31 years, or both, if the violation involved the operation of a motor
32 vehicle, aircraft, or vessel—

33 “(A) in excess of the applicable or posted speed limit,

34 “(B) in excess of the rated capacity of the motor vehicle,
35 aircraft, or vessel, or

36 “(C) in an otherwise dangerous or reckless manner;

37 “(2) be fined under this title, imprisoned not more than 20
38 years, or both, if the violation created a substantial and
39 foreseeable risk of serious bodily injury or death to any person;

1 “(3) be fined under this title, imprisoned not more than 30
2 years, or both, if the violation caused serious bodily injury to any
3 person; or

4 “(4) be fined under this title, imprisoned for any term of years or
5 life, or both, if the violation resulted in the death of any person.

6 “(d) Attempt and conspiracy- Any person who attempts or
7 conspires to commit any offense under this section shall be punished
8 in the same manner as a person who completes the offense.

9 “(e) Forfeiture- Any property, real or personal, constituting or
10 traceable to the gross proceeds of the offense and any property, real
11 or personal, used or intended to be used to commit or facilitate the
12 commission of the offense shall be subject to forfeiture.

13 “(f) Forfeiture procedures- Seizures and forfeitures under this
14 section shall be governed by the provisions of chapter 46 of this title,
15 relating to civil forfeitures, including section 981(d) of such title,
16 except that such duties as are imposed upon the Secretary of the
17 Treasury under the customs laws described in that section shall be
18 performed by such officers, agents, and other persons as may be
19 designated for that purpose by the Secretary of Homeland Security or
20 the Attorney General. Nothing in this section shall limit the authority
21 of the Secretary to seize and forfeit motor vehicles, aircraft, or vessels
22 under the Customs laws or any other laws of the United States.

23 “(g) Definitions- For purposes of this section—

24 “(1) The term “checkpoint” includes, but is not limited to, any
25 customs or immigration inspection at a port of entry.

26 “(2) The term “lawful command” includes, but is not limited to,
27 a command to stop, decrease speed, alter course, or land, whether
28 communicated orally, visually, by means of lights or sirens, or by
29 radio, telephone, or other wire communication.

30 “(3) The term “law enforcement agent” means any Federal,
31 State, local or tribal official authorized to enforce criminal law, and,
32 when conveying a command covered under subsection (b) of this
33 section, an air traffic controller.

34 “(4) The term “motor vehicle” means any motorized or self-
35 propelled means of terrestrial transportation.

36 “(5) The term “serious bodily injury” has the meaning given in
37 section 2119(2) of this title.”.

38 **SEC. 113. RELEASE OF ALIENS FROM NONCONTIGUOUS**
39 **COUNTRIES.**

1 Section 236(a)(2) (8 U.S.C. 1226(a)(2)) is amended—

2 (1) by striking “on”;

3 (2) in subparagraph (A)—

4 (A) by inserting “except as provided under subparagraph
5 (B), upon the giving of a” before “bond”; and

6 (B) by striking “or” at the end;

7 (3) by redesignating subparagraph (B) as subparagraph (C); and

8 (4) by inserting after subparagraph (A) the following:

9 “(B) upon the giving of a bond of not less than \$5,000 with
10 security approved by, and containing conditions prescribed by,
11 the Secretary or the Attorney General, if the alien—

12 “(i) is a national of a noncontiguous country;

13 “(ii) has not been admitted or paroled into the United
14 States; and

15 “(iii) was apprehended within 100 miles of the
16 international border of the United States or presents a
17 flight risk, as determined by the Secretary of Homeland
18 Security; or”.

19 **SEC. 114. SEIZURE OF CONVEYANCE WITH CONCEALED**
20 **COMPARTMENT: EXPANDING THE DEFINITION OF**
21 **CONVEYANCES WITH HIDDEN COMPARTMENTS SUBJECT TO**
22 **FORFEITURE.**

23 (a) In General. Section 1703 of Title 19, United States Code is
24 amended:

25 (i) by amending the title of such section to read as follows:

26 “Sec. 1703. Seizure and forfeiture of vessels, vehicles, other
27 conveyances and instruments of international traffic”;

28 (ii) by amending the title of subsection (a) to read as follows:

29 “(a) Vessels, vehicles, other conveyances and instruments of
30 international traffic subject to seizure and forfeiture”;

31 (iii) by amending the title of subsection (b) to read as follows:

32 “(b) Vessels, vehicles, other conveyances and instruments of
33 international traffic defined”;

34 (iv) by inserting “,vehicle, other conveyance or instrument of
35 international traffic” after the word “vessel” everywhere it
36 appears in the text of subsections (a) and (b); and

1 (v) by amending subsection (c) to read as follows:

2 "(c) Acts constituting prima facie evidence of vessel, vehicle, or
3 other conveyance or instrument of international traffic engaged
4 in smuggling "For the purposes of this section, prima facie
5 evidence that a conveyance is being, or has been, or is
6 attempted to be employed in smuggling or to defraud the
7 revenue of the United States shall be --

8 "(1) in the case of a vessel, the fact that a vessel has
9 become subject to pursuit as provided in section 1581 of
10 this title, or is a hovering vessel, or that a vessel fails, at
11 any place within the customs waters of the United States
12 or within a customs-enforcement area, to display light as
13 required by law.

14 "(2) in the case of a vehicle, other conveyance or
15 instrument of international traffic, the fact that a vehicle,
16 other conveyance or instrument of international traffic has
17 any compartment or equipment that is built or fitted out
18 for smuggling."

19 (b) Clerical Amendment. The table of sections for Chapter 5 in title
20 19, United States Code, is amended by striking the items relating to
21 section 1703 and inserting in lieu thereof the following:

22 "1703. Seizure and forfeiture of vessels, vehicles, other conveyances
23 or instruments of international traffic.

24 "(a) Vessels, vehicles, other conveyances or instruments of
25 international traffic subject to seizure and forfeiture.

26 "(b) Vessels, vehicles, other conveyances or instruments of
27 international traffic defined.

28 "(c) Acts constituting prima facie evidence of vessel, vehicle, other
29 conveyance or instrument of international traffic engaged in
30 smuggling."

31
32 **Subtitle C —Other Measures**

33 **SEC. 121. DEATHS AT UNITED STATES-MEXICO BORDER.**

34 (a) Collection of Statistics- The Commissioner of the Bureau of
35 Customs and Border Protection shall collect statistics relating to deaths
36 occurring at the border between the United States and Mexico,
37 including—

38 (1) the causes of the deaths; and

1 (2) the total number of deaths.

