

Calendar No. 520

113TH CONGRESS }
2d Session }

SENATE

{ REPORT
113-234 }

TRAVEL PROMOTION, ENHANCEMENT, AND
MODERNIZATION ACT OF 2014

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

ON

S. 2250



JULY 31, 2014.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

39-010

WASHINGTON : 2014

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED THIRTEENTH CONGRESS

SECOND SESSION

JOHN D. ROCKEFELLER IV, West Virginia, *Chairman*

BARBARA BOXER, California	JOHN THUNE, South Dakota
BILL NELSON, Florida	ROGER F. WICKER, Mississippi
MARIA CANTWELL, Washington	ROY BLUNT, Missouri
MARK PRYOR, Arkansas	MARCO RUBIO, Florida
CLAIRE McCASKILL, Missouri	KELLY AYOTTE, New Hampshire
AMY KLOBUCHAR, Minnesota	DEAN HELLER, Nevada
MARK BEGICH, Alaska	DANIEL COATS, Indiana
RICHARD BLUMENTHAL, Connecticut	TIM SCOTT, South Carolina
BRIAN SCHATZ, Hawaii	TED CRUZ, Texas
ED MARKEY, Massachusetts	DEB FISCHER, Nebraska
CORY BOOKER, New Jersey	RON JOHNSON, Wisconsin
JOHN WALSH, Montana	

ELLEN DONESKI, *Staff Director*

JOHN WILLIAMS, *General Counsel*

DAVID SCHWIETERT, *Republican Staff Director*

NICK ROSSI, *Republican Deputy Staff Director*

REBECCA SEIDEL, *Republican General Counsel*

Calendar No. 520

113TH CONGRESS }
2d Session }

SENATE

{ REPORT
113-234 }

TRAVEL PROMOTION, ENHANCEMENT, AND MODERNIZATION ACT OF 2014

JULY 31, 2014.—Ordered to be printed

Mr. ROCKEFELLER, from the Committee on Commerce, Science, and
Transportation, submitted the following

R E P O R T

[To accompany S. 2250]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 2250) to extend the Travel Promotion Act of 2009, and for other purposes, having considered the same, reports favorably thereon with an amendment (in the nature of a substitute) and recommends that the bill (as amended) do pass.

PURPOSE OF THE BILL

The purpose of S. 2250, the Travel Promotion, Enhancement, and Modernization Act of 2014, is to reauthorize through fiscal year 2020 the Travel Promotion Act of 2009, which established the public-private Corporation for Travel Promotion to communicate U.S. entry policies and promote travel to the United States. The Corporation for Travel Promotion was renamed Brand USA in November of 2011.

BACKGROUND AND NEEDS

The U.S. travel and tourism industry is a major component of the national economy, accounting for over a quarter of the country's services exports, about 8 percent of exports overall, and \$57 billion in trade surplus.¹ In 2013, the industry made up 2.8 percent of gross domestic product, supported 8 million jobs, tallied \$1.51 tril-

¹ U.S. Department of Commerce, "U.S. Secretary of Commerce Penny Pritzker Speaks at U.S. Travel Association Board of Directors Meeting," February 28, 2014, at www.commerce.gov/news/secretary-speeches/2014/02/28/us-secretary-commerce-penny-pritzker-speaks-us-travel-association.

lion in total sales,² and generated \$133.9 billion in local, State, and Federal tax revenue.³ While domestic travel and tourism make up the dominant share of the overall industry, global trends and projections make clear the economic opportunities and need in increasing the country's international visitors. Globally, the number of international tourist trips in 1950 was 25 million, rising to over 1 billion in 2012 and projected to total 1.4 billion in 2020 and 1.8 billion in 2030.⁴ Between 2000 and 2009, total international travel receipts worldwide grew more than 87 percent.⁵ Emerging economies, in particular, are driving the bulk of the growth. In 2000, 10 million Chinese traveled internationally; in 2012, that figure rose to 83 million. International trips from India are expected to rise to 50 million in 2020 from 15 million in 2013, while Brazil is projected to see 8 percent annual growth in outbound long-haul travel.⁶

The rapid rise of international travel and tourism around the world has also led to increasing competition among destinations. North America and Europe, for instance, have seen their share of the global tourism market decline, from 80 percent in 1980 to 60 percent in 2010, and it is projected to further erode to 50 percent in 2030.⁷ Despite the large growth in international travel receipts in the last decade, the United States saw its share of the global pie fall, costing the country an estimated 450,000 jobs, \$509 billion in spending, and \$32 billion in tax revenue.⁸ And while the United States has seen improved tourism growth in recent years—last year the country saw a record 69.8 million international arrivals (up 5 percent from 2012)⁹ and \$180.7 billion in international spending (up 9 percent from 2012)¹⁰—the country has not recovered to its 7.5 percent share of total international arrivals in 2000, garnering 6.4 percent of the total last year.¹¹ The United States' share of long-haul international arrivals sits at 12.4 percent in 2011 compared to 17 percent in 2000.¹²

The decline of America's share of the global tourism market at the start of the 21st century—what some in the industry have deemed the “Lost Decade”¹³—has renewed Federal efforts to boost international visits and to facilitate travel. The Travel Promotion Act of 2009, signed into law by President Obama in March 2010, established the public-private Corporation for Travel Promotion—

²International Trade Administration, National Travel and Tourism Office, *Fast Facts: United States Travel and Tourism Industry—2013*, April 2014.

³U.S. Travel Association, *U.S. Travel Answer Sheet*, March 2014, at www.ustravel.org/sites/default/files/page/2009/09/US_Travel_AnswerSheet_March_2014.pdf.

⁴Michaela D. Platzer, *U.S. Travel and Tourism: Industry Trends and Policy Issues for Congress*, Congressional Research Service, April 2, 2014, at www.crs.gov/pages/Reports.aspx?PRODCODE=R43463.

⁵U.S. Travel Association and Oxford Economics, *The Lost Decade: The High Costs of America's Failure to Compete for International Travel*, February 2010, at www.oxfordeconomics.com/Media/Default/economic-impact/capital-investments/LostDecade.pdf.

⁶*Ibid.*, note 4.

⁷United Nations World Tourism Organization, *Tourism Towards 2030: Global Overview*, UNWTO General Assembly 19th Session, October 10, 2011.

⁸U.S. Travel Association and Oxford Economics, *The Lost Decade*.

⁹International Trade Administration, National Travel and Tourism Office, *Key Facts About International Travel And Tourism to the United States*, April 2014, at http://travel.trade.gov/outreachpages/download_data_table/Key_Facts_2013.pdf.

¹⁰Department of Commerce, “U.S. Travel and Tourism Industry Sets New Export Record in 2013,” press release, February 28, 2014, at www.commerce.gov/news/press-releases/2014/02/28/us-travel-and-tourism-industry-sets-new-export-record-2013.

