

# CRS Report for Congress

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## **Mexico-United States Dialogue on Migration and Border Issues, 2001-2005**

**Updated June 2, 2005**

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# Mexico-United States Dialogue on Migration and Border Issues, 2001-2005

## Summary

This report, which will be updated periodically, focuses on the interactions between Mexico and the United States on migration and border issues during the administrations of President George W. Bush and President Vicente Fox of Mexico. The discussions and agreements fall into four areas: (1) the bilateral migration talks, (2) the Partnership for Prosperity, (3) the Border Partnership Agreement, and (4) the trilateral “Security and Prosperity Partnership (SPP) of North America.”

The bilateral migration talks were initially announced at the Presidents’ first meeting in February 2001, and they were more formally reviewed in early September 2001. At that time, the Presidents instructed the cabinet-level working group “to reach mutually satisfactory results on border safety, a temporary worker program and the status of undocumented Mexicans in the United States . . . as soon as possible.” The talks stalled, however, following the terrorist attacks upon the United States and increased concerns with border security. President Bush urged immigration reform in his State of the Union address on February 2, 2005. The House approved immigration control and identity card standards when it passed the REAL ID Act of 2005 (H.R. 418) on February 10, 2005, and attached it to the Emergency Supplemental Appropriations for FY2005 (H.R. 1268) on March 16, 2005.

The Partnership for Prosperity (P4P) was launched in September 2001 as a public-private alliance of Mexican and U.S. governmental and business leaders to promote economic development in Mexico, especially in areas with high migration rates. By the end of 2004, following various meetings, Secretary of State Powell noted that P4P programs had lowered fees for transferring funds from the United States to Mexico, brought together more than 1,400 business and government leaders, and developed innovative methods to finance infrastructure projects.

The Border Partnership (“Smart Border”) Agreement was announced in March 2002, to enhance border security by utilizing technology to strengthen infrastructure while facilitating the transit of people and goods across the border. When Secretary of Homeland Security Tom Ridge and Secretary of Government Santiago Creel met in February 2004 to review partnership progress, they signed an action plan for cooperation to promote border safety and a memorandum on the humane repatriation of Mexican nationals to their home towns. The leaders also committed to develop eight new Secure Electronic Network for Travelers Rapid Inspection (SENTRI) lanes for pre-screened, low-risk individuals at six ports of entry, and to develop new Free and Secure Trade (FAST) lanes for pre-cleared cargo at five ports of entry.

The trilateral “Security and Prosperity Partnership (SPP) of North America” was launched on March 23, 2005, at a summit that President Bush hosted in Texas with President Fox and Prime Minister Martin. The SPP will seek to advance the common security and the common prosperity of the countries through expanded cooperation and harmonization of immigration, border, and security policies.

## Contents

Background on Pre-2001 Policies .....	1
Immigration Reform Act of 1986 .....	1
Immigration Reform and Welfare Reform Acts of 1996 .....	2
Clinton-Zedillo Initiatives .....	2
Legal Immigration Family Equity (LIFE) Act of 2000 .....	2
Bilateral Dialogue Since 2001 .....	3
President Bush's February 2001 Visit to Guanajuato, Mexico Launches Bilateral Migration Talks .....	3
President Fox's Early September 2001 Official Visit to Washington, D.C. Advances Migration Talks and Launches Partnership for Prosperity .....	4
U.S. Emphasis on Security Following September 2001 Terrorist Attacks .....	4
President Bush's March 2002 Visit to Monterrey, Mexico Launches Border Partnership ("Smart Border") Agreement .....	5
Binational Commission Meetings in Mexico City in November 2002 ..	5
Bilateral Developments on Security Issues in Early 2003 in Context of Conflict in Iraq .....	6
Reactions to House Action on Migration Agreement in May 2003 .....	6
Reactions to Deaths of Migrants in Texas in May 2003 .....	7
Joint Operations in the Arizona-Sonora Desert in June 2003 .....	7
Initiatives under the Partnership for Prosperity in June 2003 .....	7
Mexican Secretary of Government Calls for Bilateral Migration Agreement in July 2003 .....	7
President Bush Proposes Immigration Reform in January 2004 Along with Congressional Proposals .....	7
Review of U.S.-Mexico Border Partnership in February 2004 .....	8
Presidents Bush and Fox Meet in Crawford, Texas in March 2004 and Resolve Some Border Issues .....	8
Mexican and U.S. Officials Sign a Social Security Totalization Agreement in June 2004 .....	9
9/11 Commission Argues for Collaboration with Countries and Stricter Border Control and Identity Document Standards in July 2004 ..	9
Mexican Foreign Ministry Expresses Regret After Passage of Proposition 200 (Taxpayer and Citizen Protection Act) in Arizona in Early November 2004 .....	9
Review of Migration and Border Cooperation at Binational Commission Meeting in November 2004 .....	9
Congress Strengthens Border Control and Identity Card Standards in Intelligence Reform and Terrorism Prevention Act of 2004 ..	10
Mexican Officials Argue in Early January 2005 that the <i>Guides for Mexican Migrants</i> Are to Protect Migrants from Dangers Despite Numerous Criticisms .....	10
Diplomatic Exchanges Between the United States and Mexico on Border Violence in Late January 2005 .....	11
President Bush Urges Immigration Reform in the State of the Union Address in Early February 2005 .....	11

