

DEPARTMENT OF HOMELAND SECURITY AUTHORIZATION BILL FOR FY 2008 AND FY 2009

SECTION-BY-SECTION

TITLE I: AUTHORIZATION OF APPROPRIATIONS

Sec. 101. Authorization of Appropriations. This section authorizes funding for DHS in FY 2008 and FY 2009.

TITLE II: POLICY, MANAGEMENT AND INTEGRATION IMPROVEMENTS

Sec. 201. Under Secretary for Policy. This section establishes the position of Under Secretary for Policy and defines the responsibilities of the Under Secretary.

Sec. 202. Operations Coordination and Planning. This section directs the Secretary to ensure that there is the capability to coordinate operations and strategically plan across all of the Department's components, including through use of a joint staff, and permits the Secretary to establish an Operations Coordination and Planning Directorate at DHS to help accomplish this.

Sec. 203. Department of Homeland Security Headquarters. This section authorizes the consolidation of the DHS headquarters at St. Elizabeth's West Campus and provides for expedited review of its approval.

Sec. 204. Chief Information Officer. This section enhances and clarifies the authorities of the DHS Chief Information Officer, consistent with existing DHS directive.

Sec. 205. Department of Homeland Security International Affairs Office. This section enhances the authorities of the DHS Office of International Affairs, in particular with respect to training and technical assistance and notification of travel by senior DHS officials, and makes the head of the office an Assistant Secretary. It also requires DHS to develop a plan to better coordinate its international activities.

Sec. 206. Department of Homeland Security Reorganization Authority. This section modifies the reorganization authority provided to DHS in Sec. 872 of the Homeland Security Act in a manner consistent with similar authority provided to the Department of Defense.

Sec. 207. Homeland Security Institute. This section removes the 2009 sunset for the Homeland Security Institute (HSI) in the Homeland Security Act, and requires the HSI to publish its reports to the fullest extent possible.

Sec. 208. Office of the Inspector General. This section authorizes funding for the Department of Homeland Security Inspector General.

Sec. 209. Department Management Directive System. This section requires DHS to publish its internal management directives on its website.

TITLE III: PROCUREMENT POLICY AND RESOURCES

Sec. 301. Department of Homeland Security Investment Review. This section requires the Department to establish a formal Investment Review process, and provide an annual report to Congress on the results of this process.

Sec. 302. Required Certification of Program Managers for Level One Projects. This section establishes a requirement related to qualification standards for the managers of DHS programs with a value greater than \$100 million.

Sec. 303. Review and Report on EAGLE and FirstSource Contracts. This section establishes a requirement for DHS to report quarterly to Congress on its use of the EAGLE and FirstSource contracts.

Sec. 304. Report on Use of Personal Services Contracts. This section requires DHS to report to Congress on its use of the personal services authority under Sec. 832 of the Homeland Security Act.

Sec. 305. Prohibition on Use of Contracts for Congressional Affairs Activities. This section prohibits DHS from using contractors to support certain Congressional affairs activities.

Sec. 306. Small Business Utilization Report. This section requires DHS to report on its small business contracting activities.

Sec. 307. Department of Homeland Security Mentor-Protégé Program. This section requires DHS to establish a mentor-protégé program for small businesses, consistent with existing activities.

Sec. 308. Other Transaction Authority. This section extends the Other Transaction Authority (OTA) in Sec. 831 of the Homeland Security Act until 2010, and requires DHS to report to Congress annually on its use of the authority of OTA.

Sec. 309. Independent Verification and Validation. This section requires the Department to report to Congress on its use of Independent Verification and Validation (IV&V) activities.

Sec. 310. Strategic Plan for Acquisition Workforce. This section requires the Department to provide Congress with a five-year strategic plan for its acquisition workforce.

Sec. 311. Buy American Requirement; Exceptions. This section requires certain items procured by the Transportation Security Administration to be produced in the United States.

TITLE IV: WORKFORCE PROVISIONS

Sec. 401. Authority for Flexible Personnel Management at the DHS Office of Intelligence and Analysis. This section gives the Secretary authority to move positions within the DHS Office of Intelligence Analysis into the excepted service, and to establish flexible personnel management authorities that have already been authorized for other elements of the intelligence community.

Sec. 402. Direct Hire Authority for Certain Positions at the Science and Technology Directorate. This section gives DHS flexible hiring authority for scientific and engineering positions within the S&T Directorate, consistent with similar authorities at the National Laboratories.

Sec. 403. Appointment of the Chief Human Capital Officer by the Secretary of Homeland Security. This provision allows the Secretary, consistent with other agencies, to appoint a Chief Human Capital Officer.

Sec. 404. Plan to Improve Representation of Minorities in Various Categories of Employment. This section requires the Secretary to establish a plan to address the underrepresentation of minorities at the Department.

Sec. 405. Office of the Chief Learning Officer. This section establishes an Office of the Chief Learning Officer within DHS, and defines the responsibilities of the Chief Learning Officer.

Sec. 406. Extension of Relocation Expenses Test Programs. This section extends a test program that allows GSA to pay for relocation expenses.

