



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

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DEPARTMENT OF HOMELAND SECURITY

On June 24, 2009, the House of Representatives passed its FY2010 Appropriations for the Department of Homeland Security (H.R. 2892/H.Rpt. 111-157). The vote was 389 to 37. The bill provides \$42.63 billion, as compared to the President’s request of \$42.83 billion and the FY2009 funding of \$39.88 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.

UNITED STATES CUSTOMS AND BORDER PROTECTION

The bill provides \$298 million, \$66 million below the President’s request and \$160 million above 2009, including \$100 million for processing refugee applications and asylum claims, \$162 million to operate and improve E-Verify, and \$11 million to expand immigrant integration and outreach efforts to welcome new Americans.

The bill also includes:

- \$140,000,000 for the Western Hemisphere Travel Initiative (WHTI);
- The Committee has included an increase of \$26,132,000, as requested, to augment efforts begun in 2009 as part of the Southwest Border Initiative, a targeted effort to stop smuggling of the drugs, weapons and bulk cash on which violent drug cartels depend. This funding includes \$16,132,000 for an additional 65 CBP Officers, 44 Border Patrol agents, and 16 support personnel, as well as \$10,000,000 for additional license plate readers to be installed at southbound vehicle lanes where

such technology is still lacking.

- Border Security and Control between Ports of Entry is funded at \$3,557,559,000, reflecting adjustments for pay annualization for the recent increase of Border Patrol agents to 20,019, more than twice the number of agents onboard in 2001. The bill will support deployment of over 17,000 to the Southwest Border, almost 90 percent above the number onboard in 2001.

SENTRI Lanes at Port of San Ysidro

The Report states: “The Committee recognizes the San Ysidro port of entry as one of the busiest border crossings in the world, which continues to need major renovation and reengineering to handle its massive processing and security requirements. The Committee encourages CBP to explore the possibility of conducting a demonstration project to determine the effectiveness of operating up to ten SENTRI lanes at San Ysidro during peak hours, seven days a week, with the option of opening an additional SENTRI lane during peak crossing times of 5 a.m. to 10 a.m. and 3 p.m. to 9 p.m. whenever wait times exceed 15 minutes.”

Fresno Airport

The Report states: “The Committee encourages CBP to review the port-of-entry status of Fresno Yosemite International Airport, which is currently operating at user-fee status, to determine if the airport meets the international flight threshold necessary to be designated a non-reimbursable Port-of-Entry. Further, the Committee asks CBP to provide an estimate on the costs the agency would incur should the status be adjusted at Fresno Yosemite International Airport and report to the Committee whether an increase in programmatic funds is necessary to achieve this change in status, if appropriate.”

Border Security Fencing, Infrastructure, and Technology

The Border Security Fencing, Infrastructure, and Technology (BSFIT) account funds the technology and tactical infrastructure solutions to achieve effective control of the U.S. borders and coastlines. The Committee recommends \$732,000,000 for Border Security Fencing, Infrastructure, and Technology (BSFIT), \$47,452,000 below the amount requested and \$43,000,000 below the amount provided in fiscal year 2009. The Committee recommends \$440,000,000 for development and deployment, which will fund technology and tactical infrastructure investment. The Committee retains bill language making no funds available for obligation for fencing or tactical infrastructure for which the Secretary intends to waive environmental or other legislation until 15 days after the intention to invoke such authority is published in the Federal Register.

Secure Border Technology Investment

The Committee Report states: “Congress has appropriated over \$3,500,000,000 for BSFIT activities since 2006. To date, this has resulted in completion of about 624 miles (of 670 deemed appropriate and necessary by the previous administration) in pedestrian and vehicle fencing. Initial SBInet technology deployment is scheduled to begin in the Tucson area in summer 2009. This is a year later than originally planned, due in part to the need to ensure systems pass technology qualification testing and to avoid installing technology prematurely. Because this deployment has been delayed, the Committee has included \$440,000,000 for Development and Deployment funding, a reduction of \$54,000,000 from the request. The Committee will consider reprogramming of funds to accelerate technology deployment should that prove feasible.”

