

108TH CONGRESS  
1ST SESSION

# S. 539

To authorize appropriations for border and transportation security personnel and technology, and for other purposes.

---

## IN THE SENATE OF THE UNITED STATES

MARCH 5, 2003

Mr. DOMENICI (for himself, Mr. DORGAN, Mr. KYL, Mrs. FEINSTEIN, Ms. MURKOWSKI, Mr. BURNS, Mrs. MURRAY, Mr. MCCAIN, Mrs. HUTCHISON, Mr. COLEMAN, and Mr. BINGAMAN) introduced the following bill; which was read twice and referred to the Committee on Finance

---

## A BILL

To authorize appropriations for border and transportation security personnel and technology, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Border Infrastructure  
5 and Technology Modernization Act”.

6 **SEC. 2. DEFINITIONS.**

7       In this Act:

8           (1) COMMISSIONER.—The term “Commis-  
9 sioner” means the Commissioner of the Bureau of

1 Customs and Border Protection of the Department  
2 of Homeland Security.

3 (2) MAQUILADORA.—The term “maquiladora”  
4 means an entity located in Mexico that assembles  
5 and produces goods from imported parts for export  
6 to the United States.

7 (3) NORTHERN BORDER.—The term “northern  
8 border” means the international border between the  
9 United States and Canada.

10 (4) SOUTHERN BORDER.—The term “southern  
11 border” means the international border between the  
12 United States and Mexico.

13 (5) UNDER SECRETARY.—The term “Under  
14 Secretary” means the Under Secretary for Border  
15 and Transportation Security of the Department of  
16 Homeland Security.

17 **SEC. 3. HIRING AND TRAINING OF BORDER AND TRANS-**  
18 **PORTATION SECURITY PERSONNEL.**

19 (a) INSPECTORS AND AGENTS.—

20 (1) INCREASE IN INSPECTORS AND AGENTS.—  
21 During each of fiscal years 2004 through 2008, the  
22 Under Secretary shall—

23 (A) increase the number of full-time agents  
24 and associated support staff in the Bureau of  
25 Immigration and Customs Enforcement of the

1 Department of Homeland Security by the equiv-  
2 alent of at least 100 more than the number of  
3 such employees in the Bureau as of the end of  
4 the preceding fiscal year; and

5 (B) increase the number of full-time in-  
6 spectors and associated support staff in the Bu-  
7 reau of Customs and Border Protection by the  
8 equivalent of at least 200 more than the num-  
9 ber of such employees in the Bureau as of the  
10 end of the preceding fiscal year.

11 (2) WAIVER OF FTE LIMITATION.—The Under  
12 Secretary is authorized to waive any limitation on  
13 the number of full-time equivalent personnel as-  
14 signed to the Department of Homeland Security to  
15 fulfill the requirements of paragraph (1).

16 (b) TRAINING.—The Under Secretary shall provide  
17 appropriate training for agents, inspectors, and associated  
18 support staff on an ongoing basis to utilize new tech-  
19 nologies and to ensure that the proficiency levels of such  
20 personnel are acceptable to protect the borders of the  
21 United States.

22 **SEC. 4. PORT OF ENTRY INFRASTRUCTURE ASSESSMENT**  
23 **STUDY.**

24 (a) REQUIREMENT TO UPDATE.—Not later than  
25 January 31 of each year, the Administrator of General

1 Services shall update the Port of Entry Infrastructure As-  
2 sessment Study prepared by the United States Customs  
3 Service, the Immigration and Naturalization Service, and  
4 the General Services Administration in accordance with  
5 the matter relating to the ports of entry infrastructure as-  
6 sessment that is set out in the joint explanatory statement  
7 in the conference report accompanying H.R. 2490 of the  
8 106th Congress, 1st session (House of Representatives  
9 Rep. No. 106–319, on page 67) and submit such updated  
10 study to Congress.

11 (b) CONSULTATION.—In preparing the updated stud-  
12 ies required in subsection (a), the Administrator of Gen-  
13 eral Services shall consult with the Director of the Office  
14 of Management and Budget, the Under Secretary, and the  
15 Commissioner.

16 (c) CONTENT.—Each updated study required in sub-  
17 section (a) shall—

18 (1) identify port of entry infrastructure and  
19 technology improvement projects that would enhance  
20 border security and facilitate the flow of legitimate  
21 commerce if implemented;

22 (2) include the projects identified in the Na-  
23 tional Land Border Security Plan required by sec-  
24 tion 5; and

1           (3) prioritize the projects described in para-  
2           graphs (1) and (2) based on the ability of a project  
3           to—

4                   (A) fulfill immediate security requirements;

5                   and

6                   (B) facilitate trade across the borders of  
7           the United States.

