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DOCUMENT NO.	FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
001	Letter	[Views of the U. S. Department of Justice] - To: Mitchell E. Daniels, Jr. - From: Daniel J. Bryant	3	05/13/2002	P5;

COLLECTION TITLE:

Executive Clerk, Office Of the

SERIES:

Saunders, G. Timothy (Tim) - Bill Files

FOLDER TITLE:

05/14/2002 [H.R. 3525] [771212] [2]

FRC ID:

6358

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

Freedom of Information Act - [5 U.S.C. 552(b)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

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- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

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Barcode Scanning Sheet

Collection Code: **SECLOG**

Staff Name:

Document Date:

Correspondent: **TIM SAUNDERS**

Subject/Description: **OVERSIZE ATTACHMENT # 9465 NARA # 9356 BOX 1
FOLDER 21A BILL FILE RECEIVED FROM THE OFFICE OF
THE EXECUTIVE CLERK - MAY 14 02 ENROLLED BILL
H.R. 3525 ☐ ENHANCED BORDER SECURITY AND VISA
ENTRY REFORM ACT**



THE DIRECTOR

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

May 14, 2002

APPROVED

MAY 14 2002

02 MAY 14 AM 7:35

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 3525 – Enhanced Border Security and Visa Entry Reform Act
Sponsor – Rep. Sensenbrenner (R) Wisconsin

Last Day for Action

May 20, 2002 - Monday

Purpose

Creates new requirements intended to enhance border security concerning: (1) staffing and pay increases for certain immigration personnel; (2) a foreign student tracking system; (3) machine-readable visas and other travel documents; (4) electronic sharing of immigration and law enforcement information; and (5) passenger manifests for aircraft and sea vessels.

Agency Recommendations

Office of Management and Budget

Approval (Signing
statement attached)

Department of Justice
Department of Education

Approval
Defers to Justice and
State (Informally)

Department of State
Department of Transportation
Department of the Treasury
Department of Labor
Department of Defense
Central Intelligence Agency (CIA)

No objection (Informally)
No objection (Informally)
No objection (Informally)
No comment (Informally)
No response
No response

Discussion

H.R. 3525 would set forth new requirements for the President and several agencies, including Justice and State, that are intended to enhance the border security of the United States. Major provisions of the enrolled bill are described below. Other provisions are described in the Attachment.

Staffing and Pay Increases for INS Personnel

The enrolled bill would require Justice, subject to the availability of appropriations, in each of FYs 2003-2006, to increase the number of Immigration and Naturalization Service (INS) inspectors and associated support staff and the number of INS investigators and associated support staff each by the equivalent of 200 full-time equivalents (FTEs) over the number authorized in the USA PATRIOT Act (P.L. 107-56, enacted October 26, 2001). The USA PATRIOT Act authorized Justice to waive any FTE cap on personnel assigned to the INS on the Northern border and authorized appropriations necessary to triple the number of INS inspectors and associated necessary personnel (from the number authorized on the date of its enactment) and facilities in each State along the Northern Border. Your FY 2003 Budget proposes doubling INS staff on the Northern Border.

The enrolled bill would authorize appropriations for Justice of such sums as may be necessary to provide the following increases in pay, effective October 1, 2002: (1) increases for GS-9 journeyman Border Patrol agents and inspectors who have completed at least one year's service to the annual rate of basic pay for GS-11 positions; (2) increases for GS-5 inspections assistants to the annual rate of basic pay for GS-7 positions; and (3) increases for support staff associated with such personnel to "the appropriate GS level." It is expected that INS can absorb the additional estimated costs of \$60 million within requested appropriations.

Student Tracking System

The enrolled bill would require Justice, in consultation with State and Education, to establish an electronic system to collect foreign student information from approved institutions of higher education and designated exchange visitor programs in the United States. The system would be used to monitor and verify information on the visitors, such as acceptance into a school or program, issuance of a visa, arrival into the country, registration and enrollment in an educational institution or participation in an exchange visitor program, and more extensive background information. Educational institutions would have to report to the INS, within 30 days of the deadline for registering for classes, any failure of an alien to enroll or to commence participation.

Prior to issuing a foreign student (F or M) or exchange visitor (J) visa, applicants would have to provide the following: an address in the country of origin; names and addresses of the alien's spouse, children, parents, and siblings; names of contacts of the alien in the alien's country of residence who could verify information about the alien; and previous work history, if any, including the names and addresses of employers. Effective 120 days after the enrolled bill's enactment, an F, M, or J visa could not be issued to an alien unless State has received from an approved educational institution electronic evidence of documentation of the alien's acceptance at that institution and the consular officer has adequately reviewed the applicant's visa record. Upon the issuance of an F, M, or J visa, State would have to transmit to INS notification of that issuance and INS would then have to notify the educational institution when an alien accepted for that institution or program has been admitted to the United States.

The enrolled bill would require INS, in consultation with Education, to conduct biennial reviews of institutions designated to sponsor students to determine if they are complying with recordkeeping and reporting requirements. State would have to conduct biennial reviews of institutions sponsoring exchange visitors for the same purpose. INS and State could suspend or terminate an entity's ability to receive students under the F and M (for INS) or J (for State) visa programs for failing to comply with the recordkeeping and reporting requirements. The enrolled bill would authorize appropriations of such sums as may be necessary to carry out these provisions. Most of the requirements for the student tracking system are already a part of the design for INS' Student and Exchange Visitor Information System (SEVIS) scheduled for release later this year.

Travel Documents

The enrolled bill would require State and Justice, by October 26, 2004, to issue to aliens only travel documents that are machine-readable, tamper resistant, and use biometric identifiers. The enrolled bill would also require by that date the installation of equipment to allow biometric comparison and authentication of all U.S. travel and entry documents issued to aliens. State and Justice would have to jointly establish document authentication and biometric identifiers standards chosen from among those recognized by domestic and international standards organizations. The Departments would have to issue a report, within 180 days of the enrolled bill's enactment, on costs and timing associated with meeting these deadlines. Countries participating in the Visa Waiver Program (VWP) would have to certify by October 26, 2004, as a condition for participation, that they have a program for issuing passports meeting these requirements and participants in the program would have to use these passports (unless issued before that date). (The VWP allows certain citizens from a select group of mostly industrial countries to visit the United States without having to obtain visas.) H.R. 3525 would authorize appropriations of such sums as may be necessary to carry out these provisions, but also authorizes additional land border crossing fees to help INS pay for this effort.

Visa Fees. The enrolled bill would require the machine-readable visa fee to be set at the higher of \$65 or the cost of administering this service, as determined by State after conducting a study of the cost of the service. (In March 2002, State increased the fee by regulation from \$45 to \$65.) The enrolled bill would also authorize State to collect a \$10 surcharge for issuing a machine-readable visa in a nonmachine-readable passport. These fees would be credited as offsetting collections to any State Department appropriation to recover costs of providing consular services.

Entry/Exit System. The enrolled bill would require Justice and State to use the technology standard developed under the USA PATRIOT Act (as discussed below) when implementing the INS Data Management Improvement Act of 2000 (P. L. 106-215, enacted June 15, 2000). (This law requires the implementation of an electronic system that provides alien arrival and departure data.) Justice would be required to: establish a database containing the arrival and departure data from machine-readable visas, passports, and other travel and entry documents possessed by aliens; make interoperable all security databases relevant to making determinations of admissibility; and "consider implementing" the North American National Security Program described below. State would have to provide INS with an electronic version of the visa file of each alien who has been issued a visa to ensure that the data in that visa file is available to immigration inspectors at U.S. ports of entry before the arrival of the alien.

Interagency Information Sharing and Data System

Information Sharing. In the enrolled bill (and in the description below), the term "President" means the President acting through the Assistant to the President for Homeland Security, in coordination with the Secretary of State, the INS Commissioner, the Attorney General, the CIA Director, the FBI Director, the Secretary of Transportation, the Customs Commissioner, and the Secretary of the Treasury. H.R. 3525 would require the President to submit a report to Congress within 120 days of the enrolled bill's enactment identifying Federal law enforcement and intelligence community information needed by State when issuing visas and by INS when identifying aliens who are inadmissible or deportable. (The enrolled bill would repeal a provision of the USA PATRIOT Act that required the Office of Homeland Security to submit a similar report.) The President would be required to develop and implement by October 26, 2002, after consultation with Congress, a plan that: (1) requires Federal law enforcement agencies and the intelligence community to provide to State and INS the information identified in the report; and (2) establishes conditions to limit the redissemination of such information and protect individuals' privacy and the sources of such information. The bill specifies criminal penalties for misuse of this information.

Electronic Interoperable Data System. The President, in consultation with the Commerce Department's National Institute of Standards and Technology (NIST), would be required to develop and implement an electronic interoperable data system (to be known as the "Chimera" system) to provide current and immediate access to the information identified in the implementation plan. The system would have to be readily and easily accessible to consular

officers responsible for issuing visas, Federal officials responsible for determining an alien's admissibility to or deportability from the United States, and Federal law enforcement and intelligence officers responsible for the investigation or identification of aliens. The system would be required to have the capacity to compensate for disparate name formats and be searchable on a linguistically sensitive basis, based on algorithms that account for variations in name formats and transliterations. The enrolled bill would require the development and implementation of linguistically sensitive algorithms for at least four languages that are determined by State as high priorities. Of these, the highest priority language's algorithms must be implemented within 18 months of the enrolled bill's enactment and at least one additional algorithm must be implemented per year in each of the following three years. Also, in order to provide adequate user support, the enrolled bill would require State and Justice to jointly prescribe procedures that consular and immigration officers can use to obtain assistance in resolving identity and other questions that may arise about names of aliens seeking visas or admission to the United States.

The enrolled bill would require the system to be based on a technology standard developed under requirements of the USA PATRIOT Act and would advance deadlines associated with the development of this standard. The enrolled bill would accelerate by nine months, to January 26, 2003, the deadline for development (by Justice and State, through NIST) of a technology standard for verifying the identity of visa applicants and persons seeking to enter the United States with a visa and would add the requirement that it must incorporate "appropriate biometric identifier standards." The enrolled bill would also accelerate by six months, to October 26, 2002, a requirement for a report to Congress describing the development, implementation, efficacy, and privacy implications of the technology standard and electronic database system to be developed based on the standard. The enrolled bill would set deadlines of 60 and 120 days after enactment, respectively, for CIA to comply with previously-enacted requirements to issue a report and guidelines concerning uniform spelling of foreign names and places.

The enrolled bill would authorize Justice to hire and fix the compensation of necessary scientific, technical, engineering, and other analytical personnel for the purpose of the development and implementation of the Chimera system. Within 90 days of the enrolled bill's enactment, Justice would be required to submit an operating plan to Congress describing Justice's intended use of this authority and any provisions of title 5 of the U.S. Code (e.g., personnel laws) being waived for purposes of the development and implementation of the Chimera system. This authority would terminate upon the implementation of the system.

The enrolled bill would require INS to fully integrate all databases and data systems maintained by INS that process or contain information on aliens and make this integrated data system an interoperable component of the Chimera system. The enrolled bill would also require Justice or State, as appropriate, to enter identification numbers for stolen passports into the

Chimera system within 72 hours of receiving notification that a passport was lost or stolen. Within six months of the enactment of H.R. 3525, the President would be required to report on the progress of the implementation of the system. The enrolled bill would authorize appropriations of such sums as may be necessary to carry out these provisions.

Data Sharing Commission. Within one year of the enrolled bill's enactment, the President would be required to establish a Commission on Interoperable Data Sharing to monitor and report annually to Congress on recommendations for dealing with privacy, security, technology, and errors related to the new electronic data system. The President would appoint the commission's nine members, eight of whom would be chosen from a list of nominees provided by Congressional leadership. The enrolled bill would authorize appropriations to the Commission of such sums as may be necessary to carry out these requirements.

Passenger Manifests

Current law requires each vessel or aircraft with passengers on board, upon the arrival at or before the departure from any U.S. seaport or airport, to provide manifests of the persons on board to immigration officers at the port, with the exceptions of alien crewmen and of persons arriving from or departing to a foreign contiguous territory by air. The enrolled bill would remove these two exemptions, require arrival manifests to be transmitted before arrival at a port, and allow transmittal to any U.S. border officer. The enrolled bill would require the following information to be provided for each passenger: complete name; date of birth; citizenship; sex; passport number and country of issuance; country of residence; U.S. visa number, date, and place of issuance, where applicable; alien registration number, where applicable; and U.S. address while in the United States. These provisions would apply with respect to persons arriving in, or departing from, the United States on or after the date of enactment of the enrolled bill.

The enrolled bill would also require all manifest information to be transmitted electronically after January 1, 2003, and raise the fine for the failure or refusal to provide the necessary manifest information from \$300 to \$1,000 for each person for whom accurate and full information is not given.

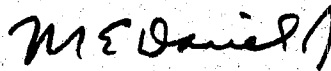
The enrolled bill would require the President to conduct a study regarding the feasibility of extending these reporting requirements to any commercial carrier transporting persons by land to or from the United States. The study would have to focus on the manner in which the requirement would be implemented to enhance the national security of United States and the efficient cross-border flow of commerce and persons. Within two years of enactment, the President would be required to submit a report to Congress setting forth the findings of the study.

