

109TH CONGRESS
1ST SESSION

H. R. 4312

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

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:

1 to achieve and maintain operational control over the entire
2 international land and maritime borders of the United
3 States, to include the following—

4 (1) systematic surveillance of the international
5 land and maritime borders of the United States
6 through more effective use of personnel and tech-
7 nology, such as unmanned aerial vehicles, ground-
8 based sensors, satellites, radar coverage, and cam-
9 eras;

10 (2) physical infrastructure enhancements to
11 prevent unlawful entry by aliens into the United
12 States and facilitate access to the international land
13 and maritime borders by United States Customs and
14 Border Protection;

15 (3) hiring and training as expeditiously as pos-
16 sible additional Border Patrol agents authorized
17 under section 5202 of the Intelligence Reform and
18 Terrorism Prevention Act of 2004 (Public Law 108–
19 458); and

20 (4) increasing deployment of United States
21 Customs and Border Protection personnel to areas
22 along the international land and maritime borders of
23 the United States where there are high levels of un-
24 lawful entry by aliens and other areas likely to be
25 impacted by such increased deployment.

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

2 (a) SURVEILLANCE PLAN.—Not later than six
3 months after the date of the enactment of this Act, the
4 Secretary of Homeland Security shall submit to the Com-
5 mittee on Homeland Security of the House of Representa-
6 tives a comprehensive plan for the systematic surveillance
7 of the international land and maritime borders of the
8 United States. The plan shall include the following:

9 (1) An assessment of existing technologies em-
10 ployed on such borders.

11 (2) A description of how new surveillance tech-
12 nologies will be compatible with existing surveillance
13 technologies.

14 (3) A description of how the United States Cus-
15 toms and Border Protection is working, or is ex-
16 pected to work, with the Directorate of Science and
17 Technology of the Department of Homeland Secu-
18 rity to identify and test surveillance technology.

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

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

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

1 (b) NATIONAL STRATEGY FOR BORDER SECURITY.—
2 Not later than one year after the date of the enactment
3 of this Act, the Secretary of Homeland Security, in con-
4 sultation with the heads of other appropriate Federal
5 agencies, shall submit to the Committee on Homeland Se-
6 curity of the House of Representatives a National Strat-
7 egy for Border Security to achieve operational control over
8 all ports of entry into the United States and the inter-
9 national land and maritime borders of the United States.
10 The Secretary shall update the Strategy as needed and
11 shall submit to the Committee, not later than 30 days
12 after each such update, the updated Strategy. The Na-
13 tional Strategy for Border Security shall include the fol-
14 lowing:

15 (1) The implementation timeline for the surveil-
16 lance plan described in subsection (a).

17 (2) A risk assessment of all ports of entry to
18 the United States and all portions of the inter-
19 national land and maritime borders of the United
20 States with respect to—

21 (A) preventing the entry of terrorists,
22 other unlawful aliens, instruments of terrorism,
23 narcotics, and other contraband into the United
24 States; and

1 (B) protecting critical infrastructure at or
2 near such ports of entry or borders.

3 (3) An assessment of the most appropriate,
4 practical, and cost-effective means of defending the
5 international land and maritime borders of the
6 United States against threats to security and illegal
7 transit, including intelligence capacities, technology,
8 equipment, personnel, and training needed to ad-
9 dress security vulnerabilities.

10 (4) An assessment of staffing needs for all bor-
11 der security functions, taking into account threat
12 and vulnerability information pertaining to the bor-
13 ders and the impact of new security programs, poli-
14 cies, and technologies.

15 (5) A description of the border security roles
16 and missions of Federal, State, regional, local, and
17 tribal authorities, and recommendations with respect
18 to how the Department of Homeland Security can
19 improve coordination with such authorities, to enable
20 border security enforcement to be carried out in an
21 efficient and effective manner.

22 (6) A prioritization of research and development
23 objectives to enhance the security of the inter-
24 national land and maritime borders of the United
25 States.

