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A Comparative Analysis of the Immigration Functions in the Major Homeland Security Bills

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Summary

The House passed the *Homeland Security Act of 2002* (H.R. 5005) on July 26, 2002. On July 25, 2002, the Senate Governmental Affairs Committee approved a modified amendment in the nature of a substitute to the text of the *National Homeland Security and Combating Terrorism Act of 2002* (S. 2452). On September 3, 2002, the Senate began debate on H.R. 5005. On that date, the text of S. 2452 as approved by the Senate Governmental Affairs Committee was submitted as an amendment in the nature of a substitute to H.R. 5005 (S.Amdt. 4471). Legislative action on H.R. 5005 and the Senate amendment was prompted by the June 6, 2002 proposal made by President Bush to create a new Department of Homeland Security (DHS), as well as previous congressional initiatives in this area. The President's proposal includes the Immigration and Naturalization Service (INS) under its *Border Security and Transportation Division*. The key immigration differences in the bills are: (1) whether only the immigration enforcement function or all of INS should be transferred to DHS; and (2) whether those immigration functions transferred to DHS should be housed in their own directorate or as part of a border security division.

H.R. 5005 and the Senate amendment would effectively abolish INS. H.R. 5005 would transfer INS's enforcement function to a newly created DHS under a *Border Security Division*, but would leave intact INS's service function in the Department of Justice (DOJ) under a newly created *Bureau of Citizenship and Immigration Services*. The Senate amendment would transfer all of INS to DHS under two new Bureaus (*Bureau of Immigration Services* and *Bureau of Enforcement and Border Affairs*) in a separate *Directorate of Immigration Affairs*. Both bills would create several new offices and positions within the division (H.R. 5005), directorate (Senate amendment), and bureaus. The House bill and Senate amendment would also create an *Office of Immigration Statistics*. The Senate amendment would create the office within the directorate; and H.R. 5005 would create the office within the Bureau of Justice Statistics.

H.R. 5005 and the Senate amendment would transfer INS's unaccompanied alien children function to the Department of Health and Human Services' Office of Refugee Resettlement. Both bills would maintain the visa issuance function in the Department of State, but would give the Secretary of DHS authority to issue regulations on visa policy. Unlike H.R. 5005, which is silent with respect to the Executive Office for Immigration Review (EOIR), the Senate amendment would create formal statutory authority within DOJ for an Agency of Immigration Hearing and Appeals modeled after EOIR and abolish EOIR in its current form. This report will be updated to reflect changes in legislation.

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A Comparative Analysis of the Immigration Functions in the Major Homeland Security Bills

Introduction

Prompted by President Bush's June 6, 2002 proposal to create a Department of Homeland Security (DHS), Congress has now turned its attention to the legislative details necessary for creating such a department. As Congress weighs the broader question of homeland security and the creation of DHS, the issue of where to locate the various immigration and citizenship functions currently performed by the Department of Justice's (DOJ's) Immigration and Naturalization Service (INS) and the Department of State's (DOS's) Bureau of Consular Affairs is of concern for many lawmakers.

On July 26, 2002, the House passed the Homeland Security Act of 2002 (H.R. 5005). On July 25, 2002, the Senate Governmental Affairs Committee approved a modified amendment in the nature of a substitute to the text of the *National Homeland Security and Combating Terrorism Act of 2002* (S. 2452).¹ On September 3, 2002, the Senate began debate on H.R. 5005. On that date, the text of S. 2452 as approved by the Senate Governmental Affairs Committee was submitted as an amendment in the nature of a substitute to H.R. 5005 (S.Amdt. 4471). H.R. 5005 and the Senate amendment were responses to the June 6, 2002 proposal made by President Bush to create a new DHS, although there had been legislation introduced on this issue beforehand. The President's proposal includes INS under its border and transportation security division. The key immigration differences in the House bill and the Senate amendment are: (1) whether only the immigration enforcement function or all of INS should be transferred to DHS; and (2) whether those immigration functions transferred to DHS should be housed in their own directorate or as part of the border security division.

The report consists of two parts — a narrative analysis and a side-by-side analysis of the immigration provisions in the two bills. The first part, the narrative, opens with a brief discussion of the legislative history pertaining to immigration functions and homeland security. It then discusses the main elements of the immigration provisions: (1) title; (2) definitions; (3) status of INS; (4) service bureau; (5) enforcement bureau; (6) unaccompanied alien children; (7) visa issuance functions; (8) the Executive Office for Immigration Review (EOIR); (9) transition; (10) reporting requirements; and (11) miscellaneous provisions.

¹The Senate Governmental Affairs Committee originally marked-up S. 2452 on May 24, 2002.

The second part is a comparative analysis of the relevant current law and the current administrative structure of INS and the immigration provisions in the House bill and Senate amendment. Because the Senate amendment to H.R. 5005 contains more extensive immigration provisions, the analysis leads with the Senate amendment. The comparison table is divided into the following parts:

- ! Status of the INS
- ! Service Bureau
- ! Enforcement Bureau
- ! Unaccompanied Alien Children
- ! Visa Issuance Function
- ! Executive Office for Immigration Review
- ! Transition
- ! Reporting Requirements
- ! Miscellaneous Provisions

For an analysis of immigration functions in the context of homeland security, please see CRS Report RL31560, *Homeland Security Proposals: Issues Regarding Transfer of Immigration Agencies and Functions*.

Part I: Overview of Legislation

Background

The INS activities generally considered as the enforcement function include the following: (1) providing border security and management; (2) enforcing immigration law within the interior of the United States; (3) detaining and removing aliens found in violation of the INA and related laws; and (4) providing immigration-related intelligence. Additionally, INS's service function includes: (1) the adjudication of immigration and naturalization benefits; and (2) the consideration of refugee and asylum claims and related humanitarian and international concerns. INS inspections is considered to be an enforcement program in terms of the budget and appropriations process in recent years, but organizationally has been considered an examinations or service program.

Section 104 of the INA gives the responsibility for the administration and enforcement of immigration law to the Secretary of State as it relates to the duties and functions of diplomatic and consular officers. The most notable of these are the visa issuance functions of DOS. More precisely, §221 of INA gives consular officers the authority to issue visas to both immigrants and nonimmigrants. DOS oversees 250 diplomatic and consular posts around the world from which visas are issued to immigrants seeking permanent residence and nonimmigrants seeking authorization for a temporary stay in the United States.

As part of a reorganization at DOJ, the Attorney General created EOIR by regulation in 1983 as an agency independent from the INS. The role of EOIR is to administer and interpret federal immigration laws and regulations through the immigration court proceedings, appellate reviews, and administrative hearings in

individual cases. There are three main components to EOIR: the Board of Immigration Appeals; the Office of the Chief Immigration Judge; and the Office of the Chief Administrative Hearing Officer.²

Legislative History

On June 6, 2002, the Administration proposed to create a DHS and to transfer INS into it. The goal of the Administration's proposal is to consolidate into a single federal agency under one cabinet-level person many of the homeland security functions performed by units within various federal agencies and departments. To this end, the Administration plan would place all of the functions of INS under the Border and Transportation Security Division of the proposed department. The plan would split INS's service and enforcement functions into two separate bureaus within the Border and Transportation Security Division. The plan would also maintain the visa issuance function at the Department of State. Although the President's June 6, 2002 proposal was silent with regard to EOIR, he subsequently made it clear that EOIR would be moved to DHS under his proposal.³

On June 24, 2002, the Senate Governmental Affairs Committee marked up the National Homeland Security and Combating Terrorism Act of 2002 (S. 2452). The act would create a homeland security department and transfer INS's enforcement functions to the newly created department under a Directorate of Border and Transportation Division. The act, however, would have left INS's service function under DOJ.

House Majority Leader Richard Armye, Chair of the Select Committee on Homeland Security, introduced the President's proposal for a new DHS as H.R. 5005, the Homeland Security Act of 2002. As amended and passed by the House on July 26, H.R. 5005 would place INS's enforcement programs in a newly created Border and Transportation Security Division of the DHS. When the House Select Committee on Homeland Security marked up H.R. 5005 on July 19, 2002, it approved language on immigrant processing and visa issuances consistent with the House Judiciary Committee recommendations. As recommended by the House Judiciary Committee, H.R. 5005 would leave INS's service functions in DOJ under a newly created Bureau of Citizenship and Immigration Services headed by an Assistant Attorney General at DOJ.

On July 25, 2002, the Senate Governmental Affairs Committee approved a modified amendment in the nature of a substitute to the text of S. 2452; and on September 3, 2002, the Senate began debate on H.R. 5005. The text of S. 2452 as approved by the Senate Governmental Affairs Committee was submitted as an amendment in the nature of a substitute to H.R. 5005 (S.Amdt. 4471). The Senate amendment, as agreed to by the Committee, would transfer all of INS to a separate Directorate of Immigration Affairs in the proposed DHS.

²8 CFR Part 3.

³U.S. President (Bush), *The Department of Homeland Security*, August Recess 2002. p. 20.

Status of INS

The Senate amendment would abolish INS as it is currently configured in DOJ and in its place create a Directorate of Immigration Affairs within DHS. It would create an Under Secretary of Homeland Security for Immigration Affairs to head the Directorate. The Senate amendment would then create two bureaus under the Directorate: (1) a Bureau of Immigration Services that would be headed by an Assistant Secretary of Homeland Security for Immigration Services; and (2) a Bureau of Enforcement and Border Affairs that would be headed by an Assistant Secretary of Homeland Security for Enforcement and Border Affairs.

H.R. 5005 would also abolish INS and transfer its enforcement function to a newly created DHS under its Bureau of Border Security, but it would maintain INS's service function under DOJ's jurisdiction in a newly created Bureau of Citizenship and Immigration Services. Under H.R. 5005, the Bureau of Border Security would be headed by an Assistant Secretary; and the Bureau of Citizenship and Immigration Services would be headed by an Assistant Attorney General for Citizenship and Immigration Services.

Division of Responsibility

Directorate of Immigration Affairs in S.Amdt. 4471. The Senate amendment would create a Directorate of Immigration Affairs within DHS that would be headed by an Under Secretary of Homeland Security for Immigration Affairs. It would place INS's inspections directly under the Under Secretary, distinct from the enforcement and service bureaus. Under the Directorate of Immigration Affairs would be two bureaus: (1) a Bureau of Immigration Services; and (2) a Bureau of Enforcement and Border Affairs. The amendment would create the following offices and positions in the Directorate of Immigration Affairs:

- ! A *General Counsel* who would serve as the main legal advisor for the Directorate and would be responsible for representing the Directorate in legal matters pertaining to the functions of the Directorate.
- ! A *Chief Financial Officer* who would be responsible for the Directorate's budget formulation and implementation.
- ! A *Chief of Policy* who would be responsible for: (1) establishing U.S. immigration policies and priorities; (2) performing research and analysis on immigration issues; and (3) coordinating policy issues between the Directorate and the Service and Enforcement Bureaus.
- ! A *Chief of Congressional, Intergovernmental, and Public Affairs* who would be responsible for: (1) providing information pertaining to immigration-related issues to Congress; (2) serving as a liaison with other federal agencies on immigration issues; and (3) responding to media and public inquiries with regard to immigration issues.
- ! An *Office of the Ombudsman* that would be responsible for: (1) assisting individuals with resolving problems; (2) identifying persistent problems experienced by the public in dealing with the Directorate; (3) proposing potential administrative and statutory changes to minimize the problems; and (4) monitoring the coverage and geographic distribution of local offices.

Bureau of Immigration Services in S.Amdt. 4471. Within the Directorate of Immigration Affairs, the Senate amendment would create a Bureau of Immigration Services that would be headed by an Assistant Secretary of Homeland Security for Immigration Services. It would charge the Assistant Secretary of Homeland Security for Immigration Services with adjudicating certain petitions and applications⁴ as well as training personnel. The Senate amendment would create the following offices and positions in the Bureau of Immigration Services:

- ! A Chief Budget Officer who would be responsible for monitoring and supervising all financial matters of the bureau, and
- ! An office of Professional Responsibility and Quality Review that would ensure the professionalism of the bureau and investigate public charges of employee misconduct.

Bureau of Enforcement and Border Affairs in S.Amdt. 4471. The Senate amendment would create a Bureau of Enforcement and Border Affairs in DHS that would be headed by an Assistant Secretary of Homeland Security for Enforcement and Border Affairs who would report to the Under Secretary for Border Transportation Security. It would charge the Assistant Secretary of Homeland Security for Enforcement and Border Affairs with administering immigration enforcement functions⁵ as well as training personnel. The Senate amendment would create the following offices and positions in the Bureau of Enforcement and Border Affairs:

- ! A Chief Budget Officer who would be responsible for monitoring and supervising all financial matters of the bureau;
- ! An office of Professional Responsibility and Quality Review that would ensure the professionalism of the bureau and investigate public charges of employee misconduct; and
- ! An office of Quality Assurance that would be responsible for ensuring that the directorate's policies with regard to the bureau's functions are properly carried out, and ensuring efficient record management.