Conclusion and Recommendations

The Department of Justice recommends approval of H.R. 3525, but recommends a signing statement to address constitutional concerns with provisions of the bill that purport to require the President to consult with an Executive Branch officer, appoint officers in a manner inconsistent with the Appointments Clause, and submit legislative recommendations to Congress in violation of the Recommendations Clause.

We join Justice in recommending approval of H.R. 3525, which passed the Senate by a vote of 97-0 and the House by 411-0.

Attached for your consideration is a signing statement that is based on language supplied by Justice. It has been reviewed and approved by the Office of White House Counsel, the Office of Homeland Security, and the Office of the Vice President.



Mitchell E. Daniels, Jr.
Director

Enclosures

One Hundred Seventh Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Wednesday,
the twenty-third day of January, two thousand and two*

An Act

To enhance the border security of the United States, and for other purposes.

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

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the “Enhanced Border Security and Visa Entry Reform Act of 2002”.

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

Sec. 1. Short title.
Sec. 2. Definitions.

TITLE I—FUNDING

Sec. 101. Authorization of appropriations for hiring and training Government personnel.
Sec. 102. Authorization of appropriations for improvements in technology and infrastructure.
Sec. 103. Machine-readable visa fees.

TITLE II—INTERAGENCY INFORMATION SHARING

Sec. 201. Interim measures for access to and coordination of law enforcement and other information.
Sec. 202. Interoperable law enforcement and intelligence data system with name-matching capacity and training.
Sec. 203. Commission on interoperable data sharing.
Sec. 204. Personnel management authorities for positions involved in the development and implementation of the interoperable electronic data system (“Chimera system”).

TITLE III—VISA ISSUANCE

Sec. 301. Electronic provision of visa files.
Sec. 302. Implementation of an integrated entry and exit data system.
Sec. 303. Machine-readable, tamper-resistant entry and exit documents.
Sec. 304. Terrorist lookout committees.
Sec. 305. Improved training for consular officers.
Sec. 306. Restriction on issuance of visas to nonimmigrants who are from countries that are state sponsors of international terrorism.
Sec. 307. Designation of program countries under the Visa Waiver Program.
Sec. 308. Tracking system for stolen passports.
Sec. 309. Identification documents for certain newly admitted aliens.

TITLE IV—INSPECTION AND ADMISSION OF ALIENS

Sec. 401. Study of the feasibility of a North American National Security Program.
Sec. 402. Passenger manifests.
Sec. 403. Time period for inspections.
Sec. 404. Joint United States-Canada projects for alternative inspections services.

TITLE V—FOREIGN STUDENTS AND EXCHANGE VISITORS

Sec. 501. Foreign student monitoring program.
Sec. 502. Review of institutions and other entities authorized to enroll or sponsor certain nonimmigrants.



SEC. 604. STATUTORY CONSTRUCTION.

Nothing in this Act shall be construed to impose requirements that are inconsistent with the North American Free Trade Agreement or to require additional documents for aliens for whom documentary requirements are waived under section 212(d)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(4)(B)).

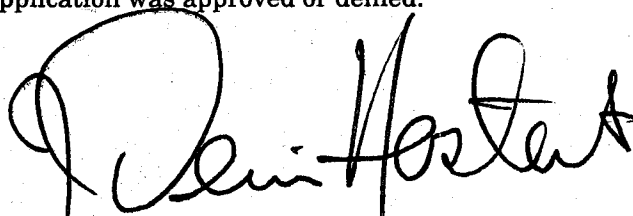
SEC. 605. ANNUAL REPORT ON ALIENS WHO FAIL TO APPEAR AFTER RELEASE ON OWN RECOGNIZANCE.

(a) **REQUIREMENT FOR REPORT.**—Not later than January 15 of each year, the Attorney General shall submit to the appropriate committees of Congress a report on the total number of aliens who, during the preceding year, failed to attend a removal proceeding after having been arrested outside a port of entry, served a notice to appear under section 239(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1229(a)(1)), and released on the alien's own recognizance. The report shall also take into account the number of cases in which there were defects in notices of hearing or the service of notices of hearing, together with a description and analysis of the effects, if any, that the defects had on the attendance of aliens at the proceedings.

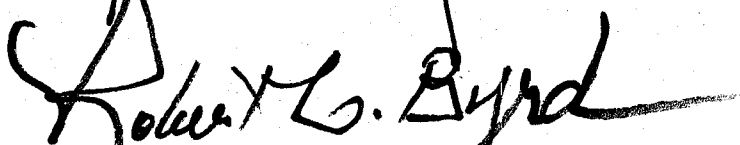
(b) **INITIAL REPORT.**—Notwithstanding the time for submission of the annual report provided in subsection (a), the report for 2001 shall be submitted not later than 6 months after the date of enactment of this Act.

SEC. 606. RETENTION OF NONIMMIGRANT VISA APPLICATIONS BY THE DEPARTMENT OF STATE.

The Department of State shall retain, for a period of seven years from the date of application, every application for a non-immigrant visa under section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) in a form that will be admissible in the courts of the United States or in administrative proceedings, including removal proceedings under such Act, without regard to whether the application was approved or denied.



Speaker of the House of Representatives.

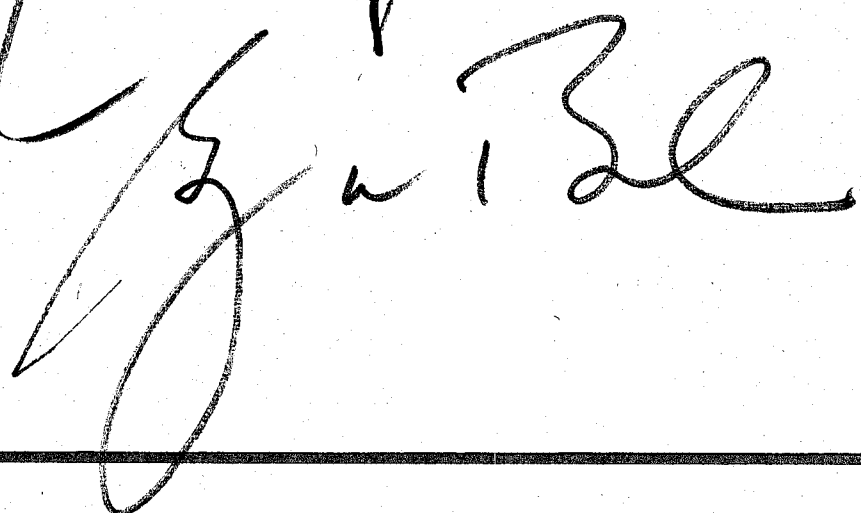


~~Vice President of the United States and~~

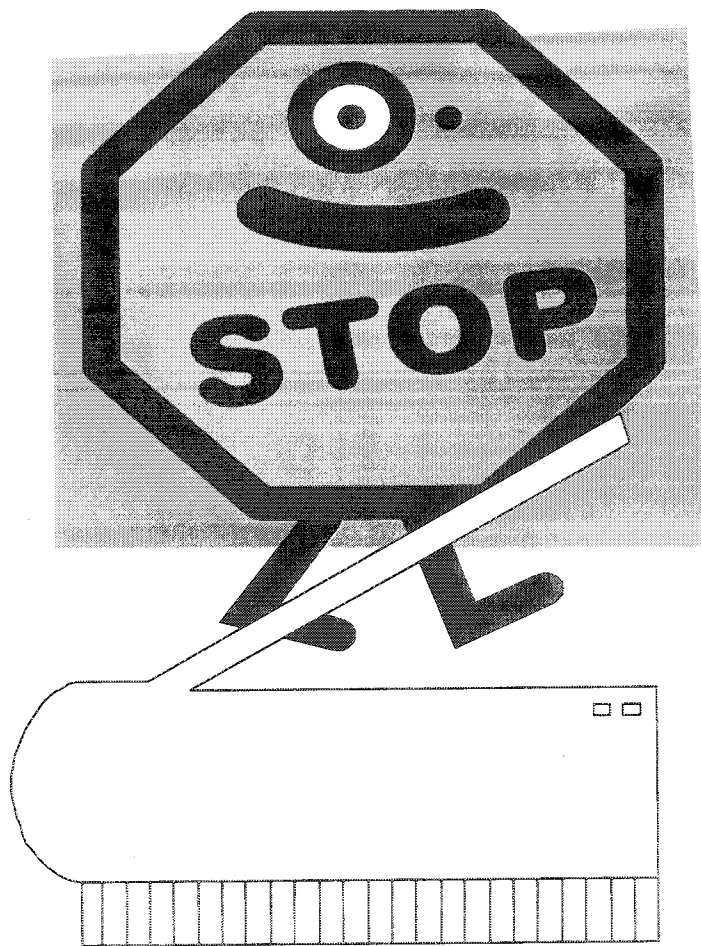
President of the Senate pro tempore.

APPROVED

MAY 14 2002



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THE DIRECTOR

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

May 14, 2002

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MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 3525 – Enhanced Border Security and Visa Entry Reform Act
Sponsor – Rep. Sensenbrenner (R) Wisconsin

Last Day for Action

May 20, 2002 - Monday

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Creates new requirements intended to enhance border security concerning: (1) staffing and pay increases for certain immigration personnel; (2) a foreign student tracking system; (3) machine-readable visas and other travel documents; (4) electronic sharing of immigration and law enforcement information; and (5) passenger manifests for aircraft and sea vessels.

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statement attached)

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Information Sharing. In the enrolled bill (and in the description below), the term "President" means the President acting through the Assistant to the President for Homeland Security, in coordination with the Secretary of State, the INS Commissioner, the Attorney General, the CIA Director, the FBI Director, the Secretary of Transportation, the Customs Commissioner, and the Secretary of the Treasury. H.R. 3525 would require the President to submit a report to Congress within 120 days of the enrolled bill's enactment identifying Federal law enforcement and intelligence community information needed by State when issuing visas and by INS when identifying aliens who are inadmissible or deportable. (The enrolled bill would repeal a provision of the USA PATRIOT Act that required the Office of Homeland Security to submit a similar report.) The President would be required to develop and implement by October 26, 2002, after consultation with Congress, a plan that: (1) requires Federal law enforcement agencies and the intelligence community to provide to State and INS the information identified in the report; and (2) establishes conditions to limit the redissemination of such information and protect individuals' privacy and the sources of such information. The bill specifies criminal penalties for misuse of this information.

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officers responsible for issuing visas, Federal officials responsible for determining an alien's admissibility to or deportability from the United States, and Federal law enforcement and intelligence officers responsible for the investigation or identification of aliens. The system would be required to have the capacity to compensate for disparate name formats and be searchable on a linguistically sensitive basis, based on algorithms that account for variations in name formats and transliterations. The enrolled bill would require the development and implementation of linguistically sensitive algorithms for at least four languages that are determined by State as high priorities. Of these, the highest priority language's algorithms must be implemented within 18 months of the enrolled bill's enactment and at least one additional algorithm must be implemented per year in each of the following three years. Also, in order to provide adequate user support, the enrolled bill would require State and Justice to jointly prescribe procedures that consular and immigration officers can use to obtain assistance in resolving identity and other questions that may arise about names of aliens seeking visas or admission to the United States.

The enrolled bill would require the system to be based on a technology standard developed under requirements of the USA PATRIOT Act and would advance deadlines associated with the development of this standard. The enrolled bill would accelerate by nine months, to January 26, 2003, the deadline for development (by Justice and State, through NIST) of a technology standard for verifying the identity of visa applicants and persons seeking to enter the United States with a visa and would add the requirement that it must incorporate "appropriate biometric identifier standards." The enrolled bill would also accelerate by six months, to October 26, 2002, a requirement for a report to Congress describing the development, implementation, efficacy, and privacy implications of the technology standard and electronic database system to be developed based on the standard. The enrolled bill would set deadlines of 60 and 120 days after enactment, respectively, for CIA to comply with previously-enacted requirements to issue a report and guidelines concerning uniform spelling of foreign names and places.

The enrolled bill would authorize Justice to hire and fix the compensation of necessary scientific, technical, engineering, and other analytical personnel for the purpose of the development and implementation of the Chimera system. Within 90 days of the enrolled bill's enactment, Justice would be required to submit an operating plan to Congress describing Justice's intended use of this authority and any provisions of title 5 of the U.S. Code (e.g., personnel laws) being waived for purposes of the development and implementation of the Chimera system. This authority would terminate upon the implementation of the system.

The enrolled bill would require INS to fully integrate all databases and data systems maintained by INS that process or contain information on aliens and make this integrated data system an interoperable component of the Chimera system. The enrolled bill would also require Justice or State, as appropriate, to enter identification numbers for stolen passports into the

Chimera system within 72 hours of receiving notification that a passport was lost or stolen. Within six months of the enactment of H.R. 3525, the President would be required to report on the progress of the implementation of the system. The enrolled bill would authorize appropriations of such sums as may be necessary to carry out these provisions.