TITLE V: INTELLIGENCE AND INFORMATION SHARING PROVISIONS

Sec. 501. Full and Efficient Use of Open Source Information. This section establishes an open source information program within the Office of Intelligence and Analysis at DHS, and requires the Department to make better use of open source information.

Sec. 502. Authorization of Intelligence Activities. This section specifically authorizes the intelligence activities of DHS consistent with the requirements of the National Security Act of 1947.

Sec. 503. Under Secretary for Intelligence and Analysis. This section makes a technical correction and adds the Under Secretary for Intelligence and Analysis to the list of Presidentially-appointed and Senate-confirmed officials in Sec. 103 of the Homeland Security Act.

TITLE VI: CYBERSECURITY AND INFRASTRUCTURE PROTECTION IMPROVEMENTS

Sec. 601. National Cyber Security Division. This section establishes the National Cyber Security Division within the Office of the Assistant Secretary for Cyber Security and Communications and identifies its responsibilities in securing critical information infrastructure.

Sec. 602. National Cybersecurity Center. This section authorizes the National Cybersecurity Center as established in HSPD-23.

Sec. 603. Authority for Flexible Personnel Management for Cyber Security Positions. This section authorizes the Secretary to hire cyber security specialists in the excepted service.

Sec. 604. Cyber Threat. This section requires the DHS IG to assess sharing of U.S. cyber threat information, and requires DHS to report to Congress on the cyber threat to U.S. critical infrastructure.

Sec. 605. Cybersecurity Research and Development. This section requires DHS to increase cyber security R&D and authorizes the necessary funding.

Sec. 606. Comprehensive National Cyber Security Initiative. This section requires DHS to report to Congress on the implementation of the Comprehensive National Cyber Security Initiative and any modifications to that initiative mandated by the Act.

Sec. 607. National Cyber Security Private Sector Advisory Board. This section establishes a private sector board to advise the Secretary on cyber security policy.

Sec. 608. Infrastructure Protection. This section clarifies the authorities and responsibilities of the Department with respect to government-wide infrastructure protection.

TITLE VII: BIOLOGICAL, MEDICAL AND SCIENCE AND TECHNOLOGY PROVISIONS

Sec. 701. Chief Medical Officer and Office of Health Affairs. This section authorizes the Office of Health Affairs and the Chief Medical Officer position, and defines the responsibilities of the CMO.

Sec. 702. Test, Evaluation and Standards Division. This section establishes a test, evaluation, and standards division within the DHS Science and Technology Directorate, and provides the office with the authority to review high-risk investments and acquisitions within the Department.

Sec. 703. Director of Operational Testing. This section establishes a director of operational testing at DHS to evaluate high-risk major acquisition programs.

Sec. 704. Availability of Testing Facilities and Equipment. This section gives DHS the authority to make its testing facilities available to outside entities and collect appropriate fees from this activity, so long as the outside use does not interfere with governmental requirements.

Sec. 705. Homeland Security Science and Technology Advisory Committee. This section extends the authorization for the Homeland Security Science and Technology Advisory Committee, and includes a sense of Congress that DHS actually use the advisory committee.

Sec. 706. National Academy of Sciences Report. This section requires the National Academy of Sciences to update their 2002 report "Making the Nation Safer."

Sec. 707. Material Threats. This section enhances the process by which DHS carries out risk assessments, and directs the Department to complete assessments of known risks by the end of 2009.

TITLE IX: BORDER SECURITY PROVISIONS

SUBTITLE A – BORDER SECURITY GENERALLY

Sec. 801. Increase in Customs and Border Protection Officers and Support Staff at Ports of Entry. This section authorizes an increase of 1000 Customs and Border Protection officers and 171 support staff positions annually from FY 2009 to FY2011.

Sec. 802. Customs and Border Protection Officer Training. This section requires DHS to identify and deliver on the job training necessary for Customs and Border Protection Officers, and to develop and compile specific information about Customs and Border Protection officers training.

Sec. 803. Mobile Enrollment Teams Pilot Project. This section requires DHS to create 20 mobile enrollment teams to collect passport card and passport applications in States

with a land or maritime border and lowers the fee for those applying for a passport card or passport through mobile enrollment units.

Sec. 804. Border Security Assistance Program. This section provides grants to State and local jurisdictions to assist with border security operations and enhances federal-state cooperation on border security through the establishment of state or regional task forces.

SUBTITLE B – CUSTOMS AND BORDER PROTECTION AGRICULTURE SPECIALISTS

Sec. 811. Sense of the Senate. This section expresses the sense of the Senate about the importance of the mission carried out by U.S. Customs and Border Protection Agriculture Specialists in protecting the United States from both the intentional and unintentional introductions of diseases and pests.

Sec. 812. Increase in the Number of U.S. Customs and Border Protection Agriculture Specialists. This section requires an increase in the number of U.S. Customs and Border Protection Agriculture Specialists over five years.

Sec. 813. Agriculture Specialist Career Track. This section requires DHS to ensure that there are appropriate career paths available for Agriculture Specialists.