The Senate amendment would also establish a border coordination working group that would meet at least once every three months to do the following with respect to border security:

- ! Coordinate budgets appropriations, staffing and other resources;
- ! Coordinate joint and cross-training programs;

⁴Such as nonimmigrant and immigrant petitions; visas and other entry documents, and change of adjustment status; naturalization applications; asylum and refugee applications; determinations with regard to custody, parole, and conditions of parole, as well as the responsibility for the detention of individuals subject to such determination, pertaining to asylum seekers who lack prior non-political criminal records and who have been found to have a credible fear of persecution; adjudications performed at service centers; and all other adjudications under U.S. immigration law.

⁵Such as border patrol function; immigration detention function; removal function; intelligence function; and investigation function.

- ! Monitor, evaluate and make improvements with respect to the coverage and geographic distribution of programs and personnel;
- ! Develop and implement policies and technologies to ensure the flow of lawful traffic, travel and commerce, and enhance scrutiny for high-risk traffic, travel and commerce; and
- ! Identify systemic problems with coordination and propose changes.

Bureau of Border Security in H.R. 5005. H.R. 5005 would create a Bureau of Border Security in DHS that would be headed by an Assistant Secretary who would report to the Under Secretary for Border and Transportation Security. The bill would create the following offices and positions in the Bureau of Border Security:

- ! A Chief of Policy and Strategy who would be responsible for: (1) establishing national immigration enforcement policies and priorities; (2) performing research and analysis on immigration enforcement issues; and (3) coordinating policy issues with the Chief of Policy and Strategy for the Bureau of Citizenship and Immigration Services in DOJ;
- ! A Citizenship and Immigration Services Liaison who would be responsible for: (1) allocating and coordinating resources for the purpose of supporting “shared support functions” for the bureau and DOJ’s Bureau of Citizenship and Immigration Services; and (2) managing facilities, information resources, records, files and forms; and
- ! An office of Professional Responsibility and Quality Review that would: (1) conduct investigations on employees of the bureau with regard to allegations involving noncriminal misconduct, corruption, and fraud not subject to investigation by the Inspector General; (2) inspect the operations of the bureau and provide assessments with regard to the quality of operations; and (3) provide an analysis of the management of the bureau.

Bureau of Citizenship and Immigration Services in H.R. 5005. H.R. 5005 would create a Bureau of Citizenship and Immigration Services in DOJ that would be headed by an Assistant Attorney General who would report directly to the Attorney General. The bill would create the following offices and positions in the Bureau of Citizenship and Immigration Services:

- ! A Chief of Policy and Strategy who would be responsible for: (1) establishing national immigration service policies and priorities; (2) performing research and analysis on immigration services issues; and (3) coordinating policy issues with the Chief of Policy and Strategy for the Bureau of Border Security in DHS;
- ! A General Counsel who would serve as the main legal advisor to the Assistant Attorney General for Citizenship and Immigration Services and would be responsible for representing the bureau in legal matters pertaining to the functions of the bureau;
- ! A Chief Budget Officer who would be responsible for all financial matters of the bureau including formulating and executing the bureau’s budget and collecting all payments, fines, and other debts for the bureau;
- ! A Chief of Congressional, Intergovernmental, and Public Affairs who would be responsible for: (1) providing immigration services information to

Congress, (2) serving as a liaison with other federal agencies on immigration services issues, and (3) responding to media and public inquiries with regard to immigration services issues;

- ! A Border Security Liaison who would be responsible for: (1) allocating and coordinating resources for the purpose of supporting “shared support functions” for the bureau and DHS’s Bureau of Border Security; and (2) managing information resources, records, files and forms;
- ! A Chief of the Office of Citizenship who would be responsible for promoting instruction and training on citizenship responsibilities for aliens interested in becoming naturalized citizens;
- ! A Citizenship and Immigration Services Ombudsman who would be responsible for: (1) assisting clients and employers in identifying issues pertaining to immigration service-related problems; (2) resolving problems; (3) proposing changes in administrative practices; and (4) identifying potential legislative changes that could aid in mitigating such problems. The bill would also assign additional responsibilities to the Ombudsman with respect to monitoring local offices; and
- ! An office of Professional Responsibility and Quality Review that would: (1) conduct investigations of employees of the bureau with regard to allegations involving noncriminal misconduct, corruption and fraud that are not subject to investigation by the Inspector General; (2) inspect the operations of the bureau and provide assessments with regard to the quality of operations; and (3) provide an analysis of the management of the bureau. H.R. 5005 would require the bureau to take into consideration the following with regard to assessing operational decisions that are made: (1) the accuracy of findings, (2) any fraud or misrepresentation associated with the decision, and (3) the efficiency of making such decisions.

Other Offices Created or Transferred. The House bill and Senate amendment would: (1) create a new office for immigration statistics; and (2) transfer the functions with respect to unaccompanied alien children to the Department of Health and Human Services (DHHS).

- ! The Senate amendment would create an Office of Immigration Statistics within the directorate. The newly created office would be responsible for: (1) maintaining all immigration-related statistics of the directorate and EOIR; (2) establishing reliability and validity standards for these statistics; and (3) ensuring the interoperability of the directorate and EOIR.
- ! H.R. 5005 would create an Office of Immigration Statistics within the Bureau of Justice Statistics at DOJ. The newly created office would be responsible for: (1) maintaining all immigration-related statistics of the Bureau of Citizenship and Immigration Service and EOIR; (2) establishing statistical reliability and validity standards; (3) requiring the Bureau of Citizenship and Immigration Services and the EOIR to provide statistics to the Office of Immigration Statistics, and (4) collecting, compiling, analyzing, publishing, and disseminating statistics and information pertaining to immigration in the U.S. and the functions of the agency.
- ! The Senate amendment and H.R. 5005 would transfer functions with respect to the care of unaccompanied alien children to the Director of the Office of Refugee Resettlement (ORR) of DHHS. H.R. 5005 would assign a number

of responsibilities to DHHS with regard to the care of unaccompanied alien children.

The Senate amendment includes additional provisions pertaining to the care and custody of unaccompanied alien children that are not specified in H.R. 5005, such as those that would:

- ! Require specific procedures when encountering unaccompanied alien children at the border, ports of entry and in the interior of the United States;
- ! Encourage family reunification by requiring ORR to place unaccompanied alien children with certain individuals or institutions in order of preference;
- ! Require ORR to establish appropriate standards and conditions for the detention of unaccompanied alien children;
- ! State a sense of Congress that the U.S. will not repatriate children into dangerous settings; also require ORR to assess conditions of the alien child's home country prior to repatriation;
- ! Require ORR to establish procedures to determine the age of children;
- ! Require ORR to appoint a guardian ad litem;
- ! Require ORR to ensure that all unaccompanied alien children have competent legal counsel to represent them in immigration proceedings; and
- ! Create a special immigrant provision to enable abused, neglected, and abandoned alien children who become wards of the court to adjust their legal permanent resident status.

Visa Issuance Function

Both the Senate amendment and H.R. 5005 would maintain the visa issuance function with the Department of State (DOS), but would give the Secretary of DHS authority to issue regulations on visa policy. The Senate amendment, however, would permit the Secretary to delegate the authority to the Secretary of State. H.R. 5005 has several reporting requirements pertaining to the role of foreign nationals in the process of rendering decisions in the visa issuance process and the effect of the act's visa issuance provisions on the issuance of visas to foreign students. For further analysis of visa issuance, see CRS Report RL31512, *Visa Issuances: Policy, Issues, and Legislation*, by Ruth Ellen Wasem.

The Executive Office for Immigration Review

The Senate amendment would create formal statutory authority within DOJ for an Agency of Immigration Hearing and Appeals and abolish the EOIR in its current form. As in the current administrative structure, the Senate amendment would give the agency three main components: the Board of Immigration Appeals; the Office of the Chief Immigration Judge; and the Office of the Chief Administrative Hearing Officer. Although H.R. 5005 is silent on the issue of EOIR, the Bush Administration has stated that it would transfer EOIR to DHS when the Department is established.⁶

⁶White House Office of Homeland Security. *The Department of Homeland Security*, August Recess 2002. p. 20.

Personnel Provisions

H.R. 5005 has several provisions that would revise the personnel system, as it pertains to immigration, that are not in the Senate amendment:

- ! Both bureaus would be required to implement a Managerial Rotation Program that would require employees holding positions involving supervisory or managerial responsibility and classified at GS-14 or above, as a condition for further promotion, to gain some experience in all the major functions performed by the bureau and work in at least one local office (Bureau of Border Security) or one field office and one service center (Bureau of Citizenship and Immigration Services);
- ! The Under Secretary for Border and Transportation Security and the Assistant Attorney General for Citizenship and Immigration Services would be allowed to impose disciplinary action, including termination of employment, pursuant to policies and procedures applicable to FBI employees, on any employee of the bureaus who willfully deceives the Congress or agency leadership on any matter;
- ! The act would allow voluntary separation incentives, up to \$25,000, for certain employees; and
- ! The act would permit the Attorney General and the Secretary of DHS to conduct a demonstration project relating to disciplinary action.

Reporting Provisions

Reporting provisions in the Senate Amendment:

- ! The DHS Ombudsman to report to Congress annually on the objectives of the directorate for the upcoming fiscal year.
- ! The Under Secretary to report to Congress, no later than 1 year after the effective date of the act, on the determination of the feasibility of on-line filing of benefit applications.
- ! The Secretary to report to Congress, no later than 90 days after the effective date of this division, the availability of funds to cover the transition cost pertaining to the transfer of INS's functions to DHS.

Reporting provisions in H.R. 5005:

- ! The Secretary of DHS, no later than 1 year after being sworn into office, on how the bureau will effectively enforce the enforcement provisions of the Immigration and Nationality Act (INA);
- ! The Ombudsman of the Bureau of Citizenship and Immigration Services, annually, on the objectives of the office for the upcoming fiscal year;
- ! The Attorney General, no later than 1 year from enactment, with respect to a plan for implementing a system for more timely and efficient processing of adjudications;
- ! The Attorney General, no later than 1 year from enactment, with respect to changes in the law and authorizations of appropriations that are needed in order for INS and thereafter the Bureau of Citizenship and Immigration

Services to respond to applications for immigration benefits and to otherwise accommodate changing immigration service needs;

- ! The Attorney General, no later than 1 year from enactment, with regard to the impact the transfers have had on immigration functions;
- ! The Attorney General and the Secretary of DHS, no later than 120 days after enactment, (1) on the proposed division and transfer of funds between both bureaus, (2) on the division of personnel between both bureaus, and (3) on an implementation plan;
- ! The Comptroller General, no later than 18 months after the date on which the functions are transferred and every 6 months thereafter, with regard to the status of the transition and any issues that have arisen pertaining to the transfer;
- ! The Comptroller General, no later than 4 years after the transfer, with regard to determinations pertaining to the improvement of immigration functions as a result of the transfer, including operations, management, financial administration, and record keeping, as well as recommendations for further improvements in both bureaus; and
- ! The Comptroller General, no later than 1 year from enactment, with regard to whether the Bureau of Citizenship and Immigration Services is likely to derive adequate funds, in the absence of appropriated funds, from its fee-based programs.

Other Provisions

H.R. 5005 contains a number of other immigration provisions that are not in the Senate amendment:

- ! The act would extend the current deadline for eliminating the adjudication backlog to 1 year from the date of enactment;
- ! The Assistant Secretary of the Bureau of Border Security would be required to administer a program to collect information on nonimmigrant foreign students and other exchange program participants;
- ! The act would state that it is the sense of Congress that the 14-mile border fence project required by 8 U.S.C. 1103 should be a priority for the Secretary;⁷
- ! The act would provide the following sense of Congress findings: (1) the missions of the Bureau of Immigration Enforcement of the DHS and the Bureau of Citizenship and Immigration Services of DOJ are equally important and should be adequately funded, and (2) the border security and the citizenship and immigration services functions transferred under this subtitle should not operate at levels below those in effect prior to enactment; and
- ! The act would state that it is the sense of Congress that the quality and efficiency of immigration services should be improved after the transfers take effect and that the Attorney General should undertake efforts to guarantee that concerns pertaining to immigration services are addressed.

⁷The 14-mile border fence is located near the San Diego border and its purpose is to stem illegal immigration into the United States.