Data Sharing Commission. Within one year of the enrolled bill's enactment, the President would be required to establish a Commission on Interoperable Data Sharing to monitor and report annually to Congress on recommendations for dealing with privacy, security, technology, and errors related to the new electronic data system. The President would appoint the commission's nine members, eight of whom would be chosen from a list of nominees provided by Congressional leadership. The enrolled bill would authorize appropriations to the Commission of such sums as may be necessary to carry out these requirements.

Passenger Manifests

Current law requires each vessel or aircraft with passengers on board, upon the arrival at or before the departure from any U.S. seaport or airport, to provide manifests of the persons on board to immigration officers at the port, with the exceptions of alien crewmen and of persons arriving from or departing to a foreign contiguous territory by air. The enrolled bill would remove these two exemptions, require arrival manifests to be transmitted before arrival at a port, and allow transmittal to any U.S. border officer. The enrolled bill would require the following information to be provided for each passenger: complete name; date of birth; citizenship; sex; passport number and country of issuance; country of residence; U.S. visa number, date, and place of issuance, where applicable; alien registration number, where applicable; and U.S. address while in the United States. These provisions would apply with respect to persons arriving in, or departing from, the United States on or after the date of enactment of the enrolled bill.

The enrolled bill would also require all manifest information to be transmitted electronically after January 1, 2003, and raise the fine for the failure or refusal to provide the necessary manifest information from \$300 to \$1,000 for each person for whom accurate and full information is not given.

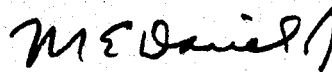
The enrolled bill would require the President to conduct a study regarding the feasibility of extending these reporting requirements to any commercial carrier transporting persons by land to or from the United States. The study would have to focus on the manner in which the requirement would be implemented to enhance the national security of United States and the efficient cross-border flow of commerce and persons. Within two years of enactment, the President would be required to submit a report to Congress setting forth the findings of the study.

Conclusion and Recommendations

The Department of Justice recommends approval of H.R. 3525, but recommends a signing statement to address constitutional concerns with provisions of the bill that purport to require the President to consult with an Executive Branch officer, appoint officers in a manner inconsistent with the Appointments Clause, and submit legislative recommendations to Congress in violation of the Recommendations Clause.

We join Justice in recommending approval of H.R. 3525, which passed the Senate by a vote of 97-0 and the House by 411-0.

Attached for your consideration is a signing statement that is based on language supplied by Justice. It has been reviewed and approved by the Office of White House Counsel, the Office of Homeland Security, and the Office of the Vice President.



Mitchell E. Daniels, Jr.
Director

Enclosures



THE DIRECTOR

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

May 14, 2002

02 MAY 14 AM 7:35

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 3525 – Enhanced Border Security and Visa Entry Reform Act
Sponsor – Rep. Sensenbrenner (R) Wisconsin

Last Day for Action

May 20, 2002 - Monday

Purpose

Creates new requirements intended to enhance border security concerning: (1) staffing and pay increases for certain immigration personnel; (2) a foreign student tracking system; (3) machine-readable visas and other travel documents; (4) electronic sharing of immigration and law enforcement information; and (5) passenger manifests for aircraft and sea vessels.

Agency Recommendations

Office of Management and Budget

Approval (Signing
statement attached)

Department of Justice
Department of Education

Approval
Defers to Justice and
State (Informally)

Department of State
Department of Transportation
Department of the Treasury

No objection (Informally)
No objection (Informally)
No objection (Informally)

Department of Labor
Department of Defense

No comment (Informally)

Central Intelligence Agency (CIA)

No response
No response

Discussion

H.R. 3525 would set forth new requirements for the President and several agencies, including Justice and State, that are intended to enhance the border security of the United States. Major provisions of the enrolled bill are described below. Other provisions are described in the Attachment.

Staffing and Pay Increases for INS Personnel

The enrolled bill would require Justice, subject to the availability of appropriations, in each of FYs 2003-2006, to increase the number of Immigration and Naturalization Service (INS) inspectors and associated support staff and the number of INS investigators and associated support staff each by the equivalent of 200 full-time equivalents (FTEs) over the number authorized in the USA PATRIOT Act (P.L. 107-56, enacted October 26, 2001). The USA PATRIOT Act authorized Justice to waive any FTE cap on personnel assigned to the INS on the Northern border and authorized appropriations necessary to triple the number of INS inspectors and associated necessary personnel (from the number authorized on the date of its enactment) and facilities in each State along the Northern Border. Your FY 2003 Budget proposes doubling INS staff on the Northern Border.

The enrolled bill would authorize appropriations for Justice of such sums as may be necessary to provide the following increases in pay, effective October 1, 2002: (1) increases for GS-9 journeyman Border Patrol agents and inspectors who have completed at least one year's service to the annual rate of basic pay for GS-11 positions; (2) increases for GS-5 inspections assistants to the annual rate of basic pay for GS-7 positions; and (3) increases for support staff associated with such personnel to "the appropriate GS level." It is expected that INS can absorb the additional estimated costs of \$60 million within requested appropriations.

Student Tracking System

The enrolled bill would require Justice, in consultation with State and Education, to establish an electronic system to collect foreign student information from approved institutions of higher education and designated exchange visitor programs in the United States. The system would be used to monitor and verify information on the visitors, such as acceptance into a school or program, issuance of a visa, arrival into the country, registration and enrollment in an educational institution or participation in an exchange visitor program, and more extensive background information. Educational institutions would have to report to the INS, within 30 days of the deadline for registering for classes, any failure of an alien to enroll or to commence participation.

Prior to issuing a foreign student (F or M) or exchange visitor (J) visa, applicants would have to provide the following: an address in the country of origin; names and addresses of the alien's spouse, children, parents, and siblings; names of contacts of the alien in the alien's country of residence who could verify information about the alien; and previous work history, if any, including the names and addresses of employers. Effective 120 days after the enrolled bill's enactment, an F, M, or J visa could not be issued to an alien unless State has received from an approved educational institution electronic evidence of documentation of the alien's acceptance at that institution and the consular officer has adequately reviewed the applicant's visa record. Upon the issuance of an F, M, or J visa, State would have to transmit to INS notification of that issuance and INS would then have to notify the educational institution when an alien accepted for that institution or program has been admitted to the United States.

The enrolled bill would require INS, in consultation with Education, to conduct biennial reviews of institutions designated to sponsor students to determine if they are complying with recordkeeping and reporting requirements. State would have to conduct biennial reviews of institutions sponsoring exchange visitors for the same purpose. INS and State could suspend or terminate an entity's ability to receive students under the F and M (for INS) or J (for State) visa programs for failing to comply with the recordkeeping and reporting requirements. The enrolled bill would authorize appropriations of such sums as may be necessary to carry out these provisions. Most of the requirements for the student tracking system are already a part of the design for INS' Student and Exchange Visitor Information System (SEVIS) scheduled for release later this year.

Travel Documents

The enrolled bill would require State and Justice, by October 26, 2004, to issue to aliens only travel documents that are machine-readable, tamper resistant, and use biometric identifiers. The enrolled bill would also require by that date the installation of equipment to allow biometric comparison and authentication of all U.S. travel and entry documents issued to aliens. State and Justice would have to jointly establish document authentication and biometric identifiers standards chosen from among those recognized by domestic and international standards organizations. The Departments would have to issue a report, within 180 days of the enrolled bill's enactment, on costs and timing associated with meeting these deadlines. Countries participating in the Visa Waiver Program (VWP) would have to certify by October 26, 2004, as a condition for participation, that they have a program for issuing passports meeting these requirements and participants in the program would have to use these passports (unless issued before that date). (The VWP allows certain citizens from a select group of mostly industrial countries to visit the United States without having to obtain visas.) H.R. 3525 would authorize appropriations of such sums as may be necessary to carry out these provisions, but also authorizes additional land border crossing fees to help INS pay for this effort.

Visa Fees. The enrolled bill would require the machine-readable visa fee to be set at the higher of \$65 or the cost of administering this service, as determined by State after conducting a study of the cost of the service. (In March 2002, State increased the fee by regulation from \$45 to \$65.) The enrolled bill would also authorize State to collect a \$10 surcharge for issuing a machine-readable visa in a nonmachine-readable passport. These fees would be credited as offsetting collections to any State Department appropriation to recover costs of providing consular services.

Entry/Exit System. The enrolled bill would require Justice and State to use the technology standard developed under the USA PATRIOT Act (as discussed below) when implementing the INS Data Management Improvement Act of 2000 (P. L. 106-215, enacted June 15, 2000). (This law requires the implementation of an electronic system that provides alien arrival and departure data.) Justice would be required to: establish a database containing the arrival and departure data from machine-readable visas, passports, and other travel and entry documents possessed by aliens; make interoperable all security databases relevant to making determinations of admissibility; and "consider implementing" the North American National Security Program described below. State would have to provide INS with an electronic version of the visa file of each alien who has been issued a visa to ensure that the data in that visa file is available to immigration inspectors at U.S. ports of entry before the arrival of the alien.

Interagency Information Sharing and Data System

Information Sharing. In the enrolled bill (and in the description below), the term "President" means the President acting through the Assistant to the President for Homeland Security, in coordination with the Secretary of State, the INS Commissioner, the Attorney General, the CIA Director, the FBI Director, the Secretary of Transportation, the Customs Commissioner, and the Secretary of the Treasury. H.R. 3525 would require the President to submit a report to Congress within 120 days of the enrolled bill's enactment identifying Federal law enforcement and intelligence community information needed by State when issuing visas and by INS when identifying aliens who are inadmissible or deportable. (The enrolled bill would repeal a provision of the USA PATRIOT Act that required the Office of Homeland Security to submit a similar report.) The President would be required to develop and implement by October 26, 2002, after consultation with Congress, a plan that: (1) requires Federal law enforcement agencies and the intelligence community to provide to State and INS the information identified in the report; and (2) establishes conditions to limit the redissemination of such information and protect individuals' privacy and the sources of such information. The bill specifies criminal penalties for misuse of this information.

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officers responsible for issuing visas, Federal officials responsible for determining an alien's admissibility to or deportability from the United States, and Federal law enforcement and intelligence officers responsible for the investigation or identification of aliens. The system would be required to have the capacity to compensate for disparate name formats and be searchable on a linguistically sensitive basis, based on algorithms that account for variations in name formats and transliterations. The enrolled bill would require the development and implementation of linguistically sensitive algorithms for at least four languages that are determined by State as high priorities. Of these, the highest priority language's algorithms must be implemented within 18 months of the enrolled bill's enactment and at least one additional algorithm must be implemented per year in each of the following three years. Also, in order to provide adequate user support, the enrolled bill would require State and Justice to jointly prescribe procedures that consular and immigration officers can use to obtain assistance in resolving identity and other questions that may arise about names of aliens seeking visas or admission to the United States.

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Chimera system within 72 hours of receiving notification that a passport was lost or stolen. Within six months of the enactment of H.R. 3525, the President would be required to report on the progress of the implementation of the system. The enrolled bill would authorize appropriations of such sums as may be necessary to carry out these provisions.

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Passenger Manifests

Current law requires each vessel or aircraft with passengers on board, upon the arrival at or before the departure from any U.S. seaport or airport, to provide manifests of the persons on board to immigration officers at the port, with the exceptions of alien crewmen and of persons arriving from or departing to a foreign contiguous territory by air. The enrolled bill would remove these two exemptions, require arrival manifests to be transmitted before arrival at a port, and allow transmittal to any U.S. border officer. The enrolled bill would require the following information to be provided for each passenger: complete name; date of birth; citizenship; sex; passport number and country of issuance; country of residence; U.S. visa number, date, and place of issuance, where applicable; alien registration number, where applicable; and U.S. address while in the United States. These provisions would apply with respect to persons arriving in, or departing from, the United States on or after the date of enactment of the enrolled bill.

The enrolled bill would also require all manifest information to be transmitted electronically after January 1, 2003, and raise the fine for the failure or refusal to provide the necessary manifest information from \$300 to \$1,000 for each person for whom accurate and full information is not given.

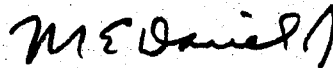
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Conclusion and Recommendations

The Department of Justice recommends approval of H.R. 3525, but recommends a signing statement to address constitutional concerns with provisions of the bill that purport to require the President to consult with an Executive Branch officer, appoint officers in a manner inconsistent with the Appointments Clause, and submit legislative recommendations to Congress in violation of the Recommendations Clause.

We join Justice in recommending approval of H.R. 3525, which passed the Senate by a vote of 97-0 and the House by 411-0.

Attached for your consideration is a signing statement that is based on language supplied by Justice. It has been reviewed and approved by the Office of White House Counsel, the Office of Homeland Security, and the Office of the Vice President.



