

PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 2892) MAKING APPROPRIATIONS FOR THE DEPARTMENT OF HOMELAND SECURITY FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2010, AND FOR OTHER PURPOSES

JUNE 23, 2009.—Referred to the House Calendar and ordered to be printed

Mr. PERLMUTTER, from the Committee on Rules,
submitted the following

R E P O R T

[To accompany H. Res. 573]

The Committee on Rules, having had under consideration House Resolution 573, by a non-record vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 2892, the Department of Homeland Security Appropriations Act, 2010, under a structured rule. The resolution provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Appropriations. The resolution waives all points of order against consideration of the bill except for clauses 9 and 10 of rule XXI. The resolution waives all points of order against provisions in the bill for failure to comply with clause 2 or 5 of rule XXI.

The resolution makes in order the following amendments: (1) the amendment printed in part A of this report; (2) the amendments printed in part B of this report; (3) not to exceed four of the amendments printed in part C of this report, if offered by Representative Flake of Arizona or his designee; and (4) not to exceed one of the amendments printed in part D of this report, if offered by Representative Campbell of California or his designee.

The resolution provides that each such amendment shall be considered as read, shall be debatable for 10 minutes equally divided and controlled by the proponent and an opponent, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived except those arising under clause 9 or 10 of rule XXI. The resolution also provides that the amendments printed in part B, C, or D of this report may be offered only at the appropriate point in the reading.

The resolution provides that for those amendments reported from the Committee of the Whole, the question of their adoption shall be put to the House en gros and without intervening demand for division of the question. The resolution provides one motion to recommit with or without instructions.

The resolution provides that after consideration of the bill for amendment, the chair and ranking minority member of the Committee on Appropriations or their designees each may offer one pro forma amendment to the bill for the purpose of debate, which shall be controlled by the proponent. The resolution provides that the Chair may entertain a motion that the Committee rise only if offered by the chair of the Committee on Appropriations or his designee and that the Chair may not entertain a motion to strike out the enacting words of the bill (as described in clause 9 of rule XVIII). Finally, the resolution provides that during consideration of H.R. 2892, the Chair may reduce to two minutes the minimum time for electronic voting under clause 6 of rule XVIII and clauses 8 and 9 of rule XX.

EXPLANATION OF WAIVERS

The waiver of all points of order against consideration of the bill (except for clauses 9 and 10 of rule XXI) includes a waiver of clause 4(c) of rule XIII, requiring the three-day availability of printed hearings on a general appropriation bill, and a waiver of Section 306 of the Congressional Budget Act, prohibiting consideration of legislation within the jurisdiction of the Committee on the Budget unless reported by, or discharged from, the Budget Committee.

The waiver of all points of order against provisions in the bill includes a waiver of clause 2 of rule XXI, prohibiting unauthorized appropriations or legislative provisions in an appropriations bill, and a waiver of clause 5(a) of rule XXI, prohibiting tax or tariff provisions in a bill not reported by a committee with jurisdiction over revenue measures.

COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee record vote No. 140

Date: June 23, 2009.

Measure: H.R. 2892.

Motion by: Mr. Dreier.

Summary of motion: To grant an open rule.

Results: Defeated 2–8.

Vote by Members: McGovern—Nay; Hastings—Nay; Matsui—Nay; Cardoza—Nay; Arcuri—Nay; Perlmutter—Nay; Polis—Nay; Dreier—Yea; Diaz-Balart—Yea; Slaughter—Nay.

Rules Committee record vote No. 141

Date: June 23, 2009.

Measure: H.R. 2892.

Motion by: Mr. Dreier.

Summary of motion: To grant a modified open rule with a preprinting requirement.

Results: Defeated 2–8.

Vote by Members: McGovern—Nay; Hastings—Nay; Matsui—Nay; Cardoza—Nay; Arcuri—Nay; Perlmutter—Nay; Polis—Nay; Dreier—Yea; Diaz-Balart—Yea; Slaughter—Nay.

Rules Committee record vote No. 142

Date: June 23, 2009.

Measure: H.R. 2892.

Motion by: Mr. Dreier.

Summary of motion: To strike section 4 of the rule, allowing the Majority to impose two-minute voting.

Results: Defeated 2–8.

Vote by Members: McGovern—Nay; Hastings—Nay; Matsui—Nay; Cardoza—Nay; Arcuri—Nay; Perlmutter—Nay; Polis—Nay; Dreier—Yea; Diaz-Balart—Yea; Slaughter—Nay.

Rules Committee record vote No. 143

Date: June 23, 2009.

Measure: H.R. 2892.