2 (b) Report- Not later than 1 year after the date of enactment of
3 this Act, and annually thereafter, the Commissioner of the Bureau of
4 Customs and Border Protection shall submit to the Secretary a report
5 that--

6 (1) analyzes trends with respect to the statistics collected
7 under subsection (a) during the preceding year; and

8 (2) recommends actions to reduce the deaths described in
9 subsection (a).

10 **SEC. 122. BORDER SECURITY ON CERTAIN FEDERAL LAND.**

11 (a) Definitions- In this section:

12 (1) PROTECTED LAND- The term `protected land' means
13 land under the jurisdiction of the Secretary concerned.

14 (2) SECRETARY CONCERNED- The term `Secretary
15 concerned' means—

16 (A) with respect to land under the jurisdiction of the
17 Secretary of Agriculture, the Secretary of
18 Agriculture; and

19 (B) with respect to land under the jurisdiction of the
20 Secretary of the Interior, the Secretary of the
21 Interior.

22 (b) Support for Border Security Needs-

23 (1) IN GENERAL- To gain operational control over the
24 international land borders of the United States and to
25 prevent the entry of terrorists, unlawful aliens, narcotics,
26 and other contraband into the United States, the
27 Secretary, in cooperation with the Secretary concerned,
28 shall provide--

29 (A) increased U.S. Customs and Border Protection
30 personnel to secure protected land along the
31 international land borders of the United States;

32 (B) Federal land resource training for U.S. Customs
33 and Border Protection agents dedicated to protected
34 land; and

35 (C) Unmanned Aerial Vehicles, aerial assets, Remote
36 Video Surveillance camera systems, and sensors on
37 protected land that is directly adjacent to the
38 international land border of the United States.

1 (2) COORDINATION- In providing training for Customs and
2 Border Protection agents under paragraph (1)(B), the
3 Secretary shall coordinate with the Secretary concerned to
4 ensure that the training is appropriate to the mission of
5 the National Park Service, the United States Fish and
6 Wildlife Service, the Forest Service, or the relevant agency
7 of the Department of the Interior or the Department of
8 Agriculture to minimize the adverse impact on natural and
9 cultural resources from border protection activities.

10 (c) Analysis of Damage to Protected Lands- The Secretary and
11 Secretaries concerned shall develop an analysis of damage to
12 protected lands relating to illegal border activity, including the
13 cost of equipment, training, recurring maintenance, construction
14 of facilities, restoration of natural and cultural resources,
15 recapitalization of facilities, and operations.

16 (d) Recommendations- The Secretary shall--

17 (1) develop joint recommendations with the National Park
18 Service, the United States Fish and Wildlife Service, and
19 the Forest Service for an appropriate cost recovery
20 mechanism relating to items identified in subsection (c);
21 and

22 (2) not later than one year from the date of enactment,
23 submit to the appropriate congressional committees (as
24 defined in section 2 of the Homeland Security Act of 2002
25 (6 U.S.C. 101)), including the Subcommittee on National
26 Parks of the Senate and the Subcommittee on National
27 Parks, Recreation and Public Lands of the House of
28 Representatives, the recommendations developed under
29 paragraph (1).

30 (e) Border Protection Strategy- The Secretary, the Secretary of
31 the Interior, and the Secretary of Agriculture shall jointly
32 develop a border protection strategy that supports the border
33 security needs of the United States in the manner that best
34 protects the homeland, including--

35 (1) units of the National Park System;

36 (2) National Forest System land;

37 (3) land under the jurisdiction of the United States Fish
38 and Wildlife Service; and

39 (4) other relevant land under the jurisdiction of the
40 Department of the Interior or the Department of

1 Agriculture.

2 **SEC. 123. SECURE COMMUNICATION.**

3 The Secretary shall, as expeditiously as practicable, develop and
4 implement a plan to improve the use of satellite communications and
5 other technologies to ensure clear and secure 2-way communication
6 capabilities--

7 (1) among all Border Patrol agents conducting operations
8 between ports of entry;

9 (2) between Border Patrol agents and their respective Border
10 Patrol stations; and

11 (3) between all appropriate border security agencies of the
12 Department and State, local, and tribal law enforcement
13 agencies.

14 **SEC. 124. UNMANNED AIRCRAFT SYSTEMS.**

15 (a) Unmanned Aircraft and Associated Infrastructure- The
16 Secretary shall acquire and maintain unmanned aircraft systems
17 for use on the border, including related equipment such as--

18 (1) additional sensors;

19 (2) critical spares;

20 (3) satellite command and control; and

21 (4) other necessary equipment for operational support.

22 (b) Authorization of Appropriations-

23 (1) IN GENERAL- There are authorized to be appropriated
24 to the Secretary to carry out subsection (a)--

25 (A) \$178,400,000 for fiscal year 2008; and

26 (B) \$276,000,000 for fiscal year 2009.

27 (2) AVAILABILITY OF FUNDS- Amounts appropriated
28 pursuant to paragraph (1) shall remain available until
29 expended.

30
31 **SEC. 125. SURVEILLANCE TECHNOLOGIES PROGRAMS.**

32 (a) Aerial Surveillance Program-

33 (1) IN GENERAL- In conjunction with the border
34 surveillance plan developed under section 5201 of the
35 Intelligence Reform and Terrorism Prevention Act of 2004
36 (Public Law 108-458; 8 U.S.C. 1701 note), the Secretary,

1 not later than 90 days after the date of enactment of this
2 Act, shall develop and implement a program to fully
3 integrate and utilize aerial surveillance technologies,
4 including unmanned aerial vehicles, to enhance the
5 security of the international border between the United
6 States and Canada and the international border between
7 the United States and Mexico. The goal of the program
8 shall be to ensure continuous monitoring of each mile of
9 each such border.

10 (2) ASSESSMENT AND CONSULTATION REQUIREMENTS-
11 In developing the program under this subsection, the
12 Secretary shall—

13 (A) consider current and proposed aerial surveillance
14 technologies;

15 (B) assess the feasibility and advisability of utilizing
16 such technologies to address border threats,
17 including an assessment of the technologies
18 considered best suited to address respective threats;

19 (C) consult with the Secretary of Defense regarding
20 any technologies or equipment, which the Secretary
21 may deploy along an international border of the
22 United States; and

23 (D) consult with the Administrator of the Federal
24 Aviation Administration regarding safety, airspace
25 coordination and regulation, and any other issues
26 necessary for implementation of the program.

