



Special Report - Senate FY 2010 Department of Homeland Security Appropriations and California Implications - September 2009

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On July 9, 2009, the Senate passed its version of H.R. 2892 (S.Rpt. 111-31), the Fiscal Year 2010 Department of Homeland Security Appropriations by a vote of 84-10. The vote was 86-10. The bill provides \$42.926 billion, as compared to the President’s request of \$43.071 billion and the FY2009 funding of \$39.98 billion.

The following is a quick analysis of the bill from a California perspective prepared by the California Institute. The ordering of items generally reflects their appearance in the bill and does not mean to imply any relative importance.

Border Tunnels

The Committee Report states: “Border tunnels pose a serious national security risk by providing a means for smugglers to move drugs, guns, and people under the border. Since September 11, 2001, more than 90 border tunnels have been discovered. The Committee is aware that tunnel detection and remediation is becoming a Department priority and that funds have been provided as requested to address their detection. The Committee directs the Department to provide semiannual reports to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on the Judiciary, and the Committee on Homeland Security and

Governmental Affairs on the number of tunnels discovered, their location and demolition, all activities undertaken to prosecute individuals under the Border Tunnel Prevention Act, funding requirements, and the progress made in developing and implementing detection methods used to discover new tunnels. Finally, the Committee directs the Department to designate a border tunnel coordinator to manage border tunnel activities, serve as liaison to State and local law enforcement, and advise Congress on border tunnel issues.”

U.S. CUSTOMS AND BORDER PROTECTION

The Committee recommends total resources of \$11,601,990,000, including direct appropriations of \$10,169,990,000 and estimated fee collections of \$1,432,000,000.

Border Patrol Agents

The Report points out that since Congress began increasing the size of the Border Patrol by funding the hiring of 500 new agents in 2005 (Public Law 109–13), a total of 9,200 new Border Patrol agents, and attendant support positions, will have been funded and hired through the end of fiscal year 2009. The Committee fully funds the fiscal year 2010 request. Included in the amount recommended by the Committee for “Border Security and Control” is a total of \$3,525,008,000, 22,800 positions, and 22,774 FTE, \$20,000,000 above the request. The amount above the request is for non-intrusive inspection equipment for use by the Border Patrol in doing southbound enforcement. This is an increase of \$98,553,000 over the fiscal year 2009 level. These funds provide the full funding necessary for 20,063 Border Patrol agents and the attendant support positions, as compared with 12,349 agents on board at the beginning of fiscal year 2007, according to the Report.

Western Hemisphere Travel Initiative

The Committee recommends a total of \$144,936,000 and 294 positions, as requested in the budget. This is an increase above the fiscal year 2009 level of \$20,900,000, 89 positions, and 45 FTE. The Committee directs the Office of Policy to provide semiannual briefings on the status of WHTI implementation beginning no later than 30 days after the date of enactment of the act.

Intellectual Property Rights

The Committee Report states that it believes a greater focus needs to be brought to intellectual property rights [IPR] enforcement. CBP is directed to submit by December 15, 2009, a 5-year enforcement strategy to reduce IPR violations. The strategy must include: a timeline for developing improved targeting models specifically for IPR, a timeline for implementing expanded training for all enforcement personnel, recommendations for strengthening penalties, a plan for creating an IPR component as a part of the Importer Self Assessment program, and a timeline for expanding post audit review for IPR.

Control of Invasive Plant Species

The Committee requires CBP to provide semi-annual briefings to the Committee on the progress made in implementing the strategy contained in the Plan to Control Invasive Plant Species Along the Rio Grande (June 2, 2009), until the completion of the strategy.

United States Visitor and Immigrant Status Indicator Technology (US-VISIT) [Including 10-print]

The Committee recommends \$64,100,000, as requested in the budget.

Border Security Fencing, Infrastructure, and Technology

The Committee recommends \$800,000,000, and 200 FTE, \$20,548,000 above the request, for this activity.

Secure Border Initiative

The Committee provides \$800,000,000 for fiscal year 2010. When combined with the total of \$875,000,000 appropriated to this account in fiscal year 2009, the Committee will have provided over \$4,088,017,000 for border security fencing, infrastructure, and technology since fiscal year 2007.