Motion by: Mr. Dreier.

Summary of motion: To strike the sentence in section 1 of the rule requiring that amendments reported from the Committee of the Whole be adopted en gros.

Results: Defeated 2–8.

Vote by Members: McGovern—Nay; Hastings—Nay; Matsui—Nay; Cardoza—Nay; Arcuri—Nay; Perlmutter—Nay; Polis—Nay; Dreier—Yea; Diaz-Balart—Yea; Slaughter—Nay.

Rules Committee record vote No. 144

Date: June 23, 2009.

Measure: H.R. 2892.

Motion by: Mr. Dreier.

Summary of motion: To make in order an amendment by Rep. Rogers (KY), #20, which would prohibit funds in the bill from being used to implement, administer, or enforce any regulation, order, or other action by DHS to postpone the final rule requiring Federal contractors to participate in E-Verify.

Results: Defeated 2–8.

Vote by Members: McGovern—Nay; Hastings—Nay; Matsui—Nay; Cardoza—Nay; Arcuri—Nay; Perlmutter—Nay; Polis—Nay; Dreier—Yea; Diaz-Balart—Yea; Slaughter—Nay.

Rules Committee record vote No. 145

Date: June 23, 2009.

Measure: H.R. 2892.

Motion by: Mr. Dreier.

Summary of motion: To make in order an amendment by Rep. Brown-Waite (FL), #47, which would provide \$89 million for border fencing, offset by redirecting funds from the Under Secretary for Management.

Results: Defeated 2–8.

Vote by Members: McGovern—Nay; Hastings—Nay; Matsui—Nay; Cardoza—Nay; Arcuri—Nay; Perlmutter—Nay; Polis—Nay; Dreier—Yea; Diaz-Balart—Yea; Slaughter—Nay.

Rules Committee record vote No. 146

Date: June 23, 2009.

Measure: H.R. 2892.

Motion by: Mr. Dreier.

Summary of motion: To make in order an amendment by Rep. Roskam (IL), #79, that would prohibit funds in the bill from being used in contravention of the implementing regulations of REAL ID.

Results: Defeated 2–8.

Vote by Members: McGovern—Nay; Hastings—Nay; Matsui—Nay; Cardoza—Nay; Arcuri—Nay; Perlmutter—Nay; Polis—Nay; Dreier—Yea; Diaz-Balart—Yea; Slaughter—Nay.

Rules Committee record vote No. 147

Date: June 23, 2009.

Measure: H.R. 2892.

Motion by: Mr. Diaz-Balart.

Summary of motion: To make in order and provide appropriate waivers for an amendment by Rep. McCaul (TX), #56, which would prohibit funds appropriated by this bill from being used on any program or project named after a current Member, Delegate, or Resident Commissioner or Senator of the U.S. Congress.

Results: Defeated 2–8.

Vote by Members: McGovern—Nay; Hastings—Nay; Matsui—Nay; Cardoza—Nay; Arcuri—Nay; Perlmutter—Nay; Polis—Nay; Dreier—Yea; Diaz-Balart—Yea; Slaughter—Nay.

Rules Committee record vote No. 148

Date: June 23, 2009.

Measure: H.R. 2892.

Motion by: Mr. Diaz-Balart.

Summary of motion: To make in order an amendment by Rep. Cao (LA), #55, which would increase the budget of the Office of the Federal Coordinator for Gulf Coast Recovery by \$1 million, offset by reducing funding for the Office of the Undersecretary for Management.

Results: Defeated 2–8.

Vote by Members: McGovern—Nay; Hastings—Nay; Matsui—Nay; Cardoza—Nay; Arcuri—Nay; Perlmutter—Nay; Polis—Nay; Dreier—Yea; Diaz-Balart—Yea; Slaughter—Nay.

SUMMARY OF AMENDMENT IN PART A TO BE MADE IN ORDER

(Summaries derived from information provided by sponsors.)

1. David Price, (NC) Manager's Amendment that would increase funding for the Firefighter grant program, nonprofit security grants, the Metropolitan Medical Response System, and the Western Hemisphere Travel Initiative. In addition, the amendment contains two prohibitions on funds in this bill being used: for first class travel, with certain exceptions, and to close or transfer operations of a FEMA recovery office. Finally, the amendment would ensure DHS employees who interact with the public can use personal protective equipment without negative personnel action.

SUMMARY OF AMENDMENTS IN PART B TO BE MADE IN ORDER

1. Bilirakis (FL) Would increase funding for Immigration and Customs Enforcement (ICE) salaries and expenses by \$1.7 million offset by reducing funding for the Office of the Secretary and Executive Management. The funds are intended to be used to expand the Visa Security Program, which places ICE personnel overseas at high-risk locations to screen visa applications.