Mitchell E. Daniels, Jr.
Director

Enclosures

Withdrawal Marker

The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Letter	[Views of the U. S. Department of Justice] - To: Mitchell E. Daniels, Jr. - From: Daniel J. Bryant	3	05/13/2002	P5;

**This marker identifies the original location of the withdrawn item listed above.
For a complete list of items withdrawn from this folder, see the
Withdrawal/Redaction Sheet at the front of the folder.**

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05/14/2002 [H.R. 3525] [771212] [2]

FRC ID:

6358

OA Num.:

9465

NARA Num.:

9356

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

- A. Closed by Executive Order 13526 governing access to national security information.
- B. Closed by statute or by the agency which originated the document.
- C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Summary of H.R. 3525 -- The Enhanced Border Security and Visa Entry Reform Act of 2002

Title I: Funding - Directs the Attorney General, during each of fiscal years 2003 through 2006, to increase the number of Immigration and Naturalization Service (INS) investigators and inspectors by at least 200 full-time employees over the number authorized by the USA PATRIOT ACT (Pub. L. No. 107-56).

Authorizes appropriations for INS, Border Patrol, and consular personnel, training, facilities, and security-related technology, effective October 1, 2002. Provides for machine-readable visa fees.

Title II: Interagency Information Sharing - Directs U.S. law enforcement and intelligence entities to share alien admissibility- and deportation-related information with INS and the Department of State until implementation of the information sharing plan provided for by this title.

Amends the USA PATRIOT ACT to eliminate an Office of Homeland Security alien screening report requirement.

Directs the President to: (1) report respecting admission- and deportation-related law enforcement and intelligence information needed by INS and the Department of State; and (2) develop a related information-sharing plan within 15 months of enactment of the USA PATRIOT ACT. Requires such plan to provide source and privacy protections. Provides criminal penalties for information misuse.

Amends the USA PATRIOT ACT to advance the deadline from: (1) two years to one year for development and certification of a technology standard to certify the identity of alien applicants for admission; and (2) 18 months to six months for a related report.

Directs: (1) INS to fully integrate its databases and data systems; and (2) the President to develop and implement an interoperable law enforcement and intelligence data system (Chimera system) (with name-matching and linguistic capacity, including at least four priority languages) for visa, admissibility, or deportation determination purposes, which shall include the INS integrated system. Directs the Central Intelligence Agency to issue certain reports and guidelines required under the Intelligence Authorization Act for Fiscal Year 1998.

Authorizes appropriations for name search, linguistic, and reporting activities.

Directs the President to establish the Commission on Interoperable Data Sharing, which shall: (1) monitor information misuse protections under the alien screening plan; (2) provide oversight of the interoperable data sharing system; and (3) report annually to Congress. Authorizes appropriations.

Authorizes the Attorney General, respecting the Chimera system, to: (1) hire necessary scientific, technical, engineering, and other personnel; and (2) use funds to purchase equipment or other items without regard to Federal acquisition rules (as defined by this Act) under specified circumstances. Directs the Attorney General to report to the appropriate congressional committees concerning intended uses of authority and Government organization and employee-related provisions being waived.

Title III: Visa Issuance - Amends the Immigration and Nationality Act (Act) to direct the Secretary of State (Secretary), upon issuance of an alien visa, to provide INS with an electronic version of the alien's visa file prior to the alien's U.S. entry.

Sets forth technology standard and interoperability requirements (including October 26, 2004 implementation deadlines) respecting development and implementation of the integrated entry and exit data system and related tamper-resistant, machine-readable documents containing biometric identifiers.

Requires a visa waiver country, in order to maintain program participation, to certify by October 26, 2004, that it has a program to issue to its nationals qualifying machine-readable passports that are tamper-proof and contain biometric identifiers. Authorizes appropriations.

Directs the Secretary of State to: (1) establish a Terrorist Lookout Committee at each U.S. mission, and report to the appropriate congressional committees respecting such Committees; (2) provide consular staff with visa screening training; and (3) provide for the use of terrorist-related intelligence in such activities' performance. Authorizes appropriations.

Prohibits the admission of an alien from a country designated to be a state sponsor of international terrorism (as defined by this Act), unless the Secretary of State has determined (in consultation with the Attorney General) that such individual does not pose a risk or security threat to the United States.

Conditions participation in the visa waiver program upon a country's timely reporting to the United States of its stolen blank passports. Reduces from five years to two years the required periodic evaluation of the program's effects on U.S. security and immigration interests. Requires INS to perform a check of lookout databases prior to permitting an alien's U.S. admission.

Directs: (1) the Secretary of State and the Attorney General, as appropriate, within 72 hours of notification of a lost or stolen U.S. or foreign passport, to enter such passport's identification number into the interoperable data system; (2) the Attorney General to enter into the system such information on passports lost or stolen prior to the system's implementation; and (3) the Attorney General to enter such information into the interim system prior to the interoperable system's implementation.

Directs the Attorney General to ensure that refugees and asylees are issued work authorizations, which shall contain fingerprint and photo identification.

Title IV: Inspection and Admission of Aliens - Directs the President to study the feasibility of establishing a North American National Security Program (United States, Canada, Mexico), including consideration of alien preclearance and preinspection. Authorizes appropriations.

Amends the Immigration and Nationality Act to: (1) require commercial aircraft or vessels arriving at, or departing from, the United States to provide United States border officers (as defined by this Act) with specified passenger, other occupant, and crew manifest information; (2) prohibit carrier entry until such information has been provided; (3) provide monetary and non-entry penalties for noncompliance; (4) require electronic manifest transmission by January 1, 2003; (4) provide the Attorney General with waiver authority; and (5) direct the President to conduct a feasibility study and report to Congress regarding such provisions' extension to commercial land carriers.

Directs the INS to staff ports of entry adequately.

Authorizes United States border inspections agencies, including INS, to conduct joint United States-Canada inspection projects to provide for alternative inspection services and harmonized inspection criteria. Directs the Attorney General and the Secretary of the Treasury to report annually to Congress.

Title V: Foreign Students and Exchange Visitors - Amends the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to direct the Attorney General to develop an electronic means of verifying and monitoring the foreign student and exchange visitor information program, including aspects of: (1) documentation and visa issuance; (2) U.S. admission; (3) institution notification; (4) documentation transmittal; and (5) registration and enrollment.

Requires an institution to notify INS of the failure of a foreign student or exchange visitor to enroll within 30 days of the registration deadline. Increases student data collection requirements. Specifies information required for foreign student visa applications.

Sets forth transitional foreign student monitoring requirements, including: (1) restrictions on visa issuance; (2) INS notification of visa issuance; (3) institution notification of U.S. entry; and (4) INS notification (by the institution) of failure to enroll. Directs the Attorney General to provide the Secretary with a list of institutions approved to accept foreign students or exchange visitors. Authorizes appropriations.

Provides for INS and Department of State biennial review of institutions authorized to enroll or sponsor foreign students and exchange visitors.

Provides that an institution's failure to comply with recordkeeping and reporting requirements shall result in termination or at least a one year suspension of its approval to receive such students or exchange visitors.

Title VI: Miscellaneous Provisions - Amends the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to extend the deadline for presentation of biometric border crossing identification cards.

Directs: (1) the Comptroller General to determine the feasibility of requiring each nonimmigrant alien to report annually to INS respecting his or her address and employer's address; and (2) the Secretary and INS to study alternative approaches to for encouraging or requiring Mexico, Canada, and visa waiver countries to develop an intergovernmental network of interoperable international electronic data systems.

States that this Act shall not be construed to impose requirements that are inconsistent with the North American Free Trade Agreement, or to require additional documents for certain nonimmigrant emergency or in-transit liens for whom documentary requirements are waived.

Directs the Attorney General to report annually respecting aliens who fail to appear at removal proceedings after release on their own recognizance.

Directs the Department of State to retain every nonimmigrant visa application in judicially and administratively admissible form for a period of seven years from the date of application.

WHITE HOUSE STAFFING MEMORANDUM

Date: 5-14-02 8:00 AM ACTION / CONCURRENCE / COMMENT DUE BY: 5-14-02 10:00 AMSubject: ENROLLED BILL H.R. 3525 - ENHANCED BORDER SECURITY AND VISA ENTRY REFORM ACT AND SIGNING STATEMENT

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	HUBBARD	☐	☐
CARD	☒	☐	HUGHES	☒	☐
BARTLETT	☒	☐	IRASTORZA	☐	☐
BLAKEMAN	☐	☐	JOHNSON	☐	☐
BOLTEN	☒	☐	LINDSEY	☒	☐
BRIDGELAND	☒	☐	MARBURGER	☐	☐
CALIO	☒	☐	MIERS	☐	☐
CONNAUGHTON	☐	☐	RICE	☒	☐
DANIELS	☒	☐	RIDGE	☒	☐
FLEISCHER	☒	☐	ROVE	☒	☐
GERSON	☐	☐	SPELLINGS	☒	☐
GONZALES	☒	☐	CLERK	☐	☒
HAGIN	☐	☐	_____	☐	☐
HAWKINS	☒	☐	_____	☐	☐

REMARKS:

PLEASE FORWARD COMMENTS DIRECTLY JIM JUKES X53458, FAX X56148, BY 10:00 A.M. TODAY, WITH A COPY TO THE STAFF SECRETARY. THANK YOU.

RESPONSE:

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702



THE DIRECTOR

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

May 14, 2002

02 MAY 14 PM 2:55

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 3525 – Enhanced Border Security and Visa Entry Reform Act
Sponsor – Rep. Sensenbrenner (R) Wisconsin

Last Day for Action

May 20, 2002 - Monday

Purpose

Creates new requirements intended to enhance border security concerning: (1) staffing and pay increases for certain immigration personnel; (2) a foreign student tracking system; (3) machine-readable visas and other travel documents; (4) electronic sharing of immigration and law enforcement information; and (5) passenger manifests for aircraft and sea vessels.

Agency Recommendations

Office of Management and Budget

Approval (Signing
statement attached)

Department of Justice

Approval

Department of Education

Defers to Justice and
State (Informally)

Department of State

No objection (Informally)

Department of Transportation

No objection (Informally)

Department of the Treasury

No objection (Informally)

Department of Labor

No comment (Informally)

Department of Defense

No response

Central Intelligence Agency (CIA)

No response

Discussion

H.R. 3525 would set forth new requirements for the President and several agencies, including Justice and State, that are intended to enhance the border security of the United States. Major provisions of the enrolled bill are described below. Other provisions are described in the Attachment.

Staffing and Pay Increases for INS Personnel

The enrolled bill would require Justice, subject to the availability of appropriations, in each of FYs 2003-2006, to increase the number of Immigration and Naturalization Service (INS) inspectors and associated support staff and the number of INS investigators and associated support staff each by the equivalent of 200 full-time equivalents (FTEs) over the number authorized in the USA PATRIOT Act (P.L. 107-56, enacted October 26, 2001). The USA PATRIOT Act authorized Justice to waive any FTE cap on personnel assigned to the INS on the Northern border and authorized appropriations necessary to triple the number of INS inspectors and associated necessary personnel (from the number authorized on the date of its enactment) and facilities in each State along the Northern Border. Your FY 2003 Budget proposes doubling INS staff on the Northern Border.

The enrolled bill would authorize appropriations for Justice of such sums as may be necessary to provide the following increases in pay, effective October 1, 2002: (1) increases for GS-9 journeyman Border Patrol agents and inspectors who have completed at least one year's service to the annual rate of basic pay for GS-11 positions; (2) increases for GS-5 inspections assistants to the annual rate of basic pay for GS-7 positions; and (3) increases for support staff associated with such personnel to "the appropriate GS level." It is expected that INS can absorb the additional estimated costs of \$60 million within requested appropriations.

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The enrolled bill would require Justice, in consultation with State and Education, to establish an electronic system to collect foreign student information from approved institutions of higher education and designated exchange visitor programs in the United States. The system would be used to monitor and verify information on the visitors, such as acceptance into a school or program, issuance of a visa, arrival into the country, registration and enrollment in an educational institution or participation in an exchange visitor program, and more extensive background information. Educational institutions would have to report to the INS, within 30 days of the deadline for registering for classes, any failure of an alien to enroll or to commence participation.

Prior to issuing a foreign student (F or M) or exchange visitor (J) visa, applicants would have to provide the following: an address in the country of origin; names and addresses of the alien's spouse, children, parents, and siblings; names of contacts of the alien in the alien's country of residence who could verify information about the alien; and previous work history, if any, including the names and addresses of employers. Effective 120 days after the enrolled bill's enactment, an F, M, or J visa could not be issued to an alien unless State has received from an approved educational institution electronic evidence of documentation of the alien's acceptance at that institution and the consular officer has adequately reviewed the applicant's visa record. Upon the issuance of an F, M, or J visa, State would have to transmit to INS notification of that issuance and INS would then have to notify the educational institution when an alien accepted for that institution or program has been admitted to the United States.

The enrolled bill would require INS, in consultation with Education, to conduct biennial reviews of institutions designated to sponsor students to determine if they are complying with recordkeeping and reporting requirements. State would have to conduct biennial reviews of institutions sponsoring exchange visitors for the same purpose. INS and State could suspend or terminate an entity's ability to receive students under the F and M (for INS) or J (for State) visa programs for failing to comply with the recordkeeping and reporting requirements. The enrolled bill would authorize appropriations of such sums as may be necessary to carry out these provisions. Most of the requirements for the student tracking system are already a part of the design for INS' Student and Exchange Visitor Information System (SEVIS) scheduled for release later this year.