27 (3) ADDITIONAL REQUIREMENTS-

28 (A) IN GENERAL- The program developed under this
29 subsection shall include the use of a variety of aerial
30 surveillance technologies in a variety of topographies
31 and areas, including populated and unpopulated
32 areas located on or near an international border of
33 the United States, in order to evaluate, for a range
34 of circumstances--

35 (i) the significance of previous experiences
36 with such technologies in border security or
37 critical infrastructure protection;

38 (ii) the cost and effectiveness of various
39 technologies for border security, including
40 varying levels of technical complexity; and

1 (iii) liability, safety, and privacy concerns
2 relating to the utilization of such technologies
3 for border security.

4 (4) CONTINUED USE OF AERIAL SURVEILLANCE
5 TECHNOLOGIES- The Secretary may continue the
6 operation of aerial surveillance technologies while
7 assessing the effectiveness of the utilization of such
8 technologies.

9 (5) REPORT TO CONGRESS- Not later than 180 days after
10 implementing the program under this subsection, the
11 Secretary shall submit a report to Congress regarding the
12 program developed under this subsection. The Secretary
13 shall include in the report a description of the program
14 together with such recommendations as the Secretary
15 finds appropriate for enhancing the program.

16 (6) AUTHORIZATION OF APPROPRIATIONS- There are
17 authorized to be appropriated such sums as may be
18 necessary to carry out this subsection.

19 (b) Integrated and Automated Surveillance Program-

20 (1) REQUIREMENT FOR PROGRAM- Subject to the
21 availability of appropriations, the Secretary shall establish
22 a program to procure additional unmanned aerial vehicles,
23 cameras, poles, sensors, satellites, radar coverage, and
24 other technologies necessary to achieve operational control
25 of the international borders of the United States and to
26 establish a security perimeter known as a 'virtual fence'
27 along such international borders to provide a barrier to
28 illegal immigration. Such program shall be known as the
29 Integrated and Automated Surveillance Program.

30 (2) PROGRAM COMPONENTS- The Secretary shall ensure,
31 to the maximum extent feasible, the Integrated and
32 Automated Surveillance Program is carried out in a manner
33 that—

34 (A) the technologies utilized in the Program are
35 integrated and function cohesively in an automated
36 fashion, including the integration of motion sensor
37 alerts and cameras, whereby a sensor alert
38 automatically activates a corresponding camera to
39 pan and tilt in the direction of the triggered sensor;

40 (B) cameras utilized in the Program do not have to
41 be manually operated;

- 1 (C) such camera views and positions are not fixed;
2 (D) surveillance video taken by such cameras can be
3 viewed at multiple designated communications
4 centers;
5 (E) a standard process is used to collect, catalog,
6 and report intrusion and response data collected
7 under the Program;
8 (F) future remote surveillance technology
9 investments and upgrades for the Program can be
10 integrated with existing systems;
11 (G) performance measures are developed and
12 applied that can evaluate whether the Program is
13 providing desired results and increasing response
14 effectiveness in monitoring and detecting illegal
15 intrusions along the international borders of the
16 United States;
17 (H) plans are developed under the Program to
18 streamline site selection, site validation, and
19 environmental assessment processes to minimize
20 delays of installing surveillance technology
21 infrastructure;
22 (I) standards are developed under the Program to
23 expand the shared use of existing private and
24 governmental structures to install remote
25 surveillance technology infrastructure where
26 possible; and
27 (J) standards are developed under the Program to
28 identify and deploy the use of nonpermanent or
29 mobile surveillance platforms that will increase the
30 Secretary's mobility and ability to identify illegal
31 border intrusions.

32 (3) REPORT TO CONGRESS- Not later than 1 year after the
33 initial implementation of the Integrated and Automated
34 Surveillance Program, the Secretary shall submit to
35 Congress a report regarding the Program. The Secretary
36 shall include in the report a description of the Program
37 together with any recommendation that the Secretary
38 finds appropriate for enhancing the program.

39 (4) EVALUATION OF CONTRACTORS-

40 (A) REQUIREMENT FOR STANDARDS- The Secretary

1 shall develop appropriate standards to evaluate the
2 performance of any contractor providing goods or
3 services to carry out the Integrated and Automated
4 Surveillance Program.

5 (B) REVIEW BY THE INSPECTOR GENERAL- The
6 Inspector General of the Department shall timely
7 review each new contract related to the Program
8 that has a value of more than \$5,000,000, to
9 determine whether such contract fully complies with
10 applicable cost requirements, performance
11 objectives, program milestones, and schedules. The
12 Inspector General shall report the findings of such
13 review to the Secretary in a timely manner. Not later
14 than 30 days after the date the Secretary receives a
15 report of findings from the Inspector General, the
16 Secretary shall submit to the Committee on
17 Homeland Security and Governmental Affairs of the
18 Senate and the Committee on Homeland Security of
19 the House of Representatives a report of such
20 findings and a description of any the steps that the
21 Secretary has taken or plans to take in response to
22 such findings.

23 (5) AUTHORIZATION OF APPROPRIATIONS- There are
24 authorized to be appropriated such sums as may be
25 necessary to carry out this subsection.

26 **SEC. 126. SURVEILLANCE PLAN.**

27 (a) Requirement for Plan- The Secretary shall develop a
28 comprehensive plan for the systematic surveillance of the
29 international land and maritime borders of the United States.

30 (b) Content- The plan required by subsection (a) shall include
31 the following:

32 (1) An assessment of existing technologies employed on
33 the international land and maritime borders of the United
34 States.

35 (2) A description of the compatibility of new surveillance
36 technologies with surveillance technologies in use by the
37 Secretary on the date of the enactment of this Act.

38 (3) A description of how the Commissioner of the United
39 States Customs and Border Protection of the Department
40 is working, or is expected to work, with the Under
41 Secretary for Science and Technology of the Department

1 to identify and test surveillance technology.

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

4 (5) Identification of any obstacles that may impede such
5 deployment.

6 (6) A detailed estimate of all costs associated with such
7 deployment and with continued maintenance of such
8 technologies.

9 (7) A description of how the Secretary is working with the
10 Administrator of the Federal Aviation Administration on
11 safety and airspace control issues associated with the use
12 of unmanned aerial vehicles.

13 (c) Submission to Congress- Not later than 6 months after the
14 date of the enactment of this Act, the Secretary shall submit to
15 Congress the plan required by this section.

16 **SEC. 127. NATIONAL STRATEGY FOR BORDER SECURITY.**

17 (a) Requirement for Strategy- The Secretary, in consultation
18 with the heads of other appropriate Federal agencies, shall
19 develop a National Strategy for Border Security that describes
20 actions to be carried out to achieve operational control over all
21 ports of entry into the United States and the international land
22 and maritime borders of the United States.

