

**Calendar No. 238**

108th Congress }  
*1st Session* }

SENATE

{ REPORT  
108-115

NON-HOMELAND SECURITY MISSION  
PERFORMANCE ACT OF 2003

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R E P O R T

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS  
UNITED STATES SENATE

TO ACCOMPANY

S. 910

TO ENSURE THE CONTINUATION OF NON-HOMELAND SECURITY  
FUNCTIONS OF FEDERAL AGENCIES TRANSFERRED TO THE DE-  
PARTMENT OF HOMELAND SECURITY



JULY 29 (legislative day, JULY 21), 2003.—Ordered to be printed

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### NON-HOMELAND SECURITY MISSION PERFORMANCE ACT OF 2003

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Ms. COLLINS, from the Committee on Governmental Affairs,  
submitted the following

### R E P O R T

[To accompany S. 910]

The Committee on Governmental Affairs, to which was referred the bill (S. 910) to ensure the continuation of non-homeland security functions of Federal agencies transferred to the Department of Homeland Security, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

#### I. PURPOSE AND SUMMARY

S. 910, the Non-Homeland Security Mission Performance Act of 2003, would ensure that the agencies and entities consolidated into the Department of Homeland Security (DHS) continue to fulfill core, non-homeland security missions. S. 910 would preserve vital non-homeland security functions by requiring DHS to report to Congress on the resources, personnel, and capabilities used to perform non-homeland security missions and the management strategy needed to carry out these functions.

#### II. BACKGROUND

The Homeland Security Act (P.L. 107-296) created the Department of Homeland Security to prevent terrorist attacks and reduce America's vulnerability to such attacks. However, many agencies within the Department also perform important non-homeland security missions that Americans rely on every day. The Animal and Plant Health Inspection Service protects ecosystems from invasive species. The Federal Emergency Management Agency assists local communities to prepare for and respond to natural disasters. The U.S. Coast Guard performs essential maritime search and rescue,

fisheries enforcement, marine safety, marine environmental protection, navigation assistance, and migrant interdiction functions. The Department of Homeland Security's Bureau of Citizenship and Immigration Services provides asylum for refugees and assists immigrants in becoming American citizens. The Customs Service protects and monitors foreign trade that is essential for a healthy American economy. The Secret Service monitors and protects against identity theft, counterfeiting, and other financial crimes.

To preserve these vital functions, S. 910, the Non-Homeland Security Mission Performance Act of 2003, would require the Department of Homeland Security to identify and report to Congress on the resources, personnel, and capabilities used to perform non-homeland security functions, as well as the management strategy required to carry out these missions. The measure would require the Department to include information on the performance of these functions in its annual performance report. The legislation also calls for a General Accounting Office (GAO) annual evaluation, over five years, on the performance of essential non-homeland security missions.

The creation of the Department of Homeland Security brings with it challenges to ensure that its component agencies can perform both homeland security and non-homeland security missions. In the case of the Coast Guard for example, on April 1, 2003, GAO testified before the House Committee on Transportation and Infrastructure that the maritime agency has experienced a substantial decline in the amount of time spent on traditional missions due to an increased emphasis on homeland security. Moreover, the GAO review found that the Coast Guard lacks the resources to increase the time spent to fulfill its non-homeland security missions. Coast Guard Commandant Thomas H. Collins said the agency has more business than it has resources and is challenged like never before to do all that America wants it to do.

These same concerns extend to the entire Department of Homeland Security. In fact, the General Accounting Office has added the transformation and implementation of the Department of Homeland Security to its "high risk" list, partially as the result of existing management challenges to maintaining non-homeland security missions.

The creation of the Department of Homeland Security should not come at the expense of essential non-homeland security missions. Agencies should be empowered to fully perform both their homeland security responsibilities and their critical, traditional non-homeland security missions. Enhancing traditional missions also enhances domestic security, which depends on sound management strategies that ensure adequate resources and personnel.

### III. LEGISLATIVE HISTORY

S. 910 was introduced by Senator Daniel K. Akaka on April 11, 2003 and was referred to the Governmental Affairs Committee on the same date. The bill is cosponsored by Senators Thomas R. Carper, Frank R. Lautenberg, and Richard J. Durbin.