House Passes the REAL ID Act in February 2005, with Immigration Provisions and Identity Card Standards; Attaches Provisions to the Emergency Supplemental for FY2005 in March 2005 . . .	11
Secretary of State Rice Visits Mexico in Mid-March 2005 in Preparation for Upcoming Trilateral Summit . . . . .	12
President Bush Meets with President Fox and Prime Minister Martin in Texas on March 23, 2005; Trilateral “Security and Prosperity Partnership (SPP) of North America Launched . . . . .	13
Senate Considers Immigration Provisions in Context of FY2005 Emergency Supplemental in April 2005; Both Houses Approve Conference Report and President Signs into Law in May 2005 .	14
Mexican Government Officials Complain about U.S. Immigration Controls in March, April, May 2005 . . . . .	14
Secretary Creel Meets with Secretary Chertoff in Washington, D.C. in Late May 2005 to Review Progress on Border Cooperation . .	14

# Mexico-United States Dialogue on Migration and Border Issues, 2001-2005

Beginning in early 2001, shortly after the presidential inaugurations at nearly identical times, the administrations of President George W. Bush and President Vicente Fox of Mexico have engaged regularly in a series of discussions and agreements on closely related migration and border security issues. They launched these discussions in the context of past policies, and they have sustained these discussions despite less-than-expected progress in the period following the terrorist attacks upon the United States in 2001 and disagreements over U.S. involvement in Iraq in 2003.<sup>1</sup>

## Background on Pre-2001 Policies

Presidents Bush and Fox began the bilateral discussions in the context of the immigration and border security policies of the past, particularly the U.S. immigration reforms of 1986 and 1996, the initiatives of the administrations of President William Clinton and President Ernesto Zedillo of Mexico, and the enactment of the Legal Immigrant Family Equity (LIFE) Act of 2000 that will be summarized briefly.

**Immigration Reform Act of 1986.** In 1986, during the Reagan presidency, Congress passed the Immigration Reform and Control Act of 1986 (P.L. 99-603). Main provisions of the act include civil and criminal penalties for U.S. employers who knowingly hire undocumented workers; increased border control and enforcement measures; anti-discrimination safeguards; provision for legalization of illegal aliens who resided continuously in the United States before 1982; and a special legalization for farm workers previously employed on American farms. The act sought to combine the sanctions for employers who knowingly hire undocumented workers and tougher border control and enforcement measures to discourage future immigration, with the provision of amnesty or legalization for undocumented migrants who already had long-established ties to the United States. The latter provision is often characterized as an “amnesty” because it permitted aliens

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<sup>1</sup> For information on the closely related Mexico-U.S. dialogue on drug trafficking issues, see CRS Report RL32669, *Mexico's Counter-Narcotics Efforts under Fox, December 2000 to October 2004*, by K. Larry Storrs, especially pp. 11-13 on “Mexico's Counter-Narcotics Cooperation with the United States.” For more general information on Mexico-United States relations on trade, migration/border, drug trafficking, and political issues, see CRS Report RL32724, *Mexico-U.S. Relations: Issues for the 109<sup>th</sup> Congress*, by K. Larry Storrs.

living in the United States illegally to adjust their status to legal permanent residents (LPRs) under certain procedures and with rights to obtain citizenship in the future.<sup>2</sup>

**Immigration Reform and Welfare Reform Acts of 1996.** In 1996, during the Clinton presidency, Congress passed two major immigration reform measures to control illegal immigration and to limit the eligibility of aliens for federal programs. One was the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Division C of the Omnibus Consolidated Appropriations Act for FY1997 (P.L. 104-208). The other was the 1996 welfare law entitled the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193). The first measure sought to control illegal immigration by adding 1,000 Border Patrol agents per year for five years (FY1997-FY2001), along with additional personnel, equipment, and procedures. The second measure and to some extent the first sought to reduce the attractiveness of immigration by restricting the eligibility of aliens for federal programs.<sup>3</sup>

**Clinton-Zedillo Initiatives.** In the context of the U.S. legislation outlined above, the Administration of President William Clinton (1993-2001) pursued a number of initiatives on its own and with the Administration of President Ernesto Zedillo (1994-2000) in the migration, border security, and drug control areas. The countries formalized regular bilateral consultations between consulates and border agencies through the Border Liaison Mechanisms, and they issued a Binational Study on Migration in 1997 that found that unauthorized migration carries costs for both countries. They also pursued a Border Safety Campaign to reduce violence and deaths on the border through public information campaigns, and search and rescue programs. In mid-May 2000, following expressions of concern over private ranchers detaining Mexican migrants in Arizona, the governments announced that they would prosecute any unlawful behavior by private citizens, combat migrant smugglers, and expand regular consultation mechanisms. In the counter-narcotics area, the countries established the High Level Contact Group (HLCG) for cabinet-level anti-drug coordination twice a year. Acting through this and other mechanisms, the countries developed a joint anti-drug strategy in early February 1998, adopted extensive anti-money laundering measures in 2000, and facilitated the vastly expanded U.S. training of law enforcement and military units involved in counter-narcotics activities.<sup>4</sup>

**Legal Immigration Family Equity (LIFE) Act of 2000.** Beginning around the year 2000, the U.S. Congress began to shift the direction of policy from the 1996 immigration legislation. In February 2000, the AFL-CIO called for amnesty for established illegal immigrants in the United States, a more lenient immigration

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<sup>2</sup> See CRS Report RL30780, *Immigration Legalization and Status Adjustment Legislation*, by Ruth Ellen Wasem.

<sup>3</sup> See CRS Report 95-881, *Immigration Legislation in the 104th Congress*, by Joyce Violet. Congress also increased funding for the Immigration and Naturalization Service (INS), including the Border Patrol, through the regular Commerce, Justice, State, and Judiciary Appropriations Acts, more than tripling INS's budget from \$1.5 billion in FY1993 to \$6.2 billion in FY2002.