23 (b) Content- The National Strategy for Border Security shall
24 include the following:

25 (1) The implementation schedule for the comprehensive
26 plan for systematic surveillance described in section 136.

27 (2) An assessment of the threat posed by terrorists and
28 terrorist groups that may try to infiltrate the United States
29 at locations along the international land and maritime
30 borders of the United States.

31 (3) A risk assessment for all United States ports of entry
32 and all portions of the international land and maritime
33 borders of the United States that includes a description of
34 activities being undertaken--

35 (A) to prevent the entry of terrorists, other unlawful
36 aliens, instruments of terrorism, narcotics, and other
37 contraband into the United States; and

38 (B) to protect critical infrastructure at or near such
39 ports of entry or borders.

- 1 (4) An assessment of the legal requirements that prevent
2 achieving and maintaining operational control over the
3 entire international land and maritime borders of the
4 United States.
- 5 (5) An assessment of the most appropriate, practical, and
6 cost-effective means of defending the international land
7 and maritime borders of the United States against threats
8 to security and illegal transit, including intelligence
9 capacities, technology, equipment, personnel, and training
10 needed to address security vulnerabilities.
- 11 (6) An assessment of staffing needs for all border security
12 functions, taking into account threat and vulnerability
13 information pertaining to the borders and the impact of
14 new security programs, policies, and technologies.
- 15 (7) A description of the border security roles and missions
16 of Federal, State, regional, local, and tribal authorities, and
17 recommendations regarding actions the Secretary can
18 carry out to improve coordination with such authorities to
19 enable border security and enforcement activities to be
20 carried out in a more efficient and effective manner.
- 21 (8) An assessment of existing efforts and technologies
22 used for border security and the effect of the use of such
23 efforts and technologies on civil rights, personal property
24 rights, privacy rights, and civil liberties, including an
25 assessment of efforts to take into account asylum seekers,
26 trafficking victims, unaccompanied minor aliens, and other
27 vulnerable populations.
- 28 (9) A prioritized list of research and development
29 objectives to enhance the security of the international land
30 and maritime borders of the United States.
- 31 (10) A description of ways to ensure that the free flow of
32 travel and commerce is not diminished by efforts,
33 activities, and programs aimed at securing the
34 international land and maritime borders of the United
35 States.
- 36 (11) An assessment of additional detention facilities and
37 beds that are needed to detain unlawful aliens
38 apprehended at United States ports of entry or along the
39 international land borders of the United States.
- 40 (12) A description of the performance metrics to be used
41 to ensure accountability by the bureaus of the Department

1 in implementing such Strategy.

2 (13) A schedule for the implementation of the security
3 measures described in such Strategy, including a
4 prioritization of security measures, realistic deadlines for
5 addressing the security and enforcement needs, an
6 estimate of the resources needed to carry out such
7 measures, and a description of how such resources should
8 be allocated.

9 (c) Consultation- In developing the National Strategy for Border
10 Security, the Secretary shall consult with representatives of--

11 (1) State, local, and tribal authorities with responsibility for
12 locations along the international land and maritime borders
13 of the United States; and

14 (2) appropriate private sector entities, nongovernmental
15 organizations, and affected communities that have
16 expertise in areas related to border security.

17 (d) Coordination- The National Strategy for Border Security shall
18 be consistent with the National Strategy for Maritime Security
19 developed pursuant to Homeland Security Presidential Directive
20 13, dated December 21, 2004.

21 (e) Submission to Congress-

22 (1) STRATEGY- Not later than 1 year after the date of the
23 enactment of this Act, the Secretary shall submit to
24 Congress the National Strategy for Border Security.

25 (2) UPDATES- The Secretary shall submit to Congress any
26 update of such Strategy that the Secretary determines is
27 necessary, not later than 30 days after such update is
28 developed.

29 (f) Immediate Action- Nothing in this section or section 111 may
30 be construed to relieve the Secretary of the responsibility to take
31 all actions necessary and appropriate to achieve and maintain
32 operational control over the entire international land and
33 maritime borders of the United States.

34 **SEC. 128. BORDER PATROL TRAINING CAPACITY REVIEW.**

35 (a) In General- The Comptroller General of the United States
36 shall conduct a review of the basic training provided to Border
37 Patrol agents by the Secretary to ensure that such training is
38 provided as efficiently and cost-effectively as possible.

39 (b) Components of Review- The review under subsection (a)

1 shall include the following components:

2 (1) An evaluation of the length and content of the basic
3 training curriculum provided to new Border Patrol agents
4 by the Federal Law Enforcement Training Center, including
5 a description of how such curriculum has changed since
6 September 11, 2001, and an evaluation of language and
7 cultural diversity training programs provided within such
8 curriculum.

9 (2) A review and a detailed breakdown of the costs
10 incurred by the Bureau of Customs and Border Protection
11 and the Federal Law Enforcement Training Center to train
12 1 new Border Patrol agent.

13 (3) A comparison, based on the review and breakdown
14 under paragraph (2), of the costs, effectiveness, scope,
15 and quality, including geographic characteristics, with
16 other similar training programs provided by State and local
17 agencies, nonprofit organizations, universities, and the
18 private sector.

19 (4) An evaluation of whether utilizing comparable non-
20 Federal training programs, proficiency testing, and long-
21 distance learning programs may affect--

22 (A) the cost-effectiveness of increasing the number
23 of Border Patrol agents trained per year;

24 (B) the per agent costs of basic training; and

25 (C) the scope and quality of basic training needed to
26 fulfill the mission and duties of a Border Patrol agent.

27 **SEC. 129. BIOMETRIC DATA ENHANCEMENTS.**

28 Not later than October 1, 2008, the Secretary shall--

29 (1) in consultation with the Attorney General, enhance
30 connectivity between the Automated Biometric Fingerprint
31 Identification System (IDENT) of the Department and the
32 Integrated Automated Fingerprint Identification System
33 (IAFIS) of the Federal Bureau of Investigation to ensure
34 more expeditious data searches; and

35 (2) in consultation with the Secretary of State, collect all
36 fingerprints from each alien required to provide
37 fingerprints during the alien's initial enrollment in the
38 integrated entry and exit data system described in section
39 110 of the Illegal Immigration Reform and Immigrant

1 Responsibility Act of 1996 (8 U.S.C. 1365a).

2 **SEC. 130. US-VISIT SYSTEM.**

3 Not later than 6 months after the date of the enactment of this
4 Act, the Secretary, in consultation with the heads of other appropriate
5 Federal agencies, shall submit to Congress a schedule for--

6 (1) equipping all land border ports of entry of the United
7 States with the U.S.-Visitor and Immigrant Status
8 Indicator Technology (US-VISIT) system implemented
9 under section 110 of the Illegal Immigration Reform and
10 Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a);

11 (2) developing and deploying at such ports of entry the
12 exit component of the US-VISIT system; and

13 (3) making interoperable all immigration screening
14 systems operated by the Secretary.

