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October 20, 1999 16:33 Eastern Time

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HEADLINE: FAIR: Michigan Sen. Abraham's Effort to Derail Border Enforcement Provision Fails

CONTACT: David Ray of Federation for American Immigration Reform, 202-328-7004

DATELINE: WASHINGTON, Oct. 20

BODY:

An

effort by Sen. Spencer Abraham (R-Mich.) to remove an important border security measure approved by Congress in 1996 has failed. A House-Senate conference committee, hammering out final details of the FY 2000 budget for the Commerce, Justice and State Departments, rejected Abraham's attempt.

Abraham sought to use the appropriations process to eliminate Section 110 of the 1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), which requires the government to begin matching entry and exit records of all visitors to the United States.

The provision was seen as vital to the government's ability to detect visa overstays, and take steps to remove people who used visitors visas as a means to gain residence illegally. Abraham, the chairman of the Senate Immigration Subcommittee, has worked to delay implementation of this provision and has introduced his own legislation to repeal Section 110. Unable to gain much traction for his free-standing bill, Abraham attempted to use a must-pass appropriation bill as a vehicle for his efforts to weaken enforcement of laws against illegal immigration.

While Section 110 appears safe for now, Abraham seems certain to continue to press for its repeal or to extend the delay in implementing it. "Section 110 was a good idea in 1996 when Congress approved it, and it is still a good idea," commented Dan Stein, executive director of FAIR. "It is vital that the government have some idea who is entering the country and whether people leave when they are supposed to."

The Michigan senator has a long history of opposing measures to enforce laws against illegal immigration at the behest of cheap labor interests. " Congress reaffirmed at least the principle that entry and exit controls are essential, and rebuffed an obvious back door effort by Abraham to bypass the legislative process," said Stein. "Having preserved Section 110, Congress must now take steps to ensure that it is implemented. Aside from a few cheap labor employers and foreign terrorist organizations, nobody will lose from having a system that allows the government to keep track of who enters our country on temporary visas and whether they leave."

The rejection of the repeal of Section 110 was an important hurdle in the effort to improve border security, but given Abraham's history and his position as chairman of the key subcommittee, other efforts to delay or repeal it could be forthcoming.

Spencer Abraham

Chairman, Immigration Subcommittee

Senate Judiciary Committee

Dirksen 323

Washington, D.C. 20515

Tel # (202) 224-6098

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Facsimile Cover Sheet

TO:

Irene Bueh

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FROM: STUART ANDERSON

SUBJECT:

TOTAL NUMBER OF PAGES SENT (including cover sheet):

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COMMENTS:

FBI-

Canadian press article showing
what an embarrassment this section 110 issue
has become for U.S.-Canadian relations

Also - ~~Call~~ Washington State newspaper editorial
about tearing down a park
because of Section 110.

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October 6, 1999

U.S. poised to kill stupid border entry visa

SAN ANTONIO, TEXAS - THERE'S a reasonable possibility that by the end of this month the U.S. Congress will undo a monumentally stupid piece of legislation it passed in the early morning hours of a protracted negotiating session in 1996.

This is section 110 of the Illegal Immigration Reform and Individual Responsibility Act of 1996, which would require every individual crossing the Canada-U.S. border to sign an entry card to go into the United States, and another departure card when he or she left the United States.

It could even require each person to be photographed or fingerprinted on entering and leaving the United States, just to make sure that the system was failsafe.

It's hard to imagine an idea that could create greater border disruption than this.

The issue came up at a conference here, sponsored by the North American Institute, to discuss ways in which improved highways, more efficient pre-clearance systems for customs and intelligent traffic management systems could be used to speed up the increasing flow of truck and rail traffic.

The reason is the impact of the growing cross-border trade and tourism in the aftermath of the North American Free Trade Agreement.

But if section 110 were to be implemented - it has been put on hold until March 30, 2001 - then as Jim Phillips, executive director of the Can/Am Border Trade Alliance put it, the result would be chaos.

It would more than offset the impact of any other measures to speed up border crossings.

The legislation grew out of a U.S. congressional concern that visitors from some non-visa countries, not including Canada, were coming to the United States and staying there. Since there were no visa or other documentation requirements for entry and exit, there was no record of whether they overstayed their visits.

But when the legislation was written in the early morning hours at the end of the 96th U.S. Congress, as part of a

mammoth 2,000-page omnibus bill, the legislation stated simply that the U.S. Immigration and Naturalization Service should document the entry and exit of all aliens; the INS took this to include Canadians and to apply to all ports of entry.

The probability of large numbers of Canadians overstaying visits was remote.

A large number of Canadian visitors consist of snowbirds, who lose access to their Canadian health-care benefits if they stay out of Canada for longer than six months.

Canadian students at U.S. universities have easy access to green cards if they are offered U.S. jobs on graduation.

And a wide range of Canadians can easily get into the United States on temporary visas provided for in the Canada-U.S. free trade agreement.

But under pressure from the U.S. Congress, the U.S. immigration service came up with a report alleging that about 125,000 Canadians were in the United States illegally, a number that was made up since there was no way of knowing. And then, catering to American paranoia, another report declared that part of the terrorist bombing team for the World Trade Centre had travelled to New York from Canada (the others having entered the United States directly).

Even so, a large number of U.S. congressmen came to recognize that the section 110 application to Canada was a stupid idea, and the U.S. Senate has unanimously passed a resolution calling for Canada to be exempted from section 110.

But under the bizarre U.S. congressional system, one person, if he chairs a particular committee, can block consideration of legislation even if a majority favours it. Thus a paranoid Republican congressman, Lamar Smith, who chairs an immigration subcommittee, has refused to counter a repeal of the measure and moreover has refused even to let the matter be discussed before his subcommittee.

Hence the massive effort now underway to include a repeal by the backdoor: by including it in a massive omnibus appropriations bill that should be completed by the end of October, though it could drag on beyond that.

Allison Cleveland of the American Chamber of Commerce is "cautiously optimistic" the opponents of section 110

will prevail in this year's omnibus bill, though she acknowledges a number of Republicans could block repeal.

So to reinforce Canadian concerns, we should consider sending a message to the United States that we would consider similar controls on American visitors to Canada if they seriously embark on harassing Canadians.

David Crane is The Star's economics editor. His column appears Tuesday to Thursday, Saturday and Sunday.

causing further environmental degradation, getting hit with more fines, and becoming stuck with an ever-growing problem as the city's population increases.

Aug 17, 1999

Feds' plans shouldn't shrink Peace Arch Park

BORDER: All options must be considered and public input weighed to find amicable solutions

Less than a year after Peace Arch Park survived the state budget ax, here come the feds with plans to enlarge border-crossing facilities at the expense of the historic park.

The U.S. Customs Service and Immigration and Naturalization Service should exercise extreme caution in their plans for remodeling and should not underestimate the importance of the park to both U.S. and Canadian citizens.

Some of the plans include expansion just in case Congress approves Section 110, the controversial provision that would require non-Americans to register when they enter and leave the country. The plan has been put on hold and is by no means a done deal. No expansion to accommodate something that is only a possibility should infringe on the park.

The federal government has four plans to choose from and only one of them would not affect the park. If the option exists that makes everyone happy, it's only common sense to choose that option.

The federal services want to expand the existing seven lanes to 10 lanes to eliminate bottlenecked traffic. But the vast majority of the time, even during high traffic, not all seven booths are staffed. The existing booths should be operating at full capacity before new ones are constructed. Border traffic flow is subject to such fluctuation that staffing needs should be examined before any building occurs.

The option of combining the Canadian and U.S. offices into one building also should be considered.

Citizens need to make their voices heard on this issue and if experience is any indication, they will. The government agencies involved should make a better effort to encourage and listen to public input.

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ALI Cleveland - ABB
(202) 463-5520

Bruce Agnew, Cascadia
(206) 682-5320

Matt Morrison
(206) 464-6859 PNWETR

Jim Eiss 716 633 0492

The GAO Plan
for a new border
crossing station
at Blaine calls
for more northbound
lanes thru
Peace Arch Park
as infrastructure
to support
Section 110 -

Craig Boos

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Record Type: Record

To: Bruce N. Reed/OPD/EOP@EOP, Eric P. Liu/OPD/EOP@EOP

cc: Anna Richter/OPD/EOP

Subject: Canada trip - Repeal of Section 110 language in the CJS bill

In the Senate-passed CJS and the State Dept Reauthorization bills, there is a provision that repeals section 110 of the Illegal Immigration Reform law that was passed in 1996 (see below)- that requires the establishment of a mandatory border entry-exit system on the land borders capture records of every "alien". Last year there was provision that postponed the date of establishment of this system.

The Canadian government and the business community believe this will basically close down the border to trade and tourism between the US and Canada if this system is in place. Furthermore, INS concedes that it cannot implement such a system. The Administration supports the repeal and DOJ is preparing a letter in support of the repeal section 110. This is very important to Canada and will be raised during the President's trip to Canada next week, NSC has briefing materials for the President on this issue and Sandy Berger has indicated our support for this repeal recently with the Ambassador of Canada.

In light of the President's trip to Canada, groups plans to lobby Administration next week to fight for the repeal of section 110. I recommend that we widely distribute the DOJ letter and work with Martha Foley to make sure that the provision to repeal section 110 is not stricken from the CJS bill. Rep. Lamar Smith seems to be the only member who supports section 110 (since he was the author). There is bipartisan and bicameral support to repeal this section but Smith has been successful in fighting past efforts to repeal section 110.

Please let me have any questions or concerns with this approach.

Thanks.

"General Provisions--Department of Justice

SEC. 102. Section 110 of division C of Public Law 104-208 is repealed."

Judy Golub - ~~7/1~~ 7/1

§245(i) - pushing it - last year

Same Rs

Won Rockefeller & vote -

Bigger priority protection

& Bigger effect

Broader - Polar + ~~the~~ Americans, Irish

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checkin - Maria, Scott Baby, Janet May

§110 -

Bi-partis - Coalition Against it

Smith is try to save it - deal w/ terrorism

Bi-partis - Omnibus ~~is~~ opposes it - hotel, down
Abraham, Upton opposes it

What our position

ILIRIA - part part

Anti-business

Clinton & have this.

Can't do it anyway

INS Restraining

- Abortion is falling to FBI + SSI - may seize

- Greys will negotiate w/ OMB -

- Other water to ~~be~~ to

- Try to get bill

Services -
more shifts on service
w/ date at ext.
Appropriations
Savings
Capital



U. S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

April 23, 1998

The Honorable Spencer Abraham
Chairman, Subcommittee on Immigration
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This letter presents the views of the Justice Department on S. 1360, the "Border Improvement and Immigration Act of 1997." The Department supports this legislation, and has suggested changes to some provisions, as indicated below.

Section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA") requires the Attorney General to establish an automated entry-exit control system for land borders, seaports, and airports no later than September 30, 1998. S. 1360 would eliminate the 1998 implementation date for an entry-exit system at land borders and provide instead for a feasibility report to assess such a system at land borders. The Department supports the elimination of this implementation date for land ports of entry. The Department also supports a full assessment of an automated entry-exit control system along the land borders, as S. 1360 provides.

Last year, the Administration proposed a feasibility study in lieu of implementation of Section 110 in 1998. That proposal would have delayed implementation at seaports, as well as at land borders. The Department continues to support elimination of a 1998 implementation date at seaports. While seaports offer many opportunities to exploit the benefits of automated technologies, the specific applications to do so have not been fully developed. The Immigration and Naturalization Service ("INS") has recently undertaken a review of seaport processing to develop functional requirements for these new systems and to establish partnerships with industry groups to ensure that their needs are addressed. These initiatives will yield results in approximately two years.

The Honorable Spencer Abraham
Page 2

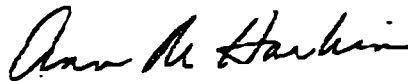
S. 1360 also would encourage the Attorney General, in consultation with the Secretary of State, to explore the feasibility of obtaining entry-exit information through reciprocal agreements with the governments of contiguous countries. The Department believes that such agreements would be very helpful.

The Department believes that Section 4, Increased Resources for Border Control and Enforcement, is not necessary to ensure the deployment of adequate resources. Both INS and the Customs Service attempt to maximize inspectional resources by deploying the appropriate number of inspectors to ports-of-entry, based upon demonstrated need. Additionally, this provision is not consistent with the President's budget request, as submitted to Congress on February 2, 1998.

The proposed legislation also provides an exception from entry and exit controls for any alien lawfully admitted to the United States for permanent residence. The Department opposes this exception. Accurate entry-exit information about permanent resident aliens can be useful, such as in the accurate determination of periods of actual physical residency in the United States to be considered for naturalization purposes. Data collection required by Section 110 does not place an additional burden either on the resident alien or the INS, since all residents will carry machine readable documentation of their status issued by the INS, such as the Form I-551 or "green card."

Thank you for the opportunity to present our views. Please do not hesitate to call upon us if we may be of further assistance. The Office of Management and Budget has advised us that, from the perspective of the Administration's program, there is no objection to the presentation of this report.

Sincerely,



Ann M. Harkins
Acting Assistant Attorney General

cc: The Honorable Edward M. Kennedy
Ranking Minority Member

Total Pages: _____

LRM ID: IMS192

**EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001**

Wednesday, November 5, 1997

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: James J. Jukes (for) Assistant Director for Legislative Reference *Ji*

OMB CONTACT: Ingrid M. Schroeder
PHONE: (202)395-3883 FAX: (202)395-3109

SUBJECT: JUSTICE Report on Implementation of the Automated Entry-Exit Control System - Section 110 of IIRIRA

DEADLINE: 3pm Thursday, November 6, 1997

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: A copy of the Incoming letter is attached for your reference.

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*Immigration**Border / Entry Exit
Control*

LRM ID: IMS192 SUBJECT: JUSTICE Report on Implementation of the Automated Entry-Exit Control System - Section 110 of IIRIRA

**RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM**

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:

(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or

(2) sending us a memo or letter

Please include the LRM number shown above, and the subject shown below.

TO: Ingrid M. Schroeder Phone: 395-3883 Fax: 395-3108
 Office of Management and Budget
 Branch-Wide Line (to reach legislative assistant): 395-3454

FROM: _____ (Date)
 _____ (Name)
 _____ (Agency)
 _____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-0278

October 27, 1997

The Honorable Doris Meissner
 Commissioner
 Immigration and Naturalization Service
 425 I Street NW
 Washington, D.C. 20536

Dear Commissioner Meissner:

As you are no doubt aware, a great deal of concern has arisen over the interpretation and implementation of Section 110 of the 1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA). That Section states in part that the Attorney General is to develop, by September 30, 1998, "an automated entry and exit control system that will collect a record of departure for every alien departing the United States and match the record of departure with the record of the alien's arrival in the United States." Following passage of IIRIRA, there were indications that Congress did not intend the Section to impose additional documentary requirements on Canadian nationals. The text of the statute as passed, however, includes no exemptions or waivers for any aliens or classes of aliens and may therefore not reflect congressional intent in this regard.

It is our understanding, especially from your letter of August 22, 1997 to Mr. Daniel Jean of the Canadian Embassy, that INS's interpretation of the text of IIRIRA is that the language of Section 110 does in fact require the establishment of an automated entry-exit control system for Canadian nationals as well as for other aliens. We can certainly understand the basis for such a view, and we plan to introduce legislation that would modify Section 110 to reflect Congress's intent more accurately. It would nevertheless be helpful to have the Administration's interpretation of Section 110 clarified for the record and to be informed of your plans to implement it.

