

**House Report 108-541 - DEPARTMENT OF HOMELAND SECURITY
APPROPRIATIONS BILL, 2005**

ADDITIONAL VIEWS OF HON. MARTIN OLAV SABO

The legislation accompanying this report falls seriously short in funding some critical programs of the Department of Homeland Security. While the Committee followed a logical path in distributing the \$32 billion allocation, this measure does not provide the resources needed to significantly improve our ability to detect terrorist activity or respond to a terrorist attack.

The House-passed budget resolution--which attempts to perpetuate the fiction that the United States can simultaneously cut taxes, provide services, fight terrorism and fund a war--has put the Committee in a position where it could not provide more resources for homeland security.

Therefore, the Committee was forced to make trade-offs among programs to improve disaster preparedness and response, immigration services and programs to stop terrorists. As a result, we have some worrisome gaps, and few homeland security programs are funded at the level they should be.

The first responder funding cuts are one of my biggest concerns. This legislation provides \$327 million less for first responders programs than was enacted in 2004. Within this total, funding for grants to fire departments--which Secretary Ridge acknowledges are primarily used to address terrorism response needs--is cut by \$146 million, or nearly twenty percent.

Of equal concern is the \$440 million cut in domestic preparedness grants that are distributed to the states by formula. If sustained, funding for these domestic preparedness grants would fall twenty-six percent below the 2004 funding level.

While funding to certain high threat urban areas is increased, overall first responder funding in this legislation decreases by seven percent. If these cuts hold, next year most states and localities will end up with less homeland security funding than they have today.

This situation is particularly troubling given that the American people recently saw live television coverage of the Attorney General and FBI director giving us alarming warnings of imminent terrorist attack. At their press conference, Mr. Ashcroft said that our own intelligence and al Qaeda's `public statements indicate that it is almost ready to attack the United States,' and that they intend to hit us hard.

If terrorists attack us again, our local police, firefighters and emergency workers will be the first on the scene. It frustrates me that there is little sense of urgency to ensure that these first responders have the tools they need to do their jobs.

This legislation also fails to address other critical homeland security issues. Two of my chief concerns are the inadequate inspection of cargo carried on passenger planes, and lax federal oversight of chemical plant security practices. I offered amendments in Committee to strengthen security in these areas. However, they were defeated.

Unlike passenger baggage, the cargo on passenger aircraft is not rigorously inspected even though it is carried in the same hold. Furthermore, cargo carried on all-cargo aircraft is not inspected at all.

My cargo amendment would have increased by five-fold the inspection of air cargo carried alongside passenger baggage, and established a pilot inspection program for all-cargo air carriers.

The Aviation and Transportation Security Act, which became law in November 2001, states the following: 'The Under Secretary of Transportation for Security shall provide for the screening of all passengers and property, including United States mail, cargo, carry-on and checked baggage, and other articles that will be carried aboard a passenger aircraft operated by an air carrier or foreign air carrier.' Today, the Bush Administration is not abiding by this law. It should be.

Nearly three years after 9/11, the failure to robustly screen air cargo is one of our most glaring homeland security gaps. While the Committee bill provides for a 'doubling' of such screening, doubling a small number is still a small number. To supplement this modest screening effort, the Committee is relying on the Transportation Security Administration's implementation of the 'known shipper' program to keep us safe. I am not satisfied with this approach.

Up until a few months ago, TSA did not even know who all the 'known shippers' were because the airlines--not TSA--certify them. The inadequacy of this program is made plain if we only recall that last September an employee of a 'known shipper' shipped himself in a crate from New York to Dallas. It is unfortunate that the Administration and the Committee majority appear unwilling to take aggressive steps to close the air cargo security gap.

I also offered an amendment in Committee to require chemical facilities to submit vulnerability assessments and security plans for review by the Department. The Justice Department has concluded that the risk of a terrorist attack on a chemical facility is both real and credible. As well, a 1992 Brookings Institution report ranks an attack on a chemical facility as

the third most lethal type of attack, behind only biological or nuclear weapon attack. Again, this amendment was defeated.

A 2003 General Accounting Office study found that there are no federal laws requiring chemical facilities to assess security risks and take action; neither the federal government nor anyone else has comprehensively assessed security vulnerabilities facing the chemical industry; and the chemical industry's voluntary initiatives to date

have reached only a portion of the 15,000 chemical facilities required by the Environmental Protection Agency to have risk management plans. It astounds me that we have achieved so little in chemical plant security despite the clear warnings from many quarters.

Another amendment I offered in Committee would have made a modest, but important, funding adjustment. The Committee provided \$70 million for the Department to implement its new human resource system. However, in response to my questions, the Department confirmed that it planned to spend only \$62.5 million in 2005 for this system--leaving a surplus of \$7.5 million.

My amendment would have shifted this \$7.5 million into two areas: \$2 million to properly fund the Department's Privacy Office, which has huge responsibilities and is now relying on a large number of staff voluntarily detailed to the office; and \$5.5 million to allow for staffing increases in the Federal Air Marshal program. Once again, my amendment was defeated in Committee.

Finally, I would like to point out a bill provision concerning the CAPPS II air passenger pre-screening system that is being developed by TSA and will likely be tested by the end of the year.

The FY2004 Homeland Security Appropriations Act mandated that the General Accounting Office review the development of CAPPS II against eight security and privacy criteria that must be met before the system could be implemented. The GAO found in February that TSA had met only one of the eight criteria.

This legislation updates the CAPPS II provision by requiring that before implementation of this program, the Secretary certify that these eight criteria have been met and GAO review this certification. It also clarifies that the GAO review should explicitly include the algorithms used in the CAPPS II system to predict which airline passengers may be terrorists.

In conclusion, I am disappointed that the Committee has chosen not to press the Administration more aggressively to close known homeland security gaps. The American people continue to demand our best efforts to protect our homeland. Unfortunately, we have yet to meet their expectations.

MARTIN OLAV SABO.

ADDITIONAL VIEWS OF REPRESENTATIVES ROSA DELAURO AND MARION BERRY

We are very pleased that the Committee passed, with a strong bipartisan vote of 35-17, our amendment, which closes loopholes in the current Department of Homeland Security corporate expatriates contracting ban and prevents the Department from moving forward with a recently announced contract with one such corporate expatriate. Corporate expatriates cost this nation an estimated \$5 billion in lost income, but according to a 2002 report by the General Accounting Office, they continue to receive \$2.7 billion in government contracts.

In July 2002, during debate on the Homeland Security Act of 2002, the House of Representatives passed, with a vote of 318-100, a measure that prohibited the Department from awarding contracts to companies which have incorporated on paper overseas for the purpose of avoiding paying U.S. taxes. Unfortunately, the measure was significantly watered down before it was signed into law. Among the loopholes added was one allowing any company which had already incorporated in Bermuda to remain eligible for government contracts.

While this loophole allows Accenture to retain technical eligibility for contracts from the Department of Homeland Security, we believe the Homeland Security Department's contract award flies in the face of Congressional intent. In addition, by incorporating overseas in order to reduce their tax burden, Accenture has not only cost the U.S. treasury millions of dollars which could be put to use in improving our homeland security, but they have placed loyal U.S. companies at a permanent competitive disadvantage. This move should not be encouraged with the award of the Department's largest contract to date.

We believe that inclusion of this amendment strengthens this legislation and our ability to equip our first responders and ensure the safety of our ports and air transit. We believe that being a good corporate citizen of the United States is about more than the bottom line. Companies that feel American citizenship is worth rejecting to lessen their tax liability should not be rewarded with billions of taxpayer dollars.

Rosa DeLauro.
Marion Berry.