¹¹U.S. Travel Association, *U.S. Travel Answer Sheet*.

¹²Brand USA, *FY14 Business Plan*, November 18, 2013, at http://thebrandusa.com/~media/Files/Key%20Dox/2013/BrandUSA-BusinessPlan_Public-LIVE.pdf.

¹³U.S. Travel Association and Oxford Economics, *The Lost Decade*.

which now does business as Brand USA—to communicate U.S. entry policies and promote travel to the United States.¹⁴ In January 2012, President Obama signed an Executive Order to improve visa and foreign visitor processing and travel promotion efforts, including the establishment of an interagency task force to develop a national strategy.¹⁵ In May 2012, this task force released the National Travel and Tourism Strategy, which aims to coordinate an interagency effort to attract 100 million international visitors annually by the end of 2021.¹⁶ In April 2014, Senator Klobuchar and 24 other cosponsors (including Committee Members Senators Blunt, Begich, Schatz, Wicker, Heller, Ayotte, Nelson, and Blumenthal) introduced S. 2250, the Travel Promotion, Enhancement, and Modernization Act of 2014, to reauthorize Brand USA beyond its 2015 expiration through fiscal year 2020.

These recent efforts have come after a period in which the Federal Government lacked a sustained international travel-promotion effort as well as the means to coordinate travel and tourism policies and programs among various agencies. In 1996, Congress abolished the U.S. Travel and Tourism Administration, ending Federal involvement in tourism promotion that began in 1961.¹⁷ The United States National Tourism Organization Act of 1996, which eliminated the U.S. Travel and Tourism Administration, instead created the U.S. National Tourism Organization to promote international travel to the United States.¹⁸ However, plans for the new organization were soon scrapped after it failed to develop and implement a long-term financing plan.

Brand USA is tasked with promoting international travel by, among other things, developing advertising campaigns to promote travel to the United States; providing information to international travelers on required documents, fees, and procedures; correcting misperceptions about U.S. entry policies; and ensuring that the benefits of tourism are spread among the States and between urban and rural areas. In the 112th Congress, the Commerce Committee held two hearings on U.S. travel and tourism and the implementation of the Travel Promotion Act of 2009 and Brand USA. The Committee has also held two hearings on the state of the U.S. travel and tourism industry and Brand USA in the 113th Congress on May 8, 2014, and June 26, 2014.

The Department of Commerce (DOC) oversees the operations of Brand USA. Brand USA is governed by an 11-member board of directors who are appointed by the Secretary of Commerce and must include representatives from States, cities, and various sectors of the travel industry. In addition, upon passage of the Travel Promotion Act of 2009, which created Brand USA, DOC was given new responsibilities, including—

- approving Brand USA’s annual objectives, including its marketing plan;

¹⁴P.L. 111–145.

¹⁵Executive Order 13597, “Establishing Visa and Foreign Visitor Processing Goals and the Task Force On Travel and Competitiveness,” January 19, 2012, at www.gpo.gov/fdsys/pkg/FR-2012-01-24/pdf/2012-1568.pdf.

¹⁶National Travel & Tourism Strategy, *Task Force on Travel and Competitiveness*, May 10, 2012, at <http://travel.trade.gov/pdf/national-travel-and-tourism-strategy.pdf>.

¹⁷The U.S. Travel and Tourism Administration was established by the National Tourism Policy Act in 1981 and replaced the U.S. Travel Service, which was created by the International Travel Act of 1961.

¹⁸P.L. 104–288.

- approving Brand USA's annual budget;
- coordinating the efforts of the various Federal agencies to disseminate information more effectively to potential international visitors about documentation and procedures for admission to the United States and to improve the image of the United States among potential travelers; and
- expanding the research activities of DOC's Office of Travel and Tourism Industries, including expanding access to the official Mexican travel surveys data, obtaining a greater sample of the number of inbound air travelers for the Survey of International Travelers, developing estimates of international travel exports (expenditures) on a State-by-State basis, and evaluating the success of Brand USA in achieving its objectives.

In its first year, Brand USA was entitled to \$10 million in Federal funding, primarily for the costs of start-up and planning. In subsequent years, Brand USA has been entitled to up to \$100 million in Federal funding with an obligation to collect matching cash or in-kind contributions from private industry. Federal funding comes from \$10 fees collected from foreign travelers under the Electronic System for Travel Authorization (ESTA), which is implemented by the Department of Homeland Security. This fee is charged to travelers from the over three-dozen countries that are part of the Visa Waiver Program, for which a visa for travel to the United States is not required. DOC has entered into a memorandum of understanding with the Department of Treasury and Brand USA regarding matching payments from Treasury to Brand USA.¹⁹ Under the agreement, DOC is responsible for reviewing Brand USA's requests for Federal matching funds and the associated documentations of Brand USA's private-sector contributions, including the fair market value of in-kind goods and services. According to the memorandum of understanding, the Department of Treasury maintains the fund that has been established for payments to Brand USA, and it is responsible for disbursing Federal matching funds to Brand USA upon direction from DOC after DOC reviews and approves Brand USA's requests for matching funds and its valuations of in-kind contributions.²⁰ Since 2010, ESTA fees collected in excess of \$100 million annually are deposited in the U.S. Treasury for deficit reduction purposes. For instance, beginning in FY 2012, ESTA fees reduced the deficit by approximately \$20 million, and in FY 2013 by approximately \$32 million.

In 2012, Brand USA launched its first consumer marketing campaign, targeting Canada, Japan, and the United Kingdom.²¹ In 2013, the campaign was expanded to Australia, Brazil, China, Germany, Hong Kong, Mexico, South Korea, and Taiwan. The 11 markets represent over 75 percent of inbound travel to the United States. Brand USA has also opened offices in over a dozen countries, with plans to open offices in five additional major markets.

¹⁹Brand USA, *Memorandum of Understanding among the U.S. Department of the Treasury, the U.S. Department of Commerce, and the Corporation for Travel Promotion*, at www.thebrandusa.com/~media/Files/Key%20Dox/Signed%20MOU%20with%20Commerce%20and%20Treasury.pdf.

²⁰U.S. Government Accountability Office, *Travel Promotion: Brand USA Needs Plans for Measuring Performance and Updated Policy on Private Sector Contributions*, GAO-13-705, August 26, 2013, at www.gao.gov/products/GAO-13-705.

²¹Brand USA's first commercial for international markets featured Roseanne Cash. See, "Land of Dreams" full length video, April 20, 2012, at www.youtube.com/watch?v=WWUA1CXIku8.