The Report states: “Since fiscal year 2006 through the end of May 2009, CBP has increased the miles of Southwest border under effective control from 345 to 697. The Committee supports the Secretary’s continued reconsideration and evaluation of the proper mix of tactical infrastructure, including physical fencing, and technology that will best meet the operational requirements of the Border Patrol to efficiently and effectively obtain control of our borders.”

Border Facilities Construction Backlog

The Report states: “The Congress provided a total of \$720,000,000 in the Stimulus Act to address the more than \$6,500,000,000 backlog in port of entry [POE] construction. Additionally, Congress has appropriated more than \$597,220,000 in construction funds to address the Border Patrol’s requirements for more space resulting from the significant increase in agents in the past 5 years. The Committee is disappointed that no new construction projects were requested in the budget. . . . The Committee directs the Department to continue to work with the GSA on its nationwide strategy to prioritize and address the infrastructure needs at land border POEs and to comply with the requirements of the Public Buildings Act of 1959 (40 U.S.C. 3301) to seek necessary funding.”

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

The Committee recommends total resources of \$5,749,900,000, including direct appropriations of \$5,445,100,000, and estimated fee collections of \$304,800,000.

Southwest Border Enforcement Initiative

The President’s budget proposed a new Southwest Border Enforcement Initiative of \$70,000,000, 349 positions, and 176 FTE, to enhance current efforts to identify criminal activities and eliminate vulnerabilities that pose a threat to our Nation’s borders. This effort is focused on the border with Mexico. The Committee provided an additional \$45,000,000, 230 positions, and 119 FTE, above the request to further build upon this effort. Specifically, \$20,000,000 is for additional support to the Southwest border and seaport BESTs (Border

Enforcement Security Task Forces). An additional \$20,000,000 is for support for counter-proliferation and gang investigations.

Law Enforcement Support Center

Included in the amount recommended by the Committee is a total of \$34,990,000, 316 positions, and 316 FTE, as requested in the budget, to assist in responding to increased requests for assistance from State and local law enforcement officers.

Detention and Removal—Custody Operations (Beds)

The request includes \$36,200,000 to annualize the beds added by Congress in fiscal year 2009 and to fully support a detention bed level of 33,400. Bill language is included directing that a detention bed level of 33,400 beds shall be maintained throughout fiscal year 2010.

Secure Communities

The Committee recommends \$195,589,000, 552 positions, and 512 FTE, as requested, \$45,589,000, 92 positions, and 46 FTE above the fiscal year 2009 level. Congress initiated this program in fiscal year 2008 and has provided total new funding of \$350,000,000 in the past 2 years. With these additional funds, Secure Communities plans to expand coverage by at least 50 counties during fiscal year 2010 to establish biometric identification of arrested criminal aliens in over 140 counties.

NATIONAL PROTECTION AND PROGRAMS DIRECTORATE

The United States Visitor and Immigrant Status Indicator Technology [US-VISIT] account funds the development of a system to collect, maintain, and share appropriate information through an integrated information technology system, which determines the eligibility of aliens for admissions and benefits. The US-VISIT program office has lead responsibility within the Department of Homeland Security to work with the Federal Bureau of Investigation [FBI] on the further integration of the Automated Biometric Identification System [IDENT] and the FBI's Integrated Automated Fingerprint Identification System [IAFIS]. The Committee recommends \$378,194,000, \$22,000,000 above the budget request, and about \$78 million more than the FY09 level.

STATE AND LOCAL PROGRAMS

The Committee recommends \$3,067,200,000 for State and local programs. The Committee recommendation exceeds the requested level by \$105,200,000 after reducing the request by the amounts requested under this heading that are funded elsewhere. This compares to the appropriations for FY 2009 of \$3,405,700,000, which includes \$300,000,000 appropriated under the American Recovery and Reinvestment Act (ARRA).

The Report states: "The President proposes to reduce port security, transit security and fire grants by \$485,000,000 based on the assertion that funds were provided for these programs in the Stimulus Act. The Committee does not accept the notion that these cuts are justified by the availability of Stimulus Act funds, which were provided for different purposes and to create jobs. The Stimulus Act funds were not provided to prefund fiscal year 2010 activities. The

Committee has restored these cuts to the extent possible.”