1 (7) A description of ways to ensure that the
2 free flow of legitimate travel and commerce of the
3 United States is not diminished by efforts, activities,
4 and programs aimed at securing the international
5 land and maritime borders of the United States.

6 (8) An assessment of additional detention facili-
7 ties and bed space needed to detain unlawful aliens
8 apprehended at United States ports of entry or
9 along the international land borders of the United
10 States in accordance with the National Strategy for
11 Border Security required under this subsection and
12 the mandatory detention requirement described in
13 section 301 of this Act.

14 (9) A description of how the Secretary shall en-
15 sure accountability within the appropriate agencies
16 of the Department of Homeland Security responsible
17 for implementing the border security measures de-
18 termined necessary upon completion of the National
19 Strategy for Border Security.

20 (10) A timeline for the implementation of the
21 additional security measures determined necessary
22 as part of the National Strategy for Border Secu-
23 rity, including a prioritization of security measures,
24 realistic deadlines for addressing the security and

1 enforcement needs, and resource estimates and allo-
2 cations.

3 (c) CONSULTATION.—In creating the National Strat-
4 egy for Border Security described in subsection (b), the
5 Secretary shall consult with—

6 (1) State, local, and tribal authorities along the
7 international land and maritime borders of the
8 United States; and

9 (2) an appropriate cross-section of private sec-
10 tor and nongovernmental organizations with relevant
11 expertise.

12 (d) PRIORITY OF NATIONAL STRATEGY.—The Na-
13 tional Strategy for Border Security described in subsection
14 (b) shall be the controlling document for security and en-
15 forcement efforts related to securing the international land
16 and maritime borders of the United States.

17 (e) IMMEDIATE ACTION.—Nothing in this section
18 shall be construed to relieve the Secretary of the responsi-
19 bility to take all actions necessary and appropriate to
20 achieve and maintain operational control over the entire
21 international land and maritime borders of the United
22 States pursuant to section 101 of this Act or any other
23 provision of law.

1 **SEC. 103. IMPLEMENTATION OF CROSS-BORDER SECURITY**
2 **AGREEMENTS.**

3 (a) IN GENERAL.—Not later than six months after
4 the date of the enactment of this Act, the Secretary of
5 Homeland Security shall submit to the Committee on
6 Homeland Security of the House of Representatives a re-
7 port on the implementation of the cross-border security
8 agreements signed by the United States with Mexico and
9 Canada.

10 (b) UPDATES.—The Secretary shall regularly update
11 the Committee concerning such implementation.

12 **SEC. 104. BIOMETRIC DATA ENHANCEMENTS.**

13 Not later than October 1, 2006, the Secretary of
14 Homeland Security shall—

15 (1) in consultation with the Attorney General,
16 enhance connectivity between the IDENT and
17 IAFIS fingerprint databases to ensure more expedi-
18 tious data searches; and

19 (2) in consultation with the Secretary of State,
20 collect ten fingerprints from each alien required to
21 provide fingerprints during the alien's initial enroll-
22 ment in the integrated entry and exit data system
23 described in section 110 of the Illegal Immigration
24 Reform and Immigrant Responsibility Act of 1996
25 (8 U.S.C. 1221 note).

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

2 Not later than 90 days after the date of the enact-
3 ment of this Act, the Secretary of Homeland Security shall
4 submit to Congress a report—

5 (1) describing the tangible and quantifiable
6 benefits of the One Face at the Border Initiative es-
7 tablished by the Department of Homeland Security;

8 (2) identifying goals for and challenges to in-
9 creased effectiveness of the One Face at the Border
10 Initiative;

11 (3) providing a breakdown of the number of in-
12 spectors who were—

13 (A) personnel of the United States Cus-
14 toms Service before the date of the establish-
15 ment of the Department of Homeland Security;

16 (B) personnel of the Immigration and Nat-
17 uralization Service before the date of the estab-
18 lishment of the Department;

19 (C) personnel of the Department of Agri-
20 culture before the date of the establishment of
21 the Department; or

22 (D) hired after the date of the establish-
23 ment of the Department;

24 (4) describing the training time provided to
25 each employee on an annual basis for the various

1 training components of the One Face at the Border
2 Initiative; and

3 (5) outlining the steps taken by the Department
4 to ensure that expertise is retained with respect to
5 customs, immigration, and agriculture inspection
6 functions under the One Face at the Border Initia-
7 tive.