In February 2014, Brand USA and Oxford Economics released a study on the impact of Brand USA's marketing campaigns. The report found that—between September 2012 and September 2013—Brand USA's consumer, trade, and co-op marketing campaigns in eight markets generated 1.1 million additional international visitors and \$3.4 billion in additional spending, creating a total economic impact of \$7.4 billion and supporting over 53,000 new jobs. For every \$1 spent by Brand USA, the report said that \$47 was generated for U.S. companies.²²

On July 25, 2013, the Government Accountability Office (GAO) published a report addressing, among other things, Brand USA's programs and activities and its efforts to measure performance.²³ GAO found that, although Brand USA had taken steps to monitor and evaluate its program, it lacks a plan for measuring its long-term impact on travel to the United States and visitor spending.²⁴ GAO also found that, while Brand USA had established policies for in-kind contributions, consistent with applicable Travel Promotion Act requirements, other approaches may provide more accurate assessments.²⁵ To address these issues, in its report, GAO recommended that Brand USA: (1) develop a performance plan; (2) competitively select its media consultant for the development of valuation methodologies; and (3) formalize procedures for revising the in-kind contribution policy.²⁶ Brand USA concurred with these recommendations.²⁷

SUMMARY OF PROVISIONS

S. 2250 would reauthorize Brand USA, a non-profit public-private partnership established in 2010 by the Travel Promotion Act of 2009 (P.L. 111–145) to promote increased international travel to the United States. The bill would also reauthorize the collection of ESTA fees from foreign travelers through 2020, which makes up half of Brand USA's budget—up to \$100 million. The other half consists of private-sector cash and in-kind contributions. Under the reauthorization proposal, ESTA fees collected in excess of \$100 million annually would continue to be used for deficit reduction purposes. In addition, the bill would require Brand USA to strengthen the requirements for professional experience to be appointed to the Board of Directors; include information on advertising methods and target audiences in its annual report to Congress; reduce the maximum percentage of in-kind contributions; establish performance metrics and measure impact of advertising and benefit to the U.S. economy; formalize procedures and review process for its in-kind contribution policy; and establish and follow a competitive bidding process.

²² Oxford Economics, *The Return on Investment of Brand USA Marketing: 2013 Fiscal Year Analysis*, February 2014, at <http://thebrandusa.com/~media/Files/Key%20Dox/2014/ROI%20Results/Brand%20USA%20ROI%20FY2013%20Final.pdf>.

²³ U.S. Government Accountability Office, *Brand USA Needs Plan for Measuring Performance and Updated Policy on Private Sector Contributions*, GAO–13–705, 2013.

²⁴ *Ibid.*, 15.

²⁵ *Ibid.*, 20.

²⁶ *Ibid.*, 36.

²⁷ *Ibid.*, Appendix III.

LEGISLATIVE HISTORY

Senator Klobuchar introduced S. 2250 on April 10, 2014, with 24 original cosponsors: Senators Ayotte, Begich, Blumenthal, Blunt, Boozman, Chambliss, Collins, Durbin, Graham, Hatch, Heller, Hirono, Hoeven, Kirk, Mikulski, Murkowski, Nelson, Reid, Schatz, Schumer, Shaheen, Vitter, Warner, and Wicker. Additional cosponsors are Senators Barrasso, Bennet, Booker, Enzi, Isakson, Landrieu, and Stabenow. The bill has received support from numerous companies, associations, and elected officials.

On May 8, 2014, the Subcommittee on Tourism, Competitiveness, and Innovation held a hearing, “The State of U.S. Travel and Tourism: Industry Efforts to Attract 100 Million Visitors Annually,” to assess, among other topics, Brand USA and to hear industry’s perspectives on the public-private venture. On June 26, 2014, the subcommittee held a second hearing, “The State of the U.S. Travel and Tourism Industry: Federal Efforts to Attract 100 Million Visitors Annually,” which also examined, among other issues, Brand USA’s accomplishments from the perspective of government agencies. On July 23, 2014, in an open Executive Session, the Senate Committee on Commerce, Science, and Transportation considered the bill and reported S. 2250, as amended, favorably by voice vote. The Committee adopted a substitute amendment from Senators Klobuchar and Blunt, which incorporated modifications from Ranking Member Thune. These changes ensured that S. 2250, as modified, would be a true companion to H.R. 4450, which passed the House of Representatives on July 22, 2014, by a vote of 347–57.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 30, 2014.

Hon. JOHN D. ROCKEFELLER IV,
*Chairman, Committee on Commerce, Science, and Transportation,
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2250, the Travel Promotion, Enhancement, and Modernization Act of 2014.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Susan Willie.

Sincerely,

PETER H. FONTAINE
(For Douglas W. Elmendorf, Director).

Enclosure.

*S. 2250—Travel Promotion, Enhancement, and Modernization Act
of 2014*

Summary: S. 2250 would extend the provisions of the Travel Promotion Act of 2009 (Public Law 111–145), which established the Corporation for Travel Promotion (also known as Brand USA),

through September 30, 2020, and impose new performance and procurement requirements on the corporation. The bill also would extend the authority of U.S. Customs and Border Protection (CBP) to collect travel promotion fees from certain foreign individuals traveling to the United States. Those fees are used to partially fund Brand USA.

CBO estimates that enacting S. 2250 would increase direct spending by \$467 million and revenues by \$731 million over the 2015–2024 period, resulting in a net decrease in the deficit of \$264 million over the 10-year period. Pay-as-you-go procedures apply because enacting the legislation would affect direct spending and revenues.

CBO estimates that implementing S. 2250 would not significantly affect discretionary spending.

S. 2250 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary effect of S. 2250 is shown in the following table. The costs of this legislation fall within budget function 370 (commerce and housing credit).

	By fiscal year, in millions of dollars—												
	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2015– 2019	2015– 2024	
CHANGES IN DIRECT SPENDING													
Estimated Budget Au- thority	0	93	93	93	94	94	0	0	0	0	373	467	
Estimated Outlays	0	74	93	93	94	94	19	0	0	0	354	467	
CHANGES IN REVENUES													
Estimated Revenues	0	138	142	146	150	155	0	0	0	0	576	731	
NET INCREASE OR DECREASE (–) IN THE DEFICIT FROM CHANGES IN DIRECT SPENDING AND REVENUES													
Effect on the Deficit	0	–64	–49	–53	–56	–61	19	0	0	0	–222	–264	

Basis of estimate: Under current law, Brand USA may receive federal funding, up to \$100 million each year through the end of fiscal year 2015, from fees collected from certain foreign individuals traveling to the United States. For those funds to be available, Brand USA must generate an equal amount of matching contributions from private sources; at least 20 percent of those contributions must be in cash, the remainder in goods or services. Based on information from Brand USA, CBO expects that the entity will meet the matching requirements to receive the full amount of funding available under current law. CBO expects that the cash contributions received by Brand USA would be recorded in the budget as offsetting receipts (a credit against direct spending) and fully spent.