15 **SEC. 131. DOCUMENT FRAUD DETECTION.**

16 (a) Training- Subject to the availability of appropriations, the
17 Secretary shall provide all U.S. Customs and Border Protection
18 officers with training in identifying and detecting fraudulent
19 travel documents. Such training shall be developed in
20 consultation with the head of the Forensic Document Laboratory
21 of the U.S. Immigration and Customs Enforcement.

22 (b) Forensic Document Laboratory- The Secretary shall provide
23 all U.S. Customs and Border Protection officers with access to
24 the Forensic Document Laboratory.

25 (c) Assessment-

26 (1) REQUIREMENT FOR ASSESSMENT- The Inspector
27 General of the Department shall conduct an independent
28 assessment of the accuracy and reliability of the Forensic
29 Document Laboratory.

30 (2) REPORT TO CONGRESS- Not later than 6 months after
31 the date of the enactment of this Act, the Inspector
32 General shall submit to Congress the findings of the
33 assessment required by paragraph (1).

34 (d) Authorization of Appropriations- There are authorized to be
35 appropriated to the Secretary such sums as may be necessary
36 for each of fiscal years 2008 through 2012 to carry out this
37 section.

38 **SEC. 132. BORDER RELIEF GRANT PROGRAM.**

1 (a) Grants Authorized-

2 (1) IN GENERAL- The Secretary is authorized to award
3 grants, subject to the availability of appropriations, to an
4 eligible law enforcement agency to provide assistance to
5 such agency to address--

6 (A) criminal activity that occurs in the jurisdiction of
7 such agency by virtue of such agency's proximity to
8 the United States border; and

9 (B) the impact of any lack of security along the
10 United States border.

11 (2) DURATION- Grants may be awarded under this
12 subsection during fiscal years 2008 through 2012.

13 (3) COMPETITIVE BASIS- The Secretary shall award grants
14 under this subsection on a competitive basis, except that
15 the Secretary shall give priority to applications from any
16 eligible law enforcement agency serving a community—

17 (A) with a population of less than 50,000; and

18 (B) located no more than 100 miles from a United
19 States border with--

20 (i) Canada; or

21 (ii) Mexico.

22 (b) Use of Funds- Grants awarded pursuant to subsection (a)
23 may only be used to provide additional resources for an eligible
24 law enforcement agency to address criminal activity occurring
25 along any such border, including--

26 (1) to obtain equipment;

27 (2) to hire additional personnel;

28 (3) to upgrade and maintain law enforcement technology;

29 (4) to cover operational costs, including overtime and
30 transportation costs; and

31 (5) such other resources as are available to assist that
32 agency.

33 (c) Application-

34 (1) IN GENERAL- Each eligible law enforcement agency
35 seeking a grant under this section shall submit an
36 application to the Secretary at such time, in such manner,
37 and accompanied by such information as the Secretary

1 may reasonably require.

2 (2) CONTENTS- Each application submitted pursuant to
3 paragraph (1) shall--

4 (A) describe the activities for which assistance under
5 this section is sought; and

6 (B) provide such additional assurances as the
7 Secretary determines to be essential to ensure
8 compliance with the requirements of this section.

9 (d) Definitions- For the purposes of this section:

10 (1) ELIGIBLE LAW ENFORCEMENT AGENCY- The term
11 `eligible law enforcement agency' means a tribal, State, or
12 local law enforcement agency—

13 (A) located in a county no more than 100 miles from
14 a United States border with--

15 (i) Canada; or

16 (ii) Mexico; or

17 (B) located in a county more than 100 miles from
18 any such border, but where such county has been
19 certified by the Secretary as a High Impact Area.

20 (2) HIGH IMPACT AREA- The term `High Impact Area'
21 means any county designated by the Secretary as such,
22 taking into consideration--

23 (A) whether local law enforcement agencies in that
24 county have the resources to protect the lives,
25 property, safety, or welfare of the residents of that
26 county;

27 (B) the relationship between any lack of security
28 along the United States border and the rise, if any,
29 of criminal activity in that county; and

30 (C) any other unique challenges that local law
31 enforcement face due to a lack of security along the
32 United States border.

33 (e) Authorization of Appropriations-

34 (1) IN GENERAL- There are authorized to be appropriated
35 \$100,000,000 for each of fiscal years 2008 through 2012
36 to carry out the provisions of this section.

37 (2) DIVISION OF AUTHORIZED FUNDS- Of the amounts

1 authorized under paragraph (1)--

2 (A) 2/3 shall be set aside for eligible law
3 enforcement agencies located in the 6 States with
4 the largest number of undocumented alien
5 apprehensions; and

6 (B) 1/3 shall be set aside for areas designated as a
7 High Impact Area under subsection (d).

8 (f) Supplement Not Supplant- Amounts appropriated for grants
9 under this section shall be used to supplement and not supplant
10 other State and local public funds obligated for the purposes
11 provided under this title.

12 **SEC. 133. PORT OF ENTRY INFRASTRUCTURE ASSESSMENT**
13 **STUDY.**

14 (a) Requirement To Update- Not later than January 31 of each
15 year, the Administrator of General Services, in consultation with
16 U.S. Customs and Border Protection, shall update the Port of
17 Entry Infrastructure Assessment Study prepared by U.S.
18 Customs and Border Protection in accordance with the matter
19 relating to the ports of entry infrastructure assessment that is
20 set out in the joint explanatory statement in the conference
21 report accompanying H.R. 2490 of the 106th Congress, 1st
22 session (House of Representatives Rep. No. 106-319, on page
23 67) and submit such updated study to Congress.

24 (b) Consultation- In preparing the updated studies required in
25 subsection (a), the Administrator of General Services shall
26 consult with the Director of the Office of Management and
27 Budget, the Secretary, and the Commissioner.

28 (c) Content- Each updated study required in subsection (a) shall-

29 (1) identify port of entry infrastructure and technology
30 improvement projects that would enhance border security
31 and facilitate the flow of legitimate commerce if
32 implemented;

33 (2) include the projects identified in the National Land
34 Border Security Plan required by section; and

35 (3) prioritize the projects described in paragraphs (1) and
36 (2) based on the ability of a project to--

37 (A) fulfill immediate security requirements; and

38 (B) facilitate trade across the borders of the United
39 States.