**Part II: Comparison of the Relevant Provisions of the
Immigration and Nationality Act, as Amended;
the Homeland Security Act of 2002 (H.R. 5005); and the
Chairman’s Substitute Amendment to H.R. 5005 (S.Amdt. 4471)**

Title

Subject	Current law / current administrative structure	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Title of Act	None.	The act would specify the following short title: “Immigration Reform, Accountability, and Security Enhancement Act of 2002.” §1001	The act would provide the following title for Title IV of the act: “Border and Transportation Security”; and the following title for Subtitle B: “Immigration and Nationality Functions.”

Definitions

Subject	Current law / current administrative structure	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Definitions	Title I of the Immigration and Nationality Act (INA) provides definitions for the following terms: administrator, advocates, alien, application for admission, Attorney General, border crossing identification card, clerk of the court, Commissioner and Deputy Commissioner, consular officer, crewman, diplomatic visa, doctrine, admission and admitted, foreign state, immigrant, immigrant visa, immigration laws, immigration officer, ineligible to citizenship,	The act would amend Title I of the INA (new Chapter 1) by providing definitions for the following additional terms: enforcement bureau, function, immigration enforcement functions, immigration laws of the United States, immigration policy, administration, inspection functions, immigration service functions, office, Secretary, Service Bureau, and Under Secretary. §1002	No provision.

Subject	Current law / current administrative structure	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Definitions, cont.	lawfully admitted for permanent residence, national, national of the United States, naturalization, noncombatant service, nonimmigrant visa, special immigrant, organization, outlying possessions of the United States, passport, permanent, profession, residence, Service, spouse, wife and husband, state, totalitarian party, United States, unmarried, world communism, graduates of a medical school, refugee, aggravated felony, managerial capacity, substantial, extraordinary ability, order of deportation, stowaway, parent, father, or mother, person, immigration judge, adjacent islands, and child. §101(a)	See above.	See above.

Status of the Immigration and Naturalization Service (INS)

Subject	Current law / current administrative structure ^a	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Status of INS	The Act of February 14, 1903, as amended, provided language for the creation of INS's predecessor. §4 [<i>Under the Administration's November 14, 2001 restructuring plan, INS's service and enforcement functions are separate.</i>] ¹	The act would abolish INS and repeal §4 of the Act of February 14, 1903, as amended. §1101. The act would establish a Directorate of Immigration Affairs within a Department of Homeland Security (DHS). §136	The act would abolish INS. §441
New Agency	None.	The act would amend Title I of the INA by creating a Directorate of Immigration Affairs withinn DHS. §1102	No similar provision; however the act would create a Bureau of Border Security within DHS and a Bureau of Citizenship and Immigration Services within DOJ, see §412(a) and §421(a).

Subject	Current law / current administrative structure ^a	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Functions of INS/Directorate/Bureaus	INS through the Attorney General administers and enforces the INA and all other laws that pertain to the immigration and naturalization of aliens except for those powers that are conferred upon the President, Secretary of State, or his officers. §103(a)	The act would require a Directorate, under the authority of the Secretary of Homeland Security, to administer immigration policy and perform immigration inspections, enforcement, service and adjudication functions. §1102	The act does not have a provision that would create a Directorate that would be over the immigration services and immigration enforcement functions. The act, however, would create an Undersecretary for Border and Transportation Security in DHS and an Assistant Attorney General for Citizenship and Immigration Services who would be responsible for carrying out the immigration enforcement and service functions, respectively, that are in law or performed by the Commissioner of INS prior to the transfer of such functions to DHS. See §401 and §421(a)(2)(3)(A)
Principal Officers	See Head, page 14.	The act would define the principal officers as follows: (1) Under Secretary of Homeland Security for Immigration Affairs, (2) Assistant Secretary of Homeland Security for Immigration Services, and (3) Assistant Secretary of Homeland Security for Enforcement and Border Affairs. §1102	See above.
Definitions of Positions and Key Functions	See Definition, §101(a), page 11.	The act would provide definitions for the following: (1) Under Secretary of Homeland Security for Immigration Affairs, (2) Assistant Secretary of Homeland Security for Immigration Services, (3) Assistant Secretary of Homeland Security for Enforcement and Borders Affairs, (4) immigration laws of the United States, (5) immigration policy, (6) administration, and (7) inspection functions. §1102 and §1103	See above.

Subject	Current law / current administrative structure^a	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Head	<p>The INA charges the Attorney General with the administration and enforcement of the Act and all other laws that pertain to the immigration and naturalization of aliens except for those powers that are conferred upon the President, Secretary of State, or his officers. §103(a)</p> <p>The INA further charges the INS Commissioner with all responsibilities and authority in the administration and enforcement of the Act which are conferred upon the Attorney General. The Act also charges the Attorney General to delegate or prescribe responsibilities to the Commissioner. §103(c)</p>	<p>The act would further amend Title I of the INA by placing an Under Secretary of Homeland Security for Immigration Affairs in charge of the new Directorate. §1103(a)</p>	<p>See above.</p>

Subject	Current law / current administrative structure^a	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Functions of the Head	See above.	<p>The act would require the Under Secretary to: (1) develop and implement immigration policy and propose, promulgate and issue rules, regulations and statements of policy pertaining to immigration law; and (2) administer and enforce the functions of the Bureaus of Immigration Services and Enforcement and Border Affairs; and direct, supervise and coordinate both Bureaus. §1103(a)</p> <p>The act would require the Under Secretary to manage resources (including information resources), and personnel and coordinate with the Civil Rights Officer of the DHS all immigration-related civil rights violations. The act would also require the Under Secretary to assist and support the Secretary of DHS in coordination with other Directorates and entities outside DHS in conducting risk analysis and management activities that are consistent with the mission and functions of the Directorate. §1103(a)</p>	See above.
Functions of the Head, Inspections	See above.	The act would require the Under Secretary to administer and enforce immigration laws with regard to inspecting all aliens at U.S. ports of entry. §1103(a)	See above.
Compensation	The INS Commissioner is compensated at Level IV of the Executive Schedule. (5 U.S.C. 5315)	The act would require the Under Secretary to be compensated at Level III of the Executive Schedule. §1103(b)	No provision.

Subject	Current law / current administrative structure ^a	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Offices and Positions Within the Head's Office	[Under the November 11, 2001 INS restructuring plan, the following offices or positions would continue to exist or be created under or adjunct to the Commissioner: (1) Policy, Planning and Programs; (2) General Counsel; (3) Congressional and Public Affairs; (4) Professional Responsibility (internal audits); (5) Chief Financial Officer; (6) Chief Information Officer; (7) Chief Administrative Officer; and (8) Office for Juvenile Affairs.]	The act would create the following offices and positions within the Directorate of Immigration Affairs: (1) General Counsel; (2) Chief Financial Officer; and (3) Chief of Policy; (4) Chief of Congressional, Intergovernmental, and Public Affairs. §1103(a)	See offices and positions within the Bureau of Border Security, §412(b)(c) and Bureau of Citizenship and Immigration Services §421(c-i).
General Counsel	[According to the November 11, 2001 INS Restructuring Plan, the General Counsel provides legal advice and assistance to the Commissioner and field managers. The General Counsel also represents INS in all immigration and employee-related legal matters.] [The General Counsel is also established in 8 C.F.R. 100.2(a)(1)]	The act would create a General Counsel position who would be appointed by the Secretary of Homeland Security in consultation with the Under Secretary and serve as the chief legal officer for the Directorate. The General Counsel would be responsible for providing legal advice, determinations, regulations, and other assistance to the Under Secretary with regard to matters affecting the Directorate. §1103(a)	The act would create a General Counsel position in the service bureau. §421(d)
Chief Financial Officer	[The November 11, 2001 INS Restructuring Plan creates a Chief Financial Officer who is responsible for the development of agency-wide financial policy.]	The act would create a Chief Financial Officer position (a career ladder post at the Senior Executive Series level) who would be responsible for the Directorate's budget formulation and implementation. §1103(a)	The act would create a Chief Budget Officer in the service bureau. §421(e)

Subject	Current law / current administrative structure ^a	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Chief of Policy	<i>[The existing Office of Policy, Planning and Programs develops policy and INS' strategic direction and legislative requirements. The Office also is responsible for INS' statistics and program development.]</i>	The act would create a Chief of Policy position who would be responsible for: (1) establishing U.S. immigration policies and priorities, (2) performing research and analysis on immigration issues, and (3) coordinating policy issues between the Directorate and the Service and Enforcement Bureaus. §1103(a)	The act would create a Chief of Policy and Strategy position in each Bureau. §412(b) and §421(c)
Chief of Congressional, Intergovernmental, and Public Affairs	<i>[The existing Office of Congressional and Public Affairs serves as a liaison with Congress, the media, and external stakeholders. The office, through coordination with DOJ and the Office of Management and Budget, has responsibilities for coordinating and developing legislation, as well as views on pending legislation.]</i>	The act would create a Chief of Congressional, Intergovernmental, and Public Affairs within the Directorate who would be responsible for: (1) providing information pertaining to immigration-related issues to Congress, (2) serving as a liaison with other federal agencies on immigration issues, and (3) responding to media and public inquiries with regard to immigration issues. §1103(a)	The act would create a Chief of Congressional, Intergovernmental, and Public Affairs position within the Bureau of Citizenship and Immigration Services. §421(f)
Office of Professional Responsibility	<i>[The existing Office of Professional Responsibility performs audits and employee misconduct-related functions. The office also performs program oversight responsibilities and ensures proper liaison between INS and outside organizations with regard to its functions.]</i>	See Office of Professional Responsibility in the service bureau, page 27.	See Citizenship and Immigration Services Ombudsman in the service bureau, page 31. §422(a)
Chief Information Officer	<i>[The November 11, 2001 INS Restructuring Plan creates a Chief Information Officer (CIO) position. The CIO is responsible for developing a mechanism to share information with other agencies.]</i>	No provision.	No provision.

Subject	Current law / current administrative structure ^a	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Office of Administration	[<i>The November 11, 2001 INS Restructuring Plan creates an Office of Administration that has responsibility for all INS personnel matters with regard to employment (e.g., human resources matters).</i>]	No provision.	No provision.
Compensation	No provision.	The act would require the General Counsel and Chief Financial Officer to be compensated at Level IV of the Executive Schedule. §1103(c)	No provision.
Office of the Ombudsman	[<i>Under the November 11, 2001 INS Restructuring Plan, a Customer Relations Office is created in the Service Bureau and an Ombudsman Office is created in the Enforcement Bureau. See Service Bureau and Enforcement Bureau sections below, pages 23 and 35.</i>]	<p>The act would amend the INA by creating an Office of the Ombudsman for Immigration Affairs. The Ombudsman would be appointed by the Secretary of Homeland Security, after consultation with the Under Secretary. §1106(a)</p> <p>The act would require the Ombudsman to report to the Under Secretary and be compensated under the Senior Executive Service. §1106(a)</p> <p>The act would give the Ombudsman the following functions: (1) assist individuals with resolving problems pertaining to the Directorate or its components; (2) identify persistent problems experienced by the public in dealing with the Directorate; (3) propose potential administrative and statutory changes to minimize the problems; and (4) monitor the coverage and geographic distribution of local offices. §1106(a)</p>	The act would create a Citizenship and Immigration Services Ombudsman position in the Bureau of Citizenship and Immigration Services. §422(a)

Subject	Current law / current administrative structure ^a	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Office of the Ombudsman Reporting requirements	None.	<p>The act would require the Ombudsman to report annually to Congress on the objectives of the office for the upcoming fiscal year. The act would require the report to be submitted to Congress without prior review or comment from other officials. The act would require the report to have analysis, statistical information, and the following: (1) description of initiatives the Directorate has taken with regard to improving services and the responsiveness of the bureau; (2) a summary of the “most pervasive and serious problems” experienced by individuals and employers; (3) an inventory of the aforementioned items for which action has been taken; (4) an inventory of the aforementioned items for which action is still needed; (5) an inventory of the aforementioned items for which no action has been taken; (6) recommendations for administrative and legislative action, if necessary, to resolve problems experienced by individuals and employers; (7) recommendations to resolve problems caused by inadequate funding or staffing, and (8) any other information the Ombudsman deems necessary. §1106(a)</p>	<p>The act would require the Ombudsman to report no later than June 30 of each year to Congress on the objectives of the office for the upcoming fiscal year. The act would require the report to be submitted to Congress without prior review or comment from other officials.</p> <p>The act would require the report to have analysis, statistical information, and the following: (1) identification of initiatives the office has taken with regard to improving services and the responsiveness of the bureau; (2) summary of the “most pervasive and serious problems” experienced by individuals and employers; (3) inventory of the aforementioned items for which action has been taken; (4) inventory of the aforementioned items for which action is still needed; (5) inventory of the aforementioned items for which no action has been taken; (6) recommendations for administrative and legislative action, if necessary, to resolve problems experienced by individuals and employers; and (7) any other information the Ombudsman deems necessary. §422(c)</p>

