



September 25, 2006

Highlights of the Conference Report to Accompany H.R. 5441 – Department of Homeland Security Appropriations Bill

On September 25, the Conference Committee reported H.R. 5441; H. Report 109-699.

Noteworthy

- The Conference Report provides \$34.79 billion in new budget authority, an amount which is \$1.65 billion above the House-passed bill and \$2.71 billion above the Administration's request. This includes \$1.829 billion in emergency designated spending.
- The Administration's request proposed \$1.23 billion in offsetting collections by raising aviation passenger fees by \$2.50 per passenger. The Conferees did not include this fee increase.
- H.R. 5441 provides \$770 million for high-threat, high-density urban area grants, and \$525 million for the State and local basic grant program.
- H.R. 5441 funds a total of 14,819 Border Patrol Agents (of which 1,500 are new) and 27,500 detention beds across the nation (of which 2,700 are new; 4,000 were funded in the FY 2006 emergency supplemental).
- H.R. 5441 provides \$134.9 million, in direct appropriations, to U.S. Citizenship and Immigration Services for the Systematic Alien Verification for Entitlements (SAVE) program, and the Employment Eligibility Verification (EEV) program.
- This bill provides \$362.5 million for the US Visitor and Immigration Status Indicator Technology (US VISIT), which enhances the security of the United States by verifying the identity of visitors with visas at ports of entry.
- H.R. 5441 provides \$8.32 billion for the Coast Guard, which is \$334 million above the FY06 enacted level. Of this amount, \$7.25 billion is discretionary spending, which is \$284.8 million above the FY06 enacted level.
- H.R. 5441 provides \$6.37 billion for the Transportation Security Administration, which, including \$2.4 billion in offsetting fees, is \$75 million above the Administration's request.
- On July 13, 2006, the Senate passed its version of H.R. 5441 by a vote of 100-0.

Highlights

(in billions)	<u>President's Request</u>	<u>House-passed Bill</u>	<u>Senate-passed Bill</u>	<u>Conference Report</u>
Title I (Management and Operations)	\$ 1.07	\$ 0.96	\$ 0.98	\$1.01
Title II (Security, Enforcement, and Investigations)	22.67	23.69	23.94	25.57
Title III (Preparedness and Recovery)	6.39	6.73	6.52	6.52
Title IV (Research and Development)	1.96	1.78	1.67	1.91
Title V (General Provisions)	-0.02	-0.02	-0.3	-0.23
TOTAL¹	\$ 32.08	\$ 33.14	\$ 32.79	\$34.79

Background

The Homeland Security Act of 2002 (P.L. 107-296) transferred the functions, relevant funding, and most of the personnel of 22 agencies and offices to the new Department of Homeland Security (DHS) created by the act. DHS is organized into four major areas: Management and Operations; Security, Enforcement and Investigations; Preparedness and Recovery; and Research, Development, Training and Services.

Security, Enforcement and Investigation, the largest of the four areas, contains five main components: Customs and Border Protection (CBP); Immigration and Customs Enforcement (ICE); Transportation Security Administration (TSA); U.S. Coast Guard; and U.S. Secret Service. Preparedness and Recovery is comprised of the Office for Domestic Preparedness; U.S. Fire Administration; Infrastructure Protection and Information Security (IPIS); and the Federal Emergency Management Administration (FEMA). Research, Development, Training and Services is comprised of U.S. Citizenship and Immigration Services; Federal Law Enforcement Training Center; Science and Technology; and the Domestic Nuclear Detection Office.

¹ Any difference in the totals is due to rounding.

Bill Provisions

Title I – Departmental Management and Operations

Title I provides \$1.01 billion for Departmental Management and Operations, which is \$63.0 million below the Administration’s request. Significant spending accounts and language requests include:

Office of the Secretary:

Conference Report: Provides \$94.5 million for the Office of the Secretary and Executive Management.

Senate-Passed Bill: Provided \$82.6 million for the Office of the Secretary and Executive Management.

Analysis and Operations:

Conference Report: Provides \$299.7 million for Analysis and Operations. This includes funding for the Department’s intelligence activities and the National Operations Center.

Senate-Passed Bill: Provided \$298.7 million for Analysis and Operations, as proposed in the budget, which was \$45.7 million above the FY06 enacted level.

