

SPECIALIZED TRAINING FOR FEDERAL AIR MARSHALS

DECEMBER 1, 2009.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. THOMPSON of Mississippi, from the Committee on Homeland Security, submitted the following

R E P O R T

[To accompany H.R. 3963]

The Committee on Homeland Security, to whom was referred the bill (H.R. 3963) to provide specialized training to Federal air marshals, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

CONTENTS

| | Page |
|-------------------------------------------------------------------------------|------|
| Purpose and Summary | 1 |
| Background and Need for Legislation | 2 |
| Hearings | 2 |
| Committee Consideration | 2 |
| Committee Votes | 3 |
| Committee Oversight Findings | 3 |
| New Budget Authority, Entitlement Authority, and Tax Expenditures | 3 |
| Congressional Budget Office Estimate | 3 |
| Statement of General Performance Goals and Objectives | 3 |
| Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits ... | 3 |
| Federal Mandates Statement | 3 |
| Advisory Committee Statement | 4 |
| Constitutional Authority Statement | 4 |
| Applicability to Legislative Branch | 4 |
| Section-by-Section Analysis of the Legislation | 4 |
| Changes in Existing Law Made by the Bill, as Reported | 5 |

PURPOSE AND SUMMARY

The purpose of H.R. 3963 is to provide specialized training to Federal Air Marshals (FAMs). The specialized training is criminal investigative training that had previously been provided.

BACKGROUND AND NEED FOR LEGISLATION

Prior to September 11, 2001, the criminal investigative training program at the Federal Law Enforcement Training Center was an essential part of basic training for FAMs. It is well documented that the terrorist attacks of September 11, 2001, necessitated the rapid hiring, training, and deployment of thousands of FAMs. In order to meet the deployment mandates, the decision was made to eliminate the requirement that newly hired FAMs without prior federal law enforcement experience take the criminal investigative training program. The Committee has learned that the Federal Air Marshal Service has wanted, in recent years, to resume using the criminal investigative training program as part of basic training. This bill restores the criminal investigative training program as part of basic training for FAMs.

FAMs consistently seek greater training opportunities to improve the Federal Air Marshal Service. Criminal investigative training will provide FAMs with the knowledge and skills required to resolve situations on the ground as well as react to situations in-flight. Such training should contribute to improved morale and help give FAMs law enforcement skills that will serve them well on flying missions and in performing ground based law enforcement roles, such as participation on Visual Intermodal Prevention and Response (VIPR) teams. The training will also provide for more opportunities for advancement within the Federal Air Marshal Service and, possibly, affords FAMs the opportunity to pursue other Federal law enforcement opportunities.

HEARINGS

No hearings were held on H.R. 3963, however the Committee held oversight hearings.

On July 23, 2009, the Committee's Subcommittee on Management, Investigations, and Oversight held an oversight hearing entitled, "Protecting the Protectors: Examining the Personnel Challenges Facing the Federal Air Marshal Service." The Subcommittee received testimony from Mr. Robert Bray, Assistant Administrator/Director, Office of Law Enforcement/Federal Air Marshal Service, Transportation Security Administration, Department of Homeland Security; Mr. Stephen Lord, Director, Homeland Security and Justice Issues, Government Accountability Office; and Mr. Jon Adler, National President, Federal Law Enforcement Officers Association.

During the hearing Director Bray and Mr. Adler expressed their support for restoring the Criminal Investigative Training Program as a part of basic training for FAMs.

COMMITTEE CONSIDERATION

The Committee met on November 17, 2009, to consider H.R. 3963, and ordered the measure to be reported to the House with a favorable recommendation, amended, by voice vote. The Committee took the following actions:

The Committee adopted the measure, without amendment, by unanimous consent.

The Committee considered but did not adopt identical language during consideration of H.R. 2200, the Transportation Security Administration Authorization Act, on May 14, 2009.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto.

No recorded votes were requested during consideration of H.R. 3963.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee has held oversight hearings and made findings that are reflected in this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 3963, the "Criminal Investigative Training Restoration Act", would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, a cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974 was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the Congressional Record upon its receipt by the Committee.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 3963 contains the following general performance goals, and objectives, including outcome related goals and objectives authorized.