In recent months, there has been an outpouring of concern by Americans and Canadians alike regarding the expense and infeasibility of the implementation of Section 110 at the northern border, as well as concerns about the severe negative impact it could have on Canadian-American relations. Last week, the Senate Subcommittee on Immigration held a field hearing on this issue in Detroit, Michigan, at which elected officials and industry representatives testified about the unprecedented traffic congestion, decreased trade, lost business and jobs, and harm to America's international relations that could result from the implementation of Section 110 in its current form. The United States Ambassador to Canada wrote to Senator Abraham on October 14 that he is "deeply concerned" about this issue and noted that "Section 110 is

inconsistent with the concerted efforts the United States and Canada have made in recent years to improve and simplify cross-border traffic flows." Similar problems can be expected to develop on the southern border, although perhaps to a lesser degree since INS regulations already put different documentary requirements in place at each border.

The Administration has already proposed legislation, transmitted to Congress on July 3, 1997, that would eliminate Section 110's requirement that an automated entry-exit control system be developed by the end of fiscal year 1998 at the land borders and for those who enter by sea. The plan would thus require the development of an automated entry-exit control system for those aliens entering by aircraft, while also separately calling for a report on the feasibility of implementing such a system at land borders and sea ports of entry. We appreciate this acknowledgment that there are significant issues to be examined before any decision to go forward with such a system is made.

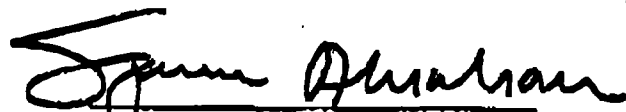
How will the system be implemented? Is there a pilot project? Are there any INS people involved?

Finally, as you may be aware, concerns have also been raised about the impact Section 110 would have in terms of imposing additional documentary requirements on Canadian nationals and selected others who arrive by air. Congress will need to consider this aspect as well, and we are interested in your views on these issues too.

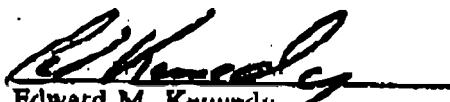
In order to facilitate the Senate's consideration of a technical correction to Section 110 and to assist us in working with you on this, we would greatly appreciate it if you could provide the Senate Subcommittee on Immigration with the following information, in as much detail as possible and by November 4, 1997:

1. The Administration's interpretation as to what Section 110 requires in its current form, particularly with respect to nationals of foreign contiguous territory wherever they may enter the United States and with respect to the land borders in general.
2. The INS's current plans to implement Section 110, or any other entry-exit control requirements, pilot projects or additional documentary requirements, at the land borders and with respect to nationals of foreign contiguous territory wherever they may enter the United States.
3. The status and results, if available, of any feasibility studies underway with respect to the implementation of Section 110 at the land borders and with respect to nationals of foreign contiguous territory.

Sincerely,



Spencer Abraham
Chairman,
Subcommittee on Immigration


Edward M. Kennedy
Ranking Member



U.S. Department of Justice

Immigration and Naturalization Service

draft

Office of the Commissioner

425 I Street NW
Washington, DC 20536

CO 703.1192

The Honorable Edward M. Kennedy
Ranking Minority Member, Subcommittee
on Immigration
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Senator Kennedy:

Thank you for your letter, co-signed by Senator Abraham, regarding Section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), which directs the Attorney General to develop an automated entry and exit control system.

In the year since IIRIRA became law, the Immigration and Naturalization Service (INS) has worked diligently to implement Section 110. I welcome the opportunity to work with you to ensure that the interests of the American people are well served by a well designed entry-exit control system. In your letter you have requested that I comment on three areas. My comments are provided below:

1. The Administration's interpretation as to what Section 110 requires in its current form, particularly with respect to nationals of foreign contiguous territory wherever they may enter the United States and with respect to the land borders in general.

The language of Section 110 has been examined very carefully, both to determine its meaning and to better understand how it fits into the overall scheme of IIRIRA. Section 110, Automated Entry-Exit Control System, states in part that, "the Attorney General shall develop an automated entry and exit control system that will collect a record of departure for every alien departing the United States and match the records of departure with the record of the alien's arrival in the United States." [Emphasis added.] No exemptions or waivers for any specific nationalities or classes of aliens are included in this section. Without a statutory amendment, this section's plain meaning is that a record of arrival and a record of departure must be created for every alien entering the United States whether entering

The Honorable Edward M. Kennedy
Page 2

by air, land, or sea. As a result, it includes, but is not limited to, permanent resident aliens of the United States and all nationals of foreign contiguous territories. However, Section 110 does not specify the type of format for arrival and departure records. This enables the INS to employ different approaches in the different inspection settings, that is, at airports, land border ports, and seaports.

2. The INS' current plans to implement Section 110, or any other entry-exit control requirements, pilot projects or additional documentary requirements, at the land borders and with respect to nationals of foreign contiguous territory wherever they may enter the United States.

Early in 1997, the INS staff met with and explained informally to House and Senate Immigration Subcommittee staff that, though the INS expected to implement an entry-exit system at airports by October, 1998, implementation of a system at land border Ports-of-Entry and seaports would require infrastructure that is not yet in place and new technology not yet tested for this purpose. In July, the Department of Justice formally transmitted to the Congress proposed technical amendments to IIRIRA to modify Section 110. What we expect to be a workable solution for the entry-exit control system at airports is not transferable to land border ports or seaports. Instead of implementing the departure management system by October 1998 at these locations, INS asked in the technical amendment to submit a feasibility study to Congress which will project resource needs and costs to implement the system at land and sea ports. This remains our proposed plan.

Many residents along both the northern and southwestern land borders, and in Mexico as well as Canada, fear that an entry-exit system at land border ports--where over 400,000,000 entries to the country occur annually--will slow traffic significantly and might create gridlock at all medium-to-large size ports, both entering and departing the United States. This is why pilot tests and a report based on them are essential: to determine whether any of the promising technologies for capturing data can perform within the time constraints necessary to move traffic, and to determine the potential source of funding for the large capital outlays likely to be involved in implementing any such system.

The INS plans to conduct pilot tests of promising technology at Eagle Pass, Texas, a medium-sized southwestern Port-of-Entry. The INS would also test the use of a

The Honorable Edward M. Kennedy
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biometric identifier and the collection of arrival data, at another location, anticipating the implementation of Section 104 of IIRIRA and building upon this to develop an entry-exit system on the southwestern border. Additionally, INS would test the use of various approaches to capture data in conjunction with the dedicated commuter lane pilot (SENTRI) at Otay Mesa, California. The focus of the pilot tests will be to determine which technology among several options performs best, which processes for sequencing work flow are most efficient for the public and our staff, and what is the impact of the procedures tested on the public's waiting time, both for entering the United States and for leaving it. Once this information has been gathered, the INS can project what resources will be needed and the cost to implement an entry-exit system at all the southwestern border ports.

The INS recognized that the northern border poses a different implementation challenge than the southwestern border because most Canadian citizens are exempt for certain documentary requirements such, as a passport and visa or border crossing card. This will necessitate more creative approaches in collecting the entry and exit data required by Section 110. The INS does not intend to introduce new documentary requirements; rather, our interest is to identify innovative and non-obtrusive methods to gather the necessary information.

Additional time is needed to assess the most appropriate method to collect information without significantly burdening the public at land and seaports. The INS will also encourage the use of machine readable documentation provided by INS for those individuals who choose to use them in conjunction with currently existing programs such as the I-68 small boat program, dedicated commuter lane programs at Detroit, Buffalo, and Blaine, Washington, and the various programs designed to address the needs of populations served by remote Ports-of-Entry. Recently, various groups have pressed for exempting Canadians from entry-exit data collection, and legislation has been introduced to do this. However, as you will appreciate, exempting Canadians from data collection may not exempt them from the effects of an entry-exit system being in place along the northern border. Either a departure management system will be in operation along the northern border for other aliens who are not exempt for data collection, or the entire scheme will be incomplete and provide less than comprehensive information.

The Honorable Edward M. Kennedy
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3. The status and results, if available, of any feasibility studies underway with respect to the implementation of Section 110 at the land borders and with respect to nationals of foreign contiguous territory.

The INS is proceeding with great care as it approaches the challenge of the land borders, both northern and southern. No actual pilot programs have been initiated, although a great deal of thought and consideration has gone into determining how these programs might be structured. At present it is anticipated that at least three pilot programs will be conducted along the southwestern border: one at Eagle Pass to test various technologies, one at another location, possibly Hidalgo, Texas, to test biometrics, and one pilot testing how departure management may function in a dedicated commuter lane (DCL) environment, with Otay Mesa, California the likely site. Since planning is most advanced on the Eagle Pass pilot, I have attached our proposal which was provided the Appropriations Committee. Planning is even less far advanced along the northern border, however, some consideration has been given to a pilot at Thousand Islands, New York. All of these pilots would provide an opportunity to collect good base line data regarding cycle time and traffic and allow INS to determine the effects of changes to the current process and the cost of alternative approaches. I anticipate that it will require a full year to conduct pilot tests and another year to analyze the data, draw conclusions, develop alternatives, evaluate technology and provide accurate cost estimates.

I hope that this information is helpful to you as you deliberate this important issue. I am very pleased to be able to work with the members of Congress as we jointly meet the challenges of Immigration in the Twenty-first Century.

Sincerely,

Doris Meissner
Commissioner

Enclosures

Background

In the FY 1997 Appropriations bill, the Service proposed to conduct a pilot test of an arrival/departure management system for land border pedestrians. A total of 4 positions and \$1,000,000 has been appropriated to conduct the test¹. The Office of Inspections has developed a preliminary proposal for the test.

Status

The test sites were evaluated by the following criteria: 1) be a medium-sized port that has a significant but not overwhelming pedestrian traffic, 2) have no readily available alternative pedestrian crossing point, and 3) that the management and staff of the sites be supportive of the project. The two test sites chosen Hidalgo and Eagle Pass, Texas meet these requirements.

Assumptions

The basic requirement of this pilot is to collect certain data from in-bound alien pedestrians and to match it with corresponding data collected from those pedestrians upon departure. Certain reports, as described in Section 110 of IIRIRA would be produced and those individuals whose arrival records could not be matched with a departure record would be identified as "overstays." [Note: the use of the term "overstay" in this context is only meant to identify those persons for whom no departure record has been located. No adverse consequence will follow from this identification as, in reality, they could have left from any other POB. The "overstay" report will be used only as a simulation of output which would be produced when there is a nationwide departure management system.]

The purpose of the pilot is to develop information upon which to build a nationwide arrival/departure management system. Since the implementation date of the nationwide system is currently fixed by law as October 1, 1998, the pilot must be in operation early enough and have been conducted long enough to generate a sufficient quantity and quality of data to have an impact on the design of the larger system.

Finally, to the extent possible, the pilot will incorporate already existing INS systems and policies to avoid costs and development time.

Preliminary System Design

While the final design of the pilot will take into account the expressed needs of each of the test Ports, certain elements of the pilots can be identified now. We propose to test differing technologies and procedures at each of the test sites, thereby maximizing our potential for identifying and developing the most beneficial system within the short period of time available to

¹House Committee on Appropriations, Report on the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill, Fiscal Year 1997, H. Rept. 104-676, page 32.

us. A number of alternate technology procedures are identified in this preliminary proposal; however, their inclusion should not be interpreted to indicate that other types of technology and procedures have been excluded. Additional technology/procedures may be included in this test, either at another site or at this site by segregating the test population. All four inspector positions (GS-1816 series) will be employed at the Eagle Pass test site where they will be used to conduct enrollment during the pre-test phase. When the test actually starts, one position will be used to continue with enrollment and monitor arrival data entry and the other three positions will be used to staff the departure lanes. Since the INSPASS test to be deployed to Hidalgo is an automated system, no additional positions are anticipated for this component of the test.

The test cycle should consist of a 30 day pre-test publicity campaign during which the community will be informed via the media, personal visits to community centers of influence, and target contact with the test population itself the reasons for the test and what will be required of the test population. During this period, pre-enrollment will be offered to as many members of the test population as can be contacted.

The testing phase should consist of a 60 day period during which the test is actually conducted as per the design statement below. Unless the local Federal Inspection Services see an actual benefit to continuing to use the system(s) developed for the test, they would be dismantled after the test is complete. During the post-test phase, approximately 30 days, the results of the test would be evaluated and recommendations prepared which would form the basis for the Service's plan for a nationwide implementation of an arrival/departure management system.

It is not yet possible to state, precisely, when the test will begin at either site. At the Eagle Pass site, negotiations must take place between the General Services Administration and a private landowner concerning the leasing of space for the out-bound test site. The land owner has been contacted, informally, by the City of Eagle Pass and the United States Customs Service and has indicated a willingness to lease the land. The General Services Administration has been notified and will begin negotiations with the land owner. Assuming that these negotiations are successful, the pre-test phase can begin six weeks later. For planning purposes, the Service is looking at an October starting date.

The Hidalgo pilot has been in the planning stage for approximately three years. When the USCS makes the necessary changes to its centralized computer system, this pilot will be ready to begin. The latest estimated date for completion is September.

Eagle Pass Test Site

On the land border, cycle time is critical. To the extent possible, the implementation of an arrival/departure management system should have a minimal impact on cycle time. To that end, at the Eagle Pass test site we propose to test alternative technologies to evaluate their impact on cycle time. These technologies may include a radio-frequency tag in the pilot. Radio Frequency (RF) tags do not have to be placed in a card reader; they merely have to be placed within the reading range of the antenna being used. If Radio Frequency tags are tested, INS proposes to use an enrollment center, like those developed to support SENTRI, to produce PORTPASS cards to

which the RF tags will be affixed. (Alternatively, it may be possible to purchase the card stock with the RF tag already embedded.) The test population would consist of aliens only; United States citizens will not be required to participate in the pilot. The test population may be further restricted to a smaller group, at least initially, such as holders of Border Crossing Cards. Participants in the pilot will be enrolled, their biometric collected, and their card/tag personalized.

Upon arrival in the United States, the card holder will present their card to the Inspector on primary. The document presented will be "read" by an automated system with minimum oversight exercised by the Inspector. This read will be used to record the specifics of the card. If the pilot is extended to test biometrics, the card holder's biometric, captured at entry will be compared with the biometric being read in the arrival lane. If the card holder's identity is confirmed, the card holder will depart the inspection area. If identity is not confirmed, the card holder will be directed to secondary for processing. Since each enrolled user has been prescreened as part of the enrollment process and the identity confirmed at time of entry, the system will be totally automated and no inspector involvement, beyond monitoring of the inspection area, will be required.

When the card holder leaves the United States, they will depart through an out-bound inspection lane. As on arrival, the holder will have their card read by the reading system, a biometric maybe collected and compared, a departure record created, and the holder will then leave. [Note: INS might consider using a Remote Video Inspection like system instead of physically locating an inspector in the out-bound lane.] Those aliens who are not in possession of an enrollment document will be required to present the same documents which they presented upon admission to the United States. United States Citizens will depart, without delay, through a special, USC only lane.

