



SENATE REPUBLICAN

POLICY COMMITTEE

Legislative Notice

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H.R. 2638 / S. 1644 – Department of Homeland Security Appropriations Bill

Calendar No. 204

On June 18, the Appropriations Committee reported S. 1644, with an amendment, by a vote of 29-0; S. Report 110-84.

Noteworthy

- S. 1644 provides \$37.62 billion in new budget authority, an amount which is \$2.25 billion above the Administration's request and \$2.70 billion above the FY07 level.¹
- The Administration strongly opposed the House-passed Department of Homeland Security Appropriations Bill (H.R. 2638) for FY08 and issued a veto threat. "The Administration has asked that Congress demonstrate a path to live within the President's topline and cover the excess spending in this bill through reductions elsewhere. Because Congress has failed to demonstrate such a path, if H.R. 2638 were presented to the President, he would veto the bill."
- The Democratic Budget Resolution and subsequent spending allocations adopted by the Senate Appropriations Committee exceed the President's discretionary spending topline by \$22 billion, or a 9 percent increase in FY08 discretionary spending.
- The bill increases funding for several accounts above the President's request, including the following: Detention and Removal Operations (\$198.9 million), State Grants (\$650.0 million), Discretionary Grants (\$565.0 million), National Programs (\$124.5 million), Firefighter Assistance Grants (\$400.0 million), and Emergency Management Performance Grants (\$100.0 million). The bill also decreases funding for critical programs such as the United States Visitor and Immigrant Status Indicator Technology (US VISIT).
- S. 1644 funds a total of 17,819 Border Patrol Agents (of which 3,000 are new) and 31,500 detention beds across the nation (of which 4,000 are new).
- On June 15, 2007, the House passed its version of the Department of Homeland Security Appropriations Bill by a vote of 268-150.

¹ FY07 numbers exclude emergency appropriations in P.L. 110-28, which was signed into law on May 25, 2007.

Highlights

(in billions)	President's Request	House-passed Bill	Senate-reported Bill
Title I (Management and Operations)	\$ 1.10	\$ 0.78	\$ 1.10
Title II (Security, Enforcement, and Investigations)	26.31	26.71	26.92
Title III (Preparedness and Recovery)	6.21	8.39	7.95
Title IV (Research and Development)	1.65	1.62	1.70
Title V (General Provisions)	0.00	-0.06	-0.50
TOTAL	\$ 35.27	\$ 37.45	\$ 37.62
Discretionary	\$ 34.20	\$36.26	\$ 36.44
Mandatory	\$ 1.07	\$ 1.19	\$ 1.19

Background

The Homeland Security Act of 2002 (P.L. 107-296) transferred the functions, relevant funding, and most of the personnel of 22 agencies and offices to the new Department of Homeland Security (DHS) created by the act. DHS funding is organized into four major areas: Management and Operations; Security, Enforcement and Investigations; Preparedness and Recovery; and Research, Development, Training and Services.

Security, Enforcement and Investigation, the largest of the four areas, contains five main components: U.S. Customs and Border Protection (CBP); U.S. Immigration and Customs Enforcement (ICE); Transportation Security Administration (TSA); US Coast Guard; and US Secret Service. Preparedness and Recovery is comprised of the Federal Emergency Management Administration (FEMA) and the National Protection and Programs Directorate. Research, Development, Training and Services is comprised of US Citizenship and Immigration Services; Federal Law Enforcement Training Center; Science and Technology; and the Domestic Nuclear Detection Office.

Bill Provisions

Title I – Departmental Management and Operations

Title I provides \$1.10 billion for Departmental Management and Operations, which is \$6.8 million above the Administration’s request and \$84.6 million above the FY07 enacted level. Significant spending accounts and language requests include:

Office of the Secretary: Provides \$100.0 million for the Office of the Secretary and Executive Management, which is \$7.9 million below the Administration’s request but \$5.8 million above the FY07 enacted level. The Committee expressed concerns with the Department’s responsiveness to the Government Accountability Office (GAO) and Senate Appropriations Committee (SAC) requests. Of the \$100.0 million, the bill withholds \$15.0 million from the Secretary until certain conditions are met. The bill also includes a general provision that precludes the Department from using funds to carry out section 872 of P.L. 107-296 during FY08. Section 872 provides the Secretary with the authority to reorganize functions and organizational units without Congressional approval.

Analysis and Operations: Provides \$306.0 million for Analysis and Operations, which is \$8.7 million below the President’s request but \$6.3 million above the FY07 enacted level. This includes funding for the Department’s intelligence activities and the Homeland Security Operations Center.