8           (d) **PROJECT IMPLEMENTATION.**—The Commissioner  
9           shall implement the infrastructure and technology im-  
10          provement projects described in subsection (c) in the order  
11          of priority assigned to each project under paragraph (3)  
12          of such subsection.

13          (e) **DIVERGENCE FROM PRIORITIES.**—The Commis-  
14          sioner may diverge from the priority order if the Commis-  
15          sioner determines that significantly changed cir-  
16          cumstances, such as immediate security needs or changes  
17          in infrastructure in Mexico or Canada, compellingly alter  
18          the need for a project in the United States.

19          **SEC. 5. NATIONAL LAND BORDER SECURITY PLAN.**

20          (a) **REQUIREMENT FOR PLAN.**—Not later than Janu-  
21          ary 31 of each year, the Under Secretary shall prepare  
22          a National Land Border Security Plan and submit such  
23          plan to Congress.

24          (b) **CONSULTATION.**—In preparing the plan required  
25          in subsection (a), the Under Secretary shall consult with

1 the Under Secretary for Information Analysis and Infra-  
 2 structure Protection and the Federal, State, and local law  
 3 enforcement agencies and private entities that are involved  
 4 in international trade across the northern border or the  
 5 southern border.

6 (c) VULNERABILITY ASSESSMENT.—

7 (1) IN GENERAL.—The plan required in sub-  
 8 section (a) shall include a vulnerability assessment  
 9 of each port of entry located on the northern border  
 10 or the southern border.

11 (2) PORT SECURITY COORDINATORS.—The  
 12 Under Secretary may establish 1 or more port secu-  
 13 rity coordinators at each port of entry located on the  
 14 northern border or the southern border—

15 (A) to assist in conducting a vulnerability  
 16 assessment at such port; and

17 (B) to provide other assistance with the  
 18 preparation of the plan required in subsection

19 (a).

20 **SEC. 6. EXPANSION OF COMMERCE SECURITY PROGRAMS.**

21 (a) CUSTOMS-TRADE PARTNERSHIP AGAINST TER-  
 22 RORISM.—

23 (1) IN GENERAL.—Not later than 180 days  
 24 after the date of enactment of this Act, the Commis-  
 25 sioner, in consultation with the Under Secretary,

1 shall develop a plan to expand the size and scope  
2 (including personnel needs) of the Customs-Trade  
3 Partnership Against Terrorism programs along the  
4 northern border and southern border, including—

5 (A) the Business Anti-Smuggling Coali-  
6 tion;

7 (B) the Carrier Initiative Program;

8 (C) the Americas Counter Smuggling Ini-  
9 tiative;

10 (D) the Container Security Initiative;

11 (E) the Free and Secure Trade Initiative;

12 and

13 (F) other Industry Partnership Programs  
14 administered by the Commissioner.

15 (2) SOUTHERN BORDER DEMONSTRATION PRO-  
16 GRAM.—Not later than 180 days after the date of  
17 enactment of this Act, the Commissioner shall estab-  
18 lish a demonstration program along the southern  
19 border for the purpose of implementing at least one  
20 Customs-Trade Partnership Against Terrorism pro-  
21 gram along that border. The Customs-Trade Part-  
22 nership Against Terrorism program selected for the  
23 demonstration program shall have been successfully  
24 implemented along the northern border as of the  
25 date of enactment of this Act.

1 (b) MAQUILADORA DEMONSTRATION PROGRAM.—  
2 Not later than 180 days after the date of enactment of  
3 this Act, the Commissioner shall establish a demonstration  
4 program to develop a cooperative trade security system to  
5 improve supply chain security.

6 **SEC. 7. PORT OF ENTRY TECHNOLOGY DEMONSTRATION**  
7 **PROGRAM.**

8 (a) ESTABLISHMENT.—The Under Secretary shall  
9 carry out a technology demonstration program to test and  
10 evaluate new port of entry technologies, refine port of  
11 entry technologies and operational concepts, and train per-  
12 sonnel under realistic conditions.

13 (b) TECHNOLOGY AND FACILITIES.—

14 (1) TECHNOLOGY TESTED.—Under the dem-  
15 onstration program, the Under Secretary shall test  
16 technologies that enhance port of entry operations,  
17 including those related to inspections, communica-  
18 tions, port tracking, identification of persons and  
19 cargo, sensory devices, personal detection, decision  
20 support, and the detection and identification of  
21 weapons of mass destruction.