At least once per day, the records created upon departure will be matched with arrival records and appropriate reports created. After a certain amount of time, those records of arrival for which there were no departure records will be reported out as "overstays" thus simulating the identification and creation of lookout records in a nationwide system.

Hidalgo Test Site

At the Hidalgo test site, INS proposes to adopt the technology and procedures developed for our Immigration and Naturalization Service Passenger Accelerated Service System, INSPASS, to the land border environment. INSPASS is an automated inspection system for pre-enrolled travelers which uses a biometric to confirm the travelers identity. In the four year test of the system in the airport environment, INSPASS has been demonstrated to be effective in expediting the admission to the United States of frequent travelers. An additional benefit is that it automatically collects arrival information upon admission of the traveler and produces a document which can be returned to the Service at the time of the travelers departure from the United States. Given the biometric requirements contained in IIRIRA, inclusion of this technology within the test is both appropriate and timely.

The INSPASS test would work much as the Eagle Pass test in terms of procedures. The traveler would enroll and upon return to the United States go through the automated system. The record of admission would be collected and stored on the Interagency Border Inspection System (IBIS) mainframe computer. Upon departure from the United States the traveler would proceed through another INSPASS kiosk located in the pedestrian departure lane, and the record of departure would be collected and stored on IBIS. Periodically, the records would be compared and reports generated, as in the Eagle Pass test.

Each test should run for a minimum period of six months, with pre-test publicity and enrollment offered to the test population before the beginning of the test period. Consideration also should be given to increasing the staff assigned to each of the test sites to conduct pre-test enrollment.

Radio Frequency Identification (RFID), its Uses and Key Issues

Mr. Anthony Sabetti

Texas Instruments Registration and Identification Systems

New information technologies, faster automation, and computer-driven systems are reaching into all parts of our lives. Providing a fast automatic, and "transparent" way to link people and objects to these new technologies is the fundamental value that new identification techniques can bring to the market.

One solution breaking new ground in this area is the use of Radio Frequency Identification (RFID). Signifying a bold new step in the area of data collection, RFID has already been implemented in some innovative applications, both in and out of the workplace. In years to come, RFID will effect many of us on a daily basis, either at work or at home. The uses for this technology seem endless, with only the limits of our imagination hindering our future development for RFID applications. Currently found in everything from waste disposal and recycling systems to automobile security and highway toll systems, RFID has already established itself as the future of data collection, identification and analysis. Today I'd like to talk a little bit about this technology and what it entails, its current applications, and the strategic and planning issues that arise through its use.

What is RFID?

First, we should briefly discuss the specifics of RFID technology. What is it, exactly, and what makes it tick? Most of us probably have a general understanding of the technology. For those of you that aren't exactly clear on the specifics of Radio Frequency Identification technology, I'll give a brief overview of how it works. Basically, RFID is a highly reliable way to electronically control, detect and track a variety of items, using RF transmission methods. A small tag, or "transponder," is affixed to or embedded into any object. These transponders individually identify that object using a unique, factory programmed, unalterable code (see Diagram 1).

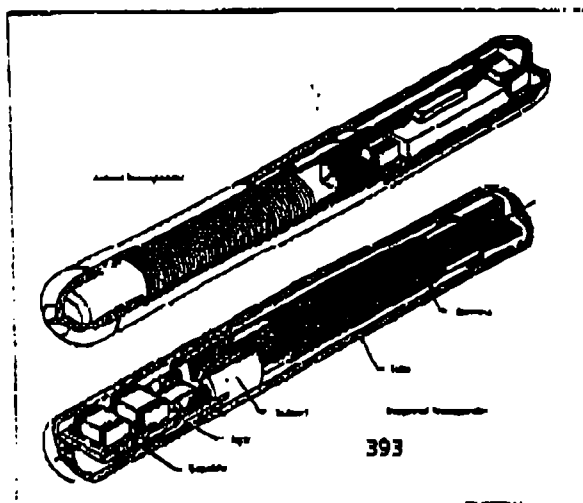


Diagram 1

RFID tags come in two types: active and passive. Active tags include a battery. Passive tags obtain their energy--their method of transmitting identifying information--from a burst sent to them from an interrogation unit or "reader."

What sets RFID units apart from other automatic identification systems, such as bar coding, is that RFID systems do not require line-of-sight between the transponder and the reader. This means that they work effectively in hostile environments where excessive dirt, dust, moisture, and/or poor visibility would normally hamper rapid identification. One of the most outstanding benefits of RFID is its ability to read through harsh environments and at remarkable speeds--in most cases, RFID systems respond in less than 100 milliseconds.

In addition, RFID is completely automatic and transparent, eliminating the need to scan an object manually or activate a magnetic stripe, reader, or other contact ID technology. Better still, in the case of passive or battery-free transponders, the identification capability lasts the life of the product or system carrying the transponder.

Technology Applications

As noted, RFID technology is already leaving its mark, making data collection and analysis easier and more efficient for a variety of businesses and organizations. You may be familiar with some of these RFID applications, but I would like to better illustrate for you the power, and potential, of this technology.

In one of the more well-known applications, RFID technology is being used for automobile theft protection. Texas Instruments Registration and Identification Systems (TIRIS) has created a vehicle immobilizing system that dramatically reduces auto theft. In cooperation with Ford Motor Company, TIRIS technology has created an electronic link between the car's ignition key and ignition system.

The car's ignition key contains a tiny transponder which contains a unique code that corresponds to that particular vehicle. When a key is inserted into the ignition and turned, the reader is automatically activated and sends out a signal that charges the key's transponder.

The transponder sends back its code, which is compared with the code stored in the vehicle's control electronics. If the codes do not match, the receiver tells this to the car's central computer system, which will then disable the engine. Without a direct match of the codes, the car will not start. In its simplicity, it is easy to see how this specific use of the technology could easily be transplanted elsewhere for other forms of security.

Another interesting application of RFID with automobiles is its use in Automatic Vehicle Identification (AVI). In an effort to cut down on highway congestion and pollution, traffic authorities across the country are in the early stages of implementing Intelligent Vehicle Highway Systems (IHVS). These roadways will implement AVI technology in an effort to achieve these goals.

Probably the most important application of AVI can be found in conjunction with Electronic Toll and Traffic Management (ETTM) systems. ETTM systems rely on AVI to identify individual vehicles and automate toll collection. In other words, instead of stopping at a toll booth to manually pay a toll, cars and toll booths equipped with RFID technology will enable tolls to be "collected" without drivers having to stop. Vehicles simply drive through toll areas, and the RFID technology deducts the amount of the toll from a prepaid balance credited to the driver's vehicle.

This system is applied in California, where the nation's first all-AVI highway is expected to cut an hour from commuter's daily travel, and a recently announced project will automate nine toll bridges throughout the state.

Automatic toll areas are just one benefit of the futuristic "smart highway." The use of AVI technology will also lead to safer, less congested highways, a cleaner environment, and a more productive work force.

RFID technology is also helping to create a cleaner environment in other ways. A completely different, but no less important, application of RFID technology has been used in dealing with the problem of solid waste management and recycling. Municipalities are turning to RFID to provide an accurate and automatic record of how much waste and recyclables are being collected. By equipping waste bins and collection vehicles with the RFID and other technologies, communities have been able to streamline their trash collection processes, while increasing the amount of recycled waste.

The equipment set-up is quite simple. Waste bins are fitted with a transponder that contains a resident's ID information, while the trucks are equipped with readers and on-board computers. As the collection vehicle weighs and dumps the cart, the system automatically identifies the homeowner via a TIRIS transponder and reader. Residents are then charged based on the type or amount of trash or recyclables. In communities specifically equipped for pay-by-weight trash collection, customers are charged by the weight of the trash collected; this in turn encourages recycling. This system would credit the customer for the weight of recycled materials towards the charge of the weight of their regular waste (see diagram 2).

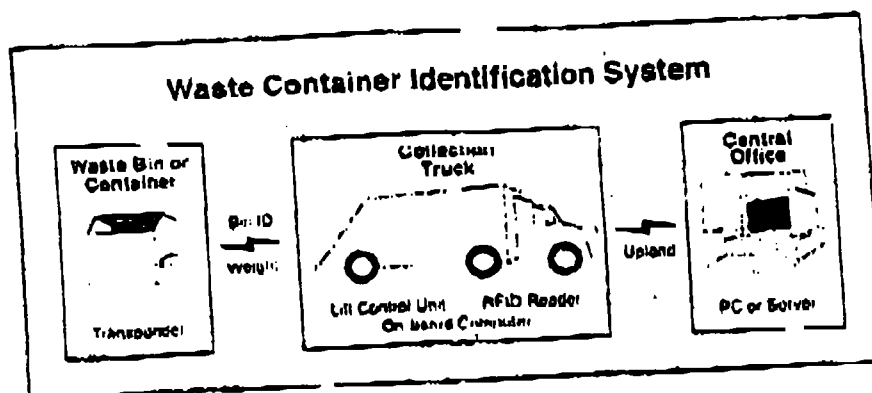


Diagram 2

Victoria in British Columbia provides a perfect example of how a community can use RFID technology to dramatically cut down on waste and encourage recycling. The largest weight-based pilot project in North America, 11,000 specially-made waste and recycling carts have been outfitted with RFID tags, each with identification information of the home owner. As the collection truck dumps the carts, the system weighs the full and empty carts, transmits the information to the host computer at the collection company's head office. This fully-automated process has eliminated the need for rekeying of information and the possibility of human error, which in turn benefits the customer. Officials are hoping the system will be fully implemented by March.

What Makes Up a RFID System?

A RFID system can include a range of transponders, varying in shape, size, and read-range, plus handheld or stationary readers, data input units, and system software. The transponder, or ID tag, are the backbone of the technology and the reason for its flexibility in many applications. Read-only transponders contain a unique factory-programmed ID code, usually consisting of bits (from 32 to 64) or digits. Read-write transponders consist of bits of code that can be programmed by the user to revise and update data. This capability allows for a custom coding and numbering system so that data can be easily integrated with other computerized information and automation systems. Data collected from either type of transponder can be sent directly to a host computer through standard interfaces, or stored in a portable reader until uploaded to a computer for data processing.

As noted earlier, there are two main types of RFID systems: passive and active. In a passive, or low-frequency system, a reader sends a signal to the ID tag, charging the transponder and allowing it to send back a signal carrying the unique identification information stored within it. With a low-frequency system, the transponder can be built into products during the manufacturing process, and last for the lifetime of that product. One key advantage of the low-frequency system is that it can transmit its signal through most nonmetallic materials, making them

for the lifetime of that product. One key advantage of the low-frequency system is that it can transmit its signal through most nonmetallic materials, making them ideal for tracking, monitoring, and controlling the work flow of most objects and containers.

Active, or high-frequency, systems generally work the same way as passive systems, but use batteries. However, active systems have stronger signals, and can be read from greater distances and at very high speeds. These systems also come in read-only and read-write versions, making it possible to edit the information the ID tags carry. The automatic tollbooth applications utilize these high-frequency systems.

The Future of RFID

The introduction of any new technology opens up many avenues and possibilities not necessarily apparent at that time. Over time, though, its existence may create a ripple effect in an industry, leading to bigger and better applications.

Clearly, the uses for RFID technology are limitless. TIRIS has developed some practical business applications for RFID, which have already proven successful in their specific endeavors. More flexible and easier to use than bar coding or other forms of data collection, RFID is a multi-purpose technology. The challenge for those implementing the technology is to take full advantage of its capabilities.

For example, an RFID transponder might be attached to the frame of an automobile during the manufacturing process to automate the assembly line. But that same transponder could also prove valuable in identifying the car for warranty repairs, and theft protection, and even serve as an electronic link to automated highway systems currently in the development phase.

It is easy to see that RFID's functionality will prove its greatest asset. From personal safety to automobile safety to various industrial and business applications, RFID technology is already setting a new standard in information collection practicality. While its current uses have only begun to scratch the surface, it is the potential of applications yet to come that truly make RFID a technological high water mark.

Mr. Anthony Sabetti is the Application Center Manager for Texas Instruments' TIRIS group. Responsible for developing and directing the group's radio frequency identification applications, Mr. Sabetti is more than willing to answer any questions you may have on this text or anything covered during his panel discussion. Mr Sabetti can be reached at TI at (508) 699-3800.

Total Pages: _____

LRM ID: IMS190

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Tuesday, November 4, 1997

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: James J. Jukes (for) Assistant Director for Legislative Reference
OMB CONTACT: Ingrid M. Schroeder
PHONE: (202)395-3883 FAX: (202)395-3109

SUBJECT: STATE Testimony on Implementation of Automated Entry-Exit Control System

DEADLINE: 4:30pm Tuesday, November 4, 1997

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: Justice is testifying at the S. Judiciary subcommittee hearing on November 5th.
DISTRIBUTION LIST

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Draft

**SECTION 110 OF THE 1996 ILLEGAL IMMIGRATION REFORM ACT:
POSSIBLE IMPACT ON THE U.S.-CANADA BILATERAL RELATIONSHIP**

Testimony by

**Eric Kunsman, Director
Office of Canadian Affairs
Bureau of European and Canadian Affairs
U.S. Department of State**

before the

**Immigration Subcommittee
Senate Committee on the Judiciary**

November 5, 1997

Draft

Thank you Mr. Chairman and other members and staff of the Senate Immigration Subcommittee for your invitation to testify today on the views of the Department of State on the effect on our relationship with Canada of Section 110 of the 1996 Illegal Immigration Reform and Immigrant Responsibility Act. While my testimony, as requested, will specifically address the effects of Section 110 on our relationship with Canada, because Section 110 also involves our southern land border, my testimony will also touch on our relationships with Mexico. Ms. Betty Swope, Director of the State Department's U.S.-Mexico Border Affairs Unit is with us this morning to answer any questions concerning Mexico the Subcommittee may have.

I think it would useful first to put my discussion of Section 110 in the broader context of our political and economic relationship with Canada. Despite press reports about a relatively few bilateral disputes which occasionally grab the headlines, our overall relationship with Canada is ~~excellent~~ excellent, very healthy, and overwhelmingly positive. No other country has a closer, deeper, and more broad-based political relationship with the United States. Examples include our close cooperation on law enforcement issues, in combating terrorism, in peace keeping operations, and in addressing common environmental challenges facing our two countries.

-2-

Canada and the United States have the largest bilateral economic relationship of any two countries in the world -- by far. About one billion U.S. dollars in trade crosses the US-Canadian border -- every day. And Mexico is our third largest trading partner. Prominent economists are optimistic that these strong economic relationships will continue to expand rapidly in the future. The Bank of Montreal's chief economist recently credited strong growth in the US, Canada and Mexico to the increasing integration of these three domestic economies into a larger "North American economy."

Trade liberalization made possible by the U.S.-Canada Free Trade Agreement (FTA) and the subsequent NAFTA agreement among the US, Canada, and Mexico have been two important factors behind this impressive growth. The landmark U.S.-Canada "Shared Border Accord" announced by President Clinton and Prime Minister Chretien in 1995, and expanded at the time of the Prime Minister's April 1997 visit to Washington, has kept the momentum going in our expanding economic relationship with Canada by allowing for a series of pragmatic steps to facilitate the lawful movement of people, goods and services across our common border. Similarly, the Border Working Group of our US-Mexico Binational Commission has undertaken a number of initiatives which will improve living and working conditions for the 11 million inhabitants of our southern border.