Subject	Current law / current administrative structure ^a	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Office of the Ombudsman Personnel actions	See above, Office of Professional Responsibility, page 17.	The act would charge the Ombudsman with the responsibility and authority to appoint local or regional representatives of the Ombudsman's Office as in the Ombudsman's judgment may be necessary to address and rectify problems. §1106(a)	The act would charge the Ombudsman with the responsibility and authority to appoint local ombudsmen and make available at least one ombudsman for each state; and to evaluate and take personnel actions (including dismissal) with respect to any employee of any local office of the Ombudsman. §422(e)
Office of Juvenile Affairs	<i>[The November 11, 2001 INS Restructuring Plan creates an Office of Juvenile Affairs (OJA). The OJA has overall responsibility for juvenile matters with regard to immigration, including leading and directing national programs pertaining to unaccompanied alien children in INS custody. The office is also responsible for ensuring that juveniles who come into contact with INS are treated appropriately, as well as ensuring that juveniles who are found inadmissible/removable are removed safely and correctly.]</i>	See Unaccompanied Alien Children section, page 44.	See Unaccompanied Alien Children section, page 44. §436

Subject	Current law / current administrative structure ^a	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Office of Immigration Statistics	<p>[<i>The November 11, 2001 INS Restructuring Plan keeps immigration statistics in INS' Office of Policy, Planning and Programs, located under the INS Commissioner.</i>]</p>	<p>The act would amend the Omnibus Crime Control and Safe Streets Act of 1968 by creating an Office of Immigration Statistics within the Directorate, headed by a director. §1107</p> <p>The act would charge the director of the Office with the following functions: (1) maintain all immigration-related statistics of the newly created agency and the existing Executive Office for Immigration Review (EOIR); (2) establish reliability and validity standards with regard to the aforementioned statistics; and (3) ensure the interoperability of the agency and EOIR databases. §1107</p> <p>The act would transfer the functions of the Statistics Branch of the Office of Policy and Planning of the INS to the newly created office. §1107</p>	<p>The act would amend the Omnibus Crime Control and Safe Streets Act of 1968 (new §305) by creating an Office of Immigration Statistics within the Bureau of Justice Statistics, headed by a director who is appointed by the Attorney General and reports to the Director of Justice Statistics. §425</p> <p>The act would charge the director with the following functions: (1) maintain all immigration-related statistics of the Bureau of Citizenship and Immigration Service and the EOIR. Require the statistics to include information and statistics currently found in the "<i>Statistical Yearbook of the INS</i>"; (2) establish reliability and validity standards with regard to the aforementioned statistics; (3) require the Bureau of Citizenship and Immigration Services and the Executive Office of Immigration Review to provide statistics to the Office of Immigration Statistics, and (4) collect, compile, analyze, publish, and disseminate statistics and information pertaining to immigration in the U.S. and the functions of the agency. §425</p> <p>The act would transfer the functions of the Statistics Branch of the Office of Policy and Planning of INS to the newly created office. §425</p>

Subject	Current law / current administrative structure ^a	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Office of Immigration Statistics	See above.	See above.	<p>The act would create an Under Secretary for Management who, among other things, would be responsible for the following: (1) maintaining all immigration statistical information of the Bureau of Border Security to include information and statistics currently found in the “<i>Statistical Yearbook of the INS</i>”; and (2) establish reliability and validity standards with regard to statistics collected by the Bureau. §601</p> <p>The act would transfer the following programs of the Statistics Branch of the Office of Policy and Planning of INS to the Under Secretary for Management: (1) border patrol; (2) detention and removal; (3) intelligence; (4) investigation; and (5) inspections. §601</p>
Authorization for Appropriations	Funds are appropriated annually for INS under the Commerce, Justice, State, the Judiciary and Related Agencies Appropriations Act.	<p>The act would authorize appropriations, “such sums as may be necessary,” to carry out the functions of the Directorate. §1102</p> <p>The act would require the amount appropriated to remain available until expended. §1102</p>	No provision.

Service Bureau

Subject	Current law / current administrative structure ^a	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Service Bureau	<i>[The November 11, 2001 INS Restructuring Plan creates a separate Bureau of Immigration Services.]</i>	The act would amend the INA by creating a Bureau of Immigration Services within the Directorate. §1104(a)	The act would create a Bureau of Citizenship and Immigration Services in DOJ. §421(a)
Bureau Head	<i>[The November 11, 2001 INS Restructuring Plan calls for an Executive Commissioner for Immigration Service to head the Bureau. The Executive Commissioner for Immigration Service administers Area Directors, and the field office directors.]</i>	The Bureau would be headed by an Assistant Secretary of Homeland Security for Immigration Services who would be appointed by the Secretary of Homeland Security. The Assistant Secretary would report directly to the Under Secretary. §1104(a)	The Bureau would be headed by an Assistant Attorney General for Citizenship and Immigration Services who reports directly to the Deputy Attorney General. §421(a)
Bureau Head Requirements	No provision.	No provision.	The act would require the Assistant Attorney General for Citizenship and Immigration Services to have a minimum of 10 years professional experience in adjudication determinations pertaining to government benefits or services. The act would require that at least 5 of the 10 years of professional experience be at a managerial capacity or having comparable management experience. §421(a)(2)(B)
Compensation	None.	The act would require the Assistant Secretary to be paid at Level IV of the Executive Schedule. §1104(b)	No provision.

Subject	Current law / current administrative structure ^a	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Functions of the Service Bureau	[<i>The November 11, 2001 INS Restructuring Plan charges the Service Bureau with the following: (1) providing immigration benefits under the INA; (2) making asylum and refugee determinations; (3) processing naturalization and adjustment of status applications; and (4) processing requests for employment authorization.</i>]	The act would charge the Assistant Secretary of the Bureau (under the authority of the Secretary and the Under Secretary) with administering immigration services and adjudication functions, including the following: (1) adjudications of nonimmigrant and immigrant petitions; (2) adjudications of visas and other entry documents, and change and adjustment of status; (3) adjudications and naturalization applications; (4) adjudications of asylum and refugee applications; (5) determinations with regard to custody, parole, and conditions of parole, as well as the responsibility for the detention of individuals subject to such determination, pertaining to asylum seekers who lack prior non-political criminal records and who have been found to have a credible fear of persecution; (6) adjudications performed at service centers, and (7) all other adjudications under U.S. immigration law, as well as training of personnel. §1104(a)	The act would require the Assistant Attorney General for Citizenship and Immigration Services to: (1) establish and oversee the administration of relevant policies, (2) advise the Deputy Attorney General with respect to any policy or operation that may affect the Bureau of Immigration Enforcement in the DHS, (3) meet regularly with the Citizenship and Immigration Services Ombudsman to correct problems and establish procedures that would require a formal response to any recommendations submitted in the Ombudsman's annual report, (4) design, implement and report to Congress on a managerial rotation program, and (5) implement a pilot program that would eliminate (and prevent from recurring) the backlog pertaining to the processing of immigration benefit applications. §421(a)

Subject	Current law / current administrative structure ^a	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Managerial Rotation Program	No provision.	No provision.	<p>The act would require the Assistant Attorney General, no later than 1 year after the effective date specified in Section 427 (<i>“immediately before such transfer occurs”</i>), to design and implement a managerial rotation program under which the Bureau’s employees holding positions involving supervisory or managerial responsibility and classified at GS-14 or above, would, as a condition of further promotion, gain some experience in all the major functions performed by the Bureau and work in at least one field office and one service center of the Bureau.</p> <p>The act would require the Attorney General to submit a report to Congress on implementation of the program not later than 2 years after the effective date specified in Section 427 (<i>“immediately before such transfer occurs”</i>). §421(a)(4)</p>

Subject	Current law / current administrative structure ^a	S.Amdt . 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
<p>Functions of the Executive Commissioner for Immigration Services/Under Secretary/Assistant Attorney General for Citizenship and Immigration Services</p>	<p><i>[The November 11, 2001 INS Restructuring Plan charges the Executive Commissioner with providing overall leadership to the Bureau.]</i></p>	<p>The act would charge the Under Secretary (under the direction of the Secretary) acting through the Assistant Secretary for Immigration Services with establishing offices, including sub-offices and satellite offices, throughout the U.S. that are located near the community served and taking into consideration the office's workload with regard to improving the backlog and improving customer service. §1104(c)</p>	<p>The act would require the Assistant Attorney General for Citizenship and Immigration Services to: 1) establish and oversee the administration of relevant policies, (2) advise the Deputy Attorney General with respect to any policy or operation that may affect the Bureau of Immigration Enforcement in the DHS, (3) meet regularly with the Citizenship and Immigration Services Ombudsman to correct problems and establish procedures that would require a formal response to any recommendations submitted in the Ombudsman's annual report, (4) design, implement and report to Congress on a managerial rotation program, and (5) implement a pilot program that would eliminate (and prevent from recurring) the backlog pertaining to the processing of immigration benefit applications. §421(a)</p>

Subject	Current law / current administrative structure ^a	S.Amdt . 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Employee Discipline	No provision.	No provision.	The act would permit the Assistant Attorney General for Citizenship and Immigration Services, notwithstanding any other provision of law, to impose disciplinary action, including termination of employment, pursuant to policies and procedures applicable to FBI employees, on any employee of the Bureau who willfully deceives the Congress or agency leadership on any matter. §424
Offices and positions within the Bureau	<i>[Under the November 11, 2001 INS Restructuring Plan the following offices or positions would continue to exist or be created under or adjunct to the Executive Commissioner for Immigration Service: (1) Office of Customer Relations; (2) Office of Quality Assurance; (3) Office of Service Center Operations; (4) Office of the Area Directors; and (4) Office of Asylum and Refugee Affairs.]</i>	The act would create the following offices and positions within the Bureau: (1) Chief Budget Officer, (2) Office of Quality Assurance, and (3) Office of Professional Responsibility. §1104(a)	The act would create the following offices and positions within the Bureau: (1) Chief of Policy and Strategy; (2) General Counsel; (3) Chief Budget Officer; (4) Chief of Congressional, Intergovernmental, and Public Affairs; (5) Office of Quality Assurance; (6) Border Security Liaison; (7) Chief of Office of Citizenship; and (8) Citizenship and Immigration Services Ombudsman. §421(c)(d)(e)(f)(g)(h)(i)
Chief Budget Officer	See Chief Financial Officer under the Commissioner in the Status of INS section, page 16.	The act would create a Chief Budget Officer who would report to the Chief Financial Officer of the Directorate. The Chief Budget Officer would be responsible for monitoring and supervising all financial matters of the bureau. §1104(a)	The act would create a Chief Budget Officer who would be responsible for: (1) formulating and executing the bureau's budget, (2) all financial matters of the bureau; and (3) the collection of all payments, fines, and other debts for the bureau. §421(e)

Subject	Current law / current administrative structure ^a	S.Amdt . 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Office of Quality Assurance	[<i>The November 11, 2001 INS Restructuring Plan creates an Office of Quality Assurance that is responsible for developing quality assurance and audit programs.</i>]	The act would create an Office of Quality Assurance that would be responsible for ensuring that the Directorate's policies with regard to the service bureau's functions are properly carried out and ensure efficient record management. §1104(a)	See §423 below.
Office of Professional Responsibility (S. 2452)/Professional Responsibility and Quality Review (H.R. 5005)	See Office of Professional Responsibility under the Commissioner in the Status of INS section, page 17.	The act would create an Office of Professional Responsibility position that would be responsible for ensuring the professionalism of the Bureau and accepting and investigating charges of employee misconduct made by the public. §1104(a)	The act would require the Assistant Attorney General for Citizenship and Immigration Services to be responsible for professional responsibility and quality review, specifically to: (1) conduct investigations of employees of the Bureau with regard to allegations involving noncriminal misconduct, corruption and fraud that is not subject to investigation by the Inspector General; (2) inspect the operations of the Bureau and provide assessments with regard to the quality of operations; and (3) provide an analysis of the management of the Bureau. The act would require the following special considerations with regard to assessment of operational decisions made by the Bureau: (1) accuracy of findings, (2) any fraud or misrepresentation associated with the decision, and (3) the efficiency of making such decisions. §423

Subject	Current law / current administrative structure^a	S.Amdt . 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Chief of Policy	See Chief of Policy under the Commissioner in the Status of INS section, page 17.	The act would create a Chief Policy Officer position under the Directorate, page 17. §1103	The act would create a Chief of Policy and Strategy position that would be responsible for (1) establishing national immigration services policies and priorities, (2) performing research and analysis on immigration services issues, and (3) coordinating policy issues with the Chief of Policy and Strategy in the Department of Homeland Security's Bureau of Border Security. §421(c)
General Counsel	See General Counsel Office under the Commissioner in the Status of INS section, page 16.	The act would create a General Counsel position under the Directorate, page 16. §1103	The act would create a General Counsel position to serve as the main legal advisor to the Assistant Attorney General for Citizenship and Immigration Services. The General Counsel would be responsible for: (1) providing legal advice, determinations, regulations, and other assistance with regard to matters affecting the Bureau of Citizenship and Immigration Services; and (2) representing the bureau in matters pertaining to the functions of the bureau. §421(d)