1 (d) Project Implementation- The Commissioner shall implement
2 the infrastructure and technology improvement projects
3 described in subsection (c) in the order of priority assigned to
4 each project under subsection (c)(3).

5 (e) Divergence From Priorities- The Commissioner may diverge
6 from the priority order if the Commissioner determines that
7 significantly changed circumstances, such as immediate security
8 needs or changes in infrastructure in Mexico or Canada,
9 compellingly alter the need for a project in the United States.

10 **SEC. 134. NATIONAL LAND BORDER SECURITY PLAN.**

11 (a) In General- Not later than 1 year after the date of the
12 enactment of this Act, an annually thereafter, the Secretary,
13 after consultation with representatives of Federal, State, and
14 local law enforcement agencies and private entities that are
15 involved in international trade across the northern border or the
16 southern border, shall submit a National Land Border Security
17 Plan to Congress.

18 (b) Vulnerability Assessment-

19 (1) IN GENERAL- The plan required in subsection (a) shall
20 include a vulnerability assessment of each port of entry
21 located on the northern border or the southern border.

22 (2) PORT SECURITY COORDINATORS- The Secretary may
23 establish 1 or more port security coordinators at each port
24 of entry located on the northern border or the southern
25 border--

26 (A) to assist in conducting a vulnerability assessment
27 at such port; and

28 (B) to provide other assistance with the preparation
29 of the plan required in subsection (a).

30 **SEC. 135. PORT OF ENTRY TECHNOLOGY DEMONSTRATION**
31 **PROGRAM.**

32 (a) Establishment- The Secretary shall carry out a technology
33 demonstration program to—

34 (1) test and evaluate new port of entry technologies;

35 (2) refine port of entry technologies and operational
36 concepts; and

37 (3) train personnel under realistic conditions.

38 (b) Technology and Facilities-

1 (1) TECHNOLOGY TESTING- Under the technology
2 demonstration program, the Secretary shall test
3 technologies that enhance port of entry operations,
4 including operations related to--

5 (A) inspections;

6 (B) communications;

7 (C) port tracking;

8 (D) identification of persons and cargo;

9 (E) sensory devices;

10 (F) personal detection;

11 (G) decision support; and

12 (H) the detection and identification of weapons of
13 mass destruction.

14 (2) DEVELOPMENT OF FACILITIES- At a demonstration site
15 selected pursuant to subsection (c)(2), the Secretary shall
16 develop facilities to provide appropriate training to law
17 enforcement personnel who have responsibility for border
18 security, including--

19 (A) cross-training among agencies;

20 (B) advanced law enforcement training; and

21 (C) equipment orientation.

22 (c) Demonstration Sites-

23 (1) NUMBER- The Secretary shall carry out the
24 demonstration program at not less than 3 sites and not
25 more than 5 sites.

26 (2) SELECTION CRITERIA- To ensure that at least 1 of the
27 facilities selected as a port of entry demonstration site for
28 the demonstration program has the most up-to-date
29 design, contains sufficient space to conduct the
30 demonstration program, has a traffic volume low enough
31 to easily incorporate new technologies without interrupting
32 normal processing activity, and can efficiently carry out
33 demonstration and port of entry operations, at least 1 port
34 of entry selected as a demonstration site shall--

35 (A) have been established not more than 15 years
36 before the date of the enactment of this Act;

37 (B) consist of not less than 65 acres, with the

1 possibility of expansion to not less than 25 adjacent
2 acres; and

3 (C) have serviced an average of not more than
4 50,000 vehicles per month during the 1-year period
5 ending on the date of the enactment of this Act.

6 (d) Relationship With Other Agencies- The Secretary shall permit
7 personnel from an appropriate Federal or State agency to utilize
8 a demonstration site described in subsection (c) to test
9 technologies that enhance port of entry operations, including
10 technologies described in subparagraphs (A) through (H) of
11 subsection (b)(1).

12 (e) Report-

13 (1) REQUIREMENT- Not later than 1 year after the date of
14 the enactment of this Act, and annually thereafter, the
15 Secretary shall submit to Congress a report on the
16 activities carried out at each demonstration site under the
17 technology demonstration program established under this
18 section.

19 (2) CONTENT- The report submitted under paragraph (1)
20 shall include an assessment by the Secretary of the
21 feasibility of incorporating any demonstrated technology
22 for use throughout the U.S. Customs and Border
23 Protection.

24 **SEC. 136. COMBATING HUMAN SMUGGLING.**

25 (a) Requirement for Plan- The Secretary shall develop and
26 implement a plan to improve coordination between the U.S.
27 Immigration and Customs Enforcement and the U.S. Customs
28 and Border Protection of the Department and any other Federal,
29 State, local, or tribal authorities, as determined appropriate by
30 the Secretary, to improve coordination efforts to combat human
31 smuggling.

32 (b) Content- In developing the plan required by subsection (a),
33 the Secretary shall consider--

34 (1) the interoperability of databases utilized to prevent
35 human smuggling;

36 (2) adequate and effective personnel training;

37 (3) methods and programs to effectively target networks
38 that engage in such smuggling;

39 (4) effective utilization of--

- 1 (A) visas for victims of trafficking and other crimes;
- 2 and
- 3 (B) investigatory techniques, equipment, and
- 4 procedures that prevent, detect, and prosecute
- 5 international money laundering and other operations
- 6 that are utilized in smuggling;
- 7 (5) joint measures, with the Secretary of State, to enhance
- 8 intelligence sharing and cooperation with foreign
- 9 governments whose citizens are preyed on by human
- 10 smugglers; and
- 11 (6) other measures that the Secretary considers
- 12 appropriate to combating human smuggling.
- 13 (c) Report- Not later than 1 year after implementing the plan
- 14 described in subsection (a), the Secretary shall submit to
- 15 Congress a report on such plan, including any recommendations
- 16 for legislative action to improve efforts to combating human
- 17 smuggling.
- 18 (d) Savings Provision- Nothing in this section may be construed
- 19 to provide additional authority to any State or local entity to
- 20 enforce Federal immigration laws.