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In its current form, however, Section 110 represents a serious speed bump in the continued expansion of our economic relationships -- one which could literally cause traffic across our northern land border to slow to a crawl at already congested ports of entry and have a major detrimental effect on bilateral trade and tourism. Section 110 works against the concerted efforts the United States has made with Canada and Mexico to improve and simplify cross-border traffic flows while better targeting enforcement activities on illicit activities.

These delays will impact highly integrated North American industries such as the auto industry -- particularly those which use "just-in-time" production techniques -- as well as U.S. businesses which rely on exports to Canada and Mexico. Also, thousands of U.S. citizens who cross the border for personal reasons -- in some cases several times per day -- will be delayed and severely inconvenienced.

Implementing Section 110 without further study would set back significant progress made with our Northern and Southern neighbors. While the U.S. rightly needs to develop better information on the problem of overstays, we need to do so without causing massive disruption for U.S. business and travelers responsible for the huge trade across our land borders.

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We therefore request that the Administration be allowed time to study in-depth the effects an exit control system might have on the legitimate movement of people and goods across our land borders, and to seek to develop alternative means of achieving the objectives of Section 110 while avoiding long and costly delays at the border.

Mr. Chairman, this concludes my testimony to you today. I hope my comments have been helpful to you and the other members of the Senate Immigration Subcommittee. Thank you.

Total Pages: _____

LRM ID: IMS166

**EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001**

Wednesday, October 8, 1997

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: James J. Jukes (for) Assistant Director for Legislative Reference *J. Jukes*

OMB CONTACT: Ingrid M. Schroeder *I. Schroeder*
PHONE: (202)395-3883 FAX: (202)395-3109

SUBJECT: **STATE Report on Section 110 of IIRIRA - Automated Entry and Exit Control System**

DEADLINE: 4pm Thursday, October 9, 1997

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: The attached report was submitted for clearance in lieu of testimony for an October 14th field hearing before the Senate Judiciary Subcommittee on Immigration.

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William P. Marshall
Tracey E. Thornton

LRM ID: IMS166 SUBJECT: STATE Report on Section 110 of IIRIRA - Automated Entry and Exit Control System

**RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM**

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:

(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or

(2) sending us a memo or letter

Please include the LRM number shown above, and the subject shown below.

TO: Ingrid M. Schroeder Phone: 395-3883 Fax: 395-3109
 Office of Management and Budget
 Branch-Wide Line (to reach legislative assistant): 395-3454

FROM: _____ (Date)
 _____ (Name)
 _____ (Agency)
 _____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

Draft

Dear Senator Abraham

Thank you for your letter of October 1, 1997 inviting me to testify in Michigan before the Subcommittee on Immigration of the Senate Judiciary Committee on October 14, 1997. Unfortunately, my commitments in Ottawa will not permit me to travel to Michigan to testify in person. However, I would like to take this opportunity to provide comments on the potential impact of Section 110 of the 1996 Illegal Immigration Reform Act on U.S.-Canada trade and tourism.

The scope of the U.S.-Canada border activity is enormous. Americans and Canadians crossed our shared border nearly 200 million times in 1996 and that number is growing. A substantial percentage of this number involves travel which is integral to the enormous volume of trade and commerce crossing the border. Long-standing personal relationships between Americans and Canadians also involves relatives and friends visiting both sides of the border. In many areas, communities on both sides of the border are highly integrated. Businessmen, students and shoppers cross the border on a daily basis.

Because the two-way traffic is so vital to citizens on both sides of the border, I am deeply concerned about the effect that Section 110 will have on land border crossings. Section 110 is inconsistent with the concerted efforts the United States and Canada have made in recent years to improve and simplify cross-border traffic flows, while better focusing our enforcement powers to address illicit activities. Implementation of Section 110 on the U.S./Canadian border would result in severe traffic backups causing increased waiting times at already congested crossing points. The Can/Am Border Trade Alliance estimates that introducing an additional inspection of thirty seconds to two minutes over one hour of traffic at current levels would cause delays of five to seventeen hours on the Ambassador Bridge and three to ten hours on the Peace Bridge and Niagara Falls bridges. Moreover, the mechanics of implementing Section 110 would be expensive and time-consuming. Section 110 would also take valuable resources away from our primary task of focusing on "the bad guys".

Canada continues to be the United States' foremost export market and single largest trading and investment partner. Trade between the United States and Canada has boomed over the last decade. In 1996 total two-way trade in goods and services was US\$353.5 billion which translates into nearly US\$1 billion per day. Free and efficient trade flows boost economic growth and produce jobs and higher living standards on both sides of the border. For many of these reasons, as you know, Canadians are not required to obtain visas to travel to the United States.

On February 24, 1995, President Clinton and Prime Minister Chrétien announced a joint border management declaration for a more efficiently managed border between our two countries. Through the Shared Border Accord, President Clinton and Prime Minister Chrétien committed the two governments to work together on an ambitious and innovative program designed to provide improved border services that will: promote international trade; facilitate the movement of people and goods; provide enhanced

protection against smuggling of all types; and reduce costs for governments and frequent users of border services. Working closely together, immigration and customs officials on both sides of the border in two short years have made significant progress on these objectives.

President Clinton and Prime Minister Chretien reaffirmed their commitment to the Shared Border Accord and announced a number of new border initiatives when they met in Washington in April, 1997. The new initiatives will further modernize border management to accommodate growing traffic and will introduce new technologies, new thinking and new ways of performing essential operations.

Section 110 works against the goals of the Shared Border Accord. I share the views of many business and government representatives that a slowdown of the dynamic activity along the U.S.-Canada border is not the way to deal with important, yet specific law enforcement challenges. We need to deal with the problem areas in ways that are not detrimental to the great success of economic and other exchanges between our two countries.

I commend you for your efforts to address this potential problem long before the provisions of Section 110 are scheduled to be implemented. I am confident that the Congress will act expeditiously to avoid the unwarranted dislocations that will result from implementation of Section 110 as it now exists. If I can provide you with any further information, please let me know.

drafted: ECON -S. Emrich (C: letter)

Leanne A. Shimabukuro 10/06/97 09:27:50 AM

Record Type: Record

To: Elena Kagan/OPD/EOP, Jose Cerda III/OPD/EOP

cc: WARNATH_S @ A1 @ CD @ LNGTWY

Subject: immigration review process

Immigration Review Plan:

What:

Our review process should look into four things: 1) Commission's proposal; 2) INS's reform proposal; 3) Rep. Reyes' bill; and 4) ONDCP border proposal.

How:

Before we start meetings, I will pull together a document briefly summarizing the proposals and laying out some of the issues. We can distribute this memo internally to the interested WH offices. Since the review process strikes at the heart of institutional "turf", it would probably be wise to do an initial round of meetings with the affected agencies separately to discuss the proposals that would specifically impact their functions. We should have a list of questions that they should be prepared to answer at the meetings (e.g., feasibility, costs of proposals). We may need to meet with INS/DOJ twice, once to get briefed on their internal proposal and a second to get their feedback on other proposals. These meetings should begin next week.

Once we've heard from all the agencies, we will need to internally decide which option or combination of options we prefer. Then we should have an interagency meeting to discuss our preferred options and gauge the agencies' reactions.

Timetable:

Our internal goal should be to try to finish the process by the end of the calendar year. This would allow us to use the FY 99 budget as a vehicle if we choose. Since this will be fast upon us, I would like to shoot for one meeting per week, beginning October 13. As a goodwill gesture, I think INS/DOJ should be our first meeting.

Proposed internal timetable:

Oct. 13-- INS/DOJ

Oct. 20- State

Oct. 27- Labor

Nov. 3- INS/DOJ

Nov. 10- internal WH meeting

Nov. 17- interagency meeting

This timetable is probably a little ambitious, but as early as possible, we need to have a sense of what things should be linked to the budget process (and ready by early December). The timing of the budget process may preclude certain dramatic changes-- and we should keep that in mind. While I think it is a useful concrete timeline for us, if we want to ultimately support something early next year, I think we should be able to do that as well.

External timetable: We should inform agencies that we plan on meeting with all of them this month and into next month, with an interagency meeting planned for mid-November. I think we should let

Leanne -
This is a super
plan - except that
we're now behind. Let's
catch up by scheduling
some meetings fast. Do
you have the summary
document ready?
Are we otherwise
set to roll?
Elena
cc: Toss

them know that we are mindful of the '99 budget timetable, but that it will not dictate the final outcome either.

Let me know what you think of this plan, or if you have any other ideas as to how we should do this. Thanks.

...

12/09/97 10:49
12/08/97 MON 14:59 FAX 202 458 5428

PLM

STATE CAPITOL
SACRAMENTO, CA 95814
(916) 443-8384

California Legislature



SCOTT WILDMAN

CHAIR

JOINT LEGISLATIVE AUDIT COMMITTEE

220141

October 17, 1997

The Honorable William J. Clinton
President of the United States of America
1600 Pennsylvania Avenue N.W.
Washington, D.C. 20502

Dear President Clinton:

At the direction of the California State Legislature's Joint Legislative Audit Committee, the California State Auditor has just released an audit report entitled "U.S. Border Patrol: Its Policies Cause San Diego County Health Care Providers To Incur Millions of Dollars in Unreimbursed Medical Care."

The report concludes that San Diego County health care providers incurred unreimbursed charges for emergency medical treatment to unauthorized immigrants as a result of the United States Border Patrol's policy to pay medical charges only for injured suspects in its custody. In 199 incidents identified between January 1996 and May 1997 involving injured unauthorized immigrants and Border Patrol Agents, the Bureau of State Audits estimates the total charges in these incidents at approximately \$3.1 million of which the Border patrol paid approximately \$153,100.

These findings provide conclusive evidence that a specific policy of the United States Border Patrol is resulting in millions of dollars in costs to local communities in California. While this policy is clearly intended to absolve the Border Patrol of financial responsibility for injured suspects, it may also be allowing some unauthorized immigrants to avoid custody as a result of their injuries.

The people of California cannot continue to pay the bill for this type of policy. As agents of the federal government, the Border Patrol must assume full responsibility for the costs of emergency medical services when unauthorized immigrants are injured and would have been taken into custody were it not for their injuries. Mr. President, I respectfully ask that California's communities be fully reimbursed for the costs they have incurred as a result of this policy.

Sincerely,

SCOTT WILDMAN, Chair
Joint Legislative Audit Committee

cc: Governor Pete Wilson

OCT 2 1997

Medical Costs for Unauthorized Immigrants

The Immigration and Naturalization Service (INS) is aware that state and local governments absorb medical costs for many people who cannot afford to pay, including the costs for some aliens not authorized to be in the United States. Under current policy, the INS is authorized to pay for medical expenses of aliens who have been taken into custody. In situations, however, where the Border Patrol agents have not arrested the individual, for example, because the injured condition precludes a determination of alienage and deportability, the INS is not authorized to assume the cost of medical care.

In the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Section 562, Congress provided for Federal reimbursement to States for emergency medical care to aliens who are not lawfully present in the U.S., subject to certain conditions, but no funds have been appropriated to implement this provision.

The President recently signed legislation that directs the Border Patrol to conduct a pilot project in Nogales, Arizona, to cover ambulance costs for illegal aliens apprehended by their agents. The lessons learned by conducting the pilot project in Nogales this year will be available for reference in extending the pilot project to other locations, and possibly to other medically-relevant situations, in the future.

CO 703.C

The Honorable Jan Goldsmith
Assemblyman
P.O. Box 942849
Sacramento, CA 94249-0001

Dear Mr. Goldsmith:

Thank you for your correspondence dated October 20, 1997, regarding the Border Patrol's policy concerning costs for health care incurred by injured illegal aliens. The Immigration and Naturalization Service (INS) appreciates the opportunity to address this matter.

The INS is aware that state and local governments absorb medical costs for many people that cannot afford to pay, including costs for some aliens not authorized to be in the United States. The President recently signed legislation that directs the Border Patrol to conduct a pilot project in Nogales, Arizona, to cover ambulance costs for illegal aliens apprehended by the Border Patrol. The lessons we learn by conducting the pilot project in Nogales this year will be available for reference in extending the pilot project to other locations in the future.

Regarding your comment concerning instances when immigration law violators leave treatment facilities without an appropriate INS action taken, the INS is developing procedures that will reduce the number of such occurrences.

We appreciate your interest in this issue and look forward to working with you on a reasonable solution to a large and complex problem.

Sincerely,

FOR THE COMMISSIONER

Allen Erenbaum
Acting Director
Congressional Relations

GAO

Testimony

Before the Subcommittee on Immigration and Claims,
Committee on the Judiciary,
House of Representatives

For Release on Delivery
Expected at
9:30 a.m., E.D.T.
March 10, 1995

BORDER CONTROL

Revised Strategy is Showing
Some Positive Results

Statement of
Laurie E. Ekstrand, Associate Director
Administration of Justice Issues
General Government Division



Border
Patrol]

SUMMARY OF STATEMENT BY
LAURIE E. EKSTRAND, ASSOCIATE DIRECTOR
ADMINISTRATION OF JUSTICE ISSUES
U.S. GENERAL ACCOUNTING OFFICE

Drug smuggling and illegal immigration are serious threats along the southwest border. Experts estimate that most of the cocaine and most illegal aliens entering the U.S. enter from Mexico across the southwest border. Despite law enforcement efforts, the drug flow continues, and, unless border control efforts become more effective, illegal immigration is expected to increase over the next decade. Within the Immigration and Naturalization Service (INS), the Border Patrol is the agency responsible for securing the border between the ports of entry.

To enhance security between the ports of entry, a 1993 study recommended that the Border Patrol focus on preventing illegal alien entry instead of on apprehending aliens once they have entered the United States. To implement this "prevention" strategy, the study recommended multiple physical barriers in certain border areas, as well as other measures.

There was widespread support for a "prevention" strategy among the federal and local government officials with whom GAO spoke. Preliminary results from recent prevention initiatives in the San Diego and El Paso areas are generally encouraging. However, these initiatives appear to have resulted in rerouting some drug smuggling and illegal immigration to other southwest border areas.

The national Border Patrol strategic plan approved in August 1994 focuses on preventing illegal entry. The plan builds on the success the San Diego and El Paso areas have reportedly had in reducing illegal entry. INS plans to implement its strategy in phases over several years and monitor closely the strategy's progress to determine the appropriate mix of personnel and other types of resources needed to gain control of the U.S. border. According to the Chief of the Border Patrol, technology improvements, such as improved fencing, would reduce the need for significant numbers of additional agents.

INS' new border control strategy shows promise for reducing illegal entry since it (1) builds on the reported successes in San Diego and El Paso, (2) is consistent with recommendations made in previous studies, and (3) has widespread support. Since it will take several years to implement the strategy, it is too early to tell what impact it will eventually have on drug smuggling and illegal immigration along the southwest border.

I am pleased to be here today to discuss our recent report on the United States' efforts to secure the southwest border.¹ Specifically, our report discusses (1) the extent of the threat from drug smuggling and illegal immigration and (2) ways to enhance security between the ports of entry. My testimony includes some follow-up data we collected from the Immigration and Naturalization Service (INS) since we concluded our review in September 1994.

Although the full extent of drug smuggling and illegal immigration is unknown, both pose a serious threat along the southwest border. Experts estimate that most of the cocaine and most of the illegal aliens entering the United States enter from Mexico across the southwest border. Despite law enforcement efforts, the flow of drugs continues, and, unless border control efforts become more effective, illegal immigration is expected to increase over the next decade.