<sup>4</sup> See CRS Report RL30886, *Mexico's Counter-Narcotics Efforts under Zedillo and Fox, December 1994-March 2001*, by K. Larry Storrs, especially pp. 8-10.

policy, and universal enforcement of workers rights, and this approach was generally supported by the Clinton Administration. While some Members attempted to pass variations of the Latino and Immigrant Fairness Act (LIFA), embodied in S. 3095 (sponsored by Senator Edward Kennedy), in the end it was the Legal Immigrant Family Equity (LIFE) Act, incorporated in H.R. 4942, supported by Representatives Henry Bonilla and Lamar Smith and by Senator Hatch that prevailed and was signed into law (P.L. 106-553). As modified, this legislation created and expanded visa categories for persons with pending family unification applications, and allowed certain aliens involved in class action court cases to adjust to LPR status. It also reinstated until April 30, 2001, Section 245(i) of the Immigration and Nationality Act (INA), which permitted unauthorized aliens to adjust to LPR status upon a payment of a fee if they were otherwise eligible for visas, without being forced to return to their native countries. Congress also increased the number of temporary H-1B professional workers, and it considered, but did not approve, measures to increase the number of H-2A agricultural workers.<sup>5</sup>

## **Bilateral Dialogue Since 2001**

Within the context of the background sketched above, President Fox and President Bush, who came to office at nearly the same time (December 2000 and January 2001, respectively) have engaged in extensive consultations on migration and border issues. Mexican cooperation on security matters was fairly limited, however, until the dramatic change of the world environment following the terrorist attacks of September 11, 2001.

**President Bush's February 2001 Visit to Guanajuato, Mexico Launches Bilateral Migration Talks.** When President Bush met with President Fox in mid-February 2001, migration issues were among the main topics, with Mexican officials expressing concern about the number of migrants who die each year while seeking entry into the United States. President Fox has been pressing proposals for legalizing undocumented Mexican workers in the United States through amnesty or guest worker arrangements as a way of protecting their human rights. In the Joint Communique following the Bush-Fox meeting, the two presidents agreed to instruct appropriate officials "to engage, at the earliest opportunity, in formal high level negotiations aimed at achieving short and long-term agreements that will allow us to constructively address migration and labor issues between our two countries." During the joint press conference, President Bush indicated that there was a movement in Congress to review the drug certification requirements, and he expressed confidence in President Fox's efforts to combat drug trafficking.

Several months later, on May 25, 2001, President Bush telephoned President Fox to express condolences for the recent deaths of 14 Mexican migrants in the Arizona desert, and both leaders reaffirmed their commitment to enhance safety along the border and to continue to make progress on migration issues. Press reports suggested that proposals to regularize the status of Mexican workers in the United

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<sup>5</sup> See the following CRS reports by Ruth Ellen Wasem: CRS Report RS20836, *Immigration Legislation in the 106<sup>th</sup> Congress*; and CRS Report RL30852, *Immigration of Agricultural Guest Workers: Policy, Trends, and Legislative Issues*.

States were being considered by the Administration and by Congress, but President Bush indicated that blanket amnesty would not be proposed.

**President Fox's Early September 2001 Official Visit to Washington, D.C. Advances Migration Talks and Launches Partnership for Prosperity.** During the opening day of President Fox's official visit to Washington, D.C. in early September 2001, he recognized that the anticipated migration agreements had not been reached, but he called for the two governments to reach agreement on migration proposals by the end of the year.

At the end of the meetings, the Joint Statement of September 6, 2001, summarized the meeting as follows:

The Presidents reviewed the progress made by our joint working group on migration chaired by Secretaries Powell, Castaneda, and Creel and Attorney General Ashcroft and noted this represented the most fruitful and frank dialogue we have ever had on a subject so important to both nations. They praised implementation of the border safety initiative, and recognized that migration-related issues are deeply felt by our publics and vital to our prosperity, well-being, and the kind of societies we want to build. They renewed their commitment to forging new and realistic approaches to migration to ensure it is safe, orderly, legal and dignified, and agreed on the framework within which this ongoing effort is based. This includes matching willing workers with willing employers; serving the social and economic needs of both countries; respecting the human dignity of all migrants, regardless of their status; recognizing the contribution migrants make to enriching both societies; shared responsibility for ensuring migration takes place through safe and legal channels. Both stressed their commitment to continue our discussions, instructing the high-level working group to reach mutually satisfactory results on border safety, a temporary worker program and the status of undocumented Mexicans in the United States. They requested that the working group provide them proposals with respect to these issues as soon as possible. The Presidents recognized that this is an extraordinarily challenging area of public policy, and that it is critical to address the issue in a timely manner and with appropriate thoroughness and depth.

In a related area, the Presidents launched the Partnership for Prosperity, a public-private alliance of Mexican and U.S. governmental and business organizations to promote economic development throughout Mexico, but particularly in regions where lagging economic growth has fueled out-migration. The Presidents called for a concrete plan of action to be prepared by March 2002.