Southwest Border Initiative

The Report states: “The Committee fully supports efforts to address the security needs of the Southwest Border. This includes improving the capability of U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE) to reduce the import of illegal narcotics to the United States as well as the smuggling of weapons and currency that feed violent Mexican drug cartels. These investments will help close a critical vulnerability in operations at ports of entry and in all the border areas in between. Initiated in fiscal year 2009 through the reprogramming of existing funds, the Southwest Border Initiative is an effort involving DHS, the Department of State, and the Justice Department, which attacks the organizations and resources of the Mexican drug cartels. The initiative also supports the Mexican government’s efforts to go after the cartels where they are based, and it provides additional resources to the communities along the border whose authorities are playing a role in the crack-down. The bill includes \$26,100,000, as requested, for an additional 65 CBP Officers and mission support staff, as well as security infrastructure such as license plate readers to cover the outbound lanes at ports of entry where no such enforcement capacity now exists. It also provides for 44 new Border Patrol agents and mission support staff to enhance outbound and other security operations on the Southwest Border. The bill funds the full costs of the planned target staffing level of 20,019 Border Patrol agents, of whom over 17,000 will be based on the Southwest Border – an increase of 6,000, or more than 50 percent, since 2006.

“The Committee also provides \$97,809,000 for ICE programs that support the Southwest Border Initiative, \$27,809,000 more than requested. These funds will support expansion of critical ICE efforts to target the cartels, such as the Border Enforcement Security Task Force (BEST) initiative; Southwest Border intelligence analysis; criminal gang, drug, weapons smuggling and human trafficking investigations; and Mexico-based investigatory agents who will coordinate U.S. efforts with Mexican law enforcement agencies. The bill also includes \$732,000,000 for the Border Security Fencing, Infrastructure, and Technology (BSFIT) appropriation, of which \$692,000,000 is for Southwest Border investments. This will bring total BSFIT funding for the Southwest Border to \$4.3 billion since the program began in 2006. The Committee expects this funding to be used for the testing, validation, and deployment of technological solutions for border security, including additional tactical communications capability for the Border Patrol. This sizable appropriation should help maintain and operate the substantial infrastructure investment already placed on the Southwest Border. The bill also provides the resources for the Department to employ the most effective means of environmental planning and mitigation in the execution of the Secure Border Initiative along the Southwest Border.”

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

The Report states: “The Committee recommends \$5,311,493,000 for Salaries and Expenses, \$36,507,000 below the amount requested and \$384,283,000 above the amount provided in fiscal year 2009. Within these amounts, the Committee allocates \$1,500,000,000 to finance ICE’s various efforts to identify undocumented individuals with criminal records who are incarcerated or at-large and to remove those who are judged deportable in immigration court. Of this amount, \$200,000,000 is provided for continued expansion of the **Secure Communities** program. The Committee believes that ICE should have no greater immigration enforcement priority than to remove deportable aliens with serious criminal histories from the United States, and applauds ICE’s efforts to develop productive relationships with local law enforcement and corrections agencies to implement this initiative.”

Secure Communities is a pilot program that allows local law enforcement to check fingerprints of people booked on criminal charges for immigration and criminal records

State and Local Programs

The Committee provides \$117,394,000, as requested, for ICE State and Local programs, which is \$17,741,000 more than provided in fiscal year 2009. Within this total, \$68,047,000 is for the 287(g) program; \$14,357,000 is for the Forensics Document Laboratory, which supports all ICE investigatory programs and offers specialized assistance to State and local law enforcement agencies; and \$34,990,000 is for the Law Enforcement Support Center.

Southwest Border Enforcement Initiative

The Committee provides \$97,809,000 to expand several ICE investigatory programs aimed at reducing the drug-related violence currently plaguing areas along our country's Southwest border. This is an increase of \$27,809,000 over the levels requested in the budget.

Operation Stonegarden

The Committee provides \$60 million for a grant program to assist border communities with law enforcement costs, the same as 2009.

ICE Custody Operations

The Committee provides \$1,771,168,000 for ICE custody operations, as requested, which is \$49,900,000 over the 2009 appropriations level. This increase will allow ICE to maintain an aggregate annual detention capacity for 33,400 individuals, and funds the full-year salaries and benefits for staff added to Detention and Removals Operations over the past several years. At this point, the Committee stated, ICE detention capacity is at the highest level in the agency's history, having grown more than 67 percent since 2002.

Deportation of Parents of U.S.-Born Children

The Report states: "In February 2009, the DHS IG estimated that more than 100,000 parents of U.S.-born children were deported from the country between 1998 and 2007. The IG also reported that ICE does not consistently track information about the U.S.-born children of those it deports. As a result, the Committee directs ICE to begin collecting data to track: the number of instances in which both parents of a particular child were removed; the length of time a parent lived in the United States before removal; and whether the U.S. citizen children remained in the United States after the parents' removal. ICE should provide this data annually to the Office of Immigration Statistics, as well as to Congress with the annual budget submission."