22 (2) FACILITIES DEVELOPED.—At a demonstra-  
23 tion site selected pursuant to subsection (c)(2), the  
24 Under Secretary shall develop facilities to provide  
25 appropriate training to law enforcement personnel



1 who have responsibility for border security, including  
2 cross-training among agencies, advanced law en-  
3 forcement training, and equipment orientation.

4 (c) DEMONSTRATION SITES.—

5 (1) NUMBER.—The Under Secretary shall carry  
6 out the demonstration program at not less than 3  
7 sites and not more than 5 sites.

8 (2) SELECTION CRITERIA.—To ensure that at  
9 least 1 of the facilities selected as a port of entry  
10 demonstration site for the demonstration program  
11 has the most up-to-date design, contains sufficient  
12 space to conduct the demonstration program, has a  
13 traffic volume low enough to easily incorporate new  
14 technologies without interrupting normal processing  
15 activity, and can efficiently carry out demonstration  
16 and port of entry operations, at least 1 port of entry  
17 selected as a demonstration site shall—

18 (A) have been established not more than  
19 15 years before the date of enactment of this  
20 Act;

21 (B) consist of not less than 65 acres, with  
22 the possibility of expansion onto not less than  
23 25 adjacent acres; and

24 (C) have serviced an average of not more  
25 than 50,000 vehicles per month in the 12 full

1           months preceding the date of enactment of this  
2           Act.

3           (d) RELATIONSHIP WITH OTHER AGENCIES.—The  
4 Under Secretary shall permit personnel from an appro-  
5 priate Federal or State agency to utilize a demonstration  
6 site described in subsection (c) to test technologies that  
7 enhance port of entry operations, including those related  
8 to inspections, communications, port tracking, identifica-  
9 tion of persons and cargo, sensory devices, personal detec-  
10 tion, decision support, and the detection and identification  
11 of weapons of mass destruction.

12           (e) REPORT.—

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

19           (2) CONTENT.—The report shall include an as-  
20 sessment by the Under Secretary of the feasibility of  
21 incorporating any demonstrated technology for use  
22 throughout the Bureau of Customs and Border Pro-  
23 tection.

1 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) IN GENERAL.—In addition to any funds other-  
3 wise available, there are authorized to be appropriated—

4 (1) to carry out the provisions of section 3,  
5 such sums as may be necessary for the fiscal years  
6 2004 through 2008;

7 (2) to carry out the provisions of section 4—

8 (A) to carry out subsection (a) of such sec-  
9 tion, such sums as may be necessary for the fis-  
10 cal years 2004 through 2008; and

11 (B) to carry out subsection (d) of such sec-  
12 tion—

13 (i) \$100,000,000 for each of the fiscal  
14 years 2004 through 2008; and

15 (ii) such sums as may be necessary in  
16 any succeeding fiscal year;

17 (3) to carry out the provisions of section 6—

18 (A) to carry out subsection (a) of such sec-  
19 tion—

20 (i) \$30,000,000 for fiscal year 2004,  
21 of which \$5,000,000 shall be made avail-  
22 able to fund the demonstration project es-  
23 tablished in paragraph (2) of such sub-  
24 section; and

1 (ii) such sums as may be necessary  
2 for the fiscal years 2005 through 2008;  
3 and

4 (B) to carry out subsection (b) of such sec-  
5 tion—

6 (i) \$5,000,000 for fiscal year 2004;  
7 and

8 (ii) such sums as may be necessary  
9 for the fiscal years 2005 through 2008;  
10 and

11 (4) to carry out the provisions of section 7, pro-  
12 vided that not more than \$10,000,000 may be ex-  
13 pended for technology demonstration program activi-  
14 ties at any 1 port of entry demonstration site in any  
15 fiscal year—

16 (A) \$50,000,000 for fiscal year 2004; and

17 (B) such sums as may be necessary for  
18 each of the fiscal years 2005 through 2008.

19 (b) INTERNATIONAL AGREEMENTS.—Funds author-  
20 ized in this Act may be used for the implementation of  
21 projects described in the Declaration on Embracing Tech-  
22 nology and Cooperation to Promote the Secure and Effi-  
23 cient Flow of People and Commerce across our Shared  
24 Border between the United States and Mexico, agreed to  
25 March 22, 2002, Monterrey, Mexico (commonly known as

1 the Border Partnership Action Plan) or the Smart Border  
2 Declaration between the United States and Canada,  
3 agreed to December 12, 2001, Ottawa, Canada that are  
4 consistent with the provisions of this Act.

○