8 **SEC. 106. SECURE COMMUNICATION.**

9 The Secretary of Homeland Security shall, as expedi-
10 tiously as practicable, develop and implement a plan to
11 ensure clear and secure two-way communication capabili-
12 ties—

13 (1) among all Border Patrol agents conducting
14 operations between ports of entry; and

15 (2) between Border Patrol agents and their re-
16 spective Border Patrol stations.

17 **SEC. 107. BORDER PATROL AGENTS.**

18 There are authorized to be appropriated to the Sec-
19 retary of Homeland Security such sums as may be nec-
20 essary for each of fiscal years 2007 through 2010 to carry
21 out section 5202 of the Intelligence Reform and Terrorism
22 Prevention Act of 2004 (requiring the Secretary to in-
23 crease by not less than 2,000 the number of positions for
24 full-time active-duty Border Patrol agents within the De-
25 partment of Homeland Security above the number of such

1 positions for which funds were allotted for the preceding
2 fiscal year) (Public Law 108–458;118 Stat. 3734).

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

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

12 **SEC. 109. CANINE DETECTION TEAMS.**

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

21 **SEC. 110. SECURE BORDER INITIATIVE FINANCIAL AC-**
22 **COUNTABILITY.**

23 (a) IN GENERAL.—The Inspector General of the De-
24 partment of Homeland Security shall review each contract
25 action related to the Department’s Secure Border Initia-

1 tive having a value greater than \$20,000,000, to deter-
2 mine whether each such action fully complies with applica-
3 ble cost requirements, performance objectives, program
4 milestones, and timelines. The Inspector General shall
5 complete a review under this subsection with respect to
6 a contract action—

7 (1) not later than 60 days after the date of the
8 initiation of the action; and

9 (2) upon the conclusion of the performance of
10 the contract.

11 (b) REPORT BY INSPECTOR GENERAL.—Upon com-
12 pletion of each review described in subsection (a), the In-
13 spector General shall submit to the Secretary of Homeland
14 Security a report containing the findings of the review,
15 including findings regarding any cost overruns, significant
16 delays in contract execution, lack of rigorous departmental
17 contract management, insufficient departmental financial
18 oversight, or other indicators of a high risk contract.

19 (c) REPORT BY SECRETARY.—Not later than 30 days
20 after the receipt of each report required under subsection
21 (b), the Secretary of Homeland Security shall submit to
22 the Committee on Homeland Security of the House of
23 Representatives a report on the findings of the report by
24 the Inspector General and the steps the Secretary has

1 taken, or plans to take, to address the problems identified
2 in such report.

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

4 (a) IN GENERAL.—The Comptroller General of the
5 United States shall conduct a review of the basic training
6 provided to Border Patrol agents by the Department of
7 Homeland Security to ensure that such training is pro-
8 vided as efficiently and cost-effectively as possible.

9 (b) COMPONENTS OF REVIEW.—The review under
10 subsection (a) shall include the following components:

11 (1) An evaluation of the length and content of
12 the basic training curriculum provided to new Bor-
13 der Patrol agents by the Federal Law Enforcement
14 Training Center, including a description of how the
15 curriculum has changed since September 11, 2001.

16 (2) A review and a detailed breakdown of the
17 costs incurred by United States Customs and Border
18 Protection and the Federal Law Enforcement Train-
19 ing Center to train one new Border Patrol agent.

20 (3) A comparison, based on the review and
21 breakdown under paragraph (2) of the costs, effec-
22 tiveness, scope, and quality, including geographic
23 characteristics, with other similar law enforcement
24 training programs provided by State and local agen-

1 cies, non-profit organizations, universities, and the
2 private sector.