2. Duncan (TN) Would maintain current (FY2009) funding for the Federal Air Marshals.

3. Steve King (IA) Would reduce and then increase funding for United States Customs and Border Protection salaries and expenses by \$1 million. This funding would go towards removing the lookout posts that have been established along the U.S.-Mexico border.

4. Steve King (IA) Would prohibit any funds in the Act from being used to employ illegal workers as defined in the Immigration and Nationality Act.

5. Jerry Lewis (CA) Would add \$34 million to US Customs and Border Protection, intending to fund 200 additional Border Patrol agents, offset by reducing funding for the Offices of the Secretary and Executive Management; Under Secretary for Management; Chief Financial Officer; and Chief Information Officer.

6. Neugebauer (TX) Reduces spending in this act by \$2,755,000,000 across multiple accounts.

7. Poe (TX) Would increase by \$32 million funds available for the National Predisaster Mitigation Fund, offset by reducing by the same amount funds available for FEMA Management and Administration.

8. King (NY) Would add \$50 million in funding to the Domestic Nuclear Detection Office, with \$40 million intended for the Securing the Cities initiative and \$10 million intended for the procurement of radiation portal monitors, offset by a reduction in the Department's Office of the Secretary and Executive Management and the Office of the Under Secretary for Management.

SUMMARY OF AMENDMENTS IN PART C

1. Jeff Flake (AZ) Would prohibit funds in the bill from going to Global Solar, Arizona, for portable solar charging rechargeable battery systems, and reduce the overall cost of the bill by a commensurate amount.

2. Jeff Flake (AZ) Would prohibit funds in the bill from going to the National Institute for Hometown Security, Kentucky, and would reduce the overall cost of the bill by a commensurate amount.

3. Jeff Flake (AZ) Would prohibit funds in the bill from going to a homeland security, research, development, and manufacturing pilot program at the Long Island Forum for Technology, NY. It would reduce the overall cost of the bill by a commensurate amount.

4. Jeff Flake (AZ) Would strike an earmark for the City of Kannapolis, NC, from FEMA's National Predisaster Mitigation Fund.

5. Jeff Flake (AZ) Would strike an earmark for the Harris County Flood Control District, Texas, from FEMA's National Predisaster Mitigation Fund.

6. Jeff Flake (AZ) Would strike an earmark for the City of Los Angeles, CA, from FEMA's National Predisaster Mitigation Fund.

7. Jeff Flake (AZ) Would strike an earmark for the City of Emeryville, CA, from FEMA's National Predisaster Mitigation Fund.

8. Jeff Flake (AZ) Would strike an earmark for the Town of Shelter Island, NY, from FEMA's National Predisaster Mitigation fund.

9. Jeff Flake (AZ) Would strike an earmark for the Orange County Fire Authority, CA, from FEMA's National Predisaster Mitigation fund.

10. Jeff Flake (AZ) Would strike all the earmarks for emergency operations centers from FEMA's State and Local Programs account.

11. Jeff Flake (AZ) Would prohibit funds in the act from going to SEARCH, Sacramento, CA, for interoperable communications, technical assistance and outreach programs and the overall cost of the bill would be lowered by a commensurate amount.

SUMMARY OF AMENDMENTS IN PART D

1. Campbell (CA) Would strike the \$1 million earmark for SEARCH of Sacramento, CA, for interoperable communications, technical assistance and outreach programs.

2. Campbell (CA) Would prohibit funds in the bill from being available for awards to Global Solar, Arizona, for the portable solar charging rechargeable battery systems, and the amount otherwise provided under such heading would be reduced by \$800,000.

3. Campbell (CA) Would strike the \$3.5 million earmark for the Cyber Security Test Bed and Evaluation Center.

TEXT OF AMENDMENT IN PART A

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE PRICE OF NORTH CAROLINA, OR HIS DESIGNEE

Page 2, line 9, after the dollar amount insert "(reduced by \$17,000,000)".

Page 2, line 18, after the dollar amount, insert "(reduced by \$5,900,000)".

Page 5, line 20, after the dollar amount, insert "(increased by \$4,900,000)".

Page 39, line 21, after the dollar amount, insert "(increased by \$7,000,000)".

Page 40, line 10, after the dollar amount insert "(increased by \$3,000,000)".

Page 40, line 14, after the dollar amount insert "(increased by \$3,000,000)".

Page 40, line 20, after the dollar amount, insert "(increased by \$4,000,000)".