Title II – Security, Enforcement, and Investigations: Border and Transportation Security

Title II provides \$25.58 billion for the Department’s Security, Enforcement, and Investigations, including \$1.81 billion in emergency appropriations. Significant spending accounts include:

US VISIT Technology:

Conference Report: Provides \$362.5 million for the United States Visitor and Immigration Status Indicator Technology (US VISIT) program. Included in this amount is \$60.1 million to continue the development of interoperability between biometric data systems.

Senate-Passed Bill: Provided \$399.5 million for US VISIT.

U.S. Customs and Border Protection (CBP):

Conference Report: Provides \$8.04 billion for Customs and Border Protection, excluding \$1.5 billion in fees. Included within these funds is: \$379.6 million for **1,500 additional border patrol agents**; \$34.8 million for **450 additional CBP officers**; \$147 million for additional **non-**

intrusive inspection equipment; \$75.9 million for the **Customs-Trade Partnership Against Terrorism (C-TPAT) and Free and Secure Trade (FAST)**; \$139.3 million for the **Container Security Initiative (CSI)**; \$23.6 million to expand the **National Targeting Center**; \$12.0 million for **Weapons of Mass Destruction Staffing**; \$1.187 billion for **border security fencing, infrastructure and technology**; and \$16.4 million for the fourth **Northern Border Airwing**.

- **Border Security**: Provides \$1.19 billion for border security fencing, infrastructure and technology. Of this funding, \$950 million cannot be obligated until DHS submits a plan of expenditures to the Appropriations Committees.

Senate-Passed Bill: Provided \$6.66 billion for Customs and Border Protection, excluding \$1.27 billion in fees.

Immigration and Customs Enforcement (ICE):

Conference Report: Provides \$3.95 billion for ICE, excluding \$768.3 million in fees. Included within these funds is: \$1.3 billion for investigations; \$1.98 billion for detention, including funding for an additional 2,700 **detention beds**;² \$30.0 million to enhance resources devoted to **worksite enforcement**; \$183 million for **fugitive operations**; \$137 million for the **criminal alien program**; \$43 million for **alternatives to detention**; and \$30 million for **infrastructure improvements at detention centers**.

Senate-Passed Bill: Provided \$3.91 billion for ICE, excluding \$252.3 million in fees.

Transportation Security Administration (TSA):

Conference Report: Provides \$6.37 billion for TSA (including \$2.42 billion in aviation security collections). Included in this funding is: \$3.77 billion for **screening operations**, and \$714.3 million for **Federal Air Marshals**.

- **Air Cargo Security**: Provides \$55.0 million for air cargo security. Included in this recommendation is funding for the National Explosives Detection Canine Team Program. The bill includes language directing the Secretary to develop new technologies to inspect and screen air cargo.
- **Rail Security**: Provides \$13.2 million for security measures for the nation's railways. The increase in funding is to support 100 rail inspectors and 30 canine teams.

Senate-Passed Bill: Provided \$6.46 billion for the Transportation Security Administration (excluding \$2.42 billion in passenger and aviation carrier fees, and \$250 million from Aviation Security Capital).

² When combined with the funds provided in the Emergency Supplemental Appropriations for Defense, the Global War on Terror, and Tsunami Relief Act, 2005 (P.L. 109-13), these funds will support 27,500 detention beds in FY07.

U.S. Coast Guard (USCG):

Conference Report: Provides \$8.32 billion for the USCG. Of this funding, \$7.25 billion is discretionary spending and \$1.06 billion is mandatory spending for **retired pay**. Within the discretionary funds, \$5.48 billion is for **operating expenses** (such as pay and vessel and aircraft maintenance) to perform maritime border security operations, search and rescue, marine environmental protection, and defense-related activities including drug interdiction. The **Integrated Deepwater System** is provided \$1.07 million.

- This bill includes a permanent indefinite appropriation of \$278.7 million for contributions to the Medicare-Eligible Retiree Health Care Fund.

Senate-Passed Bill: Provided \$8.19 billion for the United States Coast Guard, which is \$9.0 million below the Administration's request and \$445.1 million above the FY06 enacted level.