**U.S. Emphasis on Security Following September 2001 Terrorist Attacks.** Following the terrorist attacks upon the United States on September 11, 2001, less than a week after President Fox's visit to Washington, D.C., most U.S. executive and legislative action focused on strengthening border security and alien admission and tracking procedures. Congress passed and the President signed into law the USA Patriot Act of 2001 (P.L. 107-56), and the Enhanced Border Security and Visa Entry Reform Act of 2002 (P.L. 107-173). With a similar security focus, the Homeland Security Act of 2002 (P.L. 107-296), was passed in November 2002, incorporating the INS/Border Patrol, Customs, and other agencies into the new Department of Homeland Security. In other immigration-related action during the 107<sup>th</sup> Congress, the Congress expanded non-citizen eligibility for food stamps,



extended benefits for certain refugee categories, and created new non-immigrant visa sub-categories for border commuter students.<sup>6</sup>

**President Bush's March 2002 Visit to Monterrey, Mexico Launches Border Partnership ("Smart Border") Agreement.** On March 22, 2002, President Bush traveled to Monterrey, Mexico, where he attended the International Conference on Financing for Development, participated in a NAFTA trilateral meeting, and discussed Mexico-U.S. issues with President Fox.

In the bilateral meeting, Presidents Bush and Fox announced a number of initiatives, including (1) a U.S.-Mexico Border Partnership Action Plan with greater cooperation and technological enhancements at the border; (2) a Partnership for Prosperity Action Plan with public-private initiatives to promote domestic and foreign investment in less developed areas of Mexico with high migration rates; (3) agreement to seek legislative support to expand the mandate of the North American Development Bank (NADBank) and the Border Environmental Cooperation Commission (BECC) to finance environmental infrastructure along the border; and (4) agreement to continue the cabinet-level talks to achieve safe, legal, and orderly migration flows between the countries. The Presidents also noted "major successes achieved by Mexico in the fight against narco-trafficking" and agreed on "the importance of redoubling judicial cooperation"

With regard to the migration talks, the Presidents stated in a Joint Statement on March 22, 2002, as follows:

Slightly more than one year ago, in Guanajuato, we talked about migration as one of the major ties that join our societies. We launched then the frankest and most productive dialogue our countries have ever had on this important and challenging subject. Those talks have continued over the past year, and have yielded a clearer assessment of the scope and nature of this issue. This bond between our nations can render countless benefits to our respective economies and families. Over the past year, important progress has been made to enhance migrant safety and particularly in saving lives by discouraging and reducing illegal crossings in dangerous terrain. On September 7, 2001, during President Fox's historic State Visit to Washington, we issued a joint statement instructing our cabinet-level working group to provide us with specific proposals to forge a new and realistic framework that will ensure a safe, legal, orderly, and dignified migration flow between our countries. We have today agreed that our Cabinet level migration group should continue the work we charged it with in Guanajuato and Washington.

**Binational Commission Meetings in Mexico City in November 2002.** During the cabinet-level Binational Commission (BNC) meetings in Mexico City, on November 25-26, 2002, Secretary of State Powell and Foreign Secretary Castañeda reaffirmed the intention to continue talks toward a migration agreement. Secretary of State Powell's press conference was summarized by the State Department as follows: "The BNC's migration working group 'affirmed our strong

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<sup>6</sup> See CRS Report RS21438, *Immigration Legislation Enacted in the 107<sup>th</sup> Congress*, by Andorra Bruno.

commitment to advancing our bilateral migration agenda,' he stressed, adding that 'there should be no doubt in anyone's mind that this is a priority for President Bush, just as it is a priority for [Mexican] President [Vicente] Fox.'" Powell said that no schedule had been established for a migration accord, but he confirmed that the United States and Mexico want to come up with a series of migration initiatives "over the course of the next six months to a year."

**Bilateral Developments on Security Issues in Early 2003 in Context of Conflict in Iraq.** On January 11, 2003, President Fox designated Economy Minister Luis Ernesto Derbez as Mexico's new Foreign Minister, replacing Jorge Castaneda, who reportedly resigned, in part, out of frustration with the lack of progress in negotiating a migration accord with the United States. On March 17, 2003, President Vicente Fox, in a televised speech to the nation, reiterated Mexico's position (articulated in the U.N. Security Council), that Iraq should be disarmed by peaceful means and through multilateral mechanisms, but he indicated that Mexico's close relationship with the United States would not change. On March 21, 2003, it was announced that Mexico was ordering 18,000 soldiers to secure airports, border posts, and other access points to the United States. On April 23, 2003, Secretary of Homeland Security Tom Ridge and Secretary of Government Santiago Creel issued a joint statement on enhanced bilateral cooperation to create a smart border that facilitates the transit of goods and people while protecting against crime and terrorism. On May 7, 2003, Mexican Foreign Minister Luis Ernesto Derbez met with Secretary of State Colin Powell in Washington, D.C., with the object of strengthening the bilateral relationship. The day before, Minister Derbez indicated in a speech at the Center for Strategic and International Studies that security was the number one priority for Mexico.

**Reactions to House Action on Migration Agreement in May 2003.** On May 16, 2003, the House International Relations Committee reported out H.R. 1950 (H.Rept. 108-105, Part 1), with a provision in Section 731 stating the sense of Congress regarding a possible migration accord between the United States and Mexico. This provision began as an amendment by Representative Menendez to which Representative Ballenger offered a substitute amendment that was further modified by Representative Gallegly. In sum, Section 731, as reported, stated the sense of Congress that the United States should as soon as practicable commence negotiations to reach a migration accord with Mexico that addresses the key issues of concern in both countries, opens the Mexican petroleum monopoly (PEMEX) to reform and investment by U.S. oil companies, and addresses extradition and law enforcement issues.