Subject	Current law / current administrative structure^a	S.Amdt . 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Chief of Congressional, Intergovernmental, and Public Affairs	See Office of Congressional and Public Affairs under the Commissioner in the Status of INS section, page 17.	The act would create a Chief of Congressional, Intergovernmental, and Public Affairs position under the Directorate, page 17. §1103	The act would create a Chief of C o n g r e s s i o n a l , Intergovernmental, and Public Affairs position that would be responsible for: (1) providing immigration services information to Congress, (2) serving as a liaison with other federal agencies on immigration services issues, and (3) responding to media and public inquiries with regard to immigration services issues. §421(f)
Border Security Liaison	None.	No provision.	The act would create a Border Security Liaison who would be responsible for the allocation and coordination of resources for the purpose of supporting shared support functions for the Bureau of Border Security of the DHS. The liaison is responsible for (1) i n f o r m a t i o n r e s o u r c e s management, (2) records and file management, and (3) forms management. §421(g)
Chief of Office of Citizenship	None.	No provision.	The act would create a Chief of the Office of Citizenship position that would be responsible for promoting instruction and training on citizenship responsibilities for aliens interested in becoming naturalized citizens. §421(h)

Subject	Current law / current administrative structure ^a	S.Amdt . 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Office of the Ombudsman	<i>[The November 11, 2001 INS Restructuring Plan creates an Office of Customer Relations.]</i>	The act would create an Office of the Ombudsman in the Directorate, page 18. §1106(a)	The act would create a Citizenship and Immigration Services Ombudsman position. The Ombudsman would report directly to the Deputy Attorney General. §422(a)
Office of the Ombudsman Responsibilities	<i>[The November 11, 2001 INS Restructuring Plan charges the Office of Customer Relations with overseeing customer service initiatives and issues in the Bureau. The Office is responsible for all aspects of customer relations, including the following: (1) maintaining the Customer Service Center; (2) providing service-related information on the INS website; (3) providing customer satisfaction surveys; and (4) providing service-related outreach to the public. The Office also assists customers with application-related difficulties.]</i>	See above.	The act would require the Ombudsman to have experience in customer service and immigration law. The Ombudsman would be responsible for assisting clients and employers, identifying issues pertaining to problems, resolving them, and proposing changes in administrative practices. The Ombudsman is responsible for identifying potential legislative changes that could aid in mitigating such problems. §422(b)

Subject	Current law / current administrative structure ^a	S.Amdt . 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Office of the Ombudsman (Cont.) Responsibilities	See above.	No provision.	The act would require the Ombudsman to: (1) monitor the local offices of the Ombudsman, including the geographic allocation of such offices; (2) develop guidelines for all of the service bureau's officers and employees with regard to the criteria for referral of inquiries to local Ombudsman offices; (3) ensure that all local office telephone numbers are published and made available; and (4) meet regularly with the director of the service bureau to identify problems and present recommendations for resolution of such problems. §422(d)
Office of the Ombudsman Personnel Actions	<i>[The November 11, 2001 INS Restructuring Proposal calls for the Office of Customer Relations to refer cases of employee misconduct to the Office of Professional Responsibility, located under the Commissioner, page 17.]</i>	The act would charge the Ombudsman with the responsibility and authority to appoint local or regional representatives of the Ombudsman's Office as in the Ombudsman's judgment may be necessary to address and rectify problems. §1106(a)	The act would charge the Ombudsman with the responsibility and authority to appoint local ombudsmen and make available at least one ombudsman for each state; and to evaluate and take personnel actions (including dismissal) with respect to any employee of any local office of the Ombudsman. §422(e)
Office of the Ombudsman	No provision.	No provision.	The act would require the Bureau director to establish procedures that would require a formal response to all recommendations submitted by the Ombudsman within 3 months after the submission. §422(f)

Subject	Current law / current administrative structure ^a	S.Amdt . 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
<p>Office of the Ombudsman</p> <p>Local Ombudsmen</p>	<p>See above.</p>	<p>No provision.</p>	<p>The act would require the local ombudsmen to report to the Ombudsman; and notify individuals and employers seeking assistance of the local office that the local Ombudsman operates independently and reports directly to Congress through the Ombudsman.</p> <p>The act would permit the local ombudsman to consult with relevant supervisory staff of the service bureau with regard to the daily operation of the local office; and make the determination not to disclose individuals or employees seeking its assistance to the service bureau, at the local ombudsman's discretion.</p> <p>The act would require each local office of the Ombudsman to maintain communication means, including a post office address, that is separate from the service bureau. §422(g)</p>

Subject	Current law / current administrative structure ^a	S.Amdt . 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Office of the Ombudsman Reporting Requirements	None.	<p>The act would require the Ombudsman to report annually to Congress on the objectives of the office for the upcoming fiscal year. The act would require the report to be submitted to Congress without prior review or comment from other officials.</p> <p>The act would require the report to have analysis, statistical information, and the following: (1) description of initiatives the Directorate has taken with regard to improving services and the responsiveness of the bureau; (2) a summary of the “most pervasive and serious problems” experienced by individuals and employers; (3) an inventory of the aforementioned items for which action has been taken; (4) an inventory of the aforementioned items for which action is still needed; (5) an inventory of the aforementioned items for which no action has been taken; (6) recommendations for administrative and legislative action, if necessary, to resolve problems experienced by individuals and employers; (7) recommendations to resolve problems caused by inadequate funding or staffing, and (8) any other information the Ombudsman deems necessary. §1106(a)</p>	<p>The act would require the Ombudsman to report no later than June 30 of each year to Congress on the objectives of the office for the upcoming fiscal year. The act would require the report to be submitted to Congress without prior review or comment from other officials.</p> <p>The act would require the report to have analysis, statistical information, and the following: (1) identification of initiatives the office has taken with regard to improving services and the responsiveness of the bureau; (2) summary of the “most pervasive and serious problems” experienced by individuals and employers; (3) inventory of the aforementioned items for which action has been taken; (4) inventory of the aforementioned items for which action is still needed; (5) inventory of the aforementioned items for which no action has been taken; (6) recommendations for administrative and legislative action, if necessary, to resolve problems experienced by individuals and employers; and (7) any other information the Ombudsman deems necessary. §422(c)</p>

Subject	Current law / current administrative structure ^a	S.Amdt . 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Interim Service of INS Commissioner	None.	The act would permit the INS Commissioner to serve as Under Secretary until one is appointed. §1117	The act would permit the Attorney General or his/her delegate to perform immigration functions transferred by this subchapter to the Bureau of Citizenship and Immigration Services. §426
Fees	Section 286(m) of the INA deposit all adjudication fees as offsetting receipts into separate accounts, with the exception of fees collected from applicants in the Virgin Islands and Guam.	<p>Similar to current law, except would require fees collected for service programs to be used for that purpose (and refugee and asylum processing if insufficient funds are appropriated) and would also require separate accounts to be established in the Treasury of the U.S. for service and enforcement bureaus. §1121</p> <p>The act would require amounts appropriated to be made available until expended. §1121</p> <p>The act would authorize appropriations of “such sums as may be necessary” for refugee and asylum adjudications to be deposited into the Immigration Examinations Fee Account. §1121(c)</p>	<p>The act would maintain the INA provision that fees for adjudication and naturalization services be deposited into the Immigration Examinations Fee Account.</p> <p>The act would require that fees collected for adjudication and naturalization services no longer fund refugee and asylum processing.</p> <p>The act would authorize appropriations of “such sums as may be necessary”. §431</p>

Enforcement Bureau

Subject	Current law / current administrative structure ^a	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Enforcement Bureau	[<i>The November 11, 2001 INS Restructuring Plan creates a separate Bureau of Immigration Enforcement.</i>]	The act would amend the INA by creating a Bureau of Enforcement and Border Affairs within the Directorate. §1105(a)	The act would create a Bureau of Border Security within DHS. §412(a)

Subject	Current law / current administrative structure ^a	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Bureau Head	<i>[The November 11, 2001 INS Restructuring Plan calls for an Executive Commissioner for Immigration Enforcement to head the Bureau. Under the Executive Commissioner for Immigration Enforcement would be the Chief of the Border Patrol and Interior Enforcement Division, the Director of the Detention and Removal Division, and the Director of the International Division.]</i>	The act would charge an Assistant Secretary of Homeland Security for Enforcement and Border Affairs (who would be appointed by the Secretary of Homeland Security in consultation with the Under Secretary to head the Bureau). §1105(a)	The act would charge an Assistant Secretary of the Bureau of Border Security to head the Bureau. §412(a)
Requirement	No provision.	No provision.	The act would require the Assistant Secretary of the Bureau of Border Security to have a minimum of 10 years experience in law enforcement. §412(a)
Compensation	No provision.	The act would require the Assistant Secretary of Homeland Security for Enforcement and Border Affairs to be compensated at Level IV of the Executive Schedule. §1105(b)	No provision.

Subject	Current law / current administrative structure ^a	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Functions of the Enforcement Bureau	<i>[The November 11, 2001 INS Restructuring Plan charges the Bureau with enforcing U.S. immigration laws and protecting the border.]</i>	The act would charge the Assistant Secretary of Homeland Security for Enforcement and Border Affairs (under the authority of the Under Secretary) with administering immigration enforcement functions, including the following functions: (1) border patrol function, (2) immigration detention function, except asylum seekers, (3) removal function, (4) intelligence function, and (5) investigation function, including training of personnel. §1105(a)	<p>The act would require the Assistant Secretary of the Bureau of Border Security to establish and oversee the administration of relevant policies and advise the Under Secretary for Border and Transportation Security with respect to any policy or operation that may affect the Bureau of Citizenship and Immigration Services in DOJ. §412(a)</p> <p>The act would require the Under Secretary of the Bureau of Border Security to establish the policies for performing the following functions: (1) border patrol, (2) detention and removal, (3) intelligence, (4) investigations and (5) inspections. §412(a)(3)(A)</p>

Subject	Current law / current administrative structure ^a	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Foreign Student Monitoring	<p>The law requires the Attorney General, in consultation with the Secretaries of State and Education, to collect information on F, J, and M nonimmigrants (i.e., students and cultural exchange participants) from approved educational institutions and designated exchange programs. The act requires the information to be collected electronically “where practical.” §641(a)(c)(3) of Illegal Immigration and Reform and Immigrant Responsibility Act (IIRIRA) of 1996.</p> <p>The Enhanced Border Security and Visa Entry Reform Act (EBSVERA) of 2002 amended IIRIRA by requiring the Attorney General, in consultation with the Secretary of State, to establish electronic means to monitor and verify: documentation of acceptance of student by approved school or designated exchange program; transmittal of documentation to DOS Bureau of Consular Affairs; issuance of nonimmigrant visa to student or exchange visitor; admission of student or exchange visitor to the U.S.; notice to school or exchange program that nonimmigrant has been admitted to the U.S.; registration and enrollment of nonimmigrant in school or exchange program; and any other relevant act by the nonimmigrant, including changing schools or programs. §501(a)(1) of EBSVERA.</p>	No provision.	The act would require the Assistant Secretary to administer this program to collect information on nonimmigrant foreign students and other exchange program participants. §412(a)(4)

Subject	Current law / current administrative structure ^a	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Managerial Rotation Program	None.	No provision.	<p>The act would require the Assistant Secretary of the Bureau of Border Security, no later than 1 year after the date on which the transfer of functions specified in Section 411 (<i>immediately before such transfer occurs</i>), to design and implement a managerial rotation program under which Bureau employees holding positions involving supervisory or managerial responsibility and classified at GS-14 or above, would, as a condition on further promotion, gain some experience in all the major functions performed by the Bureau and work in at least one local office of the Bureau. §412(a)(5)(A)</p> <p>The act would require the Secretary to submit a report to Congress on the implementation of the program not later than 2 years after the date on which the transfer of functions specified at Section 411 takes effect. §412(a)(5)(B)</p>