Title II – Security, Enforcement, and Investigations: Border and Transportation Security

Title II provides \$26.91 billion for the Department’s Security, Enforcement, and Investigations, after a \$56.8 million rescission, which is \$498.6 million above the Administration’s request and \$1.78 billion above the FY07 enacted level. Significant spending accounts include:

U.S. Customs and Border Protection (CBP): Provides \$10.23 billion for Customs and Border Protection, including \$1.38 billion in fees, which is \$58.2 million above the Administration’s request and \$924.8 million above the FY07 enacted level (including emergency appropriations). Included within these funds is: \$569.8 million for 3,000 additional border patrol agents (bringing the total strength of border agents to 17,819 by the end of FY08); \$1.00 billion for border infrastructure and fencing; \$73.5 million for the **Customs-Trade Partnership Against Terrorism (C-TPAT) and Free and Secure Trade (FAST)**; \$156.1 million for an expansion of the **Container Security Initiative (CSI)**; and \$23.9 million for the **National Targeting Center**. The Committee directed the Secretary to assign to the Northern Border agents equal to 20 percent of all new border patrol agents during FY08, as authorized in P.L. 108-458.

Immigration and Customs Enforcement (ICE): Provides \$4.67 billion for ICE, including \$233.5 million in fees, which is \$264.9 million above the Administration’s request and \$455.7 million above the FY07 enacted level (including emergency appropriations). Included within

these funds is \$2.3 billion for detention, including funding for an additional 4,000 **detentions beds** (for a total of 31,500 beds).

Federal Protective Service (FPS): Provides \$613.0 million for the FPS, which is equal to the Administration's request and \$97.0 million above the FY07 enacted level.² The FPS is responsible for the security and protection of Federal property under the control of the General Services Administration.

Transportation Security Administration (TSA): Provides \$6.47 billion for the TSA (including \$2.71 billion in passenger and aviation carrier fees), which is \$76.4 million above the Administration's request and \$164.6 million above the FY07 enacted level. Included in this funding is: \$4.07 billion for **screening operations**, and \$722.0 million for **Federal Air Marshals**.

- **Air Cargo Security**: Provides \$65.8 million for air cargo security, which is \$10.0 million above the Administration's request and \$10.8 million above the FY07 enacted level. Similar to last year, the bill includes language directing the Secretary to develop new technologies to inspect and screen air cargo.
- **Rail Security**: Provides \$16.9 million for security measures for the nation's railways, which is equal to the Administration's request and \$3.7 million above than the FY07 enacted level. The increase in funding is to support 100 rail inspectors and 82 canine teams (which is an increase of 45 teams).
- **Explosives Detection Systems (EDS)**: Provides \$529.4 million for EDS procurement and installation, which is \$89.4 million above the President's request.
- **Secure Flight**: Provides \$28.0 million for secure flight, which is \$25.0 million below the Administration's request but \$15.0 million above the FY07 level.

U.S. Coast Guard: Provides \$8.56 billion for the United States Coast Guard, which is \$102.3 million above the Administration's request and \$267.0 million above the FY07 enacted level. Of this funding, \$7.37 billion is discretionary spending and \$1.18 billion is mandatory spending for **retiree pay**. Within the discretionary funds, \$5.93 billion is for **operating expenses** (such as pay, and vessel and aircraft maintenance) to perform search and rescue, Marine Environmental Protection, and defense-related activities including drug interdiction. The **Integrated Deepwater System** is funded at \$770.1 million, which is \$18 million below the Administration's request.

U.S. Secret Service: Provides \$1.39 billion for the United States Secret Service, which is \$3.1 million below the Administration's request but \$119.2 million above the FY07 enacted level. This funding provides for the protection of the President, the Vice President, and other dignitaries and designated individuals; enforcement of laws relating to obligations and securities of the United States and financial crimes; protection of the White House; and training.

² The total provides for full funding by offsetting collections paid by General Services Administration tenants and credited directly to this appropriation.

Title III – Preparedness and Recovery

Title III provides \$7.95 billion for Preparedness and Recovery, which is \$1.74 billion above the Administration’s request and \$1.01 billion above the FY07 enacted level. Significant spending accounts and language requests include:

National Protection and Programs Directorate (NPPD): Provides \$919.1 million for NPPD, which is \$127.5 million below the Administration’s request and \$15.9 million below the FY07 enacted level (excluding emergency supplemental appropriations). Included within these funds is \$362.0 million for **U.S. Visitor and Immigrant Status Indicator Technology**, which is \$100.0 million below the President’s request and \$494,000 below the FY07 level.