The Report also states: “The Committee includes specific timeframes for grant dollar distribution and expects FEMA and the Department to comply with the law to ensure homeland security funds are distributed in a timely manner. For SHSGP, UASI, Regional Catastrophic Preparedness Grants, Metropolitan Medical Response System Grants, and Citizens Corps Program grant guidance shall be issued in 25 days, applicants shall apply within 90 days after guidance is issued, and FEMA shall act on the application within 90 days after applications are due. For Public Transportation Security Assistance and Railroad Security Assistance, Port Security Grants, Over-The-106 Road Bus Security Assistance, Driver’s License Security Grants Program, Interoperable Emergency Communications Grant Program, and Buffer Zone Protection Program, grant guidance shall be issued in 30 days, applicants shall apply within 45 days after guidance is issued, and FEMA shall act on the application within 60 days after applications are due.”

State Homeland Security Grant Program

The Committee recommends \$950,000,000 for State Homeland Security Grant Program [SHSGP], of which \$60,000,000 shall be for Operation Stonegarden Grants, as requested in the budget.

Urban Area Security Grant Program

The Committee recommends \$887,000,000 for the UASI Grant Program, as proposed in the budget. Of the amount provided under this heading, \$20,000,000 is available for nonprofit entities determined to be at risk by the Secretary.

Law Enforcement Terrorism Prevention Program

In accordance with section 2006 of the Homeland Security Act of 2002, the Law Enforcement Terrorism Prevention Program [LETPP] is funded through a required set aside of 25 percent of the funds appropriated through the SHSGP and UASI programs. The Committee directs FEMA to provide clear guidance to States and urban areas to ensure that the intent of LETPP is fully realized and the program is fully maximized.

Regional Catastrophic Preparedness Grant Program

The Committee recommends \$35,000,000 for the Regional Catastrophic Preparedness Grant Program [RCPGP], the same amount as proposed in the budget.

Metropolitan Medical Response System

The Committee recommends \$40,000,000 for the Metropolitan Medical Response System [MMRS], instead of \$40,000,000 for the Medical Surge Grant Program, as proposed in the budget.

Port Security Grants

The Committee recommends \$350,000,000 the Port Security Grant Program, instead of \$250,000,000 as proposed in the budget.

Driver's License Security Grants Program

The Committee recommends \$50,000,000 for the Driver's License Security Grants Program, as proposed in the budget.

Interoperability Emergency Communications Grants

The Committee recommends \$50,000,000 for Interoperability Emergency Communications Grants, the same amount as proposed in the budget.

Emergency Operations Centers

The Committee recommends \$20,000,000 for Emergency Operations Centers, instead of no funding as proposed in the budget.

Firefighter Assistance Grants

The Committee recommends \$800,000,000, as opposed to the FY 2009 level of \$985,000,000 (which includes \$210 million in ARRA funding). The President's budget proposed \$590,000,000 included under State and Local Programs. Included in the Committee's funding is \$380,000,000 for firefighter assistance grants, and \$420,000,000 for firefighter staffing grants.

National Predisaster Mitigation Fund

The Committee recommends \$120,000,000 for PDM, \$30,000,000 above the fiscal year 2009 level, and \$30,000,000 below the request.

UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES

The Committee recommends total resources of \$2,638,932,000, including direct appropriations of \$135,700,000 and estimated fee collections of \$2,503,232,000.

E-verify

The Committee recommends \$118,500,000 for the E-verify program. The \$6,500,000, 7 positions, and 4 FTE above the request are for additional system enhancements, an identity assurance tool, and additional capacity to investigate fraudulent use of identity documents.

The bill also includes a general provision extending the E-Verify program for 3 years, as requested.

Driver's License Security Hub

The Report states: "The Committee supports the development of a Driver's License security hub to assist State motor vehicle offices and other drivers' license issuing entities to produce secure drivers licenses and notes that Congress provided \$50,000,000, as requested, in fiscal year 2009 for this purpose. Due to the fact that these funds remain unobligated and the Department continues to review plans for development of the hub, the Committee provides no new funding for this activity. The Committee strongly encourages the Department to deliver its plan for the hub and anticipates receiving the development plan this year."

Federal Law Enforcement Training Center

The Committee recommends \$244,356,000 for salaries and expenses of the Federal Law Enforcement Training Center [FLETC] for fiscal year 2010. Within the funds provided is \$1,309,000 for the Federal Law Enforcement Training Accreditation Board, \$4,100,000 for the Train 21 program, and \$5,000,000 for Data Center migration.

Presidentially and Congressionally Designated Spending

- Science & Technology - Research, Development, Acquisition, and Operations - Naval Postgraduate School, CA - \$2,000,000 (The President)