Subject	Current law / current administrative structure ^a	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
<p>Functions of the Executive Commissioner for Immigration Enforcement/Under Secretary/ Assistant Secretary of the Bureau of Border Security</p>	<p><i>[The November 11, 2001 INS Restructuring Plan charges the Executive Commissioner with providing overall leadership to the Bureau.]</i></p>	<p>The act would charge the Under Secretary (under the direction of the Secretary) acting through the Assistant Secretary for Immigration Enforcement with establishing offices, including sub-offices and satellite offices, throughout the U.S. that are in line with trends of unlawful entry and national security concerns.</p> <p>The act would require the Under Secretary to conduct periodic reviews of the offices and their locations to determine their appropriateness. §1105(c)</p>	<p>The act would require the Assistant Secretary of the Bureau of Border Security to establish and oversee the administration of relevant policies and advise the Under Secretary for Border and Transportation Security with respect to any policy or operation that may affect the Bureau of Citizenship and Immigration Services in DOJ. §412(a)</p>
<p>Employee Discipline</p>	<p>None.</p>	<p>No provision.</p>	<p>The act would permit the Under Secretary for Border and Transportation Security, notwithstanding any other provision of law, to impose disciplinary action, including termination of employment, pursuant to policies and procedures applicable to FBI employees, on any employee of the Bureau who willfully deceives the Congress or agency leadership on any matter. §414</p>

Subject	Current law / current administrative structure ^a	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Offices and Positions within the Bureau	[Under the November 11, 2001 INS Restructuring Plan the following offices or positions would continue to exist or be created under or adjunct to the Executive Commissioner for Immigration Enforcement: (1) Ombudsman; (2) Office of Quality Assurance; (3) Interagency Liaison Officer; (4) Chief Border Patrol and Interior Enforcement Division; (5) Director of the Detention and Removal Division; and (6) Director of the International Division.]	The act would create the following offices and positions within the Bureau: (1) Chief Budget Officer; (2) Office of Professional Responsibility; and (3) Office of Quality Assurance. §1105(a)	The act would create the following offices and positions within the Bureau: (1) Chief of Policy and Strategy; (2) Citizenship and Immigration Services Liaison; and (3) Professional Responsibility and Quality Review. §412(b)(c), and §413
Chief Budget Officer	See Chief Financial Officer under the Commissioner in the Status of INS section, page 16.	The act would create a Chief Budget Officer position in the enforcement bureau. The Chief Budget Officer would report to the Chief Financial Officer of the Directorate. The Chief Budget Officer would be responsible for monitoring and supervising all financial matters of the bureau. §1105(a)	No provision.
Office of Professional Responsibility (S. 2452) Professional Responsibility and Quality Review (H.R. 5005)	See Office of Professional Responsibility under the Commissioner in the Status of INS section, page 17.	The act would create an Office of Professional Responsibility that would be responsible for ensuring the professionalism of the Bureau and accepting and investigating charges of employee misconduct made by the public. §1105(a)	The act would make the Under Secretary for Border and Transportation Security responsible for: (1) conducting investigations of employees of the bureau with regard to allegations involving noncriminal misconduct, corruption and fraud that is not subject to investigation by the Inspector General; (2) inspecting the operations of the bureau and providing assessments with regard to the quality of operations; and (3) providing an analysis of the management of the Bureau. §413

Subject	Current law / current administrative structure ^a	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Office of Quality Assurance	<i>[The November 11, 2001 INS restructuring plan creates an Office of Quality Assurance that is responsible for monitoring the enforcement activities.]</i>	The act would create an Office of Quality Assurance that would be responsible for ensuring that the Directorate's policies with regard to the enforcement bureau's functions are properly carried out, and ensuring efficient record management. §1105(a)	No provision.
Chief of Policy	See Chief of Policy under the Commissioner in the Status of INS section, page 17.	The act would create a Chief of Policy position under the Directorate, page 17. §1103	The act would create a Chief of Policy and Strategy who would be responsible for: (1) establishing national immigration enforcement policies and priorities, (2) performing research and analysis on immigration enforcement issues, and (3) coordinating policy issues with the Chief of Policy and Strategy for the Bureau of Citizenship and Immigration Services in DOJ. §412(b)
Citizenship and Immigration Services Liaison	None.	No provision.	The act would create a Citizenship and Immigration Services Liaison who would be responsible for the allocation and coordination of resources for the purpose of supporting "shared support functions" for DOJ's Bureau of Citizenship and Immigration Services and DHS's Bureau of Border Security. The liaison would also be responsible for: (1) facilities management, (2) information resources management, (3) records and file management, and (4) forms management. §412(c)

Subject	Current law / current administrative structure ^a	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Interagency Liaison Officer	<i>[The November 11, 2001 INS Restructuring Proposal creates an interagency Liaison Officer who is responsible for facilitating information sharing with other federal, state, and local agencies.]</i>	No provision.	No provision.
Ombudsman	<i>[The November 11, 2001 INS Restructuring Proposal creates an Office of the Ombudsman that provides the following: (1) the public a means of communication with regard to enforcement activities and (2) a resolution to complaints and allegations of serious misconduct to the Office of Professional Responsibility. The plan provides a representative of the Ombudsman for the Border Patrol and Interior Enforcement Division and the Detention and Removal Division.]</i>	See Office of the Ombudsman under the Directorate, page 18. §1106(a)	See Office of the Ombudsman under the Service Bureau, page 31. §422(a)
Chief of Border Patrol and Interior Enforcement Division	<i>[The November 11, 2001 INS Restructuring Proposal creates a position of Chief of Border Patrol and Interior Enforcement Division that has responsibility over all of the INS-related law enforcement components.]</i>	No provision.	No provision.
Director of the Detention and Removal Division	<i>[The November 11, 2001 INS restructuring plan creates a position of Director of Detention and Removal who has overall responsibility over INS detention facilities.]</i>	No provision.	No provision.
Director of the International Division	<i>[The November 11, 2001 INS restructuring plan creates a position of Director of the International Division who is in charge of foreign government training and liaison and enforcement functions.]</i>	No provision.	No provision.

Unaccompanied Alien Children

Subject	Current law / current administrative structure ^a	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Title of the Act	None.	The act would provide the following title: "Unaccompanied Alien Child Protection Act of 2002." §1201	No provision.
Definitions	The law establishes an Office of Refugee Resettlement headed by a Director in the Department of Health and Human Services. §411(a)	The act would define (1) Director as the Director of the (2) Office of Refugee Resettlement (ORR); (3) Office as the ORR; Service as INS; (4) Unaccompanied Alien Child as having no lawful immigration status in the U.S., has not reached the age of 18, has no parent or legal guardian in the U.S. or has no parent or legal guardian in the U.S. available to provide care and physical custody; (5) voluntary agency as a private, nonprofit voluntary agency that has expertise in meeting the needs of unaccompanied alien children and is licensed appropriately; and (6) unaccompanied refugee children as having no lawful immigration status in the U.S., has not reached the age of 18, has no parent or legal guardian in the U.S. or has no parent or legal guardian in the U.S. available to provide care and physical custody. §1202	The act would provide a similar definition for unaccompanied alien child. The act would define placement as placing an unaccompanied minor in a detention facility or an alternative facility. §436(g)

Subject	Current law / current administrative structure ^a	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Functions	See Office of Juvenile Affairs under the Commissioner, page 20.	The act would charge the Director with the following responsibilities pertaining to unaccompanied alien children: (1) coordinate and implement law and policy; (2) assure that their interests are considered in all decisions pertaining to his/her care and custody; (3) make placement, release and detention determinations on all unaccompanied minors in custody; (4) implement all placement, release and detention determinations made by the Office; (5) convene, in the absence of the Assistant Secretary of the Administration for Children and Families of DHHS, the Interagency Task Force on Unaccompanied Alien Children; (6) identify adequate and qualified individuals, entities, and facilities to house unaccompanied minors; (7) oversee facilities and personnel that house and care for unaccompanied minors; (8) compile, update, and publish on an annual basis a list by states of professionals or entities qualified to contract with the Office to provide relevant services; (9) maintain statistics and other data on unaccompanied minors including biographical information, the date the minor came into custody, placement, removal, or release information and an explanation for all detention and release cases, and information on dispositions pertaining to unaccompanied minors; (10) collect and compile statistics from the Service on unaccompanied alien minors with whom they come into contact; and (11) conduct investigations and inspections of facilities that house unaccompanied minors; and (12) conduct	Similar provision, except the act also encourages the Office to reunite unaccompanied alien children with their families abroad when appropriate. §436(a)(b)

Subject	Current law / current administrative structure ^a	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
		investigations and inspections of facilities that house unaccompanied minors. §1211	
Placement Decisions	<i>[Note: 8 CFR §236.3 sets out current policy for detention and release of unaccompanied alien minors in INS custody.]</i>	No provision.	<p>The act would requires the Director of ORR to consult the appropriate juvenile justice professionals and the directors of the service and enforcement Bureaus when making placement decisions with regard to unaccompanied minors to assure the following: (1) that unaccompanied minors are likely to appear for all of their hearings; (2) that unaccompanied minors are protected from smuggling, traffickers, and others who might victimize them or engage them in illegal activities; and (3) that unaccompanied minors are placed in a safe setting.</p> <p>The act would prohibit the Director of ORR from releasing unaccompanied minors on their own recognizance. §436(b)(2)</p>
Interagency Task Force	None.	<p>The act would establish an interagency task force on unaccompanied alien children with representatives from DHHS, DHS, and DOS and other agencies designated by the President.</p> <p>The act would charge the DHHS Assistant Secretary for Children and Families to chair the interagency task force. §1212</p>	No provision.

Subject	Current law / current administrative structure^a	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Procedures for Handling Unaccompanied Alien Minors	[See 8 CFR §236.3]	<p>The act would establish procedures to handle unaccompanied alien children at the border, or at ports of entry.</p> <p>The act would allow for removal of alien children if deemed inadmissible under the INA, unless the child is a national of a country contiguous to the U.S. and who fears persecution or would be harmed if returned to that country.</p> <p>The act would place custody of all unaccompanied alien children found in the interior of the United States under the jurisdiction of the ORR, with exception of children who have committed crimes and or threaten national security. §1221</p>	No provision.
Family Reunification	[See 8 CFR §236.3]	The act would encourage family reunification by requiring ORR to place an unaccompanied alien child with one of the following in order of preference: (1) a parent; (2) a legal guardian; (3) an adult relative; (4) an entity designated by the parent or legal guardian; (5) a state-licensed juvenile shelter or group home; or (6) other qualified adults or entities. §1222	No provision.

Subject	Current law / current administrative structure ^a	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Detention Standards	None.	<p>The act would require ORR to: (1) establish appropriate standards and conditions for the detention of unaccompanied alien children; (2) provide appropriate educational services, medical and mental health care; (3) provide access to telephones, legal services, and interpreters; (4) provide supervision by professionals trained in the care of children; (5) provide recreational programs and activities, (6) provide spiritual and religious needs; and (7) provide dietary needs.</p> <p>The act would prohibit shackling, handcuffing, or other restraints; solitary confinement; or pat or strip searches of children. §1223</p>	No provision.
Sense of Congress Repatriation of Children	None.	<p>The act would state that it is a sense of Congress that the United States shall undertake efforts to ensure that it does not repatriate children in its custody into settings that would threaten the life and safety of the child.</p> <p>The act would require ORR to assess conditions of countries to which alien children may be repatriated; would require ORR to submit a report to Congress providing information on efforts to repatriate unaccompanied children. §1224</p>	No provision.
Determination of Age	None.	The act would require ORR to establish procedures for determining age of children. §1225	No provision.

Subject	Current law / current administrative structure ^a	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Guardian ad litem	None.	<p>The act would require ORR, no later than 72 hours after it assumes custody of an unaccompanied alien child, to appoint a guardian ad litem to look after the child's best interests.</p> <p>The act would establish qualifications, duties, and powers of the guardian ad litem. §1231</p>	No provision.
Counsel	None.	<p>The act would require ORR to ensure that all unaccompanied alien children have competent legal counsel appointed to represent them in immigration proceedings.</p> <p>The act would encourage ORR to utilize pro bono attorneys; otherwise, the ORR would appoint government-funded counsel. §1232</p>	No provision.
Effective Date	None.	<p>The act would set the effective date as 1 year after effective date of enactment of Division A of this act.</p> <p>The act would make the provision applicable to all such children in federal custody on, before, or after the effective date of the subtitle. §1233</p>	No provision.
Immigrant Status	The law defines a "special immigrant" preference category for admission as a legal permanent resident. §101(a)(27)	The act would amend the special immigrant provisions in §101(a) (27)(J) of the INA to enable abused, neglected and abandoned alien youths who become wards of the court to adjust to legal permanent resident status. §1241	No provision.

Subject	Current law / current administrative structure^a	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Training for Personnel Working with Unaccompanied Alien Children	None.	The act would require DHHS and DHS to jointly offer training to state and local officials involved in dependency proceedings, social service providers, as well as DHS immigration personnel who come into contact with unaccompanied alien children. §1242	No provision.
Sense of Congress on Refugee Children	None.	The act would express a sense of Congress commending INS for the issuance of its Guidelines for Children's Asylum Claims. The act would require the Secretary of Homeland Security to provide training to asylum officers, immigration judges, members of the Board of Immigration Appeals and immigration officers on these guidelines. §1251	No provision.
Analysis of Situation of Refugee Children	None.	The act would require an analysis of the situation faced by unaccompanied refugee children around the world and require training on the needs of these children. §1252	No provision.
Authorization for Appropriations	Funds are appropriated annually for INS under the Commerce, Justice, State, the Judiciary and Related Agencies Appropriations Act.	The act would authorize appropriations, "such sums as may be necessary," to carry out this Title. The act would require the amount appropriated to remain available until expended. §1261	No provision.