United States Visitor and Immigrant Status Indicator Technology

The Committee recommends \$351,800,000 for US-VISIT, \$4,394,000 below the amount requested and \$51,800,000 above the amount provided in fiscal year 2009.

Comprehensive Biometric Exit Solution

The Report states: "For the past two years, this Committee has called upon DHS to either provide a meaningful plan to implement an exit solution within five years or else explain why an exit solution is not feasible. In this budget, the Department clearly has taken a conservative and

realistic position. No additional funding was requested for biometric exit in fiscal year 2010, and the Committee does not recommend any in this bill.”

State and Local Programs

The Committee recommends \$2,829,000,000 for State and Local Programs, \$1,038,000,000 below the amount requested and \$276,700,000 below the amount provided in fiscal year 2009. The Report states: “As part of the budget request, the Administration proposed including the Firefighter Assistance Grants and Emergency Management Performance Grants under this program. The Committee has denied this proposal and provides funding for both of these grant programs as separate appropriations, consistent with prior years.”

State Homeland Security Grant Program

The Committee recommends \$950,000,000 for the State Homeland Security Grant Program (SHSGP), the same as the amount requested and provided in fiscal year 2009. In accordance with the 9/11 Act, at least 25 percent of SHSGP and Urban Area Security Initiative funds shall be used for Law Enforcement Terrorism Prevention activities. Each state and Puerto Rico shall pass on no less than 80 percent of their grant funding to local units of government within 45 days of receiving the funds.

Urban Area Security Initiative Grants

The Committee recommends \$887,000,000 for Urban Area Security Initiative Grants, the amount as requested and \$49,500,000 above the amount provided in fiscal year 2009. The funds will be distributed based on terrorism risk as called for in the 9/11 Act. Of the amount available, \$15,000,000 is for grants to non-profit organizations determined by the Secretary to be at high risk of terrorist attack, the same amount as requested.

Port Security Grants

The Committee recommends \$250,000,000 for Port Security grants, the same amount as requested and \$150,000,000 below the amount provided in fiscal year 2009. These funds are in addition to the \$150,000,000 provided in the recently passed American Recovery and Reinvestment Act of 2009, which have yet to be awarded. The Committee notes that ARRA grant guidance was only published by DHS on May 29, 2009. Awards will not be made until late fiscal year 2009 and early fiscal year 2010. The Committee includes bill language waiving the cost-share requirement for these grants.

REAL ID Grants

The Committee recommends \$50,000,000 for grants to assist States in complying with the “largely unfunded mandate” of the REAL ID Act, the same as the amount requested and provided in fiscal year 2009. DHS estimates the total cost to States of implementing REAL ID to be \$3,965,000,000 over eleven years. An additional \$25,000,000 is available in the United States Citizenship and Immigration Services appropriations to support REAL ID hub activities. However, the Committee withholds those funds from obligation until USCIS, in conjunction with the State or States responsible for developing the system, submits an expenditure plan showing how these funds will be utilized.

Emergency Operations Centers

The Committee recommends \$40,000,000 for Emergency Operations Centers (EOCs), \$40,000,000 above the amount requested and \$5,000,000 above the amount provided in fiscal year 2009. Funding is available until expended. Funding is provided for equipping, upgrading, and constructing EOCs pursuant to section 614 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act. The Committee provides funding for the Emergency Operations Center projects in the following amounts:

- City of Moreno Valley, CA - \$400,000
- City of Brawley, CA - \$500,000
- City of Cupertino, CA - \$300,000
- City of Elk Grove, CA - \$750,000
- City of La Habra, CA - \$254,500
- San Francisco Department of Emergency Management, CA - \$800,000
- City of Commerce, CA - \$1,000,000
- City of Whittier, CA - \$500,000
- City of Monterey Park, CA - \$375,000

Firefighter Assistance Grants

The Committee recommends \$800,000,000 for Firefighter Assistance Grants, \$25,000,000 above the amount provided in fiscal year 2009. The budget did not include a separate appropriation for Firefighter Assistance Grants but instead proposed \$590,000,000 for this activity within State and Local Programs.

National Predisaster Mitigation Fund

The Committee recommends \$100,000,000 for the National Predisaster Mitigation Fund (PDM), \$50,000,000 below the amount requested, and \$10,000,000 above the amount provided in fiscal year 2009. The Committee notes that FEMA has \$143,000,000 in unobligated balances in its regular program and therefore reduces the request.