U.S. Secret Service:

Conference Report: Provides \$1.28 billion for United States Secret Service. This account provides for the protection of the President, the Vice President, and other dignitaries and designated individuals; enforcement of laws relating to obligations and securities of the United States and financial crimes; and protection of the White House.

Senate-Passed Bill: Provided \$1.23 billion for the United States Secret Service.

Title III – Preparedness and Recovery

Title III provides \$6.53 billion for the Department's Preparedness and Recovery, which is \$143.2 million above the Administration's request and \$6.48 billion below the FY06 enacted level. Significant spending accounts and language requests include:

Office of Grants and Training (G&T):

Conference Report: Provides \$3.39 billion for G&T. Included within these funds is \$2.53 billion for **state and local programs** through grants for the purposes consistent with each State's homeland security strategy, including training and exercises; equipment, including interoperable communications equipment; and technical assistance.

- **Discretionary Grants:** The bill provides \$770 million for Urban Area Security Initiative grants, \$210 million for port security grants, and \$175 million for rail and transit security grants.
- **Report Language:** Requests the Department to submit a report to the Committee by February 8, 2007, "detailing what State and local governments have purchased with fiscal year 2006 homeland security state and local assistance grants; whether these expenditures

have complied with State homeland security plans; and how homeland security has been enhanced by such expenditures.”

Senate-Passed Bill: Provided \$3.3 billion for G&T.

Firefighter Assistance Grants:

Conference Report: Provides \$662 million for firefighter assistance grants. Included within these funds is \$115 million for the SAFER Act, which is \$6.1 million more than the FY06 enacted level—the Administration did not request funds for this account. These grants provide assistance to local firefighting departments for the purpose of protecting the health and safety of the public, and firefighting personnel (including volunteers and emergency medical service personnel) against fires and fire-related hazards.

Senate-Passed Bill: Provides \$655 million for firefighter assistance grants, which is \$361.6 million above the Administration’s request and \$6.6 million above the FY06 enacted level.

FEMA:

Conference Report: Provides \$2.51 billion for FEMA. Included in this request is \$282 million for administrative and regional operations and \$244 million for activities associated with readiness, mitigation, response and recovery, including \$25 million for Urban Search and Rescue teams.

- **Disaster Relief Fund:** Provides \$1.50 billion for the Disaster Relief Fund (DRF). Currently, there is \$3.37 billion in the DRF. Through the DRF, the Department provides a significant portion of the total Federal response to victims in major disasters and emergencies declared by the President.
- **Report Language:** The conferees are concerned by the findings of the Government Accountability Office, the DHS Inspector General, and others regarding the fraud and abuse associated with victim assistance programs and other disaster spending for the 2005 Gulf Coast hurricanes. The conferees expect FEMA to include corrective action for the disaster claims system in the brief to the Committees on Appropriations on Hurricane Katrina Lessons Learned.

Senate-Passed Bill: Provides \$2.7 billion for FEMA. Included in this request is \$240.0 million to support activities related to readiness, mitigation, response, and recovery, including \$30 million for the 28 existing Urban Search and Rescue teams. The mission of FEMA is to lead the Nation to prepare for, mitigate the effects of, respond to, and recover from major domestic disasters, both natural and man-made, including incidents of terrorism.

Title IV – Research and Development, Training, Assessments, and Services

Title IV provides \$1.91 billion for the Department’s Research and Development, Training, Assessments, and Services, which is \$53 million below the Administration’s request and \$5.8 million above the FY06 enacted level. Significant spending accounts include:

United States Citizenship and Immigration Services (CIS):

Conference Report: Provides \$1.99 billion for CIS, including \$1.80 billion in user fees, which is the same as the request, and \$98 million above the FY06 enacted level. CIS is responsible for the administration of laws and providing services to people seeking to visit, reside, work, and naturalize in the United States. Included in the amount is an increase of \$113.9 million to expand the **Employment Eligibility Verification**.

Senate-Passed Bill: Provided \$1.93 billion for CIS, including \$1.80 billion in user fees.

Federal Law Enforcement Training Center (FLETC):

Conference Report: Provides \$275.3 million for FLETC, which is \$30.0 million above the Administration’s request. The FLETC provides funds for basic and advanced training to Federal law enforcement personnel from more than 76 agencies.

Senate-Passed Bill: Provides \$270.9 million for the FLETC, which is \$26.3 million above the President’s request, but \$8.6 million below the FY06 enacted level.