To enhance security along the southwest border, a 1993 Sandia National Laboratories' study, commissioned by the Office of National Drug Control Policy (ONDCP), recommended that the Border Patrol focus on preventing illegal entry instead of apprehending aliens once they have entered the country.² This study recommended prevention measures, such as multiple barriers, enhanced checkpoint operations, and enhanced electronic surveillance equipment, which would significantly increase the difficulty of crossing the border illegally. A January 1989 study made similar recommendations.³

In August 1994, the INS Commissioner approved a national Border Patrol strategic plan that focuses on preventing illegal entry. INS' national strategy builds on the successes that its San Diego and El Paso sectors have reportedly had in reducing illegal entry. INS plans to implement its strategy in phases over several years, concentrating initially in the two areas that traditionally had the greatest illegal activity--San Diego and El Paso.

¹Border Control: Revised Strategy Is Showing Some Positive Results (GAO/GGD-95-30, Dec. 29, 1994).

²Systematic Analysis of the Southwest Border (referred to as the Sandia study), Sandia National Laboratories, January 1993. ONDCP chose Sandia due to its expertise in designing physical security systems.

³Ten Steps to Securing America's Border, Federation for American Immigration Reform, January 1989, Washington, D.C.

BACKGROUND

Within INS, the Border Patrol is the agency responsible for securing the border between the ports of entry. The Border Patrol's mission is to maintain control of the international boundaries between the ports of entry by detecting and preventing smuggling and illegal entry of aliens into the United States. In addition, in 1991, ONDCP designated the Border Patrol the primary agency for narcotics interdiction between the ports of entry.

To accomplish its mission, the Border Patrol (1) patrols the international boundaries and (2) inspects passengers and vehicles at checkpoints located along highways leading from border areas, at bus and rail stations, and at air terminals. The Border Patrol uses vehicles and aircraft to patrol areas between the ports of entry and electronic equipment, such as sensors and low-light-level televisions, to detect illegal entry into the country. The Border Patrol carries out its mission in 21 sectors. Nine of these sectors are located along the southwest border with Mexico.⁴ As of September 30, 1994, about 3,747 agents were assigned to these 9 sectors, representing 88 percent of Border Patrol agents nationwide.

DRUG SMUGGLING AND ILLEGAL IMMIGRATION ARE SERIOUS THREATS ALONG THE SOUTHWEST BORDER

Drug Smuggling

Although the full extent is unknown, drug smuggling is a serious threat along the southwest border. The Department of State's 1993 International Narcotics Control Strategy Report indicated that Mexico is a transit country for South American cocaine destined for the United States and a major country of origin for heroin and marijuana. According to the report, between 50 and 70 percent of the cocaine smuggled into the United States transited Mexico, entering primarily by land across the southwest border. In addition, about 23 percent of the heroin smuggled into the United States originated in Mexico.

INS data showed that Border Patrol narcotics seizures along the southwest border have risen over the last few years.

⁴These nine sectors are located in San Diego and El Centro, CA; Yuma and Tucson, AZ; and El Paso, Del Rio, Marfa, Laredo, and McAllen, TX.

Patrol narcotics seizures rose from around 4,200 to approximately 6,400, an increase of about 50 percent. The amount of cocaine seized nearly doubled from about 14,000 pounds in 1990 to about 27,000 pounds in 1993.

According to a June 1992 Operation Alliance report,⁵ the primary smuggling route across the southwest border was by land. The report pointed out that although cocaine was the primary drug threat, followed by marijuana, the heroin threat was growing. The report stated that in spite of law enforcement agencies' efforts to counter drug smuggling, the flow of drugs between the ports of entry along the southwest border continued due to vast open areas and a relatively low law enforcement presence. The report concluded that "our successes are insignificant when compared to the threat."

Illegal Immigration

Illegal immigration is also a serious threat to the United States. In 1993, we estimated that the total inflow of illegal aliens into this country in 1988 ranged from 1.3 million to 3.9 million.⁶ The major component of the inflow, 1.2 million to 3.2 million, was Mexicans crossing the southwest border, with most entering between the ports of entry. Much of the inflow represented short-term visits to the United States.

In June 1994, INS estimated there were about 3.8 million undocumented migrants residing in the United States. About half of these unlawful residents entered without documentation across the borders, while the other half entered lawfully as visitors but did not leave.

In fiscal year 1993, the San Diego and El Paso Border Patrol sectors accounted for two-thirds of the 1.2 million southwest border apprehensions. Our analysis of INS data showed that in fiscal year 1992 over half of all southwest border apprehensions occurred along only 18 of the 1,600 border miles--13 miles along the border between San Diego

⁵Southwest Border Drug Control Strategy II, Operation Alliance, June 1992. Operation Alliance prepares border control strategies and coordinates drug enforcement activities of 17 federal and numerous state and local law enforcement agencies combatting drug smuggling.

⁶Illegal Aliens: Despite Data Limitations, Current Methods Provide Better Population Estimates (GAO/PEMD-93-25, Aug. 5, 1993). Due to data limitations, 1988 was the most recent year for which we could make a reliable estimate.

Paso and Ciudad Juarez, Mexico. However, recent border control initiatives in San Diego and El Paso appear to have resulted in rerouting some illegal immigrants to other southwest border areas. For example, San Diego and El Paso's share of total southwest border apprehensions dropped from two-thirds in fiscal year 1993 to about one-half in fiscal year 1994.

Unless border control efforts become more effective, illegal immigration is expected to increase. In September 1993, we reported that the flow of illegal aliens across the southwest border is expected to increase during the next decade because Mexico's economy is unlikely to absorb all of the new job seekers that are expected to enter the labor force.⁷ In recent testimony before the House Committee on Banking and Financial Services, both the Treasury Secretary and the Secretary of State expressed concern that the recent peso devaluation could increase illegal migration.⁸

PREVENTION STRATEGY HAS WIDESPREAD SUPPORT

The Border Patrol officials with whom we spoke (including the chief, acting deputy chief, San Diego and El Paso chief patrol agents, and a regional Border Patrol official) all agreed with the Sandia study's conclusion that the Border Patrol should focus on preventing illegal entry rather than on apprehending illegal aliens. In addition, officials of the El Paso Intelligence Center (EPIC),⁹ Operation Alliance, Joint Task Force Six (JTF-6),¹⁰ and the mayor and police officials of El Paso support the concept of trying to prevent entry rather than apprehending aliens.

This strategy is also in line with our past positions on controlling illegal immigration. In June 1993, we testified before this Committee that "the key to controlling the

⁷North American Free Trade Agreement: Assessment of Major Issues, Volume 2 (GAO/GGD-93-137, Sept. 9, 1993).

⁸Statement of the Honorable Robert E. Rubin, Secretary of the Treasury, January 25, 1995. Statement by Secretary of State Warren Christopher, January 25, 1995.

⁹The El Paso Intelligence Center (EPIC) is the nation's principal tactical drug intelligence facility, preparing assessments on the threat of drug smuggling.

¹⁰The Joint Task Force Six (JTF-6), located in El Paso, coordinates military support for drug enforcement efforts.

illegal entry of aliens is to be avoided.¹¹ arrival."

RECENT SAN DIEGO AND EL PASO BORDER
CONTROL PREVENTION INITIATIVES APPEAR
ENCOURAGING

Both the San Diego and El Paso sectors have begun major border control initiatives that focus on preventing illegal entry rather than on apprehending aliens. Preliminary results in these two sectors suggest that the prevention strategy has reduced illegal entry in these sectors. Other benefits include less border crime, less confrontation between Border Patrol agents and illegal aliens, and strong public and government support.

San Diego Sector Erected Physical
Barriers and Lighting

In 1990, the San Diego sector's chief patrol agent began an initiative to erect physical barriers, primarily to deter drug smuggling. With the assistance of JTF-6, the San Diego sector installed 10-foot welded steel fencing along approximately 13 miles of border where sector officials believed the majority of drugs and illegal aliens crossed within the sector. The new fence, completed in late 1993, is substantially stronger than previous chain link fencing. JTF-6 is also installing high-intensity lights and a second and third fence at strategic locations along the same 13 miles. As of February 7, 1995, JTF-6 had installed lights along about 4-1/2 of the 13 miles.

Although the San Diego sector's border control initiative has not been fully implemented, indications are that the new tactics are reducing the number of aliens crossing the border illegally in the San Diego area. Sector apprehensions were down 20 percent in fiscal year 1994 compared to 1992 and dropped below 1990 levels, the year the sector began implementing its new border control tactics (see app. I). Apprehensions decreased even though the sector increased the amount of time spent on border enforcement nearly 41 percent between 1990 and 1994.

Also, apprehensions at highway checkpoints away from the border declined 24 percent between fiscal years 1990 and 1993 even though the amount of time spent performing traffic checks increased 22 percent.

¹¹Immigration Enforcement: Problems in Controlling the Flow of
Illegal Aliens (GAO/T-GGD-93-39, June 30, 1993).

During our review, we toured the border and found visible portion of the San Diego sector border and found visible evidence of the new tactics' effect on illegal border crossing. Before the new border control tactics, hundreds of aliens would line up along the U.S. side of the border during daylight hours, waiting for an opportunity to go northward. However, after the new border patrol tactics were initiated, large groups of aliens no longer waited during the day to cross at night, which according to a Border Patrol official is now typical. Also, formerly there were large gaps in border fencing allowing aliens to easily cross the border. However, these gaps in the fencing have now been closed.

El Paso Sector Initiated "Operation Hold-the-Line"

Before September 1993, like San Diego, the El Paso sector's strategy emphasized apprehending aliens rather than preventing illegal entry. However, as apprehensions increased so did the opportunities for confrontation between illegal aliens and El Paso Border Patrol agents. These increased opportunities for confrontation led to allegations of abuse against agents.

Under the sector's apprehension strategy, El Paso's chief patrol agent told us that the border area was in "complete chaos." The chief estimated there were up to 8,000 to 10,000 illegal border crossings daily, and only 1 out of 8 aliens was apprehended. In addition, El Paso police officials estimated illegal aliens had a significant impact on the city's crime rates, committing 75 to 80 percent of all auto thefts, as well as many burglaries.

El Paso's chief patrol agent began an initiative in September 1993 to change the sector's border control strategy to one of preventing illegal entry. The sector stationed all available agents immediately at a 20-mile stretch of the border in highly visible Border Patrol vehicles. The primary goal of the new strategy--Operation Hold-the-Line--was preventing significant numbers of aliens from entering the El Paso metropolitan area.¹² Those who still tried to cross the border illegally were routed to less populated areas where they could be more easily apprehended.

El Paso sector officials cited several indications that its new prevention strategy is working. For example, according

¹²Operation Hold-the-Line was initially called "Operation Blockade".

illegally cross the border through the El Paso sector has decreased significantly. According to the chief patrol agent, before Operation Hold-the-Line, there were up to 10,000 illegal border crossings daily. In February 1994, the sector estimated that only about 500 people a day were illegally crossing the border. A March 1994 sector intelligence report indicated the new strategy had deterred many aliens in Mexico's interior from coming to the El Paso border area.

There has been a sharp drop in El Paso sector apprehensions since implementation of its new strategy. The El Paso sector's illegal alien apprehensions in fiscal year 1994 were down 72 percent compared to fiscal year 1993 (see app. II). Two factors influencing this decrease are the deterrent effect of the new prevention strategy and the rerouting of some illegal aliens to other southwest border areas.

The El Paso public strongly supports the sector's new strategy. A poll taken in February 1994 showed 84 percent of those polled were in favor of the new strategy.¹³ Also, police officials attribute a drop in certain crimes to Operation Hold-the-Line. For example, there were nearly one-third fewer burglaries and one-fourth fewer motor vehicle thefts in the 3 months after the operation began in September 1993 than in same 3 months in 1992.

Two studies also concluded that Operation Hold-the-Line has been successful in deterring illegal immigration in El Paso. A December 1993 study of Operation Hold-the-Line by the Center for Immigration Studies¹⁴ concluded that the operation "has proven to be successful" and the new preventative deployment was "both more humane and more effective." According to this study, the operation represented a viable long-term approach to more successful border control.

¹³An exit poll of democratic primary voters taken on February 26 and 27, 1994. The poll was conducted by Kaigh Associates, El Paso.

¹⁴John L. Martin, "Operation Blockade: A Bullying Tactic or a Border Control Model?," BACKGROUNDER, Center For Immigration Studies, Washington, D.C., December 1993.

A July 1994 study requested by the Commission on Immigration Reform¹⁵ found that Operation Hold-the-Line significantly reduced illegal crossings, and resulted in less crime and fewer allegations against Border Patrol agents. In addition, the strategy appeared to have broad public support.

However, the operation may be having different effects depending on the type of illegal border crosser. For example, the operation has had less of a deterrent effect on those who illegally cross the border to find work in other locations in the United States. According to the study, these crossers have shifted their crossing points to other border locations. Conversely, illegal crossers who engage in street vending and low-level criminal activities have been substantially deterred from crossing the border. The operation has also had some unintended consequences. For example, in some cases, those crossers who normally would cross the border daily to work illegally in El Paso have extended their stay in El Paso to reduce the number of times that they illegally cross the border.

According to an El Paso Assistant Chief Patrol Agent, the sector has recently experienced an increase in apprehensions. For the first 4 months of fiscal year 1995, apprehensions were 29 percent higher than the same time last year (26,900 versus 20,900). The official attributed this rise to increased alien smuggling, aliens attempting to return to the U.S. after the holidays, and the recent devaluation of the Mexican peso. However, although the El Paso sector is currently averaging about 6,700 alien apprehensions per month, this is still significantly lower than the 24,000 per month the sector averaged in fiscal year 1993, before Operation Hold-the-Line.

SAN DIEGO AND EL PASO SECTORS'
INITIATIVES HAVE RESULTED IN
REROUTING DRUGS AND ALIENS TO
OTHER SOUTHWEST BORDER AREAS

The San Diego and El Paso sectors' initiatives appear to have resulted in rerouting drugs and illegal aliens to other parts of the southwest border.

Interviews with apprehended illegal aliens have revealed that smugglers are now telling those travelling from the

¹⁵Frank D. Bean, et al, "Illegal Mexican Migration and the United States Mexico Border: The Effects of Operation Hold-the-Line on El Paso/Juarez", Population Research Center, University of Texas at Austin, July 15, 1994.

interior of Mexico that it is easier to cross into Nogales, AZ, rather than into San Diego or El Paso, according to Tucson's Deputy Chief Patrol Agent. In addition, according to the deputy, some smugglers are reported to be moving their operations from San Diego to Nogales.

A comparison of Tucson and El Paso sector apprehensions appears to support the premise that the recent San Diego and El Paso initiatives have increased illegal entry through other southwest border sectors. Since the start of the initiative in the El Paso sector, Tucson sector apprehensions have increased about 50 percent (about 93,000 in fiscal year 1993 compared to 139,000 in fiscal year 1994). El Paso apprehensions, on the other hand, dropped 72 percent (from about 286,000 to about 80,000 over the same period). (See app. III).