H.R. 3963 requires that the Federal Air Marshal Service provide criminal investigative training to all newly hired Federal Air Marshals within 30 days of enactment and additional training that bridges the gap for certain existing FAMs no later than three years after enactment.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with rule XXI of the Rules of the House of Representatives, this bill, as reported, contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of the rule XXI.

FEDERAL MANDATES STATEMENT

Pursuant to section 423 of the Unfunded Mandates Reform Act, an estimate of Federal mandates provided by the Congressional Budget Office was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall

cause such estimate to be printed in the Congressional Record upon its receipt by the Committee.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional authority for this legislation is provided in Article I, section 8, clause 1, which grants Congress the power to provide for the common Defense of the United States.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This Act may be cited as the “Criminal Investigative Training Restoration Act.”

Section 2. Federal Air Marshals

This section amends Section 44917 of title 49, United States Code by adding, at the end, a new provision—“(e) Criminal Investigative Training Program”—to ensure that the Federal Law Enforcement Training Center’s criminal investigative training program is provided as part of the basic training required for FAMs.

Specifically, H.R. 3963 requires that the Federal Air Marshal Service, within 30 days of enactment, provide criminal investigative training to all newly hired FAMs. The Act requires additional training for certain existing FAMs no later than three years after enactment. FAMs who had previously completed the criminal investigative training program prior to the enactment of this Act shall not be required to repeat the criminal investigative training program. No later than three years after enactment of this Act, a FAM who was hired prior to the enactment of the law and who has not previously completed the criminal investigative training program shall be required to complete an alternative training program as determined by the Federal Law Enforcement Training Center that bridges the gap between the mixed basic police training program already completed by FAMs and the criminal investigative training program.

Accordingly, not less than three million dollars is authorized to be appropriated for fiscal years 2010 and 2011. Additionally, a savings clause is included to make it clear that this legislation in no way reclassifies any FAM as a criminal investigator.

The Committee notes that the Federal Air Marshal Service and the Federal Law Enforcement Training Center have indicated that approximately three to six million dollars will be needed to imple-

ment this legislation. The Committee believes that the restoration of this training as part of FAMs training will be an important step in improving the operations and morale at the Federal Air Marshal Service.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

TITLE 49, UNITED STATES CODE

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SUBTITLE VII—AVIATION PROGRAMS

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PART A—AIR COMMERCE AND SAFETY

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SUBPART III—SAFETY

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CHAPTER 449—SECURITY

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SUBCHAPTER I—REQUIREMENTS

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§ 44917. Deployment of Federal air marshals

(a) * * *

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(e) *CRIMINAL INVESTIGATIVE TRAINING PROGRAM.—*

(1) NEW EMPLOYEE TRAINING.—Not later than 30 days after the date of enactment of the Criminal Investigative Training Restoration Act, the Federal Air Marshal Service shall require Federal air marshals hired after such date to complete the criminal investigative training program at the Federal Law Enforcement Training Center as part of basic training for Federal air marshals.

(2) EXISTING EMPLOYEES.—A Federal air marshal who has previously completed the criminal investigative training program shall not be required to repeat such program.

(3) ALTERNATIVE TRAINING.—Not later than 3 years after the date of enactment of the Criminal Investigative Training Restoration Act, an air marshal hired before such date who has not completed the criminal investigative training program shall be required to complete a alternative training program, as deter-

mined by the Federal Law Enforcement Center, that provides the training necessary to bridge the gap between the mixed basic police training, the Federal air marshal programs already completed by the Federal air marshal and the criminal investigative training provided through the criminal investigative training program. Any such alternative program shall be deemed to have met the standards of the criminal investigative training program.

(4) AUTHORIZATION OF APPROPRIATIONS.—Not less than \$3,000,000 is authorized to be appropriated for each of fiscal years 2010 and 2011 to carry out this subsection.

(5) SAVINGS CLAUSE.—Nothing in this subsection shall be construed to reclassify Federal air marshals as criminal investigators.

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