Science and Technology:

Conference Report: Provides \$973.3 million for Science and Technology. Included in this amount is \$350.2 million for biological countermeasures, \$60.0 million for chemical countermeasures, \$40.0 million for Counter-MANPADS, and \$86.6 million for high explosives countermeasures.

Senate-Passed Bill: Provides \$818.5 million for Science and Technology, which is \$183.8 million below the Administration’s request and \$354 million below the FY06 enacted level.

Domestic Nuclear Detection Office (DNDO):

Conference Report: Provides \$481.0 million for DNDO. The mission of DNDO is to improve the Nation’s capability to detect and report attempts to import, possess, store, develop, or transport nuclear and radiological material for use against the nation.

Senate-Passed Bill: Provided \$442.5 million for the DNDO, which is \$93.3 million above the Administration’s request and \$128 million above the FY06 enacted level.

Title V – General Provisions

Title V includes proposals that have been incorporated into previous appropriations bills, provisions requested by DHS, and new provisions.

Notable sections include:

- **Intelligence Authorization:** Section 506 provides that the funds under the bill going to intelligence activities is authorized until an actual authorization bill is passed.
- **FLETC:** Section 507 provides that the Federal Law Enforcement Training Center (FLETC, initially housed in Treasury Department for 30 years before going to DHS; HQ is in Brunswick, GA with major sites in MD, SC, NM) would continue to lead the federal law enforcement training accreditation process. That *accreditation* is for federal law enforcement training programs at various law enforcement agencies (e.g., the postal inspector academy, naval criminal investigative service, Air Force office of special investigations) for standards on the manner of instruction, management, basic instructor training, and similar issues.
- **Buy American Act:** Section 512 prohibits the use of funds in this act in contravention of the Buy American Act.
- **CIS:** Section 516 prohibits U.S. Citizenship & Immigration Services (the agency that processes all temporary and permanent immigration applications) from using private sector employees as “information officers” (customer service responders), contact representatives or investigative assistants. OMB Circular A-76 is a directive to dole out to the private sector as many agency functions as possible; the bill would prohibit funds to be expended for this at USCIS for the purpose described above.
- **Drug Reimportation:** Section 535 stipulates that no funds can be used by U.S. Customs and Border Protection to stop individuals from importing “personal-use” quantities of an FDA-approved prescription drug from Canada. The amount of any given prescription drug must be less than or equal to “a 90-day supply.” The “drug” may not be a controlled substance or a biological therapy.
- **Western Hemisphere Travel Initiative:** Section 546 extends the deadline for implementation of the Western Hemisphere Travel Initiative by 18 months to June 1, 2009. The Departments of Homeland Security and State may implement the program prior to that date if conditions set out in the bill have been met.
- **Chemical Plant Security.** Section 550 requires the Department of Homeland Security to establish interim anti-terror standards for chemical plants. Action is needed because the lack of laws governing chemical security facilities is a major vulnerability. The language sets forth several details on how a new program would operate.
- **Border Tunnels:** Section 551 criminalizes knowingly constructing, or financing the construction of, or recklessly disregarding or knowingly allowing on their land the construction of, a tunnel that crosses the international border into the U.S.
- **Gun Confiscation:** Section 557 prohibits any officer or employee of the United States or his agent, while acting in support of relief from a major disaster or emergency from: (1) seizing, or authorizing the seizure of, any firearm the possession of which is not prohibited under Federal, State, or local law; (2) requiring registration of any firearm which registration is not required by Federal, State, or local law; (3) prohibiting

possession of any firearm or promulgating rules prohibiting possession where such possession is not otherwise prohibited by Federal, State, or local law; or (4) prohibiting the carrying of firearms by any person otherwise authorized to carry firearms under Federal, State, or local law. The section permits requiring the temporary surrender of a firearm as a condition for entry into a mode of transportation used for rescue or evacuation during a disaster or emergency, so long as the firearm is returned at the completion of the rescue or evacuation. The section also creates a private right of action for individuals aggrieved by violations of its provisions against any person who deprives that individual of any of the rights, privileges, or immunities secured by this section. It provides that, in addition to any existing remedies, an individual may bring an action for the return of his confiscated firearm.