Mexican officials and commentators criticized the Committee-reported provisions related to PEMEX and extradition as an intrusion in the domestic affairs of Mexico. The Office of the Mexican Presidency issued a statement on May 11, 2003, acknowledging that the negotiation of a migration agreement was a priority for the Fox Administration, but pointing out that "negotiating such an agreement in

exchange for opening up Petróleos Mexicanos (the state oil industry - PEMEX) to foreign investment would be wholly unacceptable.”<sup>7</sup>

**Reactions to Deaths of Migrants in Texas in May 2003.** In mid-May 2003, 19 migrants from Mexico and Central America, including women and a child, died from asphyxiation and heatstroke near Victoria, Texas, after being crammed with 50-100 people in an insulated trailer truck. Several of the smugglers were arrested in the following days for involvement in what was reported to be the worst such tragedy recorded in the United States. On May 27, 2003, the *Washington Post* reported on an interview with President Fox in which the Mexican President appealed for U.S. action on the long-delayed immigration accord and emphasized the partnership with the United States, despite disagreement on policy toward Iraq. On May 29, 2003, under President Fox’s direction, a strike force of some 600 Mexican federal police, soldiers, and other agents launched an offensive against cross-border human smuggling rings, seizing operatives of at least six organizations.

**Joint Operations in the Arizona-Sonora Desert in June 2003.** On June 3, 2003, U.S. and Mexican officials announced a joint effort, named Operation Desert Safeguard, to save lives by deploying more and better-equipped Border Patrol agents west of Nogales, Arizona, by increasing Spanish language warnings of the dangers, and by taking more forceful measures against smugglers.

**Initiatives under the Partnership for Prosperity in June 2003.** On June 10, 2003, the United States and Mexico announced several initiatives following the meeting of private and governmental officials from both countries in San Francisco under the auspices of the Partnership for Prosperity. These initiatives were designed to support growth in areas of Mexico with high rates of migration to the United States. They included an historic agreement for the Overseas Private Investment Corporation (OPIC) to provide financial and insurance services to U.S. firms, development of a Peace Corps program in Mexico, and efforts to facilitate and reduce the cost of transfers of remittances from the United States to rural communities in Mexico.

**Mexican Secretary of Government Calls for Bilateral Migration Agreement in July 2003.** On July 10, 2003, Secretary of Government Santiago Creel, speaking at a U.S. Catholic Bishop’s Conference in Washington, D.C., called for a bilateral migration agreement in part because Mexican security efforts had prevented terrorist attacks from south of the border. He argued that such an agreement would enhance U.S. security because giving legal status to undocumented Mexican migrants living in the United States would transform them from unknown and possibly dangerous threats to fully identifiable and legal persons.

**President Bush Proposes Immigration Reform in January 2004 Along with Congressional Proposals.** In early 2004, President Bush seeking to revive the immigration discussion, proposed an overhaul of the U.S. immigration system on January 7, 2004, to permit the matching of willing foreign workers with

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<sup>7</sup> For more information, see CRS Report RL31876, *Mexico-U.S. Relations: Issues for the 108<sup>th</sup> Congress*, by K. Larry Storrs.

willing U.S. employers when no Americans can be found to fill the jobs. Under the President's proposal, temporary legal status would be available to new foreign workers who have work offers in the United States and to undocumented workers already employed in the United States for a term of three years that could be renewed but would end at some point. The proposal includes some incentives to encourage workers to return to their home countries, such as credit in the worker's national retirement system and tax-deferred savings accounts that could be collected upon return.<sup>8</sup>

A few days after his proposal, President Bush met with President Fox in Monterrey, Mexico, for a Special Summit of the Americas, and President Fox welcomed the Bush proposal as a very important step forward. On January 20, 2004, President Bush called for passage of his immigration reform proposal in the State of the Union address.

Congressional initiatives in this area in the 108<sup>th</sup> Congress included S. 1387 (Cornyn) that would establish new temporary foreign worker programs under agreements with foreign countries; and S. 1645 (Craig)/H.R. 3142 (Cannon), the "AgJobs" Bill, that would streamline the H-2A agricultural worker program, with provision for adjusting to legal permanent resident (LPR) status. More comprehensive proposals that would grant temporary legal status to foreign workers and to undocumented workers already employed in the United States, with provision for adjusting to LPR status, included S. 1461 (McCain)/H.R. 2899 (Kolbe), S. 2010 (Hagel and Daschle); and S. 2381 (Kennedy)/H.R. 4262 (Gutierrez).

**Review of U.S.-Mexico Border Partnership in February 2004.** On February 19-20, 2004, Department of Homeland Security Secretary Tom Ridge met with Mexican Government Secretary Santiago Creel in Mexico City to review progress under the U.S.-Mexico Border Partnership. The two leaders signed the U.S.-Mexico Action Plan for Cooperation and Border Safety for 2004, as well as a Memorandum of Understanding on the Safe, Orderly, Dignified and Humane Repatriation of Mexican Nationals. They also committed to develop six new Secure Electronic Network for Traveler's Rapid Inspection (SENTRI) lanes for pre-screened, low-risk individuals, and to develop five new Free and Secure Trade (FAST) lanes for pre-cleared cargo.

**Presidents Bush and Fox Meet in Crawford, Texas in March 2004 and Resolve Some Border Issues.** On March 5-6, 2004, President Fox visited President Bush at his ranch in Crawford, Texas, and it was announced that Mexicans with border crossing cards would be exempted from the end-of-the-year requirement to be photographed and finger-scanned upon entry into the United States under the US-VISIT program established to monitor the entry and exit of foreign visitors.<sup>9</sup>

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<sup>8</sup> For information on the President's proposal and the congressional initiatives, see CRS Report RL32044, *Immigration: Policy Considerations Related To Guest Worker Programs*, by Andorra Bruno.

<sup>9</sup> For more information on the US-VISIT program, see CRS Report RL32234, *U.S. Visitor and Immigrant Status Indicator Technology (US-VISIT) Program*, by Lisa M. Seghetti and (continued...)