Travel Documents

The enrolled bill would require State and Justice, by October 26, 2004, to issue to aliens only travel documents that are machine-readable, tamper resistant, and use biometric identifiers. The enrolled bill would also require by that date the installation of equipment to allow biometric comparison and authentication of all U.S. travel and entry documents issued to aliens. State and Justice would have to jointly establish document authentication and biometric identifiers standards chosen from among those recognized by domestic and international standards organizations. The Departments would have to issue a report, within 180 days of the enrolled bill's enactment, on costs and timing associated with meeting these deadlines. Countries participating in the Visa Waiver Program (VWP) would have to certify by October 26, 2004, as a condition for participation, that they have a program for issuing passports meeting these requirements and participants in the program would have to use these passports (unless issued before that date). (The VWP allows certain citizens from a select group of mostly industrial countries to visit the United States without having to obtain visas.) H.R. 3525 would authorize appropriations of such sums as may be necessary to carry out these provisions, but also authorizes additional land border crossing fees to help INS pay for this effort.

Visa Fees. The enrolled bill would require the machine-readable visa fee to be set at the higher of \$65 or the cost of administering this service, as determined by State after conducting a study of the cost of the service. (In March 2002, State increased the fee by regulation from \$45 to \$65.) The enrolled bill would also authorize State to collect a \$10 surcharge for issuing a machine-readable visa in a nonmachine-readable passport. These fees would be credited as offsetting collections to any State Department appropriation to recover costs of providing consular services.

Entry/Exit System. The enrolled bill would require Justice and State to use the technology standard developed under the USA PATRIOT Act (as discussed below) when implementing the INS Data Management Improvement Act of 2000 (P. L. 106-215, enacted June 15, 2000). (This law requires the implementation of an electronic system that provides alien arrival and departure data.) Justice would be required to: establish a database containing the arrival and departure data from machine-readable visas, passports, and other travel and entry documents possessed by aliens; make interoperable all security databases relevant to making determinations of admissibility; and "consider implementing" the North American National Security Program described below. State would have to provide INS with an electronic version of the visa file of each alien who has been issued a visa to ensure that the data in that visa file is available to immigration inspectors at U.S. ports of entry before the arrival of the alien.

Interagency Information Sharing and Data System

Information Sharing. In the enrolled bill (and in the description below), the term "President" means the President acting through the Assistant to the President for Homeland Security, in coordination with the Secretary of State, the INS Commissioner, the Attorney General, the CIA Director, the FBI Director, the Secretary of Transportation, the Customs Commissioner, and the Secretary of the Treasury. H.R. 3525 would require the President to submit a report to Congress within 120 days of the enrolled bill's enactment identifying Federal law enforcement and intelligence community information needed by State when issuing visas and by INS when identifying aliens who are inadmissible or deportable. (The enrolled bill would repeal a provision of the USA PATRIOT Act that required the Office of Homeland Security to submit a similar report.) The President would be required to develop and implement by October 26, 2002, after consultation with Congress, a plan that: (1) requires Federal law enforcement agencies and the intelligence community to provide to State and INS the information identified in the report; and (2) establishes conditions to limit the redissemination of such information and protect individuals' privacy and the sources of such information. The bill specifies criminal penalties for misuse of this information.

Electronic Interoperable Data System. The President, in consultation with the Commerce Department's National Institute of Standards and Technology (NIST), would be required to develop and implement an electronic interoperable data system (to be known as the "Chimera" system) to provide current and immediate access to the information identified in the implementation plan. The system would have to be readily and easily accessible to consular

officers responsible for issuing visas, Federal officials responsible for determining an alien's admissibility to or deportability from the United States, and Federal law enforcement and intelligence officers responsible for the investigation or identification of aliens. The system would be required to have the capacity to compensate for disparate name formats and be searchable on a linguistically sensitive basis, based on algorithms that account for variations in name formats and transliterations. The enrolled bill would require the development and implementation of linguistically sensitive algorithms for at least four languages that are determined by State as high priorities. Of these, the highest priority language's algorithms must be implemented within 18 months of the enrolled bill's enactment and at least one additional algorithm must be implemented per year in each of the following three years. Also, in order to provide adequate user support, the enrolled bill would require State and Justice to jointly prescribe procedures that consular and immigration officers can use to obtain assistance in resolving identity and other questions that may arise about names of aliens seeking visas or admission to the United States.

The enrolled bill would require the system to be based on a technology standard developed under requirements of the USA PATRIOT Act and would advance deadlines associated with the development of this standard. The enrolled bill would accelerate by nine months, to January 26, 2003, the deadline for development (by Justice and State, through NIST) of a technology standard for verifying the identity of visa applicants and persons seeking to enter the United States with a visa and would add the requirement that it must incorporate "appropriate biometric identifier standards." The enrolled bill would also accelerate by six months, to October 26, 2002, a requirement for a report to Congress describing the development, implementation, efficacy, and privacy implications of the technology standard and electronic database system to be developed based on the standard. The enrolled bill would set deadlines of 60 and 120 days after enactment, respectively, for CIA to comply with previously-enacted requirements to issue a report and guidelines concerning uniform spelling of foreign names and places.

The enrolled bill would authorize Justice to hire and fix the compensation of necessary scientific, technical, engineering, and other analytical personnel for the purpose of the development and implementation of the Chimera system. Within 90 days of the enrolled bill's enactment, Justice would be required to submit an operating plan to Congress describing Justice's intended use of this authority and any provisions of title 5 of the U.S. Code (e.g., personnel laws) being waived for purposes of the development and implementation of the Chimera system. This authority would terminate upon the implementation of the system.

The enrolled bill would require INS to fully integrate all databases and data systems maintained by INS that process or contain information on aliens and make this integrated data system an interoperable component of the Chimera system. The enrolled bill would also require Justice or State, as appropriate, to enter identification numbers for stolen passports into the

Chimera system within 72 hours of receiving notification that a passport was lost or stolen. Within six months of the enactment of H.R. 3525, the President would be required to report on the progress of the implementation of the system. The enrolled bill would authorize appropriations of such sums as may be necessary to carry out these provisions.

Data Sharing Commission. Within one year of the enrolled bill's enactment, the President would be required to establish a Commission on Interoperable Data Sharing to monitor and report annually to Congress on recommendations for dealing with privacy, security, technology, and errors related to the new electronic data system. The President would appoint the commission's nine members, eight of whom would be chosen from a list of nominees provided by Congressional leadership. The enrolled bill would authorize appropriations to the Commission of such sums as may be necessary to carry out these requirements.

Passenger Manifests

Current law requires each vessel or aircraft with passengers on board, upon the arrival at or before the departure from any U.S. seaport or airport, to provide manifests of the persons on board to immigration officers at the port, with the exceptions of alien crewmen and of persons arriving from or departing to a foreign contiguous territory by air. The enrolled bill would remove these two exemptions, require arrival manifests to be transmitted before arrival at a port, and allow transmittal to any U.S. border officer. The enrolled bill would require the following information to be provided for each passenger: complete name; date of birth; citizenship; sex; passport number and country of issuance; country of residence; U.S. visa number, date, and place of issuance, where applicable; alien registration number, where applicable; and U.S. address while in the United States. These provisions would apply with respect to persons arriving in, or departing from, the United States on or after the date of enactment of the enrolled bill.

The enrolled bill would also require all manifest information to be transmitted electronically after January 1, 2003, and raise the fine for the failure or refusal to provide the necessary manifest information from \$300 to \$1,000 for each person for whom accurate and full information is not given.

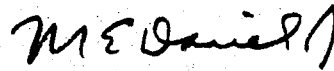
The enrolled bill would require the President to conduct a study regarding the feasibility of extending these reporting requirements to any commercial carrier transporting persons by land to or from the United States. The study would have to focus on the manner in which the requirement would be implemented to enhance the national security of United States and the efficient cross-border flow of commerce and persons. Within two years of enactment, the President would be required to submit a report to Congress setting forth the findings of the study.

Conclusion and Recommendations

The Department of Justice recommends approval of H.R. 3525, but recommends a signing statement to address constitutional concerns with provisions of the bill that purport to require the President to consult with an Executive Branch officer, appoint officers in a manner inconsistent with the Appointments Clause, and submit legislative recommendations to Congress in violation of the Recommendations Clause.

We join Justice in recommending approval of H.R. 3525, which passed the Senate by a vote of 97-0 and the House by 411-0.

Attached for your consideration is a signing statement that is based on language supplied by Justice. It has been reviewed and approved by the Office of White House Counsel, the Office of Homeland Security, and the Office of the Vice President.



Mitchell E. Daniels, Jr.
Director

Enclosures

STATEMENT BY THE PRESIDENT

I have today signed into law H.R. 3525, the Enhanced Border Security and Visa Entry Reform Act of 2002. The legislation strengthens the ability of the U.S. Government to control the country's borders, a top priority of my Administration. The Act will improve our ability to screen aliens seeking to enter our country, facilitate the sharing of border-related information among U.S. agencies, and improve efforts to keep track of foreign students and foreign exchange visitors in the United States.

Section 2(4)(G) of the Act defines as a Federal law enforcement agency the "Coastal Security Service." Because no such agency exists, and the principal agency with coastal security functions is the U.S. Coast Guard, the executive branch shall construe this provision as referring to the Coast Guard.

Several sections of the Act raise constitutional concerns.

Sections 2(6), 201(c)(2), and 202(a)(3) purport to require the President to act through a specified assistant to the President or in coordination or consultation with specified officers of the United States, agencies or congressional committees. The President's constitutional authority to supervise the unitary executive branch and take care that the laws be faithfully executed cannot be made by law subject to requirements to exercise those constitutional authorities through a particular member of the President's staff or in coordination or consultation with specified officers or elements of the government. Accordingly, the executive branch shall treat the purported requirements as precatory.

Section 203 requires the President, in appointing the nine members of the Commission on Interoperable Data Sharing, to appoint eight of them from a list of nominees provided by the Congressional leadership acting jointly. Laws that provide for appointment in the government of individuals to exercise significant governmental authority must provide for such appointment by one of the means specified in the Appointments Clause of the Constitution, which includes appointment by the President with Senate consent or by the President alone, but does not include appointment by the President from a pool of persons selected by the Congressional leadership. Accordingly, to give effect to Section 203 insofar as is constitutionally permissible, the executive branch shall construe the Commission's functions as advisory only. Also, the executive branch shall construe the Commission's responsibility to make recommendations to Congress in a manner consistent with the President's constitutional authority to submit for congressional consideration such measures as the President shall judge necessary and expedient.

The executive branch shall construe Section 404(a), relating to U.S.-Canadian joint border inspection operations under an international agreement, in a manner consistent with the President's constitutional authority to conduct the foreign affairs of the Nation and to supervise the unitary executive branch.

Other Provisions of H.R. 3525

Studies and Reports

The enrolled bill would require the President to study, and report to Congress within a year of the enrolled bill's enactment on, the feasibility of establishing a North American National Security Program. The President would have to consider the feasibility of (1) enabling foreign national travelers to the United States to submit voluntarily to a preclearance procedure, and (2) expanding preinspection facilities at foreign airports, including expanding preinspections to foreign nationals on flights to Canada and Mexico.

H.R. 3525 would require the General Accounting Office to study, and report to Congress within one year of the enrolled bill's enactment on, the feasibility and utility of implementing a requirement that each nonimmigrant alien in the United States annually submit to INS a current address and, where applicable, the name and address of an employer.

The enrolled bill would require a study by State and INS, in consultation with the Office of Homeland Security, on approaches for encouraging or requiring Canada, Mexico, and Visa Waiver Program (VWP) countries to develop an intergovernmental network of interoperable electronic data systems that is interoperable with the Chimera system and can be used to access law enforcement and intelligence information of those countries that is needed by State and INS to identify aliens who are inadmissible to or deportable from the United States.

The enrolled bill would also require a Justice report to Congress within six months of the enrolled bill's enactment and not later than January 15th of each year thereafter, on the total number of aliens who, during the preceding year, failed to attend a removal proceeding after having been arrested outside a port of entry, served a notice to appear under the Immigration and Nationality Act, and released on the alien's own recognizance.

Training Provisions

The enrolled bill would require State to implement, and staff the facilities and programs for, enhanced security measures for the review of visa applicants, and provide ongoing training for diplomatic security agents and consular officers.

The enrolled bill would require State to provide all consular officers responsible for adjudicating visa applications, before they begin to perform their consular duties, specialized training in the effective screening of visa applicants who pose a potential threat to the United States.

The bill would also authorize appropriations of such sums as may be necessary to "appropriately train" INS personnel, provide "adequate continuing cross-training" to agencies working along U.S. borders, "fully train" immigration officers to use lookout databases and monitor passenger traffic patterns, and improve and expand facilities for use by INS and State Department personnel. Led by Treasury's Federal Law Enforcement Training Center, efforts are already underway to standardize and accredit training programs, including border security.

Technology Improvements

The enrolled bill would authorize Federal agencies involved in border security to waive all or part of enrollment fees for technology-based programs to encourage participation by U.S. citizens and aliens in such programs. Any agency that waives any part of a fee would be authorized to establish its fees for other services at a level that will ensure the recovery from other users of the amounts waived. The bill would authorize appropriations of \$150 million to INS for technology improvements and authorize Justice to increase land border fees for the issuance of arrival-departure documents to offset technology costs. Your FY 2003 Budget proposes \$83 million for technology improvements.