3 (4) An evaluation of whether and how utilizing
4 comparable non-Federal training programs, pro-
5 ficiency testing to streamline training, and long-dis-
6 tance learning programs may affect—

7 (A) the cost-effectiveness of increasing the
8 number of Border Patrol agents trained per
9 year and reducing the per agent costs of basic
10 training; and

11 (B) the scope and quality of basic training
12 needed to fulfill the mission and duties of a
13 Border Patrol agent.

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

15 Not later than 120 days after the date of the enact-
16 ment of this Act, the Secretary of Homeland Security shall
17 submit to the Committee on Homeland Security of the
18 House of Representatives a report detailing the impact the
19 airspace security mission in the National Capital Region
20 (in this section referred to as the “NCR”) will have on
21 the ability of the Department of Homeland Security to
22 protect the international land and maritime borders of the
23 United States. Specifically, the report shall address:

24 (1) The specific resources, including personnel,
25 assets, and facilitates, devoted or planned to be de-

1 voted to the NCR airspace security mission, and
2 from where those resources were obtained or are
3 planned to be obtained.

4 (2) An assessment of the impact that diverting
5 resources to support the NCR mission has or is ex-
6 pected to have on the traditional missions in and
7 around the international land and maritime borders
8 of the United States.

9 **TITLE II—BORDER SECURITY**
10 **COOPERATION AND EN-**
11 **FORCEMENT**

12 **SEC. 201. JOINT STRATEGIC PLAN FOR UNITED STATES**
13 **BORDER SURVEILLANCE AND SUPPORT.**

14 (a) IN GENERAL.—The Secretary of Homeland Secu-
15 rity and the Secretary of Defense shall develop a joint
16 strategic plan to use the authorities provided to the Sec-
17 retary of Defense under chapter 18 of title 10, United
18 States Code, to increase the availability and use of Depart-
19 ment of Defense equipment, including unmanned aerial
20 vehicles, tethered aerostat radars, and other surveillance
21 equipment, to assist with the surveillance activities of the
22 Department of Homeland Security conducted at or near
23 the international land and maritime borders of the United
24 States.

1 (b) REPORT.—Not later than six months after the
2 date of the enactment of this Act, the Secretary of Home-
3 land Security and the Secretary of Defense shall submit
4 to Congress a report containing—

5 (1) a description of the use of Department of
6 Defense equipment to assist with the surveillance by
7 the Department of Homeland Security of the inter-
8 national land and maritime borders of the United
9 States;

10 (2) the joint strategic plan developed pursuant
11 to subsection (a); and

12 (3) a description of the types of equipment and
13 other support to be provided by the Department of
14 Defense under the joint strategic plan during the
15 one-year period beginning after submission of the re-
16 port under this subsection.

17 (c) RULE OF CONSTRUCTION.—Nothing in this sec-
18 tion shall be construed as altering or amending the prohi-
19 bition on the use of any part of the Army or the Air Force
20 as a posse comitatus under section 1385 of title 18,
21 United 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,
25 shall evaluate border security vulnerabilities on land di-

1 rectly adjacent to the international land border of the
2 United States under the jurisdiction of the Department
3 of the Interior related to the prevention of the entry of
4 terrorists, other unlawful aliens, narcotics, and other con-
5 traband into the United States.

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

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

16 (a) IN GENERAL.—Not later than one year after the
17 date of the enactment of this Act, the Secretary of Home-
18 land Security shall design and carry out a national border
19 security exercise for the 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

1 threats to the integrity of United States borders;
2 and

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

6 **TITLE III—DETENTION AND**
7 **REMOVAL**

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

10 (a) IN GENERAL.—Beginning on October 1, 2006, an
11 alien who is attempting to illegally enter the United States
12 and who is apprehended at a United States port of entry
13 or along the international land and maritime border of the
14 United States shall be detained until removed or a final
15 decision granting admission has been determined, unless
16 the alien—

17 (1) is permitted to withdraw an application for
18 admission under section 235(a)(4) of the Immigra-
19 tion and Nationality Act (8 U.S.C. 1225(a)(4)) and
20 immediately departs from the United States pursu-
21 ant to such section; or

22 (2) is paroled into the United States by the
23 Secretary of Homeland Security for urgent humani-
24 tarian reasons or significant public benefit in accord-

1 ance with section 212(d)(5)(A) of such Act (8
2 U.S.C. 1182(d)(5)(A)).