Direct spending

S. 2250 would extend the availability of federal funds to support Brand USA's efforts to promote tourism in the United States through September 30, 2020. The bill also would increase the percentage of private contributions that must be in cash rather than goods or services from 20 percent to 30 percent of total contributions each year. Finally, S. 2250 would direct Brand USA to de-

velop performance measurements and establish a competitive process for procuring goods and services.

Based on information from Brand USA, CBO estimates that enacting S. 2250 would increase direct spending by \$467 million over the 2015–2019 period. This amount reflects the amount that CBO estimates would be available to Brand USA after applying automatic spending reductions (also known as sequestration) each year. (Without sequestration, the amount available would be \$100 million each year.)

Revenues

Citizens of certain countries can travel to the United States for short stays without a visa under the Visa Waiver Program. Upon receiving approval, such travelers must pay a \$10 travel promotion fee, which in part funds spending by Brand USA. The fee is scheduled to expire under current law at the end of fiscal year 2015. S. 2250 would extend the fee through 2020, which CBO estimates would raise revenues by \$731 million over the 2015–2024 period.

Spending subject to appropriation

S. 2250 would direct the Secretary of Commerce to establish a procedure for revising the corporation’s policy for private contributions, and meet with Brand USA every two years to review procedures used to determine the value of goods and services received from private sources. CBO estimates that implementing this provision would not have a significant effect on discretionary spending over the 2015–2019 period.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays and revenues that are subject to those pay-as-you-go procedures are shown in the following table.

CEO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR S. 2250, AS ORDERED REPORTED BY THE SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION ON JULY 23, 2014

	By fiscal year, in millions of dollars—													2014–2019	2014–2024
	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024				
NET INCREASE OR DECREASE (–) IN THE DEFICIT															
Statutory Pay-As-You-Go Impact	0	0	–64	–49	–53	–56	–61	19	0	0	0	–222	–264		
Memorandum:															
Changes in Outlays	0	0	74	93	93	94	94	19	0	0	0	354	467		
Changes in Revenues	0	0	138	142	146	150	155	0	0	0	0	576	731		

Intergovernmental and private-sector impact: S. 2250 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Previous CBO estimate: On July 18, 2014, CBO transmitted a cost estimate for H.R. 4450, the Travel Promotion, Enhancement, and Modernization Act of 2014, as ordered reported by the House Committee on Energy and Commerce on July 15, 2014. The two pieces of legislation are similar; the CBO cost estimates differ, how-

ever, because the first estimate did not account for future automatic spending reductions (known as sequestration). Our estimate of budget authority and outlays for H.R. 4450 (\$500 million over the 2015–2024 period) was overstated by \$33 million, the amount that CBO estimates would be unavailable to Brand USA as a result of sequestration. Our estimate of revenues is the same for both pieces of legislation. Thus, taking in account the update to the estimate for H.R. 4450, our estimate of the net deficit effect, a reduction of \$264 million over the 2015–2024 period, is the same for both pieces of legislation.

Estimate prepared by: Federal spending: Susan Willie; Federal revenues: Mark Booth; Impact on state, local, and tribal governments: Melissa Merrell; Impact on the private sector: Amy Petz.

Estimate approved by: Peter H. Fontaine, Assistant Director for Budget Analysis.

REGULATORY IMPACT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

The bill, as reported, would require additional accountability measures for the Corporation for Travel Promotion by requiring the establishment of performance metrics; a competitive procurement process; formalized procedures and review process for its in-kind contributions policy; additional reporting requirements in its annual report to Congress and annual budget to the Secretary of Commerce; and additional requirements for the makeup of the board of directors. The bill would also reduce the maximum proportion of in-kind contributions that is allowable for matching Federal funds, and it would strike the Corporation's assessment authority.

NUMBER OF PERSONS COVERED

The legislation would apply to Brand USA, as well as industry stakeholders that are represented on Brand USA's Board of Directors. The bill also would affect the Department of Commerce.

ECONOMIC IMPACT

This legislation is expected to have a positive economic impact on the Nation.

PRIVACY

S. 2250 would not have a negative impact on the personal privacy of individuals.

PAPERWORK

S. 2250 would create new reporting requirements for the Corporation for Travel Promotion and the DOC. The Corporation would be required to include additional accountability information in its annual report to Congress, report additional information in its annual budget to the Secretary of Commerce, and submit a report to Congress describing actions taken in response to recommendations issued by a report from GAO not later than 60 days after receipt.

CONGRESSIONALLY DIRECTED SPENDING

In compliance with paragraph 4(b) of rule XLIV of the Standing Rules of the Senate, the Committee provides that no provisions contained in the bill, as reported, meet the definition of congressionally directed spending items under the rule.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section would establish the short title as the “Travel Promotion, Enhancement, and Modernization Act of 2014.”

Section 2. Board of directors

This section would strengthen the requirements of professional experience necessary to be appointed to the Board, including the requirement that at least two members have audit committee financial expertise, at least five members have experience working for multinational entities with marketing budgets, and all board members have to be current or former chief executive, chief financial, or chief marketing officers or their equivalents. In addition, this section would broaden the requirement that one member have expertise in the intercity passenger railroad business and instead require one member with expertise in the land or sea passenger transportation sector.

Section 3. Annual report to Congress

This section would clarify the requirements in Brand USA’s annual report to Congress to provide descriptions and rationales for where the Corporation focuses its efforts and what channels it uses for advertising.

Section 4. Biannual review of procedures to determine fair market value of goods and services

This section would reduce the maximum percentage of in-kind contributions from 80 percent to 70 percent. In addition, section 4 would require that the Corporation maintain a policy for in-kind contributions, establish formal procedures with the DOC for revising the policy on in-kind contributions and for addressing disagreements regarding the policy. The section would also require the Corporation and DOC to meet twice a year to review how the fair-market value of in-kind contributions to the Corporation is determined.

Section 5. Extension of Travel Promotion Act of 2009

This section would reauthorize the Travel Promotion Act for five years, through the end of fiscal year 2020.

Section 6. Accountability; procurement requirements

This section would require the Corporation to establish performance metrics for measuring the impact of its marketing efforts and for demonstrating the benefit to the U.S. economy; to report to Congress a statement in response to any recommendations from the GAO; to establish a competitive procurement process and certify that contracts are in compliance with its established competitive procurement process; and to provide an explanation in its an-

nual budget for any expenditure over \$500,000 instead of over \$5,000,000.

Section 7. Repeal of assessment authority

This section would strike the Corporation's authority to assess fees on U.S. members of the international travel and tourism industry that are represented on the Board.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

UNITED STATES CAPITOL POLICE ADMINISTRATIVE
TECHNICAL CORRECTIONS ACT OF 2009

(124 Stat. 49)

SEC. 9. TRAVEL PROMOTION ACT OF 2009.

(22 U.S.C. 2131)

(a) **SHORT TITLE.**—This section may be cited as the “Travel Promotion Act of 2009”.