21 **SEC. 137. INCREASE OF FEDERAL DETENTION SPACE AND THE**
22 **UTILIZATION OF FACILITIES IDENTIFIED FOR CLOSURES AS A**
23 **RESULT OF THE DEFENSE BASE CLOSURE REALIGNMENT ACT OF**
24 **1990.**

- 25 (a) Construction or Acquisition of Detention Facilities-
- 26 (1) IN GENERAL- The Secretary shall construct or acquire,
- 27 in addition to existing facilities for the detention of aliens,
- 28 at least 20 detention facilities in the United States that
- 29 have the capacity to detain a combined total of not less
- 30 than 20,000 individuals at any time for aliens detained
- 31 pending removal or a decision on removal of such aliens
- 32 from the United States subject to available appropriations.
- 33 (b) Construction of or Acquisition of Detention Facilities-
- 34 (1) REQUIREMENT TO CONSTRUCT OR ACQUIRE- The
- 35 Secretary shall construct or acquire additional detention
- 36 facilities in the United States to accommodate the
- 37 detention beds required by section 5204(a) of the
- 38 Intelligence Reform and Terrorism Protection Act of 2004,
- 39 as amended by subsection (a), subject to available

1 appropriations.

2 (2) USE OF ALTERNATE DETENTION FACILITIES- Subject
3 to the availability of appropriations, the Secretary shall
4 fully utilize all possible options to cost effectively increase
5 available detention capacities, and shall utilize detention
6 facilities that are owned and operated by the Federal
7 Government if the use of such facilities is cost effective.

8 (3) USE OF INSTALLATIONS UNDER BASE CLOSURE
9 LAWS- In acquiring additional detention facilities under this
10 subsection, the Secretary shall consider the transfer of
11 appropriate portions of military installations approved for
12 closure or realignment under the Defense Base Closure
13 and Realignment Act of 1990 (part A of title XXIX of Public
14 Law 101-510; 10 U.S.C. 2687 note) for use in accordance
15 with subsection (a).

16 (4) DETERMINATION OF LOCATION- The location of any
17 detention facility constructed or acquired in accordance
18 with this subsection shall be determined, with the
19 concurrence of the Secretary, by the senior officer
20 responsible for Detention and Removal Operations in the
21 Department. The detention facilities shall be located so as
22 to enable the officers and employees of the Department to
23 increase to the maximum extent practicable the annual
24 rate and level of removals of illegal aliens from the United
25 States.

26 (c) Annual Report to Congress- Not later than 1 year after the
27 date of the enactment of this Act, and annually thereafter, in
28 consultation with the heads of other appropriate Federal
29 agencies, the Secretary shall submit to Congress an assessment
30 of the additional detention facilities and bed space needed to
31 detain unlawful aliens apprehended at the United States ports of
32 entry or along the international land borders of the United
33 States.

34 (d) Technical and Conforming Amendment- Section 241(g)(1) (8
35 U.S.C. 1231(g)(1)) is amended by striking 'may expend' and
36 inserting 'shall expend'.

37 (e) Authorization of Appropriations- There are authorized to be
38 appropriated such sums as may be necessary to carry out this
39 section.

40 **Sec. 138. UNITED STATES-MEXICO BORDER ENFORCEMENT**
41 **REVIEW COMMISSION.**

1 (a) Establishment of Commission.-

2 (1) IN GENERAL-There is established an independent
3 commission to be known as the United States-Mexico
4 Border Enforcement Review Commission (referred to in
5 this section as the "Commission").

6 (2) PURPOSES-The purposes of the Commission are-

7 (A) to study the overall enforcement strategies,
8 programs and policies of Federal agencies along the
9 United States-Mexico border; and

10 (B) to make recommendations to the President and
11 Congress with respect to such strategies, programs
12 and policies.

13 (3) MEMBERSHIP-The Commission shall be composed of 17
14 voting members, who shall be appointed as follows:

15 (A) The Governors of the States of California, New
16 Mexico, Arizona, and Texas shall each appoint 4
17 voting members of whom-

18 (i) 1 shall be a local elected official from the
19 State's border region;

20 (ii) 1 shall be a local law enforcement official
21 from the State's border region; and

22 (iii) 2 shall be from the State's communities of
23 academia, religious leaders, civic leaders or
24 community leaders.

25 (B) 2 nonvoting members, of whom-

26 (i) 1 shall be appointed by the Secretary;

27 (ii) 1 shall be appointed by the Attorney
28 General; and

29 (iii) 1 shall be appointed by the Secretary of
30 State.

31 (4) QUALIFICATIONS-

32 (A) IN GENERAL-Members of the Commission shall
33 be-

34 (i) individuals with expertise in migration,
35 border enforcement and protection, civil and
36 human rights, community relations, cross-
37 border trade and commerce or other pertinent

1 qualifications or experience; and

2 (ii) representative of a broad cross section of
3 perspectives from the region along the
4 international border between the United States
5 and Mexico;

6 (B) POLITICAL AFFILIATION-Not more than 2
7 members of the Commission appointed by each
8 Governor under paragraph (3)(A) may be members
9 of the same political party.

10 (C) NONGOVERNMENTAL APPOINTEES-An individual
11 appointed as a voting member to the Commission
12 may not be an officer or employee of the Federal
13 Government.

14 (5) DEADLINE FOR APPOINTMENT-All members of the
15 Commission shall be appointed not later than 6 months
16 after the enactment of this Act. If any member of the
17 Commission described in paragraph (3)(A) is not appointed
18 by such date, the Commission shall carry out its duties
19 under this section without the participation of such
20 member.

21 (6) TERM OF SERVICE-The term of office for members
22 shall be for life of the Commission.

23 (7) VACANCIES-Any vacancy in the Commission shall not
24 affect its powers, but shall be filled in the same manner in
25 which the original appointment was made.

26 (8) MEETINGS-

27 (A) INITIAL MEETING-The Commission shall meet
28 and begin the operations of the Commission as soon
29 as practicable.

30 (B) SUBSEQUENT MEETINGS-After its initial meeting,
31 the Commission shall meet upon the call of the
32 chairman or a majority of its members.

33 (9) QUORUM-Nine members of the Commission shall
34 constitute a quorum.

35 (10) CHAIR AND VICE CHAIR-The voting members of the
36 Commission shall elect a Chairman and Vice Chairman
37 from among its members. The term of office shall be for
38 the life of the Commission.

39 (b) Duties-The Commission shall review, examine, and make

1 recommendations regarding border enforcement policies,
2 strategies, and programs, including recommendations regarding-

3 (1) the protection of human and civil rights of community
4 residents and migrants along the international border
5 between the United States and Mexico;

6 (2) the adequacy and effectiveness of human and civil
7 rights training of enforcement personnel on such border;

8 (3) the adequacy of the complaint process within the
9 agencies and programs of the Department that are
10 employed when an individual files a grievance;

11 (4) the effect of the operations, technology, and
12 enforcement infrastructure along such border on the-

13 (A) environment;

14 (B) cross border traffic and commerce; and

15 (C) the quality of life of border communities;

16 (5) local law enforcement involvement in the enforcement
17 of Federal immigration law; and

18 (6) any other matters regarding border enforcement
19 policies, strategies, and programs the Commission
20 determines appropriate.