**Mexican and U.S. Officials Sign a Social Security Totalization Agreement in June 2004.** On June 29, 2004, Mexican and U.S. social security officials signed a social security totalization agreement between the countries that would eliminate dual social security taxation and fill gaps in benefit protections for affected employees who work in both countries.<sup>10</sup> The agreement is subject to congressional approval, but it has not been submitted to Congress for approval.

**9/11 Commission Argues for Collaboration with Countries and Stricter Border Control and Identity Document Standards in July 2004.** On July 22, 2004, the 9/11 Commission issued its final report, calling, in its recommendations, for the United States to undertake major efforts to collaborate with other governments in counter-terrorism efforts and to raise border security standards. In the 108<sup>th</sup> Congress, the separate House and Senate versions of S. 2845, passed in October 2004, to implement the 9/11 Commission recommendations, contained differing measures to increase immigration law enforcement personnel and to adopt more stringent border control and identity document standards.<sup>11</sup>

**Mexican Foreign Ministry Expresses Regret After Passage of Proposition 200 (Taxpayer and Citizen Protection Act) in Arizona in Early November 2004.** Following the passage in the November 2, 2005 elections in Arizona of Proposition 200 that requires proof of citizenship when registering to vote and when seeking public assistance, the Mexican Foreign Ministry issued a press release stating regret that the proposition was passed, noting that the proposition was subject to continuing legal challenges, and affirming that the measure does not adequately address existing migration patterns.

**Review of Migration and Border Cooperation at Binational Commission Meeting in November 2004.** Summarizing the major accomplishments of the November 9, 2004 Binational Commission meetings, Secretary of State Colin Powell emphasized the growing bilateral cooperation on counter-narcotics and border security matters between the countries, including the creation of a new Working Group on Cyber-Security. He stressed that immigration reform to regularize the status of Mexican workers in the United States would be a high priority during President Bush's second term. At the same time, he noted the conclusion of educational agreements that would advance Mexican competitiveness, housing agreements to strengthen the local mortgage market, agricultural agreements to advance cooperation on rural development programs, and environmental agreements to promote environmental conservation.

Turning to the accomplishments of the Partnership for Prosperity (P4P), Secretary Powell noted that these programs had lowered the fees for transferring

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<sup>9</sup> (...continued)  
Stephen R. Vina.

<sup>10</sup> For information on the totalization agreement and social security payments for non-citizens, see CRS Report RL32004, *Social Security Benefits for Noncitizens: Current Policy and Legislation*, by Dawn Nuschler and Alison Siskin.

<sup>11</sup> For more information, see CRS Report RL32616, *9/11 Commission: Implications for U.S. Immigration Law and Policy*, by Michael John Garcia and Ruth Ellen Wasem.

funds from the United States to Mexico, brought together more than 1,400 business and government leaders from both countries, and developed innovative methods to finance infrastructure projects. Other major accomplishments were the establishment for the first time of a Peace Corps program in Mexico, and the recent establishment of the Overseas Private Investment Corporation (OPIC) in Mexico that is expected to provide over \$600 million in financing and insurance to U.S. businesses in Mexico.<sup>12</sup>

**Congress Strengthens Border Control and Identity Card Standards in Intelligence Reform and Terrorism Prevention Act of 2004.** After extended negotiations, an agreed conference report (H.Rept. 108-796) on S. 2845 was filed on December 7, 2004, to implement the recommendations of the 9/11 Commission, with an agreement that some of the difficult issues would be addressed early in the 109<sup>th</sup> Congress. The conference report was approved by the House and the Senate on December 7 and 8, respectively, and was signed into law (P.L. 108-458) as the Intelligence Reform and Terrorism Prevention Act of 2004 by the President on December 17, 2004. The enacted legislation contains provisions requiring more law enforcement personnel for enforcing immigration laws, closer monitoring of the entry and exit of aliens, and standards for identification documents and drivers' licenses. Under a leadership agreement with certain Representatives, it was agreed that three issues in the House bill that were dropped in the conference report would be addressed early in the 109<sup>th</sup> Congress. These were provisions that would have banned the acceptance of Mexican consular ID cards by Federal officials, that would have prohibited the issuance of drivers' licenses to undocumented aliens, and that would have required the completion of a section of a fence along the border with Mexico in California.

**Mexican Officials Argue in Early January 2005 that the *Guides for Mexican Migrants* Are to Protect Migrants from Dangers Despite Numerous Criticisms.** Mexican officials stated in early January 2005 that the *Guides for Mexican Migrants* issued by the Mexican government were to provide warnings and survival tips for Mexican migrants in dangerous terrain in order to save lives, not to facilitate illegal migration as many critics from the United States alleged. The Mexican officials argued that the *Guides* suggest entry into the United States at official Ports of Entry with the necessary documentation and that other interpretations were inconsistent with Mexico's efforts to dismantle smuggling operations. They declared that "the Mexican government remains committed to ensuring that migration into the United States is legal, safe, orderly and respectful of the fundamental rights of people."

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<sup>12</sup> See Remarks [by Secretary of State Colin Powell] with Foreign Minister of Mexico, Luis Ernesto Derbez at a Joint Press Availability, November 9, 2004 on State Department website [<http://www.state.gov/secretary/rm/37998.htm>], United States-Mexico Binational Commission, Fact Sheet, November 9, 2004, also on the State Department website at [<http://www.state.gov/r/pa/prs/ps/2004/37991.htm>.] For the Mexican view, see The 21<sup>st</sup> Meeting of the Mexico-United States Binational Commission Ends, Press Release, November 9, 2004 on the Mexican Foreign Ministry website [<http://portal.sre.gob.mx/usa/popup/newswindow.php?id=102&print=print>].