3 (b) REQUIREMENTS DURING INTERIM PERIOD.—Be-
4 ginning 60 days after the date of the enactment of this
5 Act and before October 1, 2006, an alien described in sub-
6 section (a) may be released with a notice to appear only
7 if—

8 (1) the Secretary of Homeland Security deter-
9 mines, after conducting all appropriate background
10 and security checks on the alien, that the alien does
11 not pose a national security risk; and

12 (2) the alien provides a bond of not less than
13 \$5,000.

14 (c) RULES OF CONSTRUCTION.—

15 (1) ASYLUM AND REMOVAL.—Nothing in this
16 section shall be construed as limiting the right of an
17 alien to apply for asylum or for relief or deferral of
18 removal based on a fear of persecution.

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

1 **SEC. 302. ENHANCED DETENTION CAPACITY.**

2 There are authorized to be appropriated to the Sec-
3 retary of Homeland Security such sums as may be nec-
4 essary for each of fiscal years 2007 through 2010 to carry
5 out Section 5204 of the Intelligence Reform and Ter-
6 rorism Prevention Act of 2004 (related to an increase in
7 the number of beds by not less than 8,000 each fiscal year
8 available for immigration detention and removal oper-
9 ations of the Department of Homeland Security) (Public
10 Law 108–458; 118 Stat. 3734).

11 **SEC. 303. EXPANSION AND EFFECTIVE MANAGEMENT OF**
12 **DETENTION FACILITIES.**

13 Subject to the availability of appropriations, the Sec-
14 retary of Homeland Security shall fully utilize—

15 (1) all available detention facilities operated or
16 contracted by the Department of Homeland Secu-
17 rity; and

18 (2) all possible options to cost effectively in-
19 crease available detention capacities, including the
20 use of temporary detention facilities, the use of
21 State and local correctional facilities, private space,
22 and secure alternatives to detention.

23 **SEC. 304. ENHANCING TRANSPORTATION CAPACITY FOR**
24 **UNLAWFUL ALIENS.**

25 (a) IN GENERAL.—The Secretary of Homeland Secu-
26 rity is authorized to enter into contracts with private enti-

1 ties for the purpose of providing secure domestic transport
2 of aliens who are apprehended at or along the inter-
3 national land or maritime borders from the custody of
4 United States Customs and Border Protection to deten-
5 tion facilities and other locations as necessary.

6 (b) CRITERIA FOR SELECTION.—Notwithstanding
7 any other provision of law, to enter into a contract under
8 paragraph (1), a private entity shall submit an application
9 to the Secretary at such time, in such manner, and con-
10 taining such information as the Secretary may require.
11 The Secretary shall select from such applications those en-
12 tities which offer, in the determination of the Secretary,
13 the best combination of service, cost, and security.

14 **SEC. 305. DENIAL OF ADMISSION TO NATIONALS OF COUN-**
15 **TRY DENYING OR DELAYING ACCEPTING**
16 **ALIEN.**

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

19 “(d) DENIAL OF ADMISSION TO NATIONALS OF
20 COUNTRY DENYING OR DELAYING ACCEPTING ALIEN.—
21 Whenever the Secretary of Homeland Security determines
22 that the government of a foreign country has denied or
23 unreasonably delayed accepting an alien who is a citizen,
24 subject, national, or resident of that country after the
25 alien has been ordered removed, the Secretary, after con-

1 sultation with the Secretary of State, may deny admission
2 to any citizen, subject, national, or resident of that coun-
3 try until the country accepts the alien who was ordered
4 removed.”.