(b) **THE CORPORATION FOR TRAVEL PROMOTION.**—

(1) **ESTABLISHMENT.**—The Corporation for Travel Promotion is established as a nonprofit corporation. The Corporation shall not be an agency or establishment of the United States Government. The Corporation shall be subject to the provisions of the District of Columbia Nonprofit Corporation Act (D.C. Code, section 29-1001 et seq.), to the extent that such provisions are consistent with this subsection, and shall have the powers conferred upon a nonprofit corporation by that Act to carry out its purposes and activities.

(2) **BOARD OF DIRECTORS.**—

(A) **IN GENERAL.**—The Corporation shall have a board of directors of 11 members with knowledge of international travel [promotion and marketing] *promotion or marketing*, broadly representing various regions of the United States, who are United States citizens. *At least 5 members of the board shall have experience working in United States multinational entities with marketing budgets. At least 2 members of the board shall be audit committee financial experts (as defined by the Securities and Exchange Commission in accordance with section 407 of Public Law 107-204 (15 U.S.C. 7265)). All members of the board shall be a current or former chief executive officer, chief financial officer, or chief marketing officer, or have held an equivalent management position.* Members of the board shall be appointed by the Secretary of Commerce (after consultation with the Secretary of Homeland Security and the Secretary of State), as follows:

(i) 1 shall have appropriate expertise and experience in the hotel accommodations sector;

(ii) 1 shall have appropriate expertise and experience in the restaurant sector;

(iii) 1 shall have appropriate expertise and experience in the small business or retail sector or in associations representing that sector;

(iv) 1 shall have appropriate expertise and experience in the travel distribution services sector;

(v) 1 shall have appropriate expertise and experience in the attractions or recreations sector;

(vi) 1 shall have appropriate expertise and experience as officials of a city convention and visitors' bureau;

(vii) 2 shall have appropriate expertise and experience as officials of a State tourism office;

(viii) 1 shall have appropriate expertise and experience in the passenger air sector;

(ix) 1 shall have appropriate expertise and experience in immigration law and policy, including visa requirements and United States entry procedures; and

(x) 1 shall have appropriate expertise in the [inter-city passenger railroad business] *land or sea passenger transportation sector*.

(B) INCORPORATION.—The members of the initial board of directors shall serve as incorporators and shall take whatever actions are necessary to establish the Corporation under the District of Columbia Nonprofit Corporation Act (D.C. Code, section 29-301.01 et seq.).

(C) TERM OF OFFICE.—The term of office of each member of the board appointed by the Secretary shall be 3 years, except that, of the members first appointed—

(i) 3 shall be appointed for terms of 1 year;

(ii) 4 shall be appointed for terms of 2 years; and

(iii) 4 shall be appointed for terms of 3 years.

(D) REMOVAL FOR CAUSE.—The Secretary of Commerce may remove any member of the board for good cause.

(E) VACANCIES.—Any vacancy in the board shall not affect its power, but shall be filled in the manner required by this subsection. Any member whose term has expired may serve until the member's successor has taken office, or until the end of the calendar year in which the member's term has expired, whichever is earlier. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which that member's predecessor was appointed shall be appointed for the remainder of the predecessor's term. No member of the board shall be eligible to serve more than 2 consecutive full 3-year terms.

(F) ELECTION OF CHAIRMAN AND VICE CHAIRMAN.—Members of the board shall annually elect one of the members to be Chairman and elect 1 or 2 of the members as Vice Chairman or Vice Chairmen.

(G) STATUS AS FEDERAL EMPLOYEES.—Notwithstanding any provision of law to the contrary, no member of the board may be considered to be a Federal employee of the United States by virtue of his or her service as a member of the board.

(H) COMPENSATION; EXPENSES.—No member shall receive any compensation from the Federal government for

serving on the Board. Each member of the Board shall be paid actual travel expenses and per diem in lieu of subsistence expenses when away from his or her usual place of residence, in accordance with section 5703 of title 5, United States Code.

(3) OFFICERS AND EMPLOYEES.—

(A) IN GENERAL.—The Corporation shall have an executive director and such other officers as may be named and appointed by the board for terms and at rates of compensation fixed by the board. No individual other than a citizen of the United States may be an officer of the Corporation. The Corporation may hire and fix the compensation of such employees as may be necessary to carry out its purposes. No officer or employee of the Corporation may receive any salary or other compensation (except for compensation for services on boards of directors of other organizations that do not receive funds from the Corporation, on committees of such boards, and in similar activities for such organizations) from any sources other than the Corporation for services rendered during the period of his or her employment by the Corporation. Service by any officer on boards of directors of other organizations, on committees of such boards, and in similar activities for such organizations shall be subject to annual advance approval by the board and subject to the provisions of the Corporation's Statement of Ethical Conduct. All officers and employees shall serve at the pleasure of the board.

(B) NONPOLITICAL NATURE OF APPOINTMENT.—No political test or qualification shall be used in selecting, appointing, promoting, or taking other personnel actions with respect to officers, agents, or employees of the Corporation.

(4) NONPROFIT AND NONPOLITICAL NATURE OF CORPORATION.—

(A) STOCK.—The Corporation shall have no power to issue any shares of stock, or to declare or pay any dividends.

(B) PROFIT.—No part of the income or assets of the Corporation shall inure to the benefit of any director, officer, employee, or any other individual except as salary or reasonable compensation for services.

(C) POLITICS.—The Corporation may not contribute to or otherwise support any political party or candidate for elective public office.

(D) SENSE OF CONGRESS REGARDING LOBBYING ACTIVITIES.—It is the sense of Congress that the Corporation should not engage in lobbying activities (as defined in section 3(7) of the Lobbying Disclosure Act of 1995 (5 U.S.C. 1602(7))).

(5) DUTIES AND POWERS.—

(A) IN GENERAL.—The Corporation shall develop and execute a plan—

(i) to provide useful information to foreign tourists, business people, students, scholars, scientists, and others interested in traveling to the United States, including the distribution of material provided by the

Federal government concerning entry requirements, required documentation, fees, processes, and information concerning declared public health emergencies, to prospective travelers, travel agents, tour operators, meeting planners, foreign governments, travel media and other international stakeholders;

(ii) to identify, counter, and correct misperceptions regarding United States entry policies around the world;

(iii) to maximize the economic and diplomatic benefits of travel to the United States by promoting the United States of America to world travelers through the use of, but not limited to, all forms of advertising, outreach to trade shows, and other appropriate promotional activities;

(iv) to ensure that international travel benefits [all States and the District of Columbia] *all States and territories of the United States and the District of Columbia*, and to identify opportunities and strategies to promote tourism to rural and urban areas equally, including areas not traditionally visited by international travelers; and

(v) to give priority to the Corporation's efforts with respect to countries and populations most likely to travel to the United States.