Visa Issuance Functions

Subject	Current law / current administrative structure ^a	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Visa Issuance	The INA specifies that the Secretary of State administers and enforces the provisions of all immigration laws pertaining to the powers, duties, and functions of the diplomatic and consular officers, except the powers, duties, and functions relating to granting or refusing visas that are directly conferred on consular officers. §104(a)	The act would give the Secretary of DHS authority to issue regulations on visa policy, but would provide that the Secretary may delegate this authority to the Secretary of State. §102(c)(2)	The act would give the Secretary of DHS authority to issue regulations on visa policy. §403(a)
Exclusion on Basis of National Security	The law bars from entry into the U.S. any alien who has engaged in or incited terrorist activity, is reasonably believed to be carrying out a terrorist activity, or is a representative or member of a designated foreign terrorist organization. The USA PATRIOT Act added representatives of groups that endorse terrorism, prominent individuals who endorse terrorism, and spouses and children of aliens who are deportable on terrorism grounds on the basis of activities occurring within the previous 5 years. §212(a)(3) [<i>Note: When §601 of the Immigration Act of 1990 rewrote §212(a) of the INA, it made current law significantly more circumscribed in regard to the discretion to exclude aliens on general, foreign policy and security grounds.</i>]	The act would expand the current exclusion authority of the Secretary of State by permitting the Secretary to direct a consular officer to exclude an alien when necessary or advisable in the foreign policy or security interests of the U.S. §102(c)(2)	Similar provision. §403(b)

Subject	Current law / current administrative structure^a	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Exclusion on Other Foreign Policy and National Security Grounds	Other laws in addition to the INA exclude aliens based upon findings including: aliens abroad who espouse or endorse terrorist activities; aliens in possession of property confiscated or nationalized by the Cuban government; and aliens found to have disclosed certain business records in violation of the Chemical Weapons Convention. §104 of the Cuban Liberty and Democratic Solidarity Act of 1996; §801 of the Admiral James Nance and Meg Donovan Foreign Relations Authorization; §568 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act; §51 of the State Department Basic Authorities Act of 1956; and §103(f) of the Chemical Weapons Convention Implementation Act of 1998.	The act would retain these findings, including: designation of aliens abroad who espouse or endorse terrorist activities; aliens in possession of property confiscated or nationalized by the Cuban government; and exclusion of aliens found to have disclosed certain business records in violation of the Chemical Weapons Convention. §102(c)(2)	Similar provision, except it does not specify violations of the Chemical Weapons Convention. §403(b)(2)
Convention on Protection of Children and Cooperation in Respect to Inter-Country Adoption	The Intercountry Adoption Act of 1999 (P.L. 106-279, §102) gives the Secretary of State certain responsibilities pertaining to the Convention on Protection of Children and Cooperation in Respect to Inter-Country Adoption.	The act would retain the authority of the Secretary of State with respect to the exclusion of violators of the Convention on Protection of Children and Cooperation in Respect to Inter-Country Adoption.	Similar provision. §403(b)(2)
Assignment of Employees	No provision.	The act would authorize assignment of homeland security employees to diplomatic and consular posts for advice, review and investigations. §102(c)(5)(A)	Similar provision. §403(c)(1)

Subject	Current law / current administrative structure^a	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Personnel Assigned to Terrorist Lookout Committee	Secretary of State is required to establish a terrorist lookout committee within each overseas U.S. mission that includes a consular post. The composition of the committee includes representatives of relevant law enforcement and intelligence entities. The purpose of the committee is to (1) identify potential terrorists and develop information on such individuals; (2) ensure that the names of suspected terrorists are routinely and consistently brought to the attention of consular posts; and (3) ensure that the names of suspected terrorists are entered into the appropriate databases. Section 304 of Enhanced Border Security and Visa Entry Reform Act of 2002.	The act would provide for homeland security personnel assigned overseas to participate in the terrorist lookout committees established by §304 of Enhanced Border Security and Visa Entry Reform Act of 2002. §403(c)(2)	Similar provision. §102(c)(5)(B)

Subject	Current law / current administrative structure ^a	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Training and Hiring of Personnel	<p>The Enhanced Border Security and Visa Entry Reform Act of 2002 charges the Secretary of State with (1) implementing enhanced security measures for review of visa applicants; (2) enhancing the interface between the United States and international intelligence information; (3) adequately staffing the programs associated with visa issuance and foreign intelligence; and (4) providing ongoing training for consular officers. It also authorizes to be appropriated such sums as may be necessary to accomplish these directions. §101(e) of EBSVERA.</p>	<p>The act would require the Secretary to ensure that any employees of DHS assigned to perform functions described at §102(c)(5)(A) [relating to visa applications] and, as appropriate, consular officers, would be provided all necessary training to enable them to carry out such functions, including training in foreign languages, in conditions in the particular country where each employee is assigned, and in other appropriate areas of study.</p> <p>The act would require that before assigning employees to perform the functions, the Secretary would prescribe regulations to establish foreign language proficiency requirements for employees. The act would require a preference in hiring employees to perform such functions to be given to those who meet such requirements.</p> <p>The act would permit the Secretary to use the National Foreign Affairs Training Center, on a reimbursable basis, to obtain the training. §102(c)(5)(C)</p>	<p>The act would require the Secretary to ensure that any employees of the DHS assigned to perform functions described in §403(c)(1) [relating to visa applications] would be provided all necessary training to enable them to carry out such functions, including training in foreign languages, interview techniques, fraud detection techniques, and other skills required by such employees, in conditions in the particular country where each employee is assigned, and in other appropriate areas of study.</p> <p>The act would require the Secretary to prescribe regulations within 60 days of the act's enactment to establish foreign language proficiency requirements for employees performing the functions. Preference in hiring employees to perform such functions would be given to those who meet such requirements.</p> <p>The act would permit the Secretary to use the National Foreign Affairs Training Center, on a reimbursable basis, to obtain the training. §403(c)(3)</p>
Definition of Consular Officer	<p>The law defines a consular officer as any consular, diplomatic, or other officer or employee of the United States government designated under INA to issue visas. §101(a)(9).</p>	<p>The Act would clarify that this definition is retained. §102(c)(1).</p>	<p>No provision.</p>

Subject	Current law / current administrative structure^a	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Non-reviewability of Consular Decisions	The law gives only consular officers the authority to issue visas. §221	No provision.	The act would assert that current law on the non-reviewability of consular decisions remains. §403(d)
Report to Congress on Use of Foreign Nationals	No provision.	No provision.	The act would require a study and report to Congress on the use of foreign nationals in the process of rendering decisions in the visa issuance process, specifically addressing national security concerns and cost-effective alternatives. §403(e)
Report to Congress on Affect on Student Visas	No provision.	No provision.	Requires the Director of the Office of Science and Technology Policy to submit a report to Congress within 120 days on the affect of §403 on the issuances of visas to students. §403(f)
Visa Issuance Program in Saudi Arabia	No provision.	No provision.	The act would create a special visa issuance program in Saudi Arabia that would require all interviews to be conducted by homeland security personnel. §403(g)

The Executive Office for Immigration Review (EOIR)

Subject	Current law / current administrative structure ^a	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
EOIR	[Note: The Attorney General created EOIR by regulation in 1983 as an agency independent from the INS. EOIR administers and interprets immigration laws and regulations through the immigration court proceedings, appellate reviews, and administrative hearings in individual cases. There are three main components to EOIR: the Board of Immigration Appeals; the Office of the Chief Immigration Judge; and the Office of the Chief Administrative Hearing Officer. 8 CFR Part 3]	The act would prohibit the contents of this act to be construed to authorize or require the transfer of EOIR. §1118	No provision.
Status of EOIR New Agency	See above 8 CFR Part 3	The act would abolish the Executive Office for Immigration Review and establish within DOJ an Agency of Immigration Hearings and Appeals with similar responsibilities. §1301	No provision.
Agency Head	See above 8 CFR Part 3	The act would place a Director who is appointed by the President with the advice and consent of the Senate to head the agency. §1302	No provision.
Board of Immigration Appeals	See above 8 CFR Part 3	The act would provide authority for the Board of Immigration Appeals with a chair and not less than 14 other immigration appeals judges. §1303	No provision.
Chief Immigration Judge	See above 8 CFR Part 3	The act would provide authority for a chief immigration judge and immigration courts. §1304	No provision.
Chief Administrative Hearing Officer	See above 8 CFR Part 3	The act would provide authority for a chief administrative hearing officer. §1305	No provision.

Subject	Current law / current administrative structure^a	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Removal of Judges	No provision.	The act would provide that the Director may remove judges for good cause (including malfeasance and neglect of duty) in consultation with the Chief Immigration Judge in cases involving judges and the Board Chair in cases involving Board members. §1306	No provision.
Transition	No provision.	<i>Same as §1311, Transition in Part V.</i> The act would transfer EOIR's functions, allocation of appropriations, personnel and legal documents to a newly created agency in DOJ. The act would require that all of EOIR's decisions, orders, and proceedings continue in the new agency. §1311	No provision.
Effective Date	No provision.	The act would set the effective date as 1 year after effective date of enactment of Division A of this act.	No provision.

Transition

Subject	Current law / current administrative structure	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Transfer of Functions	None.	<p>The act would require the transfer of all immigration functions under U.S. immigration laws vested by statute or exercised by the Attorney General to the Secretary of DHS before the effective date of the enactment of this Title.</p> <p>The act would require the transfer of all immigration functions under U.S. immigration laws vested by statute or performed by the INS Commissioner to the Directorate of Immigration Affairs before the effective date of the enactment of this Title. §1111</p>	See below, §411, §421(b) and §428(a).
Transfer of Enforcement Functions	None.	See above, §1111.	The act would transfer from the INS Commissioner to the Under Secretary for Border and Transportation Security immediately before the transfer occurs all personnel, assets and liabilities pertaining to the following functions: (1) border patrol, (2) detention and removal, (3) intelligence, (4) investigations and (5) inspections. §411
Transfer of Service Functions	None.	See above, §1111.	The act would require the Commissioner of INS to transfer to the Assistant Attorney General for Citizenship and Immigration Services the functions, personnel, infrastructure and funding pertaining to all adjudications performed by INS. §421(b)

Subject	Current law / current administrative structure	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Reference in Law	None.	The act would require any reference in any statute, Executive Order, regulation, agreement, determination, or official document or proceeding to the Commissioner of INS deemed to refer to the Under Secretary of Immigration Affairs. §1103(f)	The act would transfer any reference in federal law, executive order, rule, regulation, delegation of authority, or any document or component of government to the Assistant Attorney General for Citizenship and Immigration Services. §428(a)
Transfer of Personnel and Related Resources	None.	The act would require the transfer and allocation of personnel, assets, liabilities, contracts, property, records, unexpended balance of appropriations, authorizations, allocations, and other relevant funds from DOJ to the Under Secretary for allocation to the appropriate component. §1112	See below, §411 and §428(a).
Transfer and Allocation of Personnel and Resources	None.	The act would require the Under Secretary to determine the allocation of resources. §1113	The act would require the transfer (including additional incidental transfer) and allocation of personnel, assets, liabilities, contracts, property, records, unexpended balance of appropriations, authorizations, allocations, and other relevant funds from DOJ (with respect to immigration service functions) to the Assistant Attorney General for Citizenship and Immigration Services for allocation to the appropriate component of DOJ. §428(b)(3)
Transfer of Unexpended Funds	None.	The act would require that unexpended funds in place prior to the transfer be used for their original purpose. §1113	Similar provision. §428(a)(3)

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Subject	Current law / current administrative structure	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Delegation of Functions	None.	The act would require the Under Secretary, under the direction of the Secretary, to delegate immigration functions to the Assistant Secretary of the service and enforcement bureaus. §1114	The act would permit the Attorney General to realign staff and funds. §428(b)(4)
Allocation of Personnel and Shared Resources	None.	<p>The act would give authority to the Under Secretary to terminate affairs of INS.</p> <p>The act would also authorize the Under Secretary to provide for an appropriate allocation and/or coordination of shared resources between both Bureaus. §1115</p>	No provision.
Transition Funding	None.	<p>The act would authorize appropriations of such sums as may be necessary to abolish INS; to establish the Directorate of Immigration Affairs, its components and its Bureaus; and to transfer relevant functions to the Directorate and the Bureaus.</p> <p>The act would support the following activities: (1) planning for the transfer, (2) acquiring, dividing or disposing of property, and (3) other expenditures necessary to effect the transfer.</p> <p>The act would require the amount appropriated to remain available until expended.</p> <p>The act would establish a transition account for the transfer and would require the Secretary to report to Congress, no later than 90 days after the effective date of this Division, the availability of funds to cover the transition cost. §1120</p>	None.