5 **SEC. 306. REPORT ON FINANCIAL BURDEN OF REPATRI-**
6 **ATION.**

7 Not later than October 31 of each year, the Secretary
8 of Homeland Security shall submit to the Secretary of
9 State and Congress a report that details the cost to the
10 Department of Homeland Security of repatriation of un-
11 lawful aliens to their countries of nationality or last habit-
12 ual residence, including details relating to cost per coun-
13 try. The Secretary shall include in each such report the
14 recommendations of the Secretary to more cost effectively
15 repatriate such aliens.

16 **SEC. 307. TRAINING PROGRAM.**

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

19 (1) review and evaluate the training provided to
20 Border Patrol agents and port of entry inspectors
21 regarding the inspection of aliens to determine
22 whether an alien is referred for an interview by an
23 asylum officer for a determination of credible fear;

24 (2) based on the review and evaluation de-
25 scribed in paragraph (1), take necessary and appro-

1 appropriate measures to ensure consistency in referrals by
2 Border Patrol agents and port of entry inspectors to
3 asylum officers for determinations of credible fear.

4 **TITLE IV—EFFECTIVE ORGANI-**
5 **ZATION OF BORDER SECU-**
6 **RITY AGENCIES**

7 **SEC. 401. ENHANCED BORDER SECURITY COORDINATION**
8 **AND MANAGEMENT.**

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

18 (1) oversee and ensure the coordinated execu-
19 tion of border security operations and policy by
20 means of a Secure Borders Program Office, and
21 such subordinate offices as may be necessary;

22 (2) establish a mechanism for sharing and co-
23 ordinating intelligence information and analysis at
24 the headquarters and field office levels pertaining to
25 counter-terrorism, border enforcement, immigration,

1 human smuggling, human trafficking, and other
2 issues of concern to both United States Immigration
3 and Customs Enforcement and United States Customs and Border Protection;

5 (3) establish Department of Homeland Security
6 task forces (to include other Federal, State, Tribal
7 and local law enforcement agencies as appropriate)
8 as necessary to better coordinate border enforcement
9 and the disruption and dismantling of criminal organizations engaged in cross-border smuggling, money
10 laundering, and immigration violations;

12 (4) enhance coordination between the border security and investigations missions within the Department by requiring that, with respect to cases involving violations of the customs and immigration laws
13 of the United States, United States Customs and
14 Border Protection coordinate with and refer all such
15 cases to United States Immigration and Customs
16 Enforcement;
17
18
19

20 (5) examine comprehensively the proper allocation of the Department's border security related resources, and analyze budget issues on the basis of
21 Department-wide border enforcement goals, plans,
22 and processes; and
23
24

1 (6) establish measures and metrics for deter-
2 mining the effectiveness of coordinated border en-
3 forcement efforts.

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

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

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

9 “(a) ESTABLISHMENT.—There is established in the
10 Department an Office of Air and Marine Operations (re-
11 ferred to in this section as the ‘Office’).

12 “(b) ASSISTANT SECRETARY.—The Office shall be
13 headed by an Assistant Secretary for Air and Marine Op-
14 erations who shall be appointed by the President, by and
15 with the advice and consent of the Senate, and who shall
16 report directly to the Secretary. The Assistant Secretary
17 shall be responsible for all functions and operations of the
18 Office.

19 “(c) MISSIONS.—

20 “(1) PRIMARY MISSION.—The primary mission
21 of the Office shall be the prevention of the entry of
22 terrorists, other unlawful aliens, instruments of ter-
23 rorism, narcotics, and other contraband into the
24 United States.

1 “(2) SECONDARY MISSION.—The secondary
2 mission of the Office shall be to assist other agencies
3 to prevent the entry of terrorists, other unlawful
4 aliens, instruments of terrorism, narcotics, and other
5 contraband into the United States.

6 “(d) AIR AND MARINE OPERATIONS CENTER.—

7 “(1) IN GENERAL.—The Office shall operate
8 and maintain the Air and Marine Operations Center
9 in Riverside, California, or at such other facility of
10 the Office as is designated by the Secretary.