**Diplomatic Exchanges Between the United States and Mexico on Border Violence in Late January 2005.** On January 26, 2005, the U.S. State Department issued a Public Announcement “to alert U.S. citizens to the current security situation along the Mexican side of the U.S.-Mexico border in the wake of increased violence among drug traffickers.” While noting that the majority of travelers visit without mishap and that the overwhelming majority of the victims have been Mexican citizens, it stated that “U.S. citizens should be aware of the risk posed by the deteriorating security situation.” In a letter of explanation to Mexican officials, U.S. Ambassador Antonio O. Garza noted that “the elevated level of violence generally has resulted in greater risks to the thousands of American citizens visiting and passing through the border region every day. Increased numbers of murdered and kidnapped Americans in recent months bear this out.” He added, “I worry that the inability of local law enforcement to come to grips with rising drug warfare, kidnappings and random street violence will have a chilling effect on the cross-border exchange, tourism, and commerce so vital to the region’s prosperity. I applaud the strong expressions of concern voiced by President Fox to date, and hope that commitment will make a difference at the state and local levels.” On the following day, the Office of the Presidency of the Mexican Republic issued a statement saying that Mexico shares the concerns of the U.S. government and regrets the alarm that the warning might provoke among U.S. citizens; that Mexico is taking determined action against drug trafficking; that drug trafficking is an international phenomenon which requires shared responsibility for attacking supply, as well as demand; and that the two countries have built a solid relationship that requires continued cooperation. On January 29, 2005, Ambassador Garza met with the Mexican Secretary of Foreign Affairs and issued a joint statement that concluded: “Both officials underscored that the successes in jointly addressing common problems demonstrate the value of bilateral cooperation. They reaffirmed the determination of their governments to continue cooperating in the fight against organized crime and drug trafficking.”

**President Bush Urges Immigration Reform in the State of the Union Address in Early February 2005.** During President Bush’s State of the Union Address on February 2, 2005, he stated that the United States’ immigration system was outdated and unsuited to the economic needs and the values of the country. He concluded with the following statement:

We should not be content with laws that punish hard working people who want only to provide for their families, and deny businesses willing workers, and invite chaos at our border. It is time for an immigration policy that permits temporary guest workers to fill jobs Americans will not take, that rejects amnesty, that tells us who is entering and leaving our country, and that closes the border to drug dealers and terrorists.

**House Passes the REAL ID Act in February 2005, with Immigration Provisions and Identity Card Standards; Attaches Provisions to the Emergency Supplemental for FY2005 in March 2005.** On February 10, 2005, the House passed the REAL ID Act of 2005 (H.R. 418), with amendments, by a 261-161 vote. H.R. 418 was introduced on January 26, 2005, by Representative Sensenbrenner, as a holdover from consideration of the Intelligence Reform and Terrorism Prevention Act of 2004 (S. 2845/P.L. 108-458) in December 2004 (see

above). It was referred to the House Committees on the Judiciary, Homeland Security, and Government Reform, but no formal consideration was undertaken. As introduced this bill would strengthen the standards for asylum applicants, expand the grounds for inadmissibility and deportability of aliens for terrorist or terrorist-related activities, establish identity card standards for the issuance of drivers' licenses by states that would seem to preclude the use of consular ID cards, and provide waivers of laws to ensure expeditious construction of a fence for controlling illegal access on the Mexico-United States border near San Diego, California.<sup>13</sup>

H.R. 418 was considered on February 9-10, 2005, under a structured rule, H.Res. 71 (H.Rept. 109-3) and H.Res. 75 (H.Rept. 109-4), allowing a manager's amendment and five additional amendments. Two amendments were defeated: the Nadler amendment that sought to strike Section 101 with strengthened asylum standards, and the Farr amendment that sought to strike Section 102 with waivers of laws to ensure expeditious construction of a border fence. Three amendments were approved: the Sessions amendment that facilitated repatriation of aliens ordered deported by clarifying existing delivery bond authority, the Castle amendment that required the entry into aviation security screening databases of information on anyone convicted of using a false drivers' license for boarding an airplane, and the Kolbe amendment that required an assessment of security needs along U.S. borders, a plan to facilitate communications among relevant agencies along the border, and a pilot project to test ground surveillance technologies to improve border security.

On March 16, 2005, the House passed the Emergency Supplemental Appropriations for FY2005 (H.R. 1268), which included the text of H.R. 418, the REAL ID Act as Division B, with identity card standards and provisions to facilitate the completion of fencing along the U.S.-Mexico border.

**Secretary of State Rice Visits Mexico in Mid-March 2005 in Preparation for Upcoming Trilateral Summit.** On March 10, 2005, Secretary of State Rice visited Mexico in preparation for President Bush's upcoming meeting with the leaders of Mexico and Canada. She praised the remarkable cooperation between the countries, defended the recent State Department reports on human rights and drug control efforts against Mexican criticism, and announced Mexico's agreement to transfer enough water to meet its existing water debt with the United States. She also explained the U.S. withdrawal from the Optional Protocol giving the International Court of Justice jurisdiction over disputes under the Vienna Convention on Consular Relations; following an ICJ decision in a case brought by Mexico that the United States had breached its obligations under the Vienna

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<sup>13</sup> For more detail on this measure, see CRS Report RL32754, *Immigration: Analysis of the Major Provisions of H.R. 418, the REAL ID Act of 2005*, by Michael John Garcia, Margaret Mikyung Lee and Todd Tatelman. For more information on the consular ID issue, see CRS Report RL32094, *Consular Identification Cards: Domestic and Foreign Policy Implications, the Mexican Case, and Related Legislation*, by Andorra Bruno and K. Larry Storrs. For more information on national standards for identity documents, see CRS Report RL32722, *Intelligence Reform and Terrorism Prevention Act of 2004: National Standards for Drivers' Licenses, Social Security Cards, and Birth Certificates*, by Todd B. Tatelman. For more information on the border fence, see CRS Report RS22026, *Border Security: Fences Along the U.S. International Border*, by Blas Nuñez-Neto and Stephen R. Viña.