Miscellaneous Provisions

Other provisions in the enrolled bill would:

- Prohibit issuance of nonimmigrant visas to individuals from countries determined by State to be sponsors of international terrorism, unless State, in consultation with Justice, determines an individual does not pose a national security threat.
- Extend for one year, to October 1, 2002, the deadline for requiring aliens seeking to enter the United States with a border crossing card to present one with a biometric identifier.
- Authorize U.S. border inspection agencies, "acting jointly and under an agreement of cooperation with" Canada, to conduct joint United States-Canada inspections projects on the border between the two countries. Justice and Treasury would be required to report to Congress on these projects.
- Add as a condition of eligibility for the VWP, the reporting of passport thefts and increase the frequency, from five to two years, of reports on the continuing designation of VWP countries.
- Require Justice, beginning within 180 days of the enrolled bill's enactment, to issue, to refugees immediately upon their arrival in the United States and to asylees immediately upon being granted asylum, employment authorization documents containing at least a fingerprint and photograph of the alien.

-- Repeal the current requirement for inspections of airline passengers arriving in the United States to be conducted within 45 minutes of their presentation for inspection, but require INS to staff ports of entry with adequate levels of personnel based on the goal of conducting these inspections within 45 minutes.

-- Require State to retain all visa applications for seven years after the date of application, whether the application was approved or denied.

-- Authorize appropriations of such sums as may be necessary to expand the "Carrier Consultant Program," which requires Justice to assign additional immigration officers to assist air carriers in the detection of fraudulent documents at foreign airports which serve as a point of departure for a significant number of arrivals at U.S. ports of entry without valid documentation, but where no preinspection station exists.

-- Require State to have established a terrorist look-out committee to be maintained within each U.S. mission to a foreign country to identify and develop information on known or potential terrorists. These committees would report monthly to the Secretary of State, whether or not information on a known or suspected terrorist was developed during that month, and State would be required to report quarterly to Congress on the status of these committees.

-- Specify that nothing in the bill may be construed to impose requirements inconsistent with the North American Free Trade Agreement.

WHITE HOUSE STAFFING MEMORANDUM

Date: 5-14-02 8:00 AM ACTION / CONCURRENCE / COMMENT DUE BY: 5-14-02 10:00 AM

ENROLLED BILL H.R. 3525 - ENHANCED BORDER SECURITY AND VISA ENTRY
 Subject: REFORM ACT AND SIGNING STATEMENT

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	HUBBARD	☐	☐
CARD	☒	☐	HUGHES	☒	☐
BARTLETT	☒	☐	IRASTORZA	☐	☐
BLAKEMAN	☐	☐	JOHNSON	☐	☐
BOLTEN	☒	☐	LINDSEY	☒	☐
BRIDGELAND	☒	☐	MARBURGER	☐	☐
CALIO	☒	☐	MIERS	☐	☐
CONNAUGHTON	☐	☐	RICE	☒	☐
DANIELS	☒	☐	RIDGE	☒	☐
FLEISCHER	☒	☐	ROVE	☒	☐
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RESPONSE:

Harriet E. Miers
 Assistant to the President
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 Ext. 62702



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EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

May 14, 2002

02 MAY 14 10 03 AM '02

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statement attached)

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Information Sharing. In the enrolled bill (and in the description below), the term "President" means the President acting through the Assistant to the President for Homeland Security, in coordination with the Secretary of State, the INS Commissioner, the Attorney General, the CIA Director, the FBI Director, the Secretary of Transportation, the Customs Commissioner, and the Secretary of the Treasury. H.R. 3525 would require the President to submit a report to Congress within 120 days of the enrolled bill's enactment identifying Federal law enforcement and intelligence community information needed by State when issuing visas and by INS when identifying aliens who are inadmissible or deportable. (The enrolled bill would repeal a provision of the USA PATRIOT Act that required the Office of Homeland Security to submit a similar report.) The President would be required to develop and implement by October 26, 2002, after consultation with Congress, a plan that: (1) requires Federal law enforcement agencies and the intelligence community to provide to State and INS the information identified in the report; and (2) establishes conditions to limit the redissemination of such information and protect individuals' privacy and the sources of such information. The bill specifies criminal penalties for misuse of this information.

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officers responsible for issuing visas, Federal officials responsible for determining an alien's admissibility to or deportability from the United States, and Federal law enforcement and intelligence officers responsible for the investigation or identification of aliens. The system would be required to have the capacity to compensate for disparate name formats and be searchable on a linguistically sensitive basis, based on algorithms that account for variations in name formats and transliterations. The enrolled bill would require the development and implementation of linguistically sensitive algorithms for at least four languages that are determined by State as high priorities. Of these, the highest priority language's algorithms must be implemented within 18 months of the enrolled bill's enactment and at least one additional algorithm must be implemented per year in each of the following three years. Also, in order to provide adequate user support, the enrolled bill would require State and Justice to jointly prescribe procedures that consular and immigration officers can use to obtain assistance in resolving identity and other questions that may arise about names of aliens seeking visas or admission to the United States.

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Passenger Manifests

Current law requires each vessel or aircraft with passengers on board, upon the arrival at or before the departure from any U.S. seaport or airport, to provide manifests of the persons on board to immigration officers at the port, with the exceptions of alien crewmen and of persons arriving from or departing to a foreign contiguous territory by air. The enrolled bill would remove these two exemptions, require arrival manifests to be transmitted before arrival at a port, and allow transmittal to any U.S. border officer. The enrolled bill would require the following information to be provided for each passenger: complete name; date of birth; citizenship; sex; passport number and country of issuance; country of residence; U.S. visa number, date, and place of issuance, where applicable; alien registration number, where applicable; and U.S. address while in the United States. These provisions would apply with respect to persons arriving in, or departing from, the United States on or after the date of enactment of the enrolled bill.

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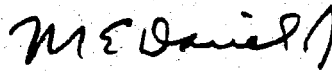
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Conclusion and Recommendations

The Department of Justice recommends approval of H.R. 3525, but recommends a signing statement to address constitutional concerns with provisions of the bill that purport to require the President to consult with an Executive Branch officer, appoint officers in a manner inconsistent with the Appointments Clause, and submit legislative recommendations to Congress in violation of the Recommendations Clause.

We join Justice in recommending approval of H.R. 3525, which passed the Senate by a vote of 97-0 and the House by 411-0.

Attached for your consideration is a signing statement that is based on language supplied by Justice. It has been reviewed and approved by the Office of White House Counsel, the Office of Homeland Security, and the Office of the Vice President.



Mitchell E. Daniels, Jr.
Director

Enclosures

STATEMENT BY THE PRESIDENT

I have today signed into law H.R. 3525, the Enhanced Border Security and Visa Entry Reform Act of 2002. The legislation strengthens the ability of the U.S. Government to control the country's borders, a top priority of my Administration. The Act will improve our ability to screen aliens seeking to enter our country, facilitate the sharing of border-related information among U.S. agencies, and improve efforts to keep track of foreign students and foreign exchange visitors in the United States.

Section 2(4)(G) of the Act defines as a Federal law enforcement agency the "Coastal Security Service." Because no such agency exists, and the principal agency with coastal security functions is the U.S. Coast Guard, the executive branch shall construe this provision as referring to the Coast Guard.

Several sections of the Act raise constitutional concerns.

Sections 2(6), 201(c)(2), and 202(a)(3) purport to require the President to act through a specified assistant to the President or in coordination or consultation with specified officers of the United States, agencies or congressional committees. The President's constitutional authority to supervise the unitary executive branch and take care that the laws be faithfully executed cannot be made by law subject to requirements to exercise those constitutional authorities through a particular member of the President's staff or in coordination or consultation with specified officers or elements of the government. Accordingly, the executive branch shall treat the purported requirements as precatory.

Section 203 requires the President, in appointing the nine members of the Commission on Interoperable Data Sharing, to appoint eight of them from a list of nominees provided by the Congressional leadership acting jointly. Laws that provide for appointment in the government of individuals to exercise significant governmental authority must provide for such appointment by one of the means specified in the Appointments Clause of the Constitution, which includes appointment by the President with Senate consent or by the President alone, but does not include appointment by the President from a pool of persons selected by the Congressional leadership. Accordingly, to give effect to Section 203 insofar as is constitutionally permissible, the executive branch shall construe the Commission's functions as advisory only. Also, the executive branch shall construe the Commission's responsibility to make recommendations to Congress in a manner consistent with the President's constitutional authority to submit for congressional consideration such measures as the President shall judge necessary and expedient.

The executive branch shall construe Section 404(a), relating to U.S.-Canadian joint border inspection operations under an international agreement, in a manner consistent with the President's constitutional authority to conduct the foreign affairs of the Nation and to supervise the unitary executive branch.

Other Provisions of H.R. 3525

Studies and Reports

The enrolled bill would require the President to study, and report to Congress within a year of the enrolled bill's enactment on, the feasibility of establishing a North American National Security Program. The President would have to consider the feasibility of (1) enabling foreign national travelers to the United States to submit voluntarily to a preclearance procedure, and (2) expanding preinspection facilities at foreign airports, including expanding preinspections to foreign nationals on flights to Canada and Mexico.

H.R. 3525 would require the General Accounting Office to study, and report to Congress within one year of the enrolled bill's enactment on, the feasibility and utility of implementing a requirement that each nonimmigrant alien in the United States annually submit to INS a current address and, where applicable, the name and address of an employer.

The enrolled bill would require a study by State and INS, in consultation with the Office of Homeland Security, on approaches for encouraging or requiring Canada, Mexico, and Visa Waiver Program (VWP) countries to develop an intergovernmental network of interoperable electronic data systems that is interoperable with the Chimera system and can be used to access law enforcement and intelligence information of those countries that is needed by State and INS to identify aliens who are inadmissible to or deportable from the United States.

The enrolled bill would also require a Justice report to Congress within six months of the enrolled bill's enactment and not later than January 15th of each year thereafter, on the total number of aliens who, during the preceding year, failed to attend a removal proceeding after having been arrested outside a port of entry, served a notice to appear under the Immigration and Nationality Act, and released on the alien's own recognizance.

Training Provisions

The enrolled bill would require State to implement, and staff the facilities and programs for, enhanced security measures for the review of visa applicants, and provide ongoing training for diplomatic security agents and consular officers.

The enrolled bill would require State to provide all consular officers responsible for adjudicating visa applications, before they begin to perform their consular duties, specialized training in the effective screening of visa applicants who pose a potential threat to the United States.

The bill would also authorize appropriations of such sums as may be necessary to "appropriately train" INS personnel, provide "adequate continuing cross-training" to agencies working along U.S. borders, "fully train" immigration officers to use lookout databases and monitor passenger traffic patterns, and improve and expand facilities for use by INS and State Department personnel. Led by Treasury's Federal Law Enforcement Training Center, efforts are already underway to standardize and accredit training programs, including border security.

Technology Improvements

The enrolled bill would authorize Federal agencies involved in border security to waive all or part of enrollment fees for technology-based programs to encourage participation by U.S. citizens and aliens in such programs. Any agency that waives any part of a fee would be authorized to establish its fees for other services at a level that will ensure the recovery from other users of the amounts waived. The bill would authorize appropriations of \$150 million to INS for technology improvements and authorize Justice to increase land border fees for the issuance of arrival-departure documents to offset technology costs. Your FY 2003 Budget proposes \$83 million for technology improvements.

Miscellaneous Provisions

Other provisions in the enrolled bill would:

- Prohibit issuance of nonimmigrant visas to individuals from countries determined by State to be sponsors of international terrorism, unless State, in consultation with Justice, determines an individual does not pose a national security threat.
- Extend for one year, to October 1, 2002, the deadline for requiring aliens seeking to enter the United States with a border crossing card to present one with a biometric identifier.
- Authorize U.S. border inspection agencies, "acting jointly and under an agreement of cooperation with" Canada, to conduct joint United States-Canada inspections projects on the border between the two countries. Justice and Treasury would be required to report to Congress on these projects.
- Add as a condition of eligibility for the VWP, the reporting of passport thefts and increase the frequency, from five to two years, of reports on the continuing designation of VWP countries.
- Require Justice, beginning within 180 days of the enrolled bill's enactment, to issue, to refugees immediately upon their arrival in the United States and to asylees immediately upon being granted asylum, employment authorization documents containing at least a fingerprint and photograph of the alien.

-- Repeal the current requirement for inspections of airline passengers arriving in the United States to be conducted within 45 minutes of their presentation for inspection, but require INS to staff ports of entry with adequate levels of personnel based on the goal of conducting these inspections within 45 minutes.

-- Require State to retain all visa applications for seven years after the date of application, whether the application was approved or denied.

-- Authorize appropriations of such sums as may be necessary to expand the "Carrier Consultant Program," which requires Justice to assign additional immigration officers to assist air carriers in the detection of fraudulent documents at foreign airports which serve as a point of departure for a significant number of arrivals at U.S. ports of entry without valid documentation, but where no preinspection station exists.