(B) SPECIFIC POWERS.—In order to carry out the purposes of this subsection, the Corporation may—

(i) obtain grants from and make contracts with individuals and private companies, State, and Federal agencies, organizations, and institutions;

(ii) hire or accept the voluntary services of consultants, experts, advisory boards, and panels to aid the Corporation in carrying out its purposes; and

(iii) take such other actions as may be necessary to accomplish the purposes set forth in this subsection.

(C) PUBLIC OUTREACH AND INFORMATION.—The Corporation shall develop and maintain a publicly accessible website.

(6) OPEN MEETINGS.—Meetings of the board of directors of the Corporation, including any committee of the board, shall be open to the public. The board may, by majority vote, close any such meeting only for the time necessary to preserve the confidentiality of commercial or financial information that is privileged or confidential, to discuss personnel matters, or to discuss legal matters affecting the Corporation, including pending or potential litigation.

(7) MAJOR CAMPAIGNS.—The board may not authorize the Corporation to obligate or expend more than \$25,000,000 on any advertising campaign, promotion, or related effort unless—

(A) the obligation or expenditure is approved by an affirmative vote of at least 2/3 of the members of the board present at the meeting;

(B) at least 6 members of the board are present at the meeting at which it is approved; and

(C) each member of the board has been given at least 3 days advance notice of the meeting at which the vote is to be taken and the matters to be voted upon at that meeting.

(8) FISCAL ACCOUNTABILITY.—

(A) FISCAL YEAR.—The Corporation shall establish as its fiscal year the 12-month period beginning on October 1.

(B) BUDGET.—The Corporation shall adopt a budget for each fiscal year.

(C) ANNUAL AUDITS.—The Corporation shall engage an independent accounting firm to conduct an annual financial audit of the Corporation's operations and shall publish the results of the audit. The Comptroller General of the United States may review any audit of a financial statement conducted under this paragraph by an independent accounting firm and may audit the Corporation's operations at the discretion of the Comptroller General. The Comptroller General and the Congress shall have full and complete access to the books and records of the Corporation.

(D) PROGRAM AUDITS.—Not later than 2 years after the date of enactment of this section, the Comptroller General shall conduct a review of the programmatic activities of the Corporation for Travel Promotion. This report shall be provided to appropriate congressional committees.

(c) ACCOUNTABILITY MEASURES.—

(1) OBJECTIVES.—The Board shall establish annual objectives for the Corporation for each fiscal year subject to approval by the Secretary of Commerce (after consultation with the Secretary of Homeland Security and the Secretary of State). The Corporation shall establish a marketing plan for each fiscal year not less than 60 days before the beginning of that year and provide a copy of the plan, and any revisions thereof, to the Secretary.

(2) BUDGET.—The board shall transmit a copy of the Corporation's budget for the forthcoming fiscal year to the Secretary not less than 60 days before the beginning of each fiscal year, together with an explanation of any expenditure provided for by the budget in excess of ~~[\$5,000,000]~~ \$500,000 for the fiscal year. The Corporation shall make a copy of the budget and the explanation available to the public and shall provide public access to the budget and explanation on the Corporation's website.

(3) ANNUAL REPORT TO CONGRESS.—The Corporation shall submit an annual report for the preceding fiscal year to the Secretary of Commerce for transmittal to the Congress on or before the 15th day of May of each year. The report shall include—

(A) a comprehensive and detailed report of the Corporation's operations, activities, financial condition, and accomplishments under this section;

(B) a comprehensive and detailed inventory of amounts obligated or expended by the Corporation during the preceding fiscal year;

(C) a detailed description of each in-kind contribution, its fair market value, the individual or organization responsible for contributing, its specific use, and a justification for its use within the context of the Corporation's mission;

(D) an objective and quantifiable measurement of its progress, on an objective-by-objective basis, in meeting the objectives established by the board;

(E) an explanation of the reason for any failure to achieve an objective established by the board and any revisions or alterations to the Corporation's objectives under paragraph (1);

(F) a comprehensive and detailed report of the Corporation's operations and activities to promote tourism in rural and urban areas; **[and]**

(G) a description of, and rationales for, the Corporation's efforts to focus on specific countries and populations;

(H)(i) a description of, and rationales for, the Corporation's combination of media channels employed in meeting the promotional objectives of its marketing campaign;

(ii) the ratio in which such channels are used; and

(iii) a justification for the use and ratio of such channels; and

[(G)](I) such recommendations as the Corporation deems appropriate.

(4) **LIMITATION ON USE OF FUNDS.**—Amounts deposited in the Fund may not be used for any purpose inconsistent with carrying out the objectives, budget, and report described in this subsection.

(d) **MATCHING PUBLIC AND PRIVATE FUNDING.**—

(1) **ESTABLISHMENT OF TRAVEL PROMOTION FUND.**—There is hereby established in the Treasury a fund which shall be known as the Travel Promotion Fund.

(2) **FUNDING.**—

(A) **START-UP EXPENSES.**—The Secretary of the Treasury shall make available to the Corporation such sums as may be necessary, but not to exceed \$10,000,000, from amounts deposited in the general fund of the Treasury from fees under section 217(h)(3)(B)(i)(I) of the Immigration and Nationality Act (8 U.S.C. 1187(h)(3)(B)(i)(I)) to cover the Corporation's initial expenses and activities under this section. Transfers shall be made at least monthly, immediately following the collection of fees under section 217(h)(3)(B)(i)(I) of the Immigration and Nationality Act (8 U.S.C. 1187(h)(3)(B)(i)(I)), on the basis of estimates by the Secretary, and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess or less than the amounts required to be transferred.

(B) **SUBSEQUENT YEARS.**—For each of fiscal years 2012 through **[2015]** 2020, from amounts deposited in the general fund of the Treasury during the preceding fiscal year from fees under section 217(h)(3)(B)(i)(I) of the Immigration and Nationality Act (8 U.S.C. 1187(h)(B)(i)(I)), the Secretary of the Treasury shall transfer not more than

\$100,000,000 to the Fund, which shall be made available to the Corporation, subject to paragraph (3) of this subsection, to carry out its functions under this section. Transfers shall be made at least quarterly on the basis of estimates by the Secretary, and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess or less than the amounts required to be transferred.

(3) MATCHING REQUIREMENT.—

(A) IN GENERAL.—No amounts may be made available to the Corporation under this subsection after fiscal year 2011, except to the extent that—

(i) for fiscal year 2012, the Corporation provides matching amounts from non-Federal sources equal in the aggregate to 50 percent or more of the amount transferred to the Fund under paragraph (2); and

(ii) for any fiscal year after fiscal year 2012, the Corporation provides matching amounts from non-Federal sources equal in the aggregate to 100 percent of the amount transferred to the Fund under paragraph (2) for the fiscal year.