Subject	Current law / current administrative structure	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Transfer of Unaccompanied Alien Minors Functions	None.	The act would require the transfer of all matters pertaining to the care and custody of unaccompanied alien children to the Director of the Office of Refugee Resettlement (ORR) of DHHS. §1213(a)	The act would require the transfer of all matters pertaining to the care of unaccompanied alien children to the Director of ORR of DHHS. §436(a)
Transfer of Unaccompanied Alien Minors Functions	None.	<p>The act would require the transfer and allocation of personnel, assets, liabilities, contracts, property, records, unexpended balance of appropriations, authorizations, allocations, and other relevant funds from INS (with respect to the unaccompanied alien minors functions) to the Director of the Office of Refugee Resettlement for allocation to the appropriate component of the Department of Health and Human Services. §1213(b)(c)</p> <p>The act would require that unexpended funds be used for their original purpose. §1213(b)(c)</p>	Similar provision, except would add the following: would permit the relevant federal official to whom the unaccompanied alien minors function is transferred to exercise authorities under law, with respect to performing the function, that were available prior to the transfer. §436(f)(1)(3)
Transfer of the Executive Office for Immigration Review Functions	None.	<p>The act would transfer EOIR’s functions, allocation of appropriations, personnel and legal documents to a newly created agency in DOJ.</p> <p>The act would require that all of EOIR’s decisions, orders, and proceedings continue in the new agency. §1311</p>	No provision.

Reporting Requirements

Subject	Current law / current administrative structure	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Report on the Office of the Ombudsman	None	<p>The act would require the Ombudsman to report annually to Congress on the objectives of the office for the upcoming fiscal year. The act would require the report to be submitted to Congress without prior review or comment from other officials. The act would require the report to have analysis, statistical information, and the following: (1) description of initiatives the Directorate has taken with regard to improving services and the responsiveness of the bureau; (2) a summary of the “most pervasive and serious problems” experienced by individuals and employers; (3) an inventory of the aforementioned items for which action has been taken; (4) an inventory of the aforementioned items for which action is still needed; (5) an inventory of the aforementioned items for which no action has been taken; (6) recommendations for administrative and legislative action, if necessary, to resolve problems experienced by individuals and employers; (7) recommendations to resolve problems caused by inadequate funding or staffing, and (8) any other information the Ombudsman deems necessary. §1106(a)</p>	<p>The act would require the Ombudsman to report no later than June 30 of each year to Congress on the objectives of the office for the upcoming fiscal year. The act would require the report to be submitted to Congress without prior review or comment from other officials.</p> <p>The act would require the report to have analysis, statistical information, and the following: (1) identification of initiatives the office has taken with regard to improving services and the responsiveness of the bureau; (2) summary of the “most pervasive and serious problems” experienced by individuals and employers; (3) inventory of the aforementioned items for which action has been taken; (4) inventory of the aforementioned items for which action is still needed; (5) inventory of the aforementioned items for which no action has been taken; (6) recommendations for administrative and legislative action, if necessary, to resolve problems experienced by individuals and employers; and (7) any other information the Ombudsman deems necessary. §422(c)</p>

Subject	Current law / current administrative structure	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
<p>Report on Division and Transfer of Funds, Division of Personnel and Implementation Plan</p>	<p>No provision.</p>	<p>The act would require the Secretary to report to Congress, no later than 90 days after the effective date of this Division, the availability of funds to cover the transition cost. §1120</p>	<p>The act would require the Attorney General and the Secretary of DHS, no later than 120 days after enactment, to submit the following: (1) a report on the proposed division and transfer of funds between the Bureaus, (2) a report on the division of personnel between the Bureaus and (3) an implementation plan.</p> <p>The act would require the implementation plan to contain information pertaining to the separation of the Bureau of Citizenship and Immigration Services and the Bureau of Border Security as well as the following: (1) organizational structure; (2) chain of command; (3) procedures for interaction among the bureaus; (4) fraud detection and investigation; (5) the processing and handling of removal proceedings and applications for relief from removal; (6) recommendations for conforming amendments to the INA; (7) the establishment of a transition team; and (8) methods to phase in the costs of separating administrative support systems of both bureaus.</p> <p>The act would require the reports and plan to be submitted to Congress no later than 120 days after the enactment of this act. Requires the</p>

Subject	Current law / current administrative structure	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Report on On-line Filing for Benefit Applications	None.	The act would require the Under Secretary to report to Congress on the feasibility of on-line filing for benefit applications. §1122	No provision.
Report on Enforcement Functions	None.	No provision.	The act would require the Secretary (after consulting with other federal, state and local officials) to submit to Congress, no later than 1 year after the secretary is sworn in, a report with regard to how the enforcement bureau will effectively enforce the enforcement provisions of the INA. §415

Subject	Current law / current administrative structure	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Report on Adjudications Implementation Plan	None.	No provision.	<p>The act would require the Attorney General (after consulting with the Secretary of State, Secretary of Labor, and the Assistant Secretary of the Bureau of Border Security of DHS, and the directors of both Bureaus, and the Director of EOIR) to submit a report to Congress with regard to a plan for implementing a system for more timely and efficient processing of adjudications no later than 1 year from enactment of this act. §433(a)(c)</p> <p>The act would require the plan to contain the following for each type of adjudication: (1) potential savings of resources, (2) goal for processing time of applications, and (3) statutory modifications with regard to adjudications, if considered advisable by the Attorney General. §433(b)</p>

Subject	Current law / current administrative structure	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Report to Congress on Status of Transition	No provision.	No provision.	<p>The act would require the Comptroller General to submit a report to Congress with regard to the status of the transition and any issues that have arisen pertaining to the transfer, no later than 18 months after the date on which the functions are transferred, and every 6 months thereafter until full implementation has been completed.</p> <p>The act would require a report, no later than 4 years after the transfer, on the determinations pertaining to the improvement of immigration functions as a result of the transfer, including operations, management, financial administration, and record keeping, as well as recommendations for further improvements in both bureaus.</p> <p>The act would require the Comptroller General to submit a report to Congress no later than 1 year after the date of enactment of this act with regard to whether the Bureau of Citizenship and Immigration Services is likely to derive adequate funds, in the absence of appropriated funds, from its fee-based programs. §245(d)</p>

Subject	Current law / current administrative structure	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Report on Appropriations Needed for Services	No provision.	No provision.	The act would require the Attorney General to submit a report to Congress no later than 30 days after the enactment of this act with respect to changes in the law and authorizations of appropriations that are needed in order for INS and thereafter the Bureau of Citizenship and Immigration Services to respond to applications for immigration benefits and to otherwise accommodate changing immigration service needs. §434
Report on Foreign Nationals	No provision.	No provision.	The act would require a study and report to Congress on the role of foreign nationals in the process of rendering decisions in the visa issuance process, specifically addressing national security concerns and cost-effective alternatives. §403(e)
Report on Affect on Student Visas	No provision.	No provision.	The act would require the Director of the Office of Science and Technology Policy to submit a report to Congress within 120 days on the affect of §403 on the issuances of visas to students. §403(f)

Subject	Current law / current administrative structure	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Report on Impact of Transfer	None.	No provision.	The act would require the Attorney General to submit a report to Congress, 1 year after enactment, with regard to the impact the transfers have had on immigration functions. Would require the report to include: (1) number of all immigration applications and petitions received and processed; (2) statistics by region on number of immigration applications and petitions filed and denied; (3) quantity of backlogged applications and petitions that have been processed, the number awaiting processing and a plan detailing the elimination of the backlog; (4) average processing period for immigration applications and petitions; (5) number and types of immigration-related grievances filed; (6) plans to address grievances; (7) whether fees were used consistently with the legal requirements; and (8) whether immigration-related questions were answered effectively and efficiently. §446(a)

Miscellaneous Provisions

Subject	Current law / current administrative structure	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Provisions of Laws Repealed	None.	The act would repeal the following: (1) Section 7 of the Act of March 3, 1981 pertaining to the establishment of the Office of the Commissioner of Immigration and Naturalization; (2) Section 201 of the Act of June 20, 1956 pertaining to the compensation of assistant commissioners and district directors; and (3) Section 1 of the Act of March 2, 1895 pertaining to special immigrant inspectors. §1103(d)	[The act would abolish INS. §441]
Savings Provisions	None.	The act would require that all legal determinations made prior to the enactment of this act continue. §1116(a) The act would require that any proceedings underway prior to the enactment of this act continue. §1116(b)	Similar provision. §812(a)(b)
Statutory Construction Executive Office for Immigration Review (EOIR)	None.	The act would prohibit the contents of this act to be construed to authorize or require the transfer of EOIR from DOJ. §1118	No provision.
Statutory Construction Secretary of State Secretary of Labor	None.	The act would prohibit the contents of this act to be construed to limit the authority of the Secretary of State and the Secretary of Labor with respect to labor certifications. §1119	No provision.
Backlog	The INA required that the deadline for eliminating the adjudication backlog be completed 1 year from the date of enactment of the <i>Immigration Services and Infrastructure Improvements Act of 2000</i> (enacted on October 17, 2000; 114 Stat. 1251). §202(a) of the INA	The act would amend the Immigration Services and Infrastructure Improvements Act of 2000 by extending the deadline for eliminating the adjudication backlog to 1 year from the date of enactment of this act. §1121	Similar provision. §432

Subject	Current law / current administrative structure	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Internet-based Technology	None.	<p>The act would require the Secretary, in consultation with the Under Secretary and Technology Advisory Committee, to establish an Internet-based system to check status of benefit applications, no later than 2 years after the enactment of this act. §1122</p> <p>The act would require the Under Secretary to conduct a study to determine the feasibility of on-line filing, and submit a report to Congress with the findings of the study. §1122</p> <p>The act would require the Under Secretary to establish an advisory committee to assist with establishing the internet-based tracking system. §1122</p>	Similar provision, except the act would give the Attorney General 1 year to establish the system.
Asylum Seekers	The INA places aliens who arrive in the U.S. without proper documents in expedited removal proceedings. If such an alien requests asylum, the case is referred to an asylum officer for a “credible fear” determination. The INA requires the mandatory detention of the alien pending a final determination of credible fear of persecution or until removed if the determination did not find such a fear. §235(b)	<p>The act would assign asylum officers to major ports of entry to assist in the inspection of asylum seekers.</p> <p>The act would also amend INA to require the Under Secretary to develop alternatives to the mandatory detention of asylum applicants and specifies that the alternatives considered should include: parole; parole with assistance from nonprofit voluntary agencies; non-secure shelters and group homes operated by nonprofit voluntary agencies; and noninstitutional settings for minors operated by nonprofit voluntary agencies. §1123</p>	No provision.

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Subject	Current law / current administrative structure	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Employee Voluntary Separation Incentive Payments	None.	No provision.	The act would provide voluntary separation incentive payments, up to \$25,000, for certain employees. §442
Employee Discipline Demonstration Project	None.	No provision.	<p>The act would permit the Attorney General and the Secretary, during a period ending not later than 5 years after the act's enactment date, to conduct a demonstration project to determine whether one or more changes in the policies or procedures relating to methods for disciplining employees would result in improved personnel management. §443</p> <p>The act would require GAO to prepare and submit to Congress periodic reports on any demonstration project. §443</p> <p>The act would require the reports to be submitted after the second and fourth years of the project's operation. §443</p>
Sense of Congress Regarding Border Fence	None.	No provision.	The act would state that it is the sense of Congress that the 14-mile border fence project required by 8 U.S.C. 1103 should be a priority for the Secretary. §416

Subject	Current law / current administrative structure	S.Amdt. 4471, as filed on September 3, 2002	H.R. 5005, as passed by the House on July 26, 2002
Sense of Congress Regarding Bureau Missions	None.	No provision.	The act would provide the following sense of Congress: (1) the missions of the Bureau of Immigration Enforcement of DHS and the Bureau of Citizenship and Immigration Services of DOJ are equally important and should be adequately funded; and (2) the border security and the citizenship and immigration services functions transferred under this subtitle should not operate at levels below those in effect prior to enactment. §444
Sense of Congress Regarding Quality and Efficiency of Services	None.	No provision.	The act would provide that it is the sense of Congress that the quality and efficiency of immigration services should be improved after the transfers take effect and that the Attorney General should undertake efforts to guarantee that concerns pertaining to immigration services are addressed. §446(b)

a. Text appearing in italics are either INS or DOS internal regulations, or the Administration's November 14, 2001 INS Restructuring Plan, and not current law.