-- Require State to have established a terrorist look-out committee to be maintained within each U.S. mission to a foreign country to identify and develop information on known or potential terrorists. These committees would report monthly to the Secretary of State, whether or not information on a known or suspected terrorist was developed during that month, and State would be required to report quarterly to Congress on the status of these committees.

-- Specify that nothing in the bill may be construed to impose requirements inconsistent with the North American Free Trade Agreement.

 *** TX REPORT ***

TRANSMISSION OK

TX/RX NO 3808
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 CONNECTION ID
 ST. TIME 05/14 08:44
 USAGE T 04'24
 PGS. SENT 13
 RESULT OK

SS/ RM NO. 521568

WHITE HOUSE STAFFING MEMORANDUM

Date: 5-14-02 8:00 AM ACTION / CONCURRENCE / COMMENT DUE BY: 5-14-02 10:00 AM

ENROLLED BILL H.R. 3525 - ENHANCED BORDER SECURITY AND VISA ENTRY
 Subject: REFORM ACT AND SIGNING STATEMENT

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	HUBBARD	☐	☐
CARD	☒	☐	HUGHES	☒	☐
BARTLETT	☒	☐	IRASTORZA	☐	☐
BLAKEMAN	☐	☐	JOHNSON	☐	☐
BOLTEN	☒	☐	LINDSEY	☒	☐
BRIDGELAND	☒	☐	MARBURGER	☐	☐
CALIO	☒	☐	MIERS	☐	☐
CONNAUGHTON	☐	☐	RICE	☒	☐
DANIELS	☒	☐	RIDGE	☒	☐
FLEISCHER	☒	☐	ROVE	☒	☐
GERSON	☐	☐	SPELLINGS	☒	☐
GONZALES	☒	☐	CLERK	☐	☒
HAGIN	☐	☐		☐	☐
HAWKINS	☒	☐		☐	☐

REMARKS:

WHITE HOUSE STAFFING MEMORANDUM

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CONNAUGHTON	☐	☐	RICE	☒	☐
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FLEISCHER	☒	☐	ROVE	☒	☐
GERSON	☐	☐	SPELLINGS	☒	☐
GONZALES	☒	☐	CLERK	☐	☒
HAGIN	☐	☐		☐	☐
HAWKINS	☒	☐		☐	☐

REMARKS:

PLEASE FORWARD COMMENTS DIRECTLY JIM JUKES X53458, FAX X56148, BY 10:00 A.M.
TODAY, WITH A COPY TO THE STAFF SECRETARY. THANK YOU.

RESPONSE:

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702



THE DIRECTOR

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

May 14, 2002

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 3525 – Enhanced Border Security and Visa Entry Reform Act
Sponsor – Rep. Sensenbrenner (R) Wisconsin

Last Day for Action

May 20, 2002 - Monday

Purpose

Creates new requirements intended to enhance border security concerning: (1) staffing and pay increases for certain immigration personnel; (2) a foreign student tracking system; (3) machine-readable visas and other travel documents; (4) electronic sharing of immigration and law enforcement information; and (5) passenger manifests for aircraft and sea vessels.

Agency Recommendations

Office of Management and Budget

Approval (Signing
statement attached)

Department of Justice

Approval

Department of Education

Defers to Justice and
State (Informally)

Department of State

No objection (Informally)

Department of Transportation

No objection (Informally)

Department of the Treasury

No objection (Informally)

Department of Labor

No comment (Informally)

Department of Defense

No response

Central Intelligence Agency (CIA)

No response

Discussion

H.R. 3525 would set forth new requirements for the President and several agencies, including Justice and State, that are intended to enhance the border security of the United States. Major provisions of the enrolled bill are described below. Other provisions are described in the Attachment.

Staffing and Pay Increases for INS Personnel

The enrolled bill would require Justice, subject to the availability of appropriations, in each of FYs 2003-2006, to increase the number of Immigration and Naturalization Service (INS) inspectors and associated support staff and the number of INS investigators and associated support staff each by the equivalent of 200 full-time equivalents (FTEs) over the number authorized in the USA PATRIOT Act (P.L. 107-56, enacted October 26, 2001). The USA PATRIOT Act authorized Justice to waive any FTE cap on personnel assigned to the INS on the Northern border and authorized appropriations necessary to triple the number of INS inspectors and associated necessary personnel (from the number authorized on the date of its enactment) and facilities in each State along the Northern Border. Your FY 2003 Budget proposes doubling INS staff on the Northern Border.

The enrolled bill would authorize appropriations for Justice of such sums as may be necessary to provide the following increases in pay, effective October 1, 2002: (1) increases for GS-9 journeyman Border Patrol agents and inspectors who have completed at least one year's service to the annual rate of basic pay for GS-11 positions; (2) increases for GS-5 inspections assistants to the annual rate of basic pay for GS-7 positions; and (3) increases for support staff associated with such personnel to "the appropriate GS level." It is expected that INS can absorb the additional estimated costs of \$60 million within requested appropriations.

Student Tracking System

The enrolled bill would require Justice, in consultation with State and Education, to establish an electronic system to collect foreign student information from approved institutions of higher education and designated exchange visitor programs in the United States. The system would be used to monitor and verify information on the visitors, such as acceptance into a school or program, issuance of a visa, arrival into the country, registration and enrollment in an educational institution or participation in an exchange visitor program, and more extensive background information. Educational institutions would have to report to the INS, within 30 days of the deadline for registering for classes, any failure of an alien to enroll or to commence participation.

Prior to issuing a foreign student (F or M) or exchange visitor (J) visa, applicants would have to provide the following: an address in the country of origin; names and addresses of the alien's spouse, children, parents, and siblings; names of contacts of the alien in the alien's country of residence who could verify information about the alien; and previous work history, if any, including the names and addresses of employers. Effective 120 days after the enrolled bill's enactment, an F, M, or J visa could not be issued to an alien unless State has received from an approved educational institution electronic evidence of documentation of the alien's acceptance at that institution and the consular officer has adequately reviewed the applicant's visa record. Upon the issuance of an F, M, or J visa, State would have to transmit to INS notification of that issuance and INS would then have to notify the educational institution when an alien accepted for that institution or program has been admitted to the United States.

The enrolled bill would require INS, in consultation with Education, to conduct biennial reviews of institutions designated to sponsor students to determine if they are complying with recordkeeping and reporting requirements. State would have to conduct biennial reviews of institutions sponsoring exchange visitors for the same purpose. INS and State could suspend or terminate an entity's ability to receive students under the F and M (for INS) or J (for State) visa programs for failing to comply with the recordkeeping and reporting requirements. The enrolled bill would authorize appropriations of such sums as may be necessary to carry out these provisions. Most of the requirements for the student tracking system are already a part of the design for INS' Student and Exchange Visitor Information System (SEVIS) scheduled for release later this year.

Travel Documents

The enrolled bill would require State and Justice, by October 26, 2004, to issue to aliens only travel documents that are machine-readable, tamper resistant, and use biometric identifiers. The enrolled bill would also require by that date the installation of equipment to allow biometric comparison and authentication of all U.S. travel and entry documents issued to aliens. State and Justice would have to jointly establish document authentication and biometric identifiers standards chosen from among those recognized by domestic and international standards organizations. The Departments would have to issue a report, within 180 days of the enrolled bill's enactment, on costs and timing associated with meeting these deadlines. Countries participating in the Visa Waiver Program (VWP) would have to certify by October 26, 2004, as a condition for participation, that they have a program for issuing passports meeting these requirements and participants in the program would have to use these passports (unless issued before that date). (The VWP allows certain citizens from a select group of mostly industrial countries to visit the United States without having to obtain visas.) H.R. 3525 would authorize appropriations of such sums as may be necessary to carry out these provisions, but also authorizes additional land border crossing fees to help INS pay for this effort.

Visa Fees. The enrolled bill would require the machine-readable visa fee to be set at the higher of \$65 or the cost of administering this service, as determined by State after conducting a study of the cost of the service. (In March 2002, State increased the fee by regulation from \$45 to \$65.) The enrolled bill would also authorize State to collect a \$10 surcharge for issuing a machine-readable visa in a nonmachine-readable passport. These fees would be credited as offsetting collections to any State Department appropriation to recover costs of providing consular services.

Entry/Exit System. The enrolled bill would require Justice and State to use the technology standard developed under the USA PATRIOT Act (as discussed below) when implementing the INS Data Management Improvement Act of 2000 (P. L. 106-215, enacted June 15, 2000). (This law requires the implementation of an electronic system that provides alien arrival and departure data.) Justice would be required to: establish a database containing the arrival and departure data from machine-readable visas, passports, and other travel and entry documents possessed by aliens; make interoperable all security databases relevant to making determinations of admissibility; and "consider implementing" the North American National Security Program described below. State would have to provide INS with an electronic version of the visa file of each alien who has been issued a visa to ensure that the data in that visa file is available to immigration inspectors at U.S. ports of entry before the arrival of the alien.

Interagency Information Sharing and Data System

Information Sharing. In the enrolled bill (and in the description below), the term "President" means the President acting through the Assistant to the President for Homeland Security, in coordination with the Secretary of State, the INS Commissioner, the Attorney General, the CIA Director, the FBI Director, the Secretary of Transportation, the Customs Commissioner, and the Secretary of the Treasury. H.R. 3525 would require the President to submit a report to Congress within 120 days of the enrolled bill's enactment identifying Federal law enforcement and intelligence community information needed by State when issuing visas and by INS when identifying aliens who are inadmissible or deportable. (The enrolled bill would repeal a provision of the USA PATRIOT Act that required the Office of Homeland Security to submit a similar report.) The President would be required to develop and implement by October 26, 2002, after consultation with Congress, a plan that: (1) requires Federal law enforcement agencies and the intelligence community to provide to State and INS the information identified in the report; and (2) establishes conditions to limit the redissemination of such information and protect individuals' privacy and the sources of such information. The bill specifies criminal penalties for misuse of this information.

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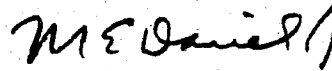
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Conclusion and Recommendations

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We join Justice in recommending approval of H.R. 3525, which passed the Senate by a vote of 97-0 and the House by 411-0.

Attached for your consideration is a signing statement that is based on language supplied by Justice. It has been reviewed and approved by the Office of White House Counsel, the Office of Homeland Security, and the Office of the Vice President.



Mitchell E. Daniels, Jr.
Director

Enclosures

STATEMENT BY THE PRESIDENT

I have today signed into law H.R. 3525, the Enhanced Border Security and Visa Entry Reform Act of 2002. The legislation strengthens the ability of the U.S. Government to control the country's borders, a top priority of my Administration. The Act will improve our ability to screen aliens seeking to enter our country, facilitate the sharing of border-related information among U.S. agencies, and improve efforts to keep track of foreign students and foreign exchange visitors in the United States.

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The enrolled bill would also require a Justice report to Congress within six months of the enrolled bill's enactment and not later than January 15th of each year thereafter, on the total number of aliens who, during the preceding year, failed to attend a removal proceeding after having been arrested outside a port of entry, served a notice to appear under the Immigration and Nationality Act, and released on the alien's own recognizance.

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Other provisions in the enrolled bill would:

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- Specify that nothing in the bill may be construed to impose requirements inconsistent with the North American Free Trade Agreement.

 *** TX REPORT ***

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 CONNECTION ID
 ST. TIME 05/14 08:49
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WHITE HOUSE STAFFING MEMORANDUM

Date: 5-14-02 8:00 AM ACTION / CONCURRENCE / COMMENT DUE BY: 5-14-02 10:00 AM

ENROLLED BILL H.R. 3525 - ENHANCED BORDER SECURITY AND VISA ENTRY
 Subject: REFORM ACT AND SIGNING STATEMENT

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	HUBBARD	☐	☐
CARD	☒	☐	HUGHES	☒	☐
BARTLETT	☒	☐	IRASTORZA	☐	☐
BLAKEMAN	☐	☐	JOHNSON	☐	☐
BOLTEN	☒	☐	LINDSEY	☒	☐
BRIDGELAND	☒	☐	MARBURGER	☐	☐
CALIO	☒	☐	MIERS	☐	☐
CONNAUGHTON	☐	☐	RICE	☒	☐
DANIELS	☒	☐	RIDGE	☒	☐
FLEISCHER	☒	☐	ROVE	☒	☐
GERSON	☐	☐	SPELLINGS	☒	☐
GONZALES	☒	☐	CLERK	☐	☒
HAGIN	☐	☐		☐	☐
HAWKINS	☒	☐		☐	☐

REMARKS:

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GONZALES	☒	☐	CLERK	☐	☒
HAGIN	☐	☐		☐	☐
HAWKINS	☒	☐		☐	☐

REMARKS:

PLEASE FORWARD COMMENTS DIRECTLY JIM JUKES X53458, FAX X56148, BY 10:00 A.M. TODAY, WITH A COPY TO THE STAFF SECRETARY. THANK YOU.