(B) GOODS AND SERVICES.—For the purpose of determining the amount received from non-Federal sources by the Corporation, other than money—

(i) the fair market value of goods and services (including advertising) contributed to the Corporation for use under this section may be included in the determination; but

(ii) the fair market value of such goods and services may not account for more than ~~80 percent~~ 70 percent of the matching requirement under subparagraph (A) for the Corporation in any fiscal year.

(C) RIGHT OF REFUSAL.—The Corporation may decline to accept any contribution in-kind that it determines to be inappropriate, not useful, or commercially worthless.

(D) LIMITATION.—The Corporation may not obligate or expend funds in excess of the total amount received by the Corporation for a fiscal year from Federal and non-Federal sources.

(E) MAINTENANCE OF AN IN-KIND CONTRIBUTIONS POLICY.—*The Corporation shall maintain an in-kind contributions policy.*

(F) FORMALIZED PROCEDURES FOR IN-KIND CONTRIBUTIONS POLICY.—*Not later than 90 days after the date of enactment of the Travel Promotion, Enhancement, and Modernization Act of 2014, the Secretary of Commerce, in coordination with the Corporation, shall establish formal, publicly available procedures specifying time frames and conditions for—*

(i) making and agreeing to revisions of the Corporation's in-kind contributions policy; and

(ii) addressing and resolving disagreements between the Corporation and its partners, including the Secretary of Commerce, regarding the in-kind contributions policy.

(G) *BIANNUAL REVIEW OF PROCEDURES TO DETERMINE FAIR MARKET VALUE OF GOODS AND SERVICES.*—*The Corporation and the Secretary of Commerce (or their designees) shall meet on a biannual basis to review the procedures to determine the fair market value of goods and services received from non-Federal sources by the Corporation under subparagraph (B).*

(4) *CARRYFORWARD.*—

(A) *FEDERAL FUNDS.*—*Amounts transferred to the Fund under paragraph (2)(B) shall remain available until expended.*

(B) *MATCHING FUNDS.*—*Any amount received by the Corporation from non-Federal sources in [fiscal year 2011, 2012, 2013, 2014, or 2015] each of the fiscal years 2011 through 2020 that cannot be used to meet the matching requirement under paragraph (3)(A) for the fiscal year in which amount was collected may be carried forward and treated as having been received in the succeeding fiscal year for purposes of meeting the matching requirement of paragraph (3)(A) in such succeeding fiscal year.*

[(e)](h) [Omitted]¹

(f) *ACCOUNTABILITY.*—

(1) *PERFORMANCE PLANS AND MEASURES.*—*Not later than 90 days after the date of the enactment of the Travel Promotion, Enhancement, and Modernization Act of 2014, the Corporation shall—*

(A) *establish performance metrics, including time frames, evaluation methodologies, and data sources for measuring—*

(i) *the effectiveness of marketing efforts by the Corporation, including its progress in achieving the long-term goals of increased traveler visits to and spending in the United States;*

(ii) *whether increases in visitation and spending have occurred in response to external influences, such as economic conditions or exchange rates, rather than in response to the efforts of the Corporation; and*

(iii) *any cost or benefit to the economy of the United States; and*

(B) *conduct periodic program evaluations in response to the data resulting from measurements under subparagraph (A).*

(2) *GAO ACCOUNTABILITY.*—*Not later than 60 days after the date on which the Corporation receives a report from the Government Accountability Office with recommendations for the Corporation, the Corporation shall submit a report to Congress that describes the actions taken by the Corporation in response to the recommendations in such report.*

(g) *PROCUREMENT REQUIREMENTS.*—*The Corporation shall—*

(1) *establish a competitive procurement process; and*

¹This subsection amended section 217(h)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1187(h)(3)(B)).

(2) *certify in its annual report to Congress under subsection (c)(3) that any contracts entered into were in compliance with the established competitive procurement process.*

[(f)](e) [ASSESSMENT AUTHORITY].—

[(1) IN GENERAL.]—Except as otherwise provided in this subsection, the Corporation may impose an annual assessment on United States members of the international travel and tourism industry (other than those described in subsection (b)(2)(A)(iii) or (H)) represented on the Board in proportion to their share of the aggregate international travel and tourism revenue of the industry. The Corporation shall be responsible for verifying, implementing, and collecting the assessment authorized by this subsection.

[(2) INITIAL ASSESSMENT LIMITED.]—The Corporation may establish the initial assessment after the date of enactment of this section at no greater, in the aggregate, than \$20,000,000.

[(3) REFERENDA.—

[(A) IN GENERAL.]—The Corporation may not impose an annual assessment unless—

[(i)] the Corporation submits the proposed annual assessment to members of the industry in a referendum; and

[(ii)] the assessment is approved by a majority of those voting in the referendum.

[(B) PROCEDURAL REQUIREMENTS.]—In conducting a referendum under this paragraph, the Corporation shall—

[(i)] provide written or electronic notice not less than 60 days before the date of the referendum;

[(ii)] describe the proposed assessment or increase and explain the reasons for the referendum in the notice; and

[(iii)] determine the results of the referendum on the basis of weighted voting apportioned according to each business entity's relative share of the aggregate annual United States international travel and tourism revenue for the industry per business entity, treating all related entities as a single entity.

[(4) COLLECTION.—

[(A) IN GENERAL.]—The Corporation shall establish a means of collecting the assessment that it finds to be efficient and effective. The Corporation may establish a late payment charge and rate of interest to be imposed on any person who fails to remit or pay to the Corporation any amount assessed by the Corporation under this section.

[(B) ENFORCEMENT.]—The Corporation may bring suit in Federal court to compel compliance with an assessment levied by the Corporation under this section.

[(C) INVESTMENT OF FUNDS.]—Pending disbursement pursuant to a program, plan, or project, the Corporation may invest funds collected through assessments, and any other funds received by the Corporation, only in obligations of the United States or any agency thereof, in general obligations of any State or any political subdivision thereof, in any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve

System, or in obligations fully guaranteed as to principal and interest by the United States.】
 【(g)】(i) [Omitted]²
 【(h)】(j) [Omitted]³

IMMIGRATION AND NATIONALITY ACT

(8 U.S.C. 1101 et seq.)

SEC. 217. VISA WAIVER PROGRAM FOR CERTAIN VISITORS.