The Committee includes the following predisaster mitigation projects in the following amounts:

- City of Colton, CA - \$200,000
- Orange County Fire Authority, CA - \$252,000
- City of Emeryville, CA - \$600,000
- City of Santa Clarita, CA - \$500,000
- City of Los Angeles, CA - \$1,000,000
- City of Burbank, CA - \$225,000
- City of Los Angeles, CA - \$500,000
- City of Davis, CA - \$275,000

UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES

The Committee recommends \$248,000,000 in discretionary appropriations for USCIS, \$116,000,000 below the requested level and \$146,260,000 above the amount provided in 2009.

Basic Pilot/E-Verify

The Committee Report states: "While the Committee provides \$112,000,000, as requested, for the Basic Pilot/E-Verify system, it is concerned that USCIS does not have an updated analytical

audit for the system. The most recent audit, which is nearly two years old, shows an unacceptably high rate of individuals falsely identified as ineligible to work. Of particular concern is the report's conclusion that nearly 1 in 10 naturalized citizens is reported by Basic Pilot/E-Verify as non-work authorized. While USCIS claims these results have improved as the system's functionality has evolved, new evidence of increased accuracy has been largely anecdotal. The Committee strongly urges USCIS to update and publish regular Basic Pilot/E-Verify accuracy and performance audits, so that Congress and Administration policy makers can remain informed of the system's strengths and weaknesses."

The bill provides a 2-year extension of the Basic Pilot/E-Verify program.

Federal Law Enforcement Training Center

The Committee recommends \$239,356,000 for FLETC, \$6,000,000 below the amount requested and \$7,174,000 below the amount provided in fiscal year 2009.

Border and Maritime Security

The Committee recommends \$40,181,000 for border and maritime security, the same as the amount requested and \$7,131,000 above the amount provided in fiscal year 2009. Included in this amount is \$4,000,000 for a pilot to develop a replicable port security system that would improve maritime domain awareness.

The Report states: "The Committee continues to believe that a viable container security device (CSD) is an essential tool within an effective cargo supply chain security regime. The Committee is disappointed that it has taken so long to produce a viable container security device."

General Provisions

The Committee continues a provision prohibiting funds available in this Act from being used to implement a rule or regulation which implements the notice of proposed rulemaking related to Petitions for Aliens to Perform Temporary Nonagricultural Services or Labor (H-2B) set out beginning on 70 Federal Register 3984 (January 27, 2005).

PRESIDENTIALLY- AND CONGRESSIONALLY-DIRECTED SPENDING

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

- National Protection and Programs Directorate (NPPD) - Infrastructure Protection and Information - Security SEARCH, Sacramento, CA - \$1,000,000 (Rothman (NJ))

- FEMA - State and Local Programs - Emergency Operations Center, City of Moreno Valley, CA - \$400,000 (Bono Mack)

- FEMA - State and Local Programs - Emergency Operations Center, City of Brawley, CA - \$500,000 (Filner)

- FEMA - State and Local Programs - Emergency Operations Center, City of Cupertino, CA - \$300,000 (Honda)

- FEMA - State and Local Programs - Emergency Operations Center, City of Elk Grove, CA - \$750,000 (Lungren)

- FEMA - State and Local Programs - Emergency Operations Center, City of La Habra, CA - \$254,500 (Miller, Gary)

- FEMA - State and Local Programs - Emergency Operations Center, San Francisco Department of Emergency Management, CA - \$800,000 (Pelosi)

- FEMA - State and Local Programs - Emergency Operations Center, City of Commerce, CA - \$1,000,000 (Roybal-Allard)
- FEMA - State and Local Programs - Emergency Operations Center, City of Whittier, CA - \$500,000 (Sanchez, Linda)
- FEMA - State and Local Programs - Emergency Operations Center, City of Monterey Park, CA - \$375,000 (Schiff)
- FEMA - Predisaster Mitigation - City of Colton, CA - \$200,000 (Baca)
- FEMA - Predisaster Mitigation - Orange County Fire Authority, CA - \$252,000 (Calvert)
- FEMA - Predisaster Mitigation - City of Emeryville, CA - \$600,000 (Lee)
- FEMA - Predisaster Mitigation - City of Santa Clarita, CA - \$500,000 (McKeon)
- FEMA - Predisaster Mitigation - City of Los Angeles, CA - \$1,000,000 (Roybal-Allard)
- FEMA - Predisaster Mitigation - City of Burbank, CA - \$225,000 (Schiff)
- FEMA - Predisaster Mitigation - City of Los Angeles, CA - \$500,000 (Sherman)
- FEMA - Predisaster Mitigation - City of Davis, CA - \$275,000 (Thompson)
- General Provisions - Monterey County Water Resource Agency, CA - (Farr)