Another indication that illegal alien entry may be moving to other sectors is that while the San Diego sector's fiscal year 1994 apprehensions were 15 percent lower than in fiscal year 1993, and El Paso's were down 72 percent over the same period, apprehensions in the remaining seven southwest border sectors increased about 14 percent (see app. IV).

Drug trafficking has also apparently been affected. According to EPIC's December 1993 Monthly Threat Brief, El Paso's Operation Hold-the-Line has led to changes in smuggling methods. Instead of fording the Rio Grande River, some smugglers have attempted to move drugs through ports of entry and to areas east and west of El Paso, around the sector's 20-mile line of agents.

According to a San Diego sector official, the new fence has virtually eliminated drug and alien smugglers driving across the border in the San Diego sector. However, the sector has noticed an increase in drug smuggling in the mountainous areas east of San Diego. In addition, the amount of cocaine seized in the El Centro sector, the sector adjacent to San Diego, increased dramatically from 698 pounds in fiscal year 1991 to nearly 18,000 pounds in fiscal year 1993.

On February 5, 1995, the President directed INS to send 62 additional Border Patrol agents to Nogales to combat an unprecedented rise in illegal border crossings there. According to a White House statement, the administration attributes this dramatic increase to the California and Texas border control initiatives, as well as the recent devaluation of the Mexican peso. The additional agents are being reassigned from the Canadian border, as well as from interior Border Patrol stations.

INS' NATIONAL BORDER CONTROL STRATEGY

In August 1994, the INS Commissioner approved a national Border Patrol strategic plan for gaining control of the nation's borders. The strategy focuses on preventing illegal entry and builds on the success INS has reportedly had in San Diego and El Paso. INS plans to put more agents along the border and use more lighting, fencing, and other barriers. On the basis of the national border control strategy, each southwest border sector developed its own strategy identifying specific actions that need to be taken.

INS plans to use a phased approach to implementing its border control strategy. In its first phase, INS plans to focus its resources in the two sectors where most illegal immigration has traditionally occurred--San Diego and El Paso. As border control continues to improve in San Diego and El Paso, INS anticipates that other sectors will continue to experience an increase in illegal entry. Therefore, the second phase targets the Tucson sector and south Texas--areas that are expected to be most affected by the enhancements at San Diego and El Paso. The third phase targets the rest of the southwest border, and phase four targets the rest of the U.S. border. According to a Border Patrol official, INS is currently transitioning from phase one to phase two.

INS has identified certain indicators that it plans to use in each of these phases to determine whether its efforts are successful. The proposed indicators include: (1) an eventual reduction in apprehensions and recidivism, (2) an increase in attempted fraudulent admissions at ports of entry, (3) a shift in the flow of illegal aliens to other sectors, and (4) fewer illegal aliens in the interior of the United States.

To achieve border control, the strategy recognizes the need to coordinate with other INS programs and with other federal agencies, such as the Department of Defense, Customs Service, and the Drug Enforcement Administration, as well as state and local law enforcement agencies.

INS officials told us that it will take several years to implement the strategy and that INS did not have a specific time frame or cost figures for these improvements. INS officials believe that technology improvements, such as improved fencing and surveillance cameras, would make border control strategies more effective. According to the Chief of the Border Patrol, these improvements would reduce the need for significant numbers of additional agents. INS plans to closely monitor the strategy's progress to

determine the appropriate mix of personnel and equipment of resources needed to gain control of the U.S. border.

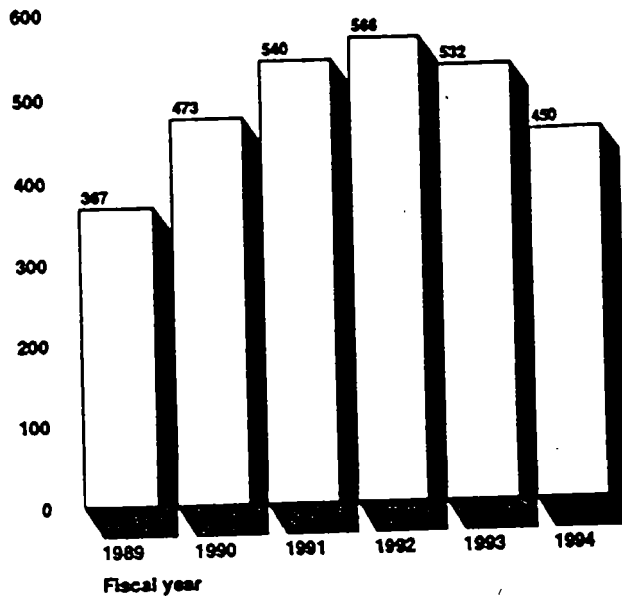
CONCLUSIONS

We believe the new national border control strategy shows promise for reducing illegal entry since the strategy (1) builds on the reported success the San Diego and El Paso sectors have had in reducing illegal immigration, (2) is consistent with recommendations made in previous comprehensive studies conducted by border control and physical security experts, and (3) has widespread public and government support. However, since it will take several years to implement the strategy, it is too early to tell what impact it will eventually have on drug smuggling and illegal immigration along the southwest border. Tightening border control in some sectors seems to put added stress on other sectors. This speaks to the need for a comprehensive approach along the entire border.

- - - - -
This concludes my prepared statement. My colleagues and I would be pleased to answer any questions.

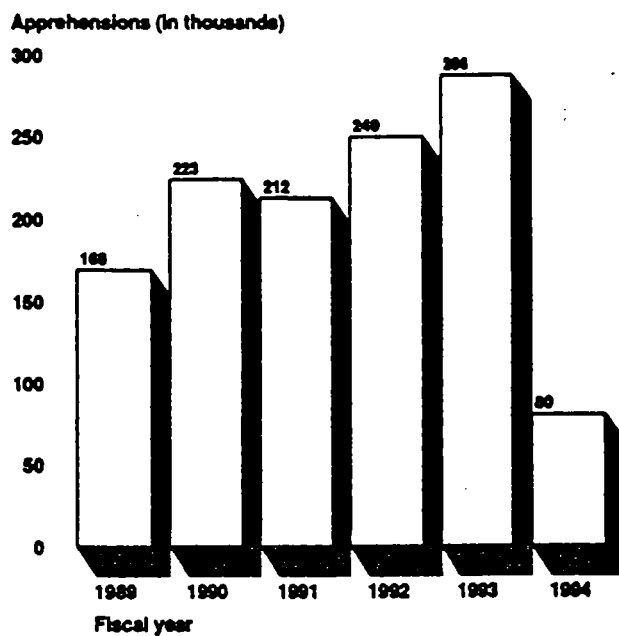
SAN DIEGO SECTOR'S FISCAL YEAR 1994 BORDER
APPREHENSIONS ARE DOWN FROM PREVIOUS YEARS

Apprehensions (in thousands)



Source: Border Patrol data.

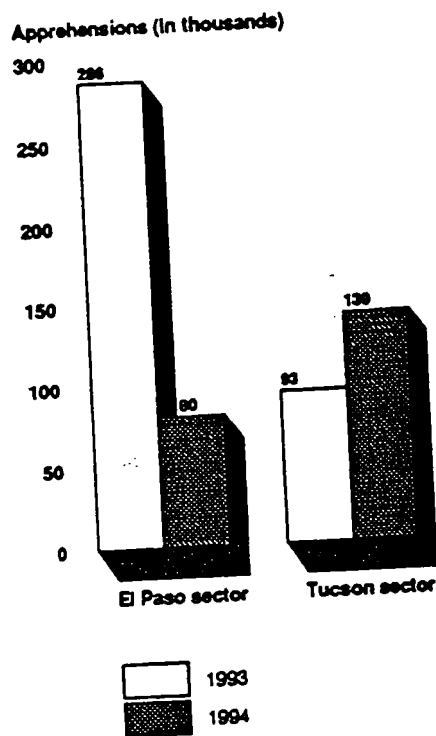
EL PASO SECTOR'S FISCAL YEAR 1994 BORDER APPREHENSIONS
ARE DOWN SHARPLY FROM PREVIOUS YEARS



Source: Border Patrol data.

APPENDIX III

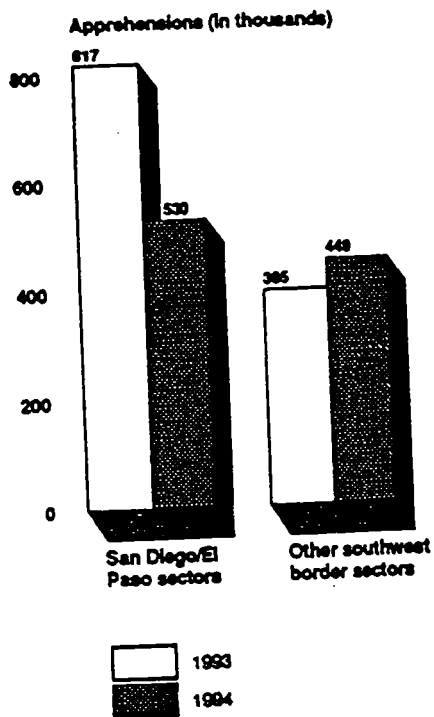
TUCSON SECTOR'S FISCAL YEAR 1994 BORDER APPREHENSIONS HAVE INCREASED AS EL PASO APPREHENSIONS HAVE DROPPED



Source: Border Patrol data.

APPENDIX

SAN DIEGO AND EL PASO'S APPREHENSIONS HAVE DECLINED
WHILE OTHER SOUTHWEST SECTORS HAVE INCREASED



Source: Border Patrol data.

(183596)

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March 10, 1998

INS Deploys \$3.8 Billion in FY 1998 Resources *1,000 New Border Patrol Agents and New Technology* *Will Enhance Border Facilitation and Control*

WASHINGTON – The Immigration and Naturalization Service (INS) is strengthening its efforts to deter illegal immigration while supporting legal immigration by focusing its FY 1998 budget of \$3.8 billion on enhancing the security of U.S. borders, removing illegal aliens and integrating new technologies to improve the delivery of immigration services, INS Commissioner Doris Meissner announced today.

"With another record budget, we are further securing the nation's borders, deterring illegal immigration at ports of entry, and integrating new technologies so that U.S. citizens, immigrants and foreign visitors are served by a more efficient and modern INS," Commissioner Meissner said.

The INS budget for FY 1998 represents a 19.5 percent increase over the FY 1997 resource level and a 153 percent increase over the past five years. This year's budget expands the INS permanent workforce to nearly 29,000 by year's end. The vast majority of the new resources are being allocated to key immigration-impacted states including Arizona, California, New Mexico and Texas. The budget increase of \$644.4 million funds 2,235 new personnel, including \$125.3 million to hire 1,000 new Border Patrol agents. Two-thirds of those agents (670) are being assigned to the border in Texas and New Mexico as part of Operation Rio Grande, while 330 will be assigned to California's Operation Gatekeeper and Arizona's Operation Safeguard.

The FY 1998 budget also provides significant new resources to improve and expand port-of-entry inspections and to remove a record goal of 127,300 criminal and other illegal aliens from U.S. workplaces and prisons.

Commissioner Meissner said the FY 1998 increase enhances the agency's interrelated functions of deterring illegal immigration while supporting legal immigration and the delivery of services and benefits. "These increased resources enable INS to continue our implementation of the comprehensive, balanced program initiated under the leadership of President Clinton in 1993 and sustained by bipartisan congressional support," she said. By year's end, INS will surpass the President's goal of 7,000 Border Patrol agents in FY 1998—representing a 99 percent increase over FY 1993.

Commissioner Meissner said the 1998 budget will enable INS to better serve the American public and legal immigrants with the highest standards of professionalism, integrity and efficiency.

(more)

"Our unprecedented resources are funding critical state-of-the-art technology to more fully integrate the vital sharing of information between the agency's key functions: the enforcement and the service sides," Meissner said. "This technology integration will enhance our ability to extend the seamless web of enforcement and speed the most efficient service available to our customers."

The infusion of \$644.4 million in INS program enhancements will substantially expand the following immigration initiatives in FY 1998:

Border Facilitation and Control – \$234 million in additional funds will enable INS to continue its National Border Enforcement strategy by enhancing facilitation of legal crossings and bolstering control of illegal immigration through added personnel and state-of-the-art technology at ports of entry and other border locations.

- **Border Patrol.** \$125.3 million in new funds will allow INS to add 1,000 new Border Patrol agents and 136 support staff. By year's end, INS will surpass the President's goal of 7,000 Border patrol agents in FY 1998—representing a 99 percent increase over FY 1993. FY 1998 resources also include \$16.2 million to increase border automation and technology including remote surveillance cameras, night vision scopes, radios and sensors and to extend INS' commitment to the deployment and support of the IDENT and ENFORCE systems, which help track and identify repeat illegal crossers and criminal aliens. Additional funding of \$42.7 million provides money for desperately needed maintenance, renovation and replacement of older Border Patrol facilities along the Southwest border, as well as resources for the planning and design of future projects.
- **Inspections.** Resource enhancements also provide \$19.4 million to hire 281 new immigration inspectors and 12 inspections support personnel for airports, which will ensure full staffing at Miami International and provide requisite staff for new airports located in Palm Springs, Calif.; Medford, Ore. INS also received \$12.9 million to hire four immigration inspectors and expand the departure management initiative at airports, as required by the 1996 immigration law. INS will apply \$17.5 million to automate the inspections process, including a new joint project with the U.S. Customs Service to deploy license-plate readers and other electronic and computerized port technologies nationwide.

Interior Enforcement and Removal of Criminal and Other Deportable Aliens –

\$191 million will support 295 new positions for the detention and removal of criminal and other deportable aliens. INS estimates that it will remove 127,300 criminal and other illegal aliens in FY 1998, a 14 percent increase over FY 1997's record 111,794 removals and a 121 percent increase since FY 1995. These resource enhancements include \$48.3 million to fund 181 positions to staff 1,864 additional detention bed spaces at INS facilities in Buffalo, N.Y. and Krome, Fla. and contract facilities in San Diego, Calif. The budget also assumes that \$104.5 million of additional funding from the Breached Bond/Detention account will support 1,136 additional bed spaces, bringing total funded bed spaces to 14,845, a 23 percent increase from last year.

(more)

An additional \$12.2 million will provide 42 positions to locate and remove deportable aliens who have exhausted all available avenues of appeal. Funding of \$6.8 million and 29 positions are provided to help expand the local jail programs in various cities around the country. Another \$5 million is designated to fund 43 positions to expand the Vermont-based Law Enforcement Support Center, which provides information and assistance to state and local law enforcement organizations around the country, and to extend Law Enforcement Support Center services to Utah. Some \$14.2 million in funds will support construction and renovation of the Krome and Port Isabel, Texas service processing centers as well as planning and site design for other projects.

Improve Integrity, Customer Service and Professionalism

- \$219.5 million will help INS strengthen and improve customer service and promote professionalism and integrity in its workforce. These resources will fund critical improvements to the naturalization process to help guarantee the integrity of the citizenship program, improve customer service and reduce the backlog of pending cases. Among the improvements, \$57.7 million will permit INS to convert 400 temporary employees to term workers; \$33.2 million will help INS establish a direct mail system for applications; \$87.2 million will help implement an automated fingerprint process and fund revocation of citizenship of individuals improperly naturalized. An additional \$10.9 million will fund quality assurance measures and a continual quality review of naturalization procedures. Also, \$3.08 million and 37 positions will enable INS to process Freedom of Information and Privacy Act (FOIA) requests in accordance with electronic FOIA/PA requirements.