Sec. 814. Agriculture Specialist Recruitment and Retention. This section directs DHS to develop a plan to enhance recruitment and retention of CBP Agriculture Specialists.

Sec. 815. Retirement Provisions for Agriculture Specialists and Seized Property Specialists. This section gives Agriculture Specialists and Seized Property Specialists the same enhanced retirement benefits as are given to their Customs and Border Protection Officer colleagues.

Sec. 816. Equipment Support. This section directs DHS to assess the extent and adequacy of the resources and equipment available to Agriculture Specialists.

Sec. 817. Reports. This section directs DHS to report on the status of plans to improve the agriculture inspection program and on the implementation of this subtitle.

TITLE IX: PREPAREDNESS AND RESPONSE PROVISIONS

Sec. 901. National Planning. This section requires the President, through the Secretary and the FEMA Administrator, to develop an integrated national planning system that provides for strategic and operational planning for natural disasters, acts of terrorism, and other man-made disasters.

Sec. 902. Predisaster Hazard Mitigation. This section renews the authorization for the Predisaster Hazard Mitigation program; it is identical to the version of S. 3175 that the Committee recently reported.

Sec. 903. Community Preparedness. This section directs the FEMA Administrator to assist State, local and tribal governments in promoting individual and community preparedness.

Sec. 904. Metropolitan Medical Response System. This section authorizes the Metropolitan Medical Response System program.

Sec. 905. Emergency Management Assistance Compact (EMAC). This section extends the authorization in Sec. 661 of the Post-Katrina Emergency Management and Reform Act for grants to support the administration of EMAC.

Sec. 906. Clarification on the Use of Funds. This section clarifies language in Title XX of the Homeland Security Act related to the use of homeland security grant funds for personnel, including fusion center analysts.

Sec. 907. Commercial Equipment Direct Assistance Program. This section authorizes the CEDAP program, which provides first responders in rural jurisdictions with equipment and training.

Sec. 908. Task Force on Emergency Readiness. This section authorizes a pilot project designed to enhance the planning capability of states. With the consent of governors, the pilot project creates a task force comprised of DOD, DHS and state emergency planners working together to ensure that a state's plan is coordinated with federal plans for disasters.

Sec. 909. Technical and Conforming Amendments. This section establishes a Presidentially-appointed and Senate-confirmed Director of Grant Programs at FEMA, and makes other technical and conforming edits.

TITLE X: NATIONAL BOMBING PREVENTION ACT

Title X. Office of Bombing Prevention. This title is almost identical to S. 2292, the National Bombing Prevention Act of 2007, which the Committee reported favorably in November 2007. It has three principal components. First, it clarifies the responsibilities of the Department's Office of Bombing Prevention, authorizes enough funding – \$25 million for each of FY 2009 and FY 2010, and such sums thereafter – to fulfill these responsibilities, and elevates the Office's stature within the Department. Among other things, the Act designates the Office as the Department's lead agent for combating terrorist explosive attacks and directs it to promote counter-IED security planning, information sharing, and training programs. Second, the Act directs the President to accelerate the release, and regularly update, a National Strategy for Bombing Prevention.

Third, the Act promotes more research, development, testing, and evaluation of counter-explosive technologies, as well as the transfer of military know-how and technologies, as appropriate, to other Federal, State, and local entities with bombing prevention responsibilities. The language contains a savings clause affirming that nothing in this title will affect the current authorities of the Department of Justice.

TITLE XI: FEDERAL PROTECTIVE SERVICE AUTHORIZATION

Section 1101. Authorization of Federal Protective Service Personnel. This section requires that the Secretary of Homeland Security ensure that the Federal Protective Service (FPS) maintain no fewer than 1200 FTE's, including 900 law enforcement officers, for FY2009, and no fewer than 1300 FTE's, including 950 law enforcement officers, for FY2010. It authorizes \$650 million for FY2009 and \$675 million for FY 2010 for this purpose. This section also requires the Secretary to submit a report to Congress evaluating whether all, part, or none of the FPS' budget should be funded by fee collections, direct appropriations or some other funding mechanism. Currently, the FPS is entirely fee funded.

Section 1102. Report on Personnel Needs of the Federal Protective Service. This section requires the Secretary of Homeland Security to study and report on the staffing needs of the FPS, including recommendations on the level and composition of staffing required to accomplish the missions of the FPS.

Section 1103. Authority for Federal Protective Service Officers and Investigators to Carry Weapons During Off-Duty Times. This section amends Section 1315(b)(2) of title 40 to permit FPS law enforcement officers to carry weapons and effect arrests during off-duty times. It does not extend the jurisdiction of FPS law enforcement officers.

Section 1104. Amendments Relating to the Civil Service Retirement System. This section amends the Civil Service Retirement System to provide law enforcement retirement benefits to FPS Police Officers, Law Enforcement Security Officers/Inspectors, and Criminal Investigators.

Section 1105. Federal Protective Service Contracts. This section directs the Secretary of the Homeland Security to promulgate regulations prohibiting the award of contracts for guard services by the Federal Protective Service to any business owned, controlled or operated by an individual convicted of serious felonies.