The Committee met in open session on June 17, 2003, and ordered favorably reported the bill S. 910, as amended unanimously by a voice vote of 9-0. Members present were Collins, Lieberman, Voinovich, Coleman, Sununu, Fitzgerald, Akaka, Durbin, Carper,

Lautenberg, Levin, and Pryor. The amendment offered by Senator Akaka and cosponsored by Chairman Collins made the following changes to S. 910: (1) provided technical changes to clarify that the reporting requirements of the DHS Inspector General on the fulfillment of non-homeland security functions by the U.S. Coast Guard would not be duplicated in the bill; (2) added the non-homeland security mission of marine environmental protection to the functions identified for the U.S. Coast Guard; and (3) clarified that the Director of the U.S. Secret Service will satisfy reporting requirements for the Secret Service as required in the bill.

#### IV. SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short title*

This Act may be cited as the “Non-Homeland Security Mission Performance Act of 2003.”

##### *Section 2. Finding and purpose*

This section explains the importance of non-homeland security functions in the Department of Homeland Security and details the essential non-homeland security functions that agencies of the Department perform every day.

##### *Section 3. Non-homeland security function performance*

This section requires DHS Under Secretaries with direct responsibility for maintaining non-homeland security functions to report to Congress on the performance of those functions including an inventory of the number of employees, the budget, and flexibilities used to accomplish non-homeland security missions. The Director of the Secret Service will provide this information for the U.S. Secret Service, and the DHS Inspector General will provide this information for the U.S. Coast Guard. The inventory will also include the roles, responsibilities, organizational structure, capabilities, personnel assets, and annual budgets required to maintain the capability to accomplish non-homeland security functions without diminishment. In addition to the inventory, the report to Congress will contain any changes required to ensure the fulfillment of non-homeland security missions and the strategy used to perform non-homeland security functions. The U.S. Comptroller General will report on the implementation of all reporting requirements under S. 910.

This section also requires the Department of Homeland Security to clarify how non-homeland security missions will be performed in Government Performance and Results Act performance reports to Congress as required by law.

#### V. EVALUATION OF REGULATORY IMPACT

Paragraph 11(b)(1) of rule XXVI of the Standing Rules of the Senate requires that each report accompanying a bill evaluate “the regulatory impact which would be incurred in carrying out this bill.”

The enactment of this legislation will not have significant regulatory impact.

## VI. CBO COST ESTIMATE

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, June 24, 2003.*

Hon. SUSAN M. COLLINS,  
*Chairman, Committee on Governmental Affairs, U.S. Senate, Wash-  
ington, DC.*

DEAR MADAM CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 910, the Non-Homeland Security Mission Performance Act of 2003.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

DOUGLAS HOLTZ-EAKIN,  
*Director.*

Enclosure.

*S. 910—Non-Homeland Security Mission Performance Act of 2003*

S. 910 would require the Under Secretary of each entity within the Department of Homeland Security (DHS) that performs functions that are not specifically related to homeland security to report annually to the Secretary of Homeland Security and the Congress on the budget and performance of those functions. Such reports would be required during the five years following the transfer of each entity to DHS or following the establishment of an entity in the department that performs such functions. The director of the Secret Service would prepare those reports for that agency, and the Inspector General of DHS would prepare such reports for the Coast Guard. The bill would direct the General Accounting Office (GAO) to monitor, evaluate, and review the implementation of the legislation.

CBO estimates that implementing S. 910 would cost less than \$500,000 a year, subject to the availability of appropriated funds. The legislation would codify and expand the current practices of DHS regarding preparation of its budget and annual program performance reports. CBO does not expect that the requirements of the bill would lead to significant additional reporting costs. In addition, the legislation would require the GAO to annually review and report on the implementation of this bill and the performance of functions at DHS that are not specifically related to homeland security. GAO is already studying the transformation and implementation of the new DHS, so CBO expects that those new reporting requirements would not add significant costs. Enactment of S. 910 would not affect direct spending or revenues.

S. 910 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Matthew Pickford. This estimate was approved by Robert A. Sunshine, Assistant Director for Budget Analysis.



VII. CHANGES TO EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that the legislation is a free-standing bill that will make no changes to any existing law.