Continued Progress and Achievement in FY 1997:

The FY 1998 funds will enable INS to build upon its FY 1997 achievements, which include the following:

- **Record Removals.** INS removed 111,794 criminal and other deportable aliens from the United States, a 62 percent increase over fiscal 1996's record of 69,040;
- **New Texas Border Control Effort Launched.** Operation Rio Grande, a major new integrated operation to gain control of the border in South Texas and New Mexico, was initiated in August 1997;
- **Border Patrol Expanded.** INS strengthened enforcement capabilities along the Southwest border by expanding the number of Border Patrol Agents to 6,863, an increase of 17 percent from fiscal 1996. To help identify and intercept repeat illegal border crossers, INS also deployed 316 IDENT terminals at Border Patrol stations, district offices and ports of entry;
- **San Diego Apprehensions Hit 17-Year Low.** Border Patrol apprehensions of illegal aliens crossing the border reached a 17-year low in the San Diego Sector, underscoring the success of Operation Gatekeeper, which completed its third year of operation. In October, that operation moved eastward to continue cracking down on international alien and narcotics smuggling operations through increased investigations, apprehensions and prosecutions;

(more)

- **Operation Global Reach Launched.** To deter global migrant trafficking, INS opened 13 new overseas offices and assigned 45 additional officers overseas to prevent improper entry and interrupt alien smuggling networks;
- **New Law Implemented.** INS successfully implemented the major provisions of a sweeping new immigration law, the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA). As part of this implementation, the agency trained more than 16,000 personnel in the new law's provisions, produced new regulations for 60 different IIRIRA sections, and implemented provisions related to expedited removal of aliens arriving in the United States either without valid entry documents or attempting entry by fraud;
- **New Pilot Programs.** INS began three new pilot programs, two of which are joint efforts with the Social Security Administration, to test systems designed to quickly and accurately verify whether new employees are legally eligible to work in the United States; and
- **Improved Naturalization Processing.** Completed more than 700,000 cases and received more than 1.6 million applications for naturalization—a 34 percent increase over fiscal 1996. INS formed a separate division, the Executive Office of Naturalization Operations, to handle naturalizations and redesign the naturalization process to guarantee integrity, incorporate state-of-the-art technology and provide improved customer service.

—INS—

Summary of \$644.4 Million Budget Enhancements to \$3.18 Billion Base

Border Facilitation and Control	
At the Ports of Entry	\$ 32.3
Between the Ports of Entry	125.3
Automation	33.7
Construction	42.7
Subtotal	\$234.0
Remove Criminal and Other Deportable Aliens	
Increased Enforcement through Use of Detention	\$ 60.4
Identification of Criminal Aliens	11.8
Additional Bedspace	104.5
Construction	14.2
Subtotal	\$190.9
Integrity, Professionalism and Customer Service	
Naturalization	\$194.2
Records Infrastructure	19.1
Card Production Machines	3.1
Freedom of Information Act	3.1
Subtotal	\$219.5
Total Budget Enhancements	\$644.4

—INS—



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

LEGISLATIVE REFERENCE DIVISION

ECONOMICS , SCIENCE , AND GENERAL GOVERNMENT BRANCH

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DATE: 4/7/98

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U. S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

Draft

The Honorable Spencer Abraham
Chairman
Subcommittee on Immigration
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This letter presents the views of the Justice Department on S. 1360, the "Border Improvement and Immigration Act of 1997." The Department supports this legislation.

Section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA") requires the Attorney General to establish an automated entry-exit control system for land borders, seaports, and airports no later than September 30, 1998. S. 1360 would eliminate the 1998 implementation date for an entry-exit system at land borders and provide instead for a feasibility report. While the Department supports a full assessment of an automated entry-exit control system along the land borders, S. 1360 would address our concerns about the difficulties inherent in implementing section 110 for the land borders within the timeframes IIRIRA provides.

Last year, the Administration similarly proposed a feasibility study in lieu of implementation of section 110 in 1998. However, that proposal would have delayed implementation at seaports as well as at land borders due to our concerns regarding implementation of section 110 at seaports within the timeframe contemplated. While seaports offer many opportunities to exploit the benefits of automated technologies, the specific applications to do so have not been fully developed. The Immigration and Naturalization Service ("INS") has recently undertaken a review of seaport processing to develop functional requirements for these new systems and to establish partnerships with industry groups to ensure that their needs are addressed. These initiatives will yield results in approximately two years.

S. 1360 also would encourage the Attorney General, in consultation with the Secretary of State, to explore the feasibility of obtaining entry-exit information through reciprocal agreements with the governments of contiguous countries. The Department believes that such agreements would be

very helpful. ~~[The Department also believes that the improved staffing of S. 1360 would authorize at our land borders would contribute greatly to improving service to the traveling public, a necessary pre-condition to a successful entry exit system, even one which relies upon information exchanges.]~~

Insert
A

S. 1360 also provides an exception from entry and exit controls for any alien lawfully admitted to the United States for permanent residence. There are instances where accurate entry-exit information about permanent resident aliens is very helpful, for example, in making an accurate determination of periods of actual physical residency in the United States to be considered for naturalization purposes. This data collection requirement will not place an additional burden either on the resident alien or the INS, since all residents carry machine readable documentation of their status issued by the INS, namely Form I-551 or "green card."

Thank you for the opportunity to present our views. Please do not hesitate to call upon us if we may be of further assistance. The Office of Management has advised us that from the perspective of the Administration's program, there is no objection to submission of this letter.

Sincerely,

Ann M. Harkins
Acting Assistant Attorney General

cc: The Honorable Edward M. Kennedy
Ranking Minority Member

Insert
A
"The Department finds Sect. 4, Increase Resources for Border Control and Enforcement, unnecessary. Both INS and Customs attempt to maximize inspectional resources made available by deploying the appropriate number of inspectors to ports-of-entry based on demonstrated need. In addition, this section is inconsistent with the President's budget request sent to the Congress on February 2, 1998."

CRS Report for Congress

Immigration: Visa Entry/Exit Control System

Updated November 9, 1998

William J. Krouse
Analyst in Social Legislation
Education and Public Welfare Division

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ABSTRACT

Section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Division C of P.L. 104-208) requires the Attorney General to establish an automated entry/exit control system to record non-citizen arrivals and departures at all ports of entry by September 30, 1998. The FY1999 Omnibus Consolidated and Emergency Supplemental Appropriations Act (P.L. 105-277) amends Section 110 to extend the September 30, 1998 deadline to March 31, 2001 for land border and sea ports of entry, but leaves the FY1998 deadline (now October 15, 1998) in place for air ports of entry. This report provides background and analysis on Section 110 and issues related to increasing arrival/departure management at air, land border, and sea ports of entry. This report reflects final action of the 105th Congress and will not be updated.

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Immigration: Visa Entry/Exit Control System

Summary

Section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA; Division C of P.L. 104-208) mandates the development of an automated entry/exit control system to create a record for every alien departing from the United States and match it with the record for the alien arriving to the United States. Section 110 also requires that this system identify nonimmigrants who overstay the terms of their admission through online computer searching. The FY1999 Omnibus Consolidated and Emergency Supplemental Appropriations Act (P.L. 105-277) amends Section 110 to extend the original implementation deadline of September 30, 1998 to March 31, 2001 for land border and seaports of entry, but leaves the end of FY1998 deadline in place for airports of entry. Further, P.L. 105-277 includes a clause directing that the entry/exit control system must “not significantly disrupt trade, tourism, or other legitimate cross-border traffic at land border ports of entry.”

This extension occurred because implementing Section 110 has proven more difficult at land border and seaports of entry than at airports of entry, because the capacity to record alien arrivals and departures at land border and seaports is not as fully developed. The Administration had proposed eliminating the FY1998 deadline altogether for land border and seaports of entry, citing the need to conduct feasibility and cost/benefit studies. Opponents of Section 110 cited concerns about reciprocity, trade, tourism, and border congestion. Supporters of Section 110 and its implementation at all ports of entry (air, land, and sea) asserted that the need for an automated entry/exit control system had been widely recognized years before the passage of IIRIRA. They maintained further that such a system is essential to ensure the integrity of all nonimmigrant admissions and to maintain control of U.S. borders. The 105th Congress acted upon several pieces of legislation, which would have taken varying approaches to Section 110 by either extending or eliminating deadlines for certain types of ports of entry, or repealing Section 110 altogether.

P.L. 105-277 also amends another provision of IIRIRA that some observers view as instrumental in implementing Section 110 at southern land border ports of entry. This provision, Section 104, mandates the replacement of all Border Crossing Cards — the most common document presented by Mexican nationals seeking to cross the border temporarily — by September 30, 1999. The Administration and groups representing transborder communities, however, maintained that the FY1999 deadline was unfeasible for the replacement of an estimated 5.5 million Border Crossing Cards in circulation, and that forcing such a timetable would cause needless hardship and inconvenience for legitimate border crossers. Therefore, P.L. 105-277 amends Section 104 to extend this provision’s deadline to September 30, 2001. It also limits the fee to recover the cost of manufacturing the documents to \$13 for minors under 15 years of age.

Finally, report language accompanying the FY1999 INS appropriation (also included in P.L. 105-277) earmarks an increase of \$20 million to continue the development of a Section 110 system.

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Immigration: Visa Entry/Exit Control System

Introduction

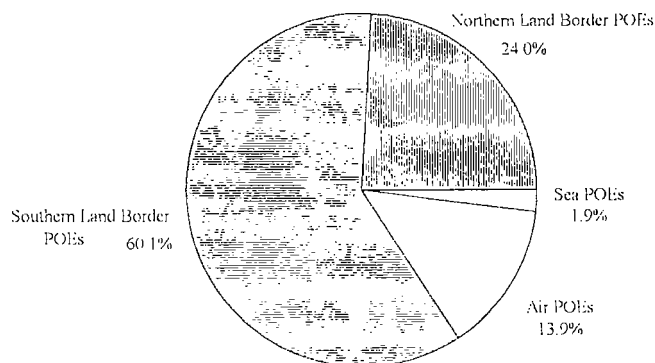
The Department of Justice's Immigration and Naturalization Service (INS) Inspections program and the Department of the Treasury's U.S. Customs Service share jurisdiction over international ports of entry. The Customs Service is responsible for clearing the entry of goods and merchandise into the country; INS is responsible for managing the admission of both citizens and foreign nationals. At many ports of entry, INS and Customs inspectors are cross-designated to enforce one another's respective areas of the law.¹ Therefore, both INS and Customs inspectors clear persons for entry into the United States. In FY1997, these agencies conducted approximately one-half billion inspections. As illustrated in **Figure 1**, more than 416 million inspections are conducted at land border ports.

Section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act (Division C of P.L. 104-208; IIRIRA) requires the Attorney General to develop an automated entry/exit control system to create a record for every alien departing from the United States and match it with the alien's record of arrival. Section 110 also requires that this system identify nonimmigrants who overstay the terms of

their admission through online computer searching. The goal of Section 110 is greater immigration enforcement and border security through better record keeping of the arrival and departure of non-citizens. Section 110, as originally included in IIRIRA, required further that this system be established at all international ports of entry by September 30, 1998. Implementing Section 110, however, has proven more difficult at land border and seaports of entry than at airports of entry, because the capacity to record alien arrivals and departures at land border and seaports is not as fully developed. Consequently, the FY1999 Omnibus Consolidated and Emergency

**Figure 1. FY1997 INS Inspections
Land, Air & Sea Ports of Entry**

(499 million inspections)



CRS presentation of data provided by INS.

¹ This is the case generally at most land border and sea ports of entry; however, at most major air ports of entry, INS and Customs inspections are conducted separately.

Supplemental Appropriations Act (P.L. 105-277) amends Section 110 to extend the September 30, 1998 deadline to March 31, 2001 for land border and sea ports of entry, but leaves the end of FY1998 deadline in place for air ports of entry (now October 15, 1998).

Implementing Section 110 has proven difficult because INS has not tracked arrivals and departures for immigrants (non-citizens admitted for permanent residence) and has had only limited success in tracking arrivals and departures for nonimmigrants (non-citizens admitted on a temporary basis). An automated entry/exit control system, when fully developed and implemented, would provide a method by which to identify nonimmigrant overstays (those who violate the period of their temporary admission). It would also provide an objective criterion by which to extend visa waivers to other countries under the Visa Waiver Pilot Program.² In addition, Section 110 requires that the system capture the arrival and departure of all aliens, including those admitted for permanent residence (immigrants). Such information could be used to determine whether immigrants have abandoned their U.S. residency. In some cases, those immigrants who have not maintained their U.S. residency may be in jeopardy of losing their permanent resident alien card. Such a system, if effectively linked to law enforcement databases, would also serve as a means of screening aliens who may be subject to removal or exclusion from the United States.

In November 1997, before the Senate Judiciary's Immigration Subcommittee, INS outlined five strategic considerations that the agency viewed as essential to the development of an automated entry/exit control.

- One, the system should be operational in all settings and would record alien arrivals and departures into an online database (such a database does not currently exist).
- Two, the system should not unduly increase the amount of time a person spends in the inspection process.
- Three, INS must take full advantage of modern information management technologies.
- Four, to minimize costs, the system should be grafted upon already existent procedures and systems.
- And, five, because many parties, both public and private, have an interest in facilitating international travel, stakeholder involvement is essential in crafting a system that would provide "equal or better" service to "the traveling public, trade and transportation interests, and the American people."

The agency cited as a particular concern, "the logistics and costs of modifying and rebuilding land and seaports of entry to accommodate an automated departure management system." For these reasons, INS also conveyed the Administration's

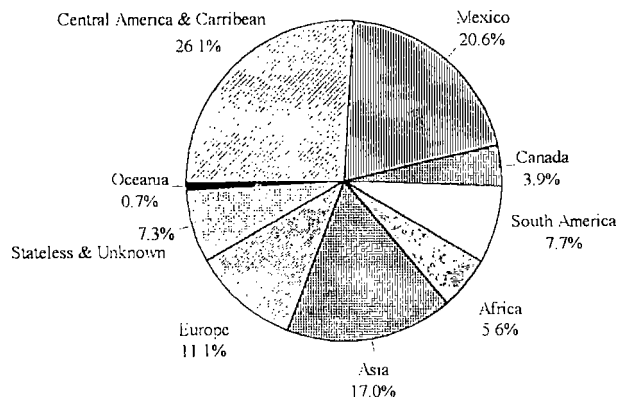
² The Visa Waiver Pilot Program (VWPP) authorizes the Attorney General to waive the visa documentary requirements for aliens traveling from certain designated countries as temporary visitors for business or pleasure (tourists). Nationals from participating countries simply complete an admission form before their arrival and are admitted for up to 90 days. For further information, see CRS Report 97-309, *Immigration: Visa Waiver Pilot Program*.

proposal that the FY1998 deadline for an automated entry/exit control system at land border and seaports of entry be eliminated. In July 1998, these concerns were reiterated by INS in a hearing before the House Judiciary's Immigration and Claims Subcommittee.³

Arrival/Departure Management and Nonimmigrant Overstays

A principal focus of Section 110 is the enumeration and identification of nonimmigrant overstays, i.e., those persons who are admitted legally to the United States on a temporary basis and subsequently overstay the terms of their admission. In February 1997, INS estimated the resident illegal alien population at 5 million persons as of October 1996. That population was roughly divided between illegal aliens who had entered without inspection (59%) and those who had overstayed the terms

**Figure 2. Estimated Nonimmigrant Overstay Population
(2.1 million as of October 1996)**



CRS presentation of estimates provided by INS Office of Policy and Planning

As illustrated in **Figure 2**, over half of the estimated 2.1 million nonimmigrant overstays are from this hemisphere. Some observers have been critical of INS enforcement efforts for being too heavily weighted towards stopping illegal aliens who enter without inspection over those who overstay the terms of their nonimmigrant admission.