Firefighter Assistance Grants: Provides \$700.0 million for firefighter assistance grants, which is \$400.0 million above the Administration’s request and \$38.0 million above the FY07 enacted level. Included within these funds is \$140 million for the SAFER Act, which is \$25.0 million more than the FY07 enacted level—the Administration did not request funds for this account. These grants provide assistance to local firefighting departments for the purpose of protecting the health and safety of the public and fire fighting personnel (including volunteers and emergency medical service personnel) against fires and fire-related hazards.

FEMA: Provides \$6.91 billion for FEMA, which is \$1.75 billion above the Administration’s request and \$1.02 billion above the FY07 enacted level. The mission of FEMA is to lead the nation to prepare for, mitigate the effects of, respond to, and recover from major domestic disasters, both natural and man-made, including incidents of terrorism.

- **State and Local Programs**: Provides \$3.03 billion for State and Local Programs, which is \$1.33 billion above the Administration’s request and \$506.0 million above the FY07 level.
- **Firefighter Assistance Grants**: Provides \$700.0 million for Firefighter Assistance Grants, which is \$400.0 million above the Administration’s request and \$38.0 million above the FY07 level.
- **Discretionary Grants**: The bill provides \$820.0 million for Urban Area Security Initiative grants to be used primarily for port security grants and rail and transit security grants.
- **Disaster Relief Fund**: Provides \$1.70 billion for the Disaster Relief Fund, which is equal to the Administration’s request and \$200.0 million above the FY07 enacted level (excluding emergency supplemental appropriations). Through the DRF, the Department provides a significant portion of the total Federal response to victims in Presidentially-declared major disasters and emergencies.

Title IV – Research and Development, Training, Assessments, and Services

Title IV provides \$1.70 billion for the Department’s Research and Development, Training, and Services, which is \$50.1 million above the Administration’s request and \$7.8 million above the FY07 enacted level. Significant spending accounts include:

United States Citizenship and Immigration Services (CIS): Provides \$2.59 billion for US CIS, including \$2.54 billion in user fees, which is \$20.5 million above the Administration’s

request and \$603.4 million above the FY07 enacted level. CIS is responsible for the administration of laws and providing services to people seeking to visit, reside, work, and naturalize in the United States. Included in this amount is \$30.0 million for **Employment Eligibility Verification**.

Federal Law Enforcement Training Center (FLETC): Provides \$265.5 million for the FLETC, which is \$2.5 million above the President's request and \$10.0 million below the FY07 enacted level. The FLETC provides funds for basic and advanced training to Federal law enforcement personnel from more than 76 agencies.

Science and Technology: Provides \$838.0 million for Science and Technology, which is \$39.0 million above the Administration's request but \$80.0 million below the FY07 enacted level. Included in this amount is \$216.0 million for chemical and biological research and \$81.7 million for explosives research.

Domestic Nuclear Detection Office (DNDO): Provides \$550.0 million for the DNDO, which is \$11.9 million below the Administration's request but \$69.0 million above the FY07 enacted level. The mission of DNDO is to improve the nation's capability to detect and report attempts to import, possess, store, develop, or transport nuclear and radiological material for use against the nation.

Title V – General Provisions

Title V is composed of General Provisions concerning reprogramming, authorization for activities funded in the bill, the Federal Law Enforcement Training Center, the Buy America Act, competitive sourcing, and other issues. Of note:

- Section 514 prohibits the use of funds to develop or test algorithms assigning risk to passengers whose names are not on government watch lists.
- Section 502 would prohibit the Department from reorganizing, without Congressional approval.
- Section 513 would limit the implementation of the Secure Flight program until certain conditions are met.
- Section 530 includes a provision delaying the implementation of the Western Hemisphere Travel Initiative.
- Section 531 includes a provision regarding security regulations on high-risk chemical facilities which will *not* override state regulations on security for these facilities.

Administration Position

A Statement of Administration Policy (SAP) on the bill, as reported by the Senate Appropriations Committee, was not available at press time.

On June 12, the Administration released a SAP on the House-reported bill, H.R. 2638. “The Administration strongly opposes H.R. 2638 because, in combination with other FY 2008 appropriations bills, it includes an irresponsible and excessive level of spending and includes other objectionable provisions.” In the SAP, the Administration offered its views on several provisions in H.R. 2638, including expanding the Davis-Bacon Act (not included in the Senate bill), chemical facility security, FEMA, ICE, CBP, Coast Guard, and BioWatch.

Cost

S. 1644 would result in the following new outlays:

FY 2008	\$22.251 billion
FY 2009	\$7.648 billion
FY 2010	\$4.929 billion
FY 2011	\$1.677 billion
FY 2012 (and future years)	\$0.758 billion

Possible Amendments

There will likely be numerous amendments on the floor.