(8 U.S.C. 1187)

- * * * * *
- (h) USE OF INFORMATION TECHNOLOGY SYSTEMS.—
- (1) AUTOMATED ENTRY-EXIT CONTROL SYSTEM.—
- (A) SYSTEM.—Not later than October 1, 2001, the Attorney General shall develop and implement a fully automated entry and exit control system that will collect a record of arrival and departure for every alien who arrives and departs by sea or air at a port of entry into the United States and is provided a waiver under the program.
- (B) REQUIREMENTS.—The system under subparagraph (A) shall satisfy the following requirements:
- (i) DATA COLLECTION BY CARRIERS.—Not later than October 1, 2001, the records of arrival and departure described in subparagraph (A) shall be based, to the maximum extent practicable, on passenger data collected and electronically transmitted to the automated entry and exit control system by each carrier that has an agreement under subsection (a)(4).
- (ii) DATA PROVISION BY CARRIERS.—Not later than October 1, 2002, no waiver may be provided under this section to an alien arriving by sea or air at a port of entry into the United States on a carrier unless the carrier is electronically transmitting to the automated entry and exit control system passenger data determined by the Attorney General to be sufficient to permit the Attorney General to carry out this paragraph.
- (iii) CALCULATION.—The system shall contain sufficient data to permit the Attorney General to calculate, for each program country and each fiscal year, the portion of nationals of that country who are described in subparagraph (A) and for whom no record of departure exists, expressed as a percentage of the total number of such nationals who are so described.
- (C) REPORTING.—
- (i) PERCENTAGE OF NATIONALS LACKING DEPARTURE RECORD.—As part of the annual report required to be submitted under section 110(e)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, the Attorney General shall include a section containing the calculation described in subparagraph

²This subsection enacted section 202 of the International Travel Act of 1961 (22 U.S.C. 2123) relating to the Office of Travel Promotion.

³This subsection enacted section 203 of the International Travel Act of 1961 (22 U.S.C. 2123a) relating to research and development activities in connection with the promotion of international travel to the United States.

(B)(iii) for each program country for the previous fiscal year, together with an analysis of that information.

(ii) SYSTEM EFFECTIVENESS.—Not later than December 31, 2004, the Attorney General shall submit a written report to the Committee on the Judiciary of the United States House of Representatives and of the Senate containing the following:

(I) The conclusions of the Attorney General regarding the effectiveness of the automated entry and exit control system to be developed and implemented under this paragraph.

(II) The recommendations of the Attorney General regarding the use of the calculation described in subparagraph (B)(iii) as a basis for evaluating whether to terminate or continue the designation of a country as a program country.

The report required by this clause may be combined with the annual report required to be submitted on that date under section 110(e)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

(2) AUTOMATED DATA SHARING SYSTEM.—

(A) SYSTEM.—The Attorney General and the Secretary of State shall develop and implement an automated data sharing system that will permit them to share data in electronic form from their respective records systems regarding the admissibility of aliens who are nationals of a program country.

(B) REQUIREMENTS.—The system under subparagraph (A) shall satisfy the following requirements:

(i) SUPPLYING INFORMATION TO IMMIGRATION OFFICERS CONDUCTING INSPECTIONS AT PORTS OF ENTRY.—Not later than October 1, 2002, the system shall enable immigration officers conducting inspections at ports of entry under section 235 to obtain from the system, with respect to aliens seeking a waiver under the program—

(I) any photograph of the alien that may be contained in the records of the Department of State or the Service; and

(II) information on whether the alien has ever been determined to be ineligible to receive a visa or ineligible to be admitted to the United States.

(ii) SUPPLYING PHOTOGRAPHS OF INADMISSIBLE ALIENS.—The system shall permit the Attorney General electronically to obtain any photograph contained in the records of the Secretary of State pertaining to an alien who is a national of a program country and has been determined to be ineligible to receive a visa.

(iii) MAINTAINING RECORDS ON APPLICATIONS FOR ADMISSION.—The system shall maintain, for a minimum of 10 years, information about each application for admission made by an alien seeking a waiver under the program, including the following:

(I) The name or Service identification number of each immigration officer conducting the inspection of the alien at the port of entry.

(II) Any information described in clause (i) that is obtained from the system by any such officer.

(III) The results of the application.

(3) ELECTRONIC TRAVEL AUTHORIZATION SYSTEM.—

(A) SYSTEM.—The Secretary of Homeland Security, in consultation with the Secretary of State, shall develop and implement a fully automated electronic travel authorization system (referred to in this paragraph as the “System”) to collect such biographical and other information as the Secretary of Homeland Security determines necessary to determine, in advance of travel, the eligibility of, and whether there exists a law enforcement or security risk in permitting, the alien to travel to the United States.

(B) FEES.—

(i) IN GENERAL.—No later than 6 months after the date of enactment of the Travel Promotion Act of 2009, the Secretary of Homeland Security shall establish a fee for the use of the System and begin assessment and collection of that fee. The initial fee shall be the sum of—

(I) \$10 per travel authorization; and

(II) an amount that will at least ensure recovery of the full costs of providing and administering the System, as determined by the Secretary.

(ii) DISPOSITION OF AMOUNTS COLLECTED.—Amounts collected under clause (i)(I) shall be credited to the Travel Promotion Fund established by subsection (d) of the Travel Promotion Act of 2009 (22 U.S.C. 2131(d)). Amounts collected under clause (i)(II) shall be transferred to the general fund of the Treasury and made available to pay the costs incurred to administer the System.

(iii) SUNSET OF TRAVEL PROMOTION FUND FEE.—The Secretary may not collect the fee authorized by clause (i)(I) for fiscal years beginning after **September 30, 2015** *September 30, 2020*.

(C) VALIDITY.—

(i) PERIOD.—The Secretary of Homeland Security, in consultation with the Secretary of State, shall prescribe regulations that provide for a period, not to exceed three years, during which a determination of eligibility to travel under the program will be valid. Notwithstanding any other provision under this section, the Secretary of Homeland Security may revoke any such determination at any time and for any reason.

(ii) LIMITATION.—A determination by the Secretary of Homeland Security that an alien is eligible to travel to the United States under the program is not a determination that the alien is admissible to the United States.

(iii) NOT A DETERMINATION OF VISA ELIGIBILITY.—A determination by the Secretary of Homeland Security

that an alien who applied for authorization to travel to the United States through the System is not eligible to travel under the program is not a determination of eligibility for a visa to travel to the United States and shall not preclude the alien from applying for a visa.

(iv) JUDICIAL REVIEW.—Notwithstanding any other provision of law, no court shall have jurisdiction to review an eligibility determination under the System.

(D) REPORT.—Not later than 60 days before publishing notice regarding the implementation of the System in the Federal Register, the Secretary of Homeland Security shall submit a report regarding the implementation of the system to—

(i) the Committee on Homeland Security of the House of Representatives;

(ii) the Committee on the Judiciary of the House of Representatives;

(iii) the Committee on Foreign Affairs of the House of Representatives;

(iv) the Permanent Select Committee on Intelligence of the House of Representatives;

(v) the Committee on Appropriations of the House of Representatives;

(vi) the Committee on Homeland Security and Governmental Affairs of the Senate;

(vii) the Committee on the Judiciary of the Senate;

(viii) the Committee on Foreign Relations of the Senate;

(ix) the Select Committee on Intelligence of the Senate; and

(x) the Committee on Appropriations of the Senate.

*

*

*

*

*

*

*