INS currently tracks nonimmigrant arrivals and departures through the Form I-94, the Arrival/Departure Record: the arrival portion of Form I-94 is collected upon entry and the departure portion is collected upon exit. Arrivals and departures are then keyed manually into the Nonimmigrant Information System — the current system for managing approximately 25 million nonimmigrant files. For matched I-94s, INS assumes the nonimmigrant departed; for unmatched I-94s, the agency assumes they did not. Although nearly all nonimmigrants entering the United States at airports and seaports (other than alien crewmembers) are required to fill out I-94s, nonimmigrants entering the United States at land border ports are required to fill out I-94s much less frequently. There have also been difficulties in collecting departure forms from departing aliens. INS has been criticized, moreover, for not producing timely and accurate data on nonimmigrant overstays from what data it does collect.

³ The subject of this hearing was alternative technologies for the implementation of Section 110. Other witnesses, notably from industries involved in developing these technologies, were much more optimistic about the logistics of an automated system.

As a remedy, Section 110 requires an annual report to Congress that is to include (1) the number of departure records collected, including the nationalities of the departing aliens; (2) the number of departure records successfully matched with prior arrival records, including the aliens' nationalities and immigrant or nonimmigrant classifications; and (3) the number, nationalities, and dates of arrival of nonimmigrants who arrived in the United States under the Visa Waiver Pilot Program, for whom no corresponding departure record has been entered into the system and matched with a corresponding arrival record, indicating that they have overstayed the terms of their admission. Furthermore, Section 110 requires that nonimmigrant overstay information gained through this system be incorporated into INS and State Department immigration-related databases. INS currently captures the greatest amount of arrival/departure data for nonimmigrants at airports.

Arrival/Departure Management at Airports

There are nearly 133 international airports of entry and 15 preinspection stations on foreign territory. In FY1997, INS and USCS inspectors conducted nearly 69 million inspections (almost 14% of total inspections, as **Figure 1** illustrates) at airports of entry. At airports of entry, inspectors enter the names of all persons, citizen and non-citizen, into the InterAgency Border Inspection System (IBIS)⁴ to clear them for entry into the United States. In addition, air carriers are required by law to present properly completed I-94s to an immigration officer for all nonimmigrants arriving and departing the country.

For nonimmigrants, INS has recently conducted a pilot program with USAirways on the Munich, Germany to Philadelphia, Pennsylvania flight in which I-94 arrival/departure records were captured electronically and uploaded into the Nonimmigrant Information System. So far, the results of this pilot program have been favorable. INS testified that based on the Philadelphia pilot program and other available technologies, a preliminary entry/exit control system could be established at major airports of entry by the end of FY1998, but such a system would still be in a developmental stage. According to INS, entry/exit records would be captured by scanning machine readable passports, reentry permits, legal permanent resident cards, and other immigration-related documentation. Indeed, machine readable documents, whether I-94s, passports, permanent resident cards (green cards), or border crossing cards, are an integral component of an automated entry/exit control system.

Arrival/Departure Management at Seaports

In FY1997, INS and Customs inspectors conducted approximately 10 million inspections at 70 seaports of entry (2% of total FY1997 inspections), but this number does not accurately reflect the total number of non-citizens entering the United States on an annual basis through seaports of entry. For example, alien crewmembers are often only inspected once every 90 days under current law as their vessels travel along coastlines or criss-cross international waterways. Passengers on cruise lines, moreover, may debark and embark many times onto U.S. territory, but generally are

⁴ IBIS is a multi-agency centralized lookout database that is linked to a number of immigration and law enforcement databases.

only inspected at the outset and end of a cruise. Whether alien crewmembers and cruise line passengers make up a large enough component of the undocumented immigrant population to warrant the additional inspections and an entry/exit control system at seaports remains a question.

Arrival/Departure Management at Land Border Ports

Many people who cross the land border frequently reside in the region. Therefore, in the past, documenting inspections at land border ports have not been conducted with the same level of intensity as at airports. At land border ports, inspectors visually screen applicants for admission in the primary inspection lanes. As the vehicle approaches the inspections booth, the inspector usually enters the automobile license plate number into IBIS to check whether there is a lookout record on it. If there is a record, the vehicle is detoured into secondary inspection for further examination. In addition, the inspector queries the vehicle's occupants for documentation, intended destination, and length of stay. If in the inspector's judgement no further examination is warranted, the vehicle and its occupants are waved through.

In FY1997, INS and Customs inspectors conducted nearly 416 million land border inspections: 297 million inspections on our southern land border and nearly 119 million on our northern land border (see **Figure 1**). There are 107 land border ports of entry on the 4,780 mile long border between Canada and the lower 48 states. There are 37 land border ports of entry on the 1,952 mile long border between Mexico and the United States. On both borders, the ratio of citizens to non-citizens inspected is estimated at roughly 1:2.

Northern Land Border. The Canadian government has expressed strong opposition to the implementation of Section 110 on the northern land border, as have some northern border congressional delegations. Canadians who enter the United States through land border ports are not required to present a passport, and are often not required to obtain a visa.⁵ In addition, Canadian citizens and British subjects residing in Canada are generally not required to obtain an I-94 form, if they are entering the United States temporarily for business or pleasure. Canadians entering the United States for purposes other than business or pleasure, e.g., employment, trade, and diplomatic activities, etc., are issued an I-94. Upon departure, the Canadian government collects I-94 departure records for the INS. Canadians, however, are not exempted from Section 110. Legislation has been introduced that would exempt Canadians from the requirements of Section 110. Nevertheless, even if Canadian nationals were exempted, this would not obviate the need for an entry/exit control system for non-Canadian nationals entering the United States through northern land border ports.

Southern Land Border. The Mexican government has long complained about the difference in treatment of its nationals at the border as compared to Canadian

⁵ Section 212(d)(4)(B) of the INA gives the Secretary of State and the Attorney General the discretionary authority to waive documentary requirements for admission. And, these requirements are often waived on a basis of reciprocity.

nationals. Mexican nationals applying for admission to the United States as visitors are required to obtain a visa or hold a Border Crossing Card, either of which can be inconvenient to obtain. Border Crossing Cards are issued to Mexican nationals who are frequent border crossers and who can demonstrate that they are unlikely to abandon their Mexican residence. If they intend to go 25 miles or further inland and/or stay longer than 72 hours, they are also required to obtain an I-94.⁶ Upon departure, I-94s are to be deposited into boxes at ports of entry; however, this act is completely voluntary. Some Members of Congress have also questioned this difference in treatment.

However, current policy on the southern land border has been justified primarily because inadmissible applicants for admission are interdicted at ports of entry in greater frequency on the southern land border than on the northern land border. For example, in FY1997, for every one inadmissible alien interdicted on the northern border, 28 were interdicted on the southern border.⁷ In addition, in recent years, the Border Patrol has apprehended over a million Mexican nationals annually attempting to enter the United States without inspection between ports of entry. Moreover, federal law enforcement agencies have estimated that a very large percentage of illegal narcotics entering the United States are smuggled across the southern land border, both between and through ports of entry. On the other hand, as it does on the northern land border, a very large volume of legitimate commercial and private traffic flows across the southern land border.

A related provision of the Illegal Immigration Reform and Immigrant Responsibility Act, Section 104, requires that a biometric identifier be developed and incorporated into all new Border Crossing Cards by April 1, 1998; and that only the new card will be accepted after September 30, 1999. Section 104 requires further that aliens presenting the new document not be allowed to cross the border unless that biometric identifier matches the alien document holder's characteristics. The Border Crossing Card is by far the most common document presented by Mexican nationals seeking to enter the United States temporarily at land border ports.⁸ As such, some observers view the replacement of the Border Crossing Card with a more secure/machine readable document as instrumental in implementing Section 110 on the southern land border.

The document required by Section 104 has been designated by INS and the Department of State as the "laser visa." On April 1, 1998, the Department of State began replacing the Border Crossing Cards with the "laser visa," which combines the functions of the Border Crossing Card and the B-1/B-2 nonimmigrant temporary visa for business or pleasure. Unlike in the past, however, the Administration decided that INS will not process claims for "laser visas" as they did for Border Crossing Cards

⁶ Prior to April 1997, Mexicans nationals with Border Crossing Card's were issued I-444s, instead of I-94s.

⁷ Inadmissible aliens interdicted include those aliens reported by INS as having either presented fraudulent documents, made false claims to U.S. citizenship, or made other false claims to inspectors at ports of entry.

⁸ Border Crossing Cards are also issued to Canadians, but much less frequently, and INS intends to phase their use out for Canadians in the near future.

at ports of entry; rather, the Department of State will be entirely responsible for adjudicating all such claims at the U.S. Embassy in Mexico City and at U.S. consulates within Mexico. Moreover, there is a \$45 fee attached to the "laser visa," whereas, the Border Crossing Card only cost \$26. Critics point out that attaining a "laser visa" is more inconvenient and costly today than attaining a Border Crossing Card was previously. To facilitate the replacement of the estimated 5.5 million Border Crossing Cards currently in circulation, the Department of State has approached the Mexican government about opening several temporary offices in Mexican border cities.

The FY1999 Omnibus Appropriations Act (P.L. 105-277) included a provision that amends Section 104 to extend the deadline for the replacement of the old Border Crossing Cards with "laser visas" from September 30, 1999 to September 30, 2001. Additionally, P.L. 105-277 limits the fee for minors under 15 years of age to \$13 so as to recover the cost of manufacturing the documents. This provision also requires the Secretary of State to process such claims in the Mexican border cities of Nogales, Nuevo Laredo, Ciudad Acuna, Piedras Negras, Agua Prieta, and Reynosa through the end of FY2001.

Land Border Automated Entry/Exit Control System. At land border ports of entry, there is currently no procedure or system in place upon which to build an automated entry/exit control system. INS is likely to build upon recent technological initiatives, like dedicated commuter lanes and other expedited inspection processes (based upon machine readable documents, biometrics, and radio frequency tags), but there is currently no comprehensive technological solution that will allow the agency to rapidly implement Section 110 at land border ports. It is also probable that intensifying the inspections process at land border ports will necessitate more inspection lanes, booths, and staff. Furthermore, capturing departure records essentially means that INS will create some sort of departure process to collect information where none exists today. This may mean duplicating, at least to some degree, the inspections process for returning traffic. Where possible, this may also require segmenting vehicular traffic; for example, commercial trucks would be inspected in designated lanes, as would citizens, frequent border crossers, and all others.

Meanwhile, many contend that if Section 110 is implemented without a clear assessment of system requirements, it will cause gridlock at land border ports, disrupting trade, commerce, tourism, and other legitimate cross-border traffic. Others argue further that there is no need for the creation of a record of arrival and departure for all aliens every time they cross the border; i.e., the costs of Section 110 will outweigh its benefits. Some have proposed that a risk analysis approach would be more efficient, that by increasing inspections staff and the number of random inspections, border security could be increased with greater efficiency and less cost. Such arguments lead others to propose postponing the Section 110 deadline indefinitely until feasibility and cost/benefit studies can be conducted.

Proponents of Section 110 maintain that they have lost patience with INS, asserting that the need for an automated entry/exit control system was recognized long before the passage of the Illegal Immigration Reform and Immigrant Responsibility Act. They argue that such a system is essential to ensure the integrity

of nonimmigrant admissions as well as the control of U.S. borders. Some further assert that an entry/exit control system would eliminate or reduce the practice of profiling persons of "foreign appearance or accent," and, as a benefit, U.S. citizens and legal permanent residents who might fit these "foreign" profiles would not be subjected to secondary inspections as frequently.

Legislation Related to Section 110 Acted on in the 105th Congress

The Omnibus Consolidated and Emergency Supplemental Appropriations Act for FY1999 (P.L. 105-277) amends Section 110 to extend the deadline for the implementation of an entry/exit control system for land border and sea ports of entry from September 30, 1998 to March 31, 2001, but leaves the end of FY1998 deadline in place for airports of entry (now October 15, 1998). This amendment also includes a clause directing that the entry/exit control system must "not significantly disrupt trade, tourism, or other legitimate cross-border traffic at land border ports of entry." The Section 110 amendment included in P.L. 105-277 represents a compromise between several pieces of legislation acted upon by the 105th Congress that would have taken varying approaches to Section 110, by extending or eliminating the deadline for system implementation at certain types of ports of entry, or by repealing Section 110 altogether.

The House passed H.R. 2920 on November 10, 1997: this bill would have extended the FY1998 deadline to FY1999 for land border ports, but would have left the FY1998 deadline in place for air and seaports of entry. The Senate Judiciary Committee, in turn, reported S. 1360 (S.Rept. 105-197) on April 23, 1998: this bill would have exempted land border ports and seaports from Section 110's requirements, but would have required that such a system be implemented at all airports of entry by 2 years of enactment.

In the meantime, the Senate passed the FY1999 Commerce, Justice, State and the Judiciary (CJS) appropriations bill (S. 2260) on July 23, 1998, which included a provision to repeal Section 110 in its entirety. Then, on July 30, 1998, the Senate considered the House-passed H.R. 2920, amended it in the nature of a substitute with a slightly revised version of S. 1360, and passed the measure. To give negotiators additional time to work out a compromise, the House and Senate passed stop-gap legislation (H.R. 4658/S. 2540) on October 1, 1998 to extend the Section 110 deadline to October 15, 1998. Neither measure was presented to the President; however, the 15-day extension on the deadline for airports of entry was included in P.L. 105-277.

Concerning Border Crossing Cards, both S. 2260 and S. 1360 included provisions to amend Section 104 of the Illegal Immigration Reform and Immigrant Responsibility Act (Division C of P.L. 104-208). The provision included in P.L. 105-277 that amends Section 104 is a variation of these provisions. P.L. 105-277 amends Section 104 to extend the deadline for the replacement of the old border crossing cards with the laser visa from September 30, 1999 to September 30, 2001. Additionally, P.L. 105-277 amended Section 104 to limit the fee to recover the cost of manufacturing the documents to \$13 for minors under 15 years of age. This provision also requires the Secretary of State to process claims for the new Border Crossing Card (the "laser" visa) in the Mexican border cities of Nogales, Nuevo

Laredo, Ciudad Acuna, Piedras Negras, Agua Prieta, and Reynosa through the end of FY2001

Regarding funding for the development of an automated entry/exit control system, conference report language accompanying the FY1999 CJS appropriations (also included in P.L. 105-277) earmarks \$20 million to continue the development of a Section 110 system, matching the House-passed CJS Appropriations Act (H.R. 4276) and the Administration's request. The Senate-passed FY1999 CJS Appropriations Act (S. 2260) had included no similar earmark, since this bill included a provision to repeal Section 110. For FY1998, P.L. 105-119 provided INS with \$13 million for the continued development of an Section 110 system.