Page 44, line 25, after the dollar amount insert "(increased by \$10,000,000)".

Page 45, line 1, after the dollar amount insert "(increased by \$10,000,000)".

At the end of the bill (before the short title), insert the following:

SEC. ____ . None of the funds made available under this Act may be used to close or transfer the operations of the Florida Long Term Recovery Office of the Federal Emergency Management Administration located in Orlando, Florida.

SEC. ____ . None of the funds made available in this Act may be used for first-class travel by the employees of agencies funded by this Act in contravention of sections 301–10.122 through 301.10–124 of title 41, Code of Federal Regulations.

SEC. ____ . No funds appropriated by this Act may be used to impose any negative personnel action against any Department of Homeland Security employee who engages with the public in the course of the employee’s duties, for the use of surgical masks, N95 respirators, gloves, or hand sanitizer.

TEXT OF AMENDMENTS IN PART B

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BILIRAKIS OF FLORIDA, OR HIS DESIGNEE

Page 2, line 9, after the dollar amount, insert “(reduced by \$1,700,000)”.

Page 15, line 20, after the dollar amount, insert “(increased by \$1,700,000)”.

Page 17, line 16, after the dollar amount, insert “(increased by \$1,700,000)”.

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE DUNCAN OF TENNESSEE, OR HIS DESIGNEE

Page 24, line 9, strike the dollar amount and insert “\$819,481,000”.

3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE KING OF IOWA, OR HIS DESIGNEE

Page 5, line 20, after the first dollar amount, insert “(reduced by \$1,000,000) (increased by \$1,000,000)”.

4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE KING OF IOWA, OR HIS DESIGNEE

At the end of the bill, before the short title, insert the following:

SEC. ____ . None of the funds made available in this Act may be used to employ workers described in section 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(3)).

5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE LEWIS OF CALIFORNIA, OR HIS DESIGNEE

Page 2, line 9, after the dollar amount, insert “(reduced by \$6,000,000)”.

Page 2, line 18, after the dollar amount, insert “(reduced by \$14,000,000)”.

Page 3, line 7, after the dollar amount, insert “(reduced by \$3,000,000)”.

Page 3, lines 14 and 16, after each dollar amount, insert “(reduced by \$18,000,000)”.

Page 5, line 20, after the first dollar amount, insert “(increased by \$34,000,000)”.

6. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE
NEUGEBAUER OF TEXAS, OR HIS DESIGNEE

At the end of the bill (before the short title) add the following new section:

SEC. _____. The amounts otherwise provided in this Act for the following accounts are hereby reduced by the following amounts:

(1) “Office of the Under Secretary for Management”, \$200,000,000.

(2) “Office of Inspector General”, \$5,000,000.

(3) “U.S. Customs and Border Protection Salaries and Expenses”, \$160,000,000.

(4) “U.S. Customs and Border Protection Border Security Fencing, Infrastructure, and Technology”, \$100,000,000.

(5) “U.S. Customs and Border Protection Facilities Management”, \$420,000,000.

(6) “U.S. Immigration and Customs Enforcement Automation Modernization”, \$20,000,000.

(7) “Transportation Security Administration Aviation Security”, \$1,000,000,000.

(8) “Coast Guard Acquisition, Construction, and Improvements”, \$98,000,000.

(9) “Federal Emergency Management Agency State and Local Programs”, \$300,000,000.

(10) “Federal Emergency Management Agency Firefighter Assistance Grants”, \$210,000,000.

(11) and “Federal Emergency Management Agency Emergency Food and Shelter”, \$100,000,000.

7. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE POE OF
TEXAS, OR HIS DESIGNEE

Page 38, line 19, after the dollar amount, insert “(reduced by \$32,000,000)”.

Page 52, line 2, after the dollar amount, insert “(increased by \$32,000,000)”.

8. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE KING OF
NEW YORK, OR HIS DESIGNEE

Page 2, line 9, after the dollar amount insert “(reduced by \$5,000,000)”.

Page 2, line 18, after the dollar amount insert “(reduced by \$45,000,000)”.

Page 58, line 15, after the dollar amount insert “(increased by \$50,000,000)”.

TEXT OF AMENDMENTS IN PART C

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE FLAKE OF ARIZONA, OR HIS DESIGNEE

At the end of the bill (before the short title), insert the following:

SEC. _____. None of the funds provided in this Act under the heading “United States Customs and Border Protection—Salaries and Expenses” shall be available for award to Global Solar, Arizona, for the portable solar charging rechargeable battery systems, and the amount otherwise provided under such heading is hereby reduced by \$800,000.