RESPONSE:

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

May 14, 2002

02 MAY 14 10 05 AM '02

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 3525 – Enhanced Border Security and Visa Entry Reform Act
Sponsor – Rep. Sensenbrenner (R) Wisconsin

Last Day for Action

May 20, 2002 - Monday

Purpose

Creates new requirements intended to enhance border security concerning: (1) staffing and pay increases for certain immigration personnel; (2) a foreign student tracking system; (3) machine-readable visas and other travel documents; (4) electronic sharing of immigration and law enforcement information; and (5) passenger manifests for aircraft and sea vessels.

Agency Recommendations

Office of Management and Budget

Approval (Signing
statement attached)

Department of Justice
Department of Education

Approval
Defers to Justice and
State (Informally)

Department of State
Department of Transportation
Department of the Treasury

No objection (Informally)
No objection (Informally)
No objection (Informally)

Department of Labor
Department of Defense

No comment (Informally)
No response

Central Intelligence Agency (CIA)

No response

Discussion

H.R. 3525 would set forth new requirements for the President and several agencies, including Justice and State, that are intended to enhance the border security of the United States. Major provisions of the enrolled bill are described below. Other provisions are described in the Attachment.

Staffing and Pay Increases for INS Personnel

The enrolled bill would require Justice, subject to the availability of appropriations, in each of FYs 2003-2006, to increase the number of Immigration and Naturalization Service (INS) inspectors and associated support staff and the number of INS investigators and associated support staff each by the equivalent of 200 full-time equivalents (FTEs) over the number authorized in the USA PATRIOT Act (P.L. 107-56, enacted October 26, 2001). The USA PATRIOT Act authorized Justice to waive any FTE cap on personnel assigned to the INS on the Northern border and authorized appropriations necessary to triple the number of INS inspectors and associated necessary personnel (from the number authorized on the date of its enactment) and facilities in each State along the Northern Border. Your FY 2003 Budget proposes doubling INS staff on the Northern Border.

The enrolled bill would authorize appropriations for Justice of such sums as may be necessary to provide the following increases in pay, effective October 1, 2002: (1) increases for GS-9 journeyman Border Patrol agents and inspectors who have completed at least one year's service to the annual rate of basic pay for GS-11 positions; (2) increases for GS-5 inspections assistants to the annual rate of basic pay for GS-7 positions; and (3) increases for support staff associated with such personnel to "the appropriate GS level." It is expected that INS can absorb the additional estimated costs of \$60 million within requested appropriations.

Student Tracking System

The enrolled bill would require Justice, in consultation with State and Education, to establish an electronic system to collect foreign student information from approved institutions of higher education and designated exchange visitor programs in the United States. The system would be used to monitor and verify information on the visitors, such as acceptance into a school or program, issuance of a visa, arrival into the country, registration and enrollment in an educational institution or participation in an exchange visitor program, and more extensive background information. Educational institutions would have to report to the INS, within 30 days of the deadline for registering for classes, any failure of an alien to enroll or to commence participation.

Prior to issuing a foreign student (F or M) or exchange visitor (J) visa, applicants would have to provide the following: an address in the country of origin; names and addresses of the alien's spouse, children, parents, and siblings; names of contacts of the alien in the alien's country of residence who could verify information about the alien; and previous work history, if any, including the names and addresses of employers. Effective 120 days after the enrolled bill's enactment, an F, M, or J visa could not be issued to an alien unless State has received from an approved educational institution electronic evidence of documentation of the alien's acceptance at that institution and the consular officer has adequately reviewed the applicant's visa record. Upon the issuance of an F, M, or J visa, State would have to transmit to INS notification of that issuance and INS would then have to notify the educational institution when an alien accepted for that institution or program has been admitted to the United States.

The enrolled bill would require INS, in consultation with Education, to conduct biennial reviews of institutions designated to sponsor students to determine if they are complying with recordkeeping and reporting requirements. State would have to conduct biennial reviews of institutions sponsoring exchange visitors for the same purpose. INS and State could suspend or terminate an entity's ability to receive students under the F and M (for INS) or J (for State) visa programs for failing to comply with the recordkeeping and reporting requirements. The enrolled bill would authorize appropriations of such sums as may be necessary to carry out these provisions. Most of the requirements for the student tracking system are already a part of the design for INS' Student and Exchange Visitor Information System (SEVIS) scheduled for release later this year.

Travel Documents

The enrolled bill would require State and Justice, by October 26, 2004, to issue to aliens only travel documents that are machine-readable, tamper resistant, and use biometric identifiers. The enrolled bill would also require by that date the installation of equipment to allow biometric comparison and authentication of all U.S. travel and entry documents issued to aliens. State and Justice would have to jointly establish document authentication and biometric identifiers standards chosen from among those recognized by domestic and international standards organizations. The Departments would have to issue a report, within 180 days of the enrolled bill's enactment, on costs and timing associated with meeting these deadlines. Countries participating in the Visa Waiver Program (VWP) would have to certify by October 26, 2004, as a condition for participation, that they have a program for issuing passports meeting these requirements and participants in the program would have to use these passports (unless issued before that date). (The VWP allows certain citizens from a select group of mostly industrial countries to visit the United States without having to obtain visas.) H.R. 3525 would authorize appropriations of such sums as may be necessary to carry out these provisions, but also authorizes additional land border crossing fees to help INS pay for this effort.

Visa Fees. The enrolled bill would require the machine-readable visa fee to be set at the higher of \$65 or the cost of administering this service, as determined by State after conducting a study of the cost of the service. (In March 2002, State increased the fee by regulation from \$45 to \$65.) The enrolled bill would also authorize State to collect a \$10 surcharge for issuing a machine-readable visa in a nonmachine-readable passport. These fees would be credited as offsetting collections to any State Department appropriation to recover costs of providing consular services.

Entry/Exit System. The enrolled bill would require Justice and State to use the technology standard developed under the USA PATRIOT Act (as discussed below) when implementing the INS Data Management Improvement Act of 2000 (P. L. 106-215, enacted June 15, 2000). (This law requires the implementation of an electronic system that provides alien arrival and departure data.) Justice would be required to: establish a database containing the arrival and departure data from machine-readable visas, passports, and other travel and entry documents possessed by aliens; make interoperable all security databases relevant to making determinations of admissibility; and "consider implementing" the North American National Security Program described below. State would have to provide INS with an electronic version of the visa file of each alien who has been issued a visa to ensure that the data in that visa file is available to immigration inspectors at U.S. ports of entry before the arrival of the alien.

Interagency Information Sharing and Data System

Information Sharing. In the enrolled bill (and in the description below), the term "President" means the President acting through the Assistant to the President for Homeland Security, in coordination with the Secretary of State, the INS Commissioner, the Attorney General, the CIA Director, the FBI Director, the Secretary of Transportation, the Customs Commissioner, and the Secretary of the Treasury. H.R. 3525 would require the President to submit a report to Congress within 120 days of the enrolled bill's enactment identifying Federal law enforcement and intelligence community information needed by State when issuing visas and by INS when identifying aliens who are inadmissible or deportable. (The enrolled bill would repeal a provision of the USA PATRIOT Act that required the Office of Homeland Security to submit a similar report.) The President would be required to develop and implement by October 26, 2002, after consultation with Congress, a plan that: (1) requires Federal law enforcement agencies and the intelligence community to provide to State and INS the information identified in the report; and (2) establishes conditions to limit the dissemination of such information and protect individuals' privacy and the sources of such information. The bill specifies criminal penalties for misuse of this information.

Electronic Interoperable Data System. The President, in consultation with the Commerce Department's National Institute of Standards and Technology (NIST), would be required to develop and implement an electronic interoperable data system (to be known as the "Chimera" system) to provide current and immediate access to the information identified in the implementation plan. The system would have to be readily and easily accessible to consular

officers responsible for issuing visas, Federal officials responsible for determining an alien's admissibility to or deportability from the United States, and Federal law enforcement and intelligence officers responsible for the investigation or identification of aliens. The system would be required to have the capacity to compensate for disparate name formats and be searchable on a linguistically sensitive basis, based on algorithms that account for variations in name formats and transliterations. The enrolled bill would require the development and implementation of linguistically sensitive algorithms for at least four languages that are determined by State as high priorities. Of these, the highest priority language's algorithms must be implemented within 18 months of the enrolled bill's enactment and at least one additional algorithm must be implemented per year in each of the following three years. Also, in order to provide adequate user support, the enrolled bill would require State and Justice to jointly prescribe procedures that consular and immigration officers can use to obtain assistance in resolving identity and other questions that may arise about names of aliens seeking visas or admission to the United States.

The enrolled bill would require the system to be based on a technology standard developed under requirements of the USA PATRIOT Act and would advance deadlines associated with the development of this standard. The enrolled bill would accelerate by nine months, to January 26, 2003, the deadline for development (by Justice and State, through NIST) of a technology standard for verifying the identity of visa applicants and persons seeking to enter the United States with a visa and would add the requirement that it must incorporate "appropriate biometric identifier standards." The enrolled bill would also accelerate by six months, to October 26, 2002, a requirement for a report to Congress describing the development, implementation, efficacy, and privacy implications of the technology standard and electronic database system to be developed based on the standard. The enrolled bill would set deadlines of 60 and 120 days after enactment, respectively, for CIA to comply with previously-enacted requirements to issue a report and guidelines concerning uniform spelling of foreign names and places.

The enrolled bill would authorize Justice to hire and fix the compensation of necessary scientific, technical, engineering, and other analytical personnel for the purpose of the development and implementation of the Chimera system. Within 90 days of the enrolled bill's enactment, Justice would be required to submit an operating plan to Congress describing Justice's intended use of this authority and any provisions of title 5 of the U.S. Code (e.g., personnel laws) being waived for purposes of the development and implementation of the Chimera system. This authority would terminate upon the implementation of the system.

The enrolled bill would require INS to fully integrate all databases and data systems maintained by INS that process or contain information on aliens and make this integrated data system an interoperable component of the Chimera system. The enrolled bill would also require Justice or State, as appropriate, to enter identification numbers for stolen passports into the

Chimera system within 72 hours of receiving notification that a passport was lost or stolen. Within six months of the enactment of H.R. 3525, the President would be required to report on the progress of the implementation of the system. The enrolled bill would authorize appropriations of such sums as may be necessary to carry out these provisions.

Data Sharing Commission. Within one year of the enrolled bill's enactment, the President would be required to establish a Commission on Interoperable Data Sharing to monitor and report annually to Congress on recommendations for dealing with privacy, security, technology, and errors related to the new electronic data system. The President would appoint the commission's nine members, eight of whom would be chosen from a list of nominees provided by Congressional leadership. The enrolled bill would authorize appropriations to the Commission of such sums as may be necessary to carry out these requirements.

Passenger Manifests

Current law requires each vessel or aircraft with passengers on board, upon the arrival at or before the departure from any U.S. seaport or airport, to provide manifests of the persons on board to immigration officers at the port, with the exceptions of alien crewmen and of persons arriving from or departing to a foreign contiguous territory by air. The enrolled bill would remove these two exemptions, require arrival manifests to be transmitted before arrival at a port, and allow transmittal to any U.S. border officer. The enrolled bill would require the following information to be provided for each passenger: complete name; date of birth; citizenship; sex; passport number and country of issuance; country of residence; U.S. visa number, date, and place of issuance, where applicable; alien registration number, where applicable; and U.S. address while in the United States. These provisions would apply with respect to persons arriving in, or departing from, the United States on or after the date of enactment of the enrolled bill.

The enrolled bill would also require all manifest information to be transmitted electronically after January 1, 2003, and raise the fine for the failure or refusal to provide the necessary manifest information from \$300 to \$1,000 for each person for whom accurate and full information is not given.

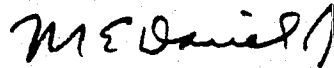
The enrolled bill would require the President to conduct a study regarding the feasibility of extending these reporting requirements to any commercial carrier transporting persons by land to or from the United States. The study would have to focus on the manner in which the requirement would be implemented to enhance the national security of United States and the efficient cross-border flow of commerce and persons. Within two years of enactment, the President would be required to submit a report to Congress setting forth the findings of the study.

Conclusion and Recommendations

The Department of Justice recommends approval of H.R. 3525, but recommends a signing statement to address constitutional concerns with provisions of the bill that purport to require the President to consult with an Executive Branch officer, appoint officers in a manner inconsistent with the Appointments Clause, and submit legislative recommendations to Congress in violation of the Recommendations Clause.

We join Justice in recommending approval of H.R. 3525, which passed the Senate by a vote of 97-0 and the House by 411-0.

Attached for your consideration is a signing statement that is based on language supplied by Justice. It has been reviewed and approved by the Office of White House Counsel, the Office of Homeland Security, and the Office of the Vice President.



Mitchell E. Daniels, Jr.
Director

Enclosures

STATEMENT BY THE PRESIDENT

I have today signed into law H.R. 3525, the Enhanced Border Security and Visa Entry Reform Act of 2002. The legislation strengthens the ability of the U.S. Government to control the country's borders, a top priority of my Administration. The Act will improve our ability to screen aliens seeking to enter our country, facilitate the sharing of border-related information among U.S. agencies, and improve efforts to keep track of foreign students and foreign exchange visitors in the United States.

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- Specify that nothing in the bill may be construed to impose requirements inconsistent with the North American Free Trade Agreement.