Convention by failing to notify Mexican consular officials when those Mexican nationals were arrested.

**President Bush Meets with President Fox and Prime Minister Martin in Texas on March 23, 2005; Trilateral “Security and Prosperity Partnership (SPP) of North America Launched.** On March 23, 2005, President Bush hosted meetings in Texas with President Fox and Prime Minister Martin, in which the leaders established the trilateral “Security and Prosperity Partnership (SPP) of North America.” The SPP will seek to advance the common security and the common prosperity of the countries through expanded cooperation and harmonization of policies. To operationalize this partnership, the leaders established Ministerial-led working groups that are to develop measurable and achievable goals and to report back to the leaders within 90 days and semi-annually thereafter.

This initiative is to complement, not replace, existing bilateral and trilateral fora, and in the case of the United States, the working groups are primarily within the jurisdiction of the Departments of Homeland Security and Commerce. During the press conference after the meeting, President Bush pledged to continue to press for a “commonsense immigration policy” and he urged greater North American cooperation on energy issues to reduce dependence on overseas energy.<sup>14</sup>

Building upon a record of past cooperative efforts, the leaders’ Joint Statement stressed the necessity in a rapidly changing world to develop “new avenues of cooperation that will make our societies safer and more secure, our businesses more competitive, and our economies more resilient.” The new partnership would seek to advance the common security and the common prosperity of the countries, under a conception that is to be trilateral but that will allow any two countries to move forward on an issue and create a path for the third country to join later.

Under the heading of Advancing Our Common Security, the leaders committed to establish common approaches to security to protect against external and internal threats and to further streamline legitimate trade and travel. Among these efforts, the countries would implement common border security and bioprotection strategies, enhance infrastructure protection and emergency response plans, improve aviation and maritime security and intelligence cooperation against transnational threats, and continue to facilitate the legitimate flow of people and cargo at the shared borders.

Under the heading of Advancing Our Common Prosperity, the leaders committed to enhance North American competitiveness and to improve the quality of life in the countries. These efforts include improving productivity through regulatory cooperation and harmonization; enhancing cross-border cooperation on health, food safety, and environmental protection projects; promoting sectoral collaboration in energy, transportation, and financial services; and reducing trade costs by increasing the efficiency of the cross-border movement of goods and people.

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<sup>14</sup> See the Joint Press Conference, the Joint Statement, and the Fact Sheet on the initiative online at the White House website, [<http://www.whitehouse.gov/news/releases/2005/03/20050323-5.html>].

**Senate Considers Immigration Provisions in Context of FY2005 Emergency Supplemental in April 2005; Both Houses Approve Conference Report and President Signs into Law in May 2005.** When the Senate considered H.R. 1268 in April 2005, three immigration measures were introduced. The first was the Chambliss amendment that would have allowed guest farm workers to remain in the United States for up to nine years. The second was the Craig-Kennedy amendment that would have allowed guest farm workers who had worked in the United States for 100 days in the last year and who worked 360 days in the next three to six years to become legal permanent residents. The third was the Mikulski amendment to exempt seasonal workers who had worked in the United States in previous years from the cap on H-2B visas for summer tourism activities and the harvesting and picking of seafood like crabs and lobsters. In the end, the Mikulski amendment was the only immigration provision to be approved by the Senate. In conference, the Mikulski amendment from the Senate version and the provisions in the REAL ID Act in the House version were essentially retained in the conference report (H.Rept. 109-72) on the FY2005 Emergency Supplemental Appropriations (H.R. 1268). The conference report was approved by the House on May 5, 2005, and it was approved by the Senate on May 10, 2005. It was signed into law (P.L. 109-13) by the President on May 11, 2005.

**Mexican Government Officials Complain about U.S. Immigration Controls in March, April, May 2005.** On March 29, 2005, the Mexican government condemned the vigilantism of volunteers in the Minuteman Project to monitor the Arizona-Sonora border, reiterating concerns expressed in February 2005, and instructed Mexican consulates to ensure that the human rights of the migrants are respected. On April 26, 2005, the Mexican Foreign Ministry complained about the State Department travel advisory warning of dangers in the border town of Nuevo Laredo, calling upon the U.S. government to avoid generalizations that damage the bilateral cooperation that exists in the fight against organized crime and drug trafficking. On May 12, 2005, President Fox stated that his government would protest the recently passed immigration measures in the FY2005 Emergency Supplemental Appropriations Act, saying that “it is useless to pursue walls, barriers, and the use of force and violence.”

**Secretary Creel Meets with Secretary Chertoff in Washington, D.C. in Late May 2005 to Review Progress on Border Cooperation.** On May 31, 2005, Mexico’s Secretary of Government Santiago Creel met with Secretary of Homeland Security Michael Chertoff to discuss ongoing efforts to modernize the border crossing points and to regularize migration, including six new SENTRI lanes and eight new FAST lanes and the repatriation of Mexican nationals in the coming months. Secretary Creel expressed concerns about the implementation of the REAL ID Act and concerns about vigilantism, highlighting the need for comprehensive immigration reform.