11 “(2) DUTIES.—The Center shall provide com-
12 prehensive radar, communications, and control serv-
13 ices to the Office and to eligible Federal, State, or
14 local agencies (as determined by the Assistant Sec-
15 retary for Air and Marine Operations), in order to
16 identify, track, and support the interdiction and ap-
17 prehension of individuals attempting to enter United
18 States airspace or coastal waters for the purpose of
19 narcotics trafficking, trafficking of persons, or other
20 terrorist or criminal activity.

21 “(e) ACCESS TO INFORMATION.—The Office shall en-
22 sure that other agencies within the Department of Home-
23 land Security, the Department of Defense, the Depart-
24 ment of Justice, and such other Federal, State, or local
25 agencies, as may be determined by the Secretary, shall

1 have access to the information gathered and analyzed by
2 the Center.

3 “(f) REQUIREMENT.—Beginning not later than 180
4 days after the date of the enactment of this Act, the Sec-
5 retary shall require that all information concerning all
6 aviation activities, including all airplane, helicopter, or
7 other aircraft flights, that are undertaken by the either
8 the Office, United States Immigration and Customs En-
9 forcement, United States Customs and Border Protection,
10 or any subdivisions thereof, be provided to the Air and
11 Marine Operations Center. Such information shall include
12 the identifiable transponder, radar, and electronic emis-
13 sions and codes originating and resident aboard the air-
14 craft or similar asset used in the aviation activity.

15 “(g) TIMING.—The Secretary shall require the infor-
16 mation described in subsection (f) to be provided to the
17 Air and Marine Operations Center in advance of the avia-
18 tion activity whenever practicable for the purpose of timely
19 coordination and conflict resolution of air missions by the
20 Office, United States Immigration and Customs Enforce-
21 ment, and United States Customs and Border Protec-
22 tion.”.

23 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

24 (1) ADDITIONAL ASSISTANT SECRETARY.—Sec-
25 tion 103(a)(9) of the Homeland Security Act of

1 2002 (6 U.S.C. 113(a)(9)) is amended by striking
2 “12” and inserting “13”.

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

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

7 **SEC. 403. SHADOW WOLVES TRANSFER.**

8 (a) TRANSFER OF EXISTING UNIT.—Not later than
9 90 days after the date of the enactment of this Act, the
10 Secretary of Homeland Security shall transfer to United
11 States Immigration and Customs Enforcement all func-
12 tions (including the personnel, assets, and liabilities attrib-
13 utable to such functions) of the Customs Patrol Officers
14 unit operating on the Tohono O’odham Indian reservation
15 (commonly known as the “Shadow Wolves” unit).

16 (b) ESTABLISHMENT OF NEW UNITS.—The Sec-
17 retary is authorized to establish within United States Im-
18 migration and Customs Enforcement additional units of
19 Customs Patrol Officers in accordance with this section,
20 as appropriate.

21 (c) DUTIES.—The Customs Patrol Officer unit trans-
22 ferred pursuant to subsection (a), and additional units es-
23 tablished pursuant to subsection (b), shall operate on In-
24 dian lands by preventing the entry of terrorists, other un-

1 lawful aliens, instruments of terrorism, narcotics, and
2 other contraband into the United States.

3 (d) BASIC PAY FOR JOURNEYMAN OFFICERS.—A
4 Customs Patrol Officer in a unit described in this section
5 shall receive equivalent pay as a special agent with similar
6 competencies within United States Immigration and Customs
7 Enforcement pursuant to the Department of Homeland
8 Security’s Human Resources Management System
9 established under section 841 of the Homeland Security
10 Act (6 U.S.C. 411).

11 (e) SUPERVISORS.—Each unit described in this section
12 shall be supervised by a Chief Customs Patrol Officer,
13 who shall have the same rank as a resident agent-in-
14 charge of the Office of Investigations within United States
15 Immigration and Customs Enforcement.

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