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE FLAKE OF ARIZONA, OR HIS DESIGNEE

At the end of the bill (before the short title), insert the following:

SEC. _____. None of the funds provided in this Act under the heading “Science and Technology—Research, Development, Acquisition, and Operations” shall be available for the National Institute for Hometown Security, Kentucky, and the amount otherwise provided under such heading is hereby reduced by \$10,000,000.

3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE FLAKE OF ARIZONA, OR HIS DESIGNEE

At the end of the bill (before the short title), insert the following:

SEC. _____. None of the funds provided in this Act under the heading “Science and Technology—Research, Development, Acquisition, and Operations” shall be available for a homeland security, research, development, and manufacturing pilot project at the Long Island Forum for Technology, New York, and the amount otherwise provided under such heading is hereby reduced by \$1,000,000.

4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE FLAKE OF ARIZONA OR HIS DESIGNEE

At the end of the bill (before the short title), insert the following:

SEC. _____. None of the funds provided in this Act under the heading “Federal Emergency Management Agency—National Predisaster Mitigation Fund” shall be available for a grant to the City of Kannapolis, North Carolina.

5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE FLAKE OF ARIZONA, OR HIS DESIGNEE

At the end of the bill (before the short title), insert the following:

SEC. _____. None of the funds provided in this Act under the heading “Federal Emergency Management Agency—National Predisaster Mitigation Fund” shall be available for a grant to the Harris County Flood Control District, Texas.

6. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE FLAKE OF ARIZONA OR HIS DESIGNEE

At the end of the bill (before the short title), insert the following:

SEC. _____. None of the funds provided in this Act under the heading “Federal Emergency Management Agency—National Predisaster Mitigation Fund” shall be available for a grant to the City of Los Angeles, California.

7. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE FLAKE OF ARIZONA, OR HIS DESIGNEE

At the end of the bill (before the short title), insert the following:

SEC. _____. None of the funds provided in this Act under the heading “Federal Emergency Management Agency—National Predisaster Mitigation Fund” shall be available for a grant to the City of Emeryville, California.

8. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE FLAKE OF ARIZONA, OR HIS DESIGNEE

At the end of the bill (before the short title), insert the following:

SEC. _____. None of the funds provided in this Act under the heading “Federal Emergency Management Agency—National Predisaster Mitigation Fund” shall be available for a grant to the Town of Shelter Island, New York.

9. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE FLAKE OF ARIZONA, OR HIS DESIGNEE

At the end of the bill (before the short title), insert the following:

SEC. _____. None of the funds provided in this Act under the heading “Federal Emergency Management Agency—National Predisaster Mitigation Fund” shall be available for a grant to the Orange County Fire Authority, California.

10. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE FLAKE OF ARIZONA, OR HIS DESIGNEE

In paragraph (11) under the heading “Federal Emergency Management Agency—State and Local Programs”, strike “, as detailed in the statement accompanying this Act”.

11. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE FLAKE OF ARIZONA, OR HIS DESIGNEE

At the end of the bill (before the short title), insert the following:

SEC. _____. None of the funds provided in this Act under the heading “National Protection and Programs Directorate—Infrastructure Protection and Information Security” shall be available to SEARCH of Sacramento, California, for interoperable communications, technical assistance and outreach programs, and the amount otherwise provided under such heading is hereby reduced by \$1,000,000.

TEXT OF AMENDMENTS IN PART D

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CAMPBELL OF CALIFORNIA, OR HIS DESIGNEE

At the end of the bill (before the short title), insert the following:

SEC. _____. None of the funds provided in this Act under the heading “National Protection and Programs Directorate—Infrastructure Protection and Information Security” shall be available to SEARCH of Sacramento, California, for interoperable communications, technical assistance and outreach programs, and the amount otherwise provided under such heading is hereby reduced by \$1,000,000.

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CAMPBELL OF CALIFORNIA, OR HIS DESIGNEE

At the end of the bill (before the short title), insert the following:

SEC. _____. None of the funds provided in this Act under the heading “United States Customs and Border Protection—Salaries and Expenses” shall be available for award to Global Solar, Arizona, for the portable solar charging rechargeable battery systems, and the amount otherwise provided under such heading is hereby reduced by \$800,000.

3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CAMPBELL OF CALIFORNIA, OR HIS DESIGNEE

At the end of the bill (before the short title), insert the following:

SEC. _____. None of the funds provided in this Act under the heading “National Protection and Programs Directorate—Infrastructure Protection and Information Security” shall be available to RTI International, North Carolina, for the Cyber Security Test Bed and Evaluation Center, and the amount otherwise provided under such heading is hereby reduced by \$3,500,000.