21 (c) Information and Assistance From Federal Agencies.-

22 (1) INFORMATION FROM FEDERAL AGENCIES-The
23 Commission may seek directly from any department or
24 agency of the United States such information, including
25 suggestions, estimates, and statistics, as allowed by law
26 and as the Commission considers necessary to carry out
27 the provisions of this section. Upon request of the
28 Commission, the head of such department or agency shall
29 furnish such information to the Commission.

30 (2) ASSISTANCE FROM FEDERAL AGENCIES-The
31 Administrator of General Services shall, on a reimbursable
32 basis, provide the Commission with administrative support
33 and other services for the performance of the
34 Commission's functions. The departments and agencies of
35 the United States may provide the Commission with such
36 services, funds, facilities, staff, and other support services
37 as they determine advisable and as authorized by law.

38 (d) Compensation-

1 (1) IN GENERAL-Members of the Commission shall serve
2 without pay.

3 (2) REIMBURSEMENT OF EXPENSES-All members of the
4 Commission shall be reimbursed for reasonable travel
5 expenses and subsistence, and other reasonable and
6 necessary expenses incurred by them in the performance
7 of their duties.

8 (e) Report-Not later than 2 years after the date of the first
9 meeting called pursuant to (a)(8)(A), the Commission shall
10 submit a report to the President and Congress that contains-

11 (1) findings with respect to the duties of the Commission;

12 (2) recommendations regarding border enforcement
13 policies, strategies, and programs;

14 (3) suggestions for the implementation of the
15 Commission's recommendations; and

16 (4) a recommendation as to whether the Commission
17 should continue to exist after the date of termination
18 described in subsection (g), and if so, a description of the
19 purposes and duties recommended to be carried out by the
20 Commission after such date.

21 (f) Authorization of Appropriations-There are authorized to be
22 appropriated such sums as may be necessary to carry out this
23 section.

24 (g) Sunset-Unless the Commission is reauthorized by Congress,
25 the Commission shall terminate on the date that is 90 days after
26 the date the Commission submits the report described in
27 subsection (e).

28 **SEC. 139. NORTHERN BORDER PROSECUTION**
29 **REIMBURSEMENT.**

30 (a) *Short Title.*--This section may be cited as the ``Northern Border
31 Prosecution Initiative Reimbursement Act''.

32 (b) *Northern Border Prosecution Initiative.*--

33 (1) INITIATIVE REQUIRED.--From amounts made available to carry
34 out this section, the Attorney General, acting through the Director of
35 the Bureau of Justice Assistance of the Office of Justice Programs, shall
36 carry out a program, to be known as the Northern Border Prosecution
37 Initiative, to provide funds to reimburse eligible northern border

1 entities for costs incurred by those entities for handling case
2 dispositions of criminal cases that are federally initiated but federally
3 declined-referred. This program shall be modeled after the
4 Southwestern Border Prosecution Initiative and shall serve as a
5 partner program to that initiative to reimburse local jurisdictions for
6 processing Federal cases.

7 (2) PROVISION AND ALLOCATION OF FUNDS.--Funds provided
8 under the program shall be provided in the form of direct
9 reimbursements and shall be allocated in a manner consistent with the
10 manner under which funds are allocated under the Southwestern
11 Border Prosecution Initiative.

12 (3) USE OF FUNDS.--Funds provided to an eligible northern border
13 entity may be used by the entity for any lawful purpose, including the
14 following purposes:

15 (A) Prosecution and related costs.

16 (B) Court costs.

17 (C) Costs of courtroom technology.

18 (D) Costs of constructing holding spaces.

19 (E) Costs of administrative staff.

20 (F) Costs of defense counsel for indigent defendants.

21 (G) Detention costs, including pre-trial and post-trial detention.

22 (4) DEFINITIONS.--In this section:

23 (A) The term ``eligible northern border entity'' means--

24 (i) any of the following States: Alaska, Idaho, Maine, Michigan,
25 Minnesota, Montana, New Hampshire, New York, North Dakota, Ohio,
26 Pennsylvania, Vermont, Washington, and Wisconsin; or

27 (ii) any unit of local government within a State referred to in clause
28 (i).

29 (B) The term ``federally initiated'' means, with respect to a
30 criminal case, that the case results from a criminal investigation or an

1 arrest involving Federal law enforcement authorities for a potential
2 violation of Federal criminal law, including investigations resulting from
3 multi-jurisdictional task forces.

4 (C) The term ``federally declined-referred'' means, with respect to
5 a criminal case, that a decision has been made in that case by a
6 United States Attorney or a Federal law enforcement agency during a
7 Federal investigation to no longer pursue Federal criminal charges
8 against a defendant and to refer the investigation to a State or local
9 jurisdiction for possible prosecution. The term includes a decision
10 made on an individualized case-by-case basis as well as a decision
11 made pursuant to a general policy or practice or pursuant to
12 prosecutorial discretion.

13 (D) The term ``case disposition'', for purposes of the Northern
14 Border Prosecution Initiative, refers to the time between a suspect's
15 arrest and the resolution of the criminal charges through a county or
16 State judicial or prosecutorial process. Disposition does not include
17 incarceration time for sentenced offenders, or time spent by
18 prosecutors on judicial appeals.

19 (c) *Authorization of Appropriations.*--There is authorized to be
20 appropriated to carry out this section \$28,000,000 for fiscal year 2008
21 and such sums as may be necessary for each succeeding fiscal year.

22 **Subtitle D. Asylum and Detention Safeguards**

23 **SEC. 140. SHORT TITLE.**

24 This subtitle may be cited as the "Secure and Safe Detention and
25 Asylum Act".

26 **SEC. 141. DEFINITIONS.**

27 In this subtitle:

28 (1) CREDIBLE FEAR OF PERSECUTION.—The term "credible fear of
29 persecution" has the meaning given that term in section
30 235(b)(1)(B)(v) of the Immigration and Nationality Act (8 U.S.C.
31 1225(b)(1)(B)(v)).

32 (2) DETAINEE.—The term "detainee" means an alien in the
33 custody of the Department of Homeland Security who is held in a
34 detention facility.

35 (3) DETENTION FACILITY.—The term "detention facility" means any
36 Federal facility in which an alien detained pending the outcome of
37 a removal proceeding, or an alien detained pending the execution

