

Calendar No. 583

108TH CONGRESS
2D SESSION

S. 2537

[Report No. 108–280]

Making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 17, 2004

Mr. COCHRAN, from the Committee on Appropriations, reported the following original bill; which was read twice and placed on the calendar

A BILL

Making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the following sums are appropriated, out of any
4 money in the Treasury not otherwise appropriated, for the
5 Department of Homeland Security for the fiscal year end-
6 ing September 30, 2005, and for other purposes, namely:

1 TITLE I—DEPARTMENTAL MANAGEMENT AND
2 OPERATIONS

3 OFFICE OF THE SECRETARY AND EXECUTIVE
4 MANAGEMENT

5 For necessary expenses of the Office of the Secretary
6 of Homeland Security, as authorized by section 102 of the
7 Homeland Security Act of 2002 (6 U.S.C. 112), and for
8 executive management of the Department of Homeland
9 Security, as authorized by law, \$82,206,000: *Provided*,
10 That not to exceed \$50,000 shall be available for alloca-
11 tion within the Department for official reception and rep-
12 resentation expenses as the Secretary may determine.

13 OFFICE OF THE UNDER SECRETARY FOR MANAGEMENT

14 For necessary expenses of the Office of the Under
15 Secretary for Management, as authorized by sections 701–
16 705 of the Homeland Security Act of 2002 (6 U.S.C. 341–
17 345), \$245,579,000: *Provided*, That of the total amount
18 provided, \$65,081,000 shall remain available until ex-
19 pended solely for the alteration and improvement of facili-
20 ties and for relocation costs to consolidate the Depart-
21 ment’s headquarters’ operations.

22 DEPARTMENT-WIDE TECHNOLOGY INVESTMENTS

23 For development and acquisition of information tech-
24 nology equipment, software, services, and related activities
25 for the Department of Homeland Security, and for the

1 costs of conversion to narrowband communications, in-
 2 cluding the cost for operation of the land mobile radio leg-
 3 acy systems, \$222,000,000, to remain available until ex-
 4 pended.

5 OFFICE OF INSPECTOR GENERAL

6 OPERATING EXPENSES

7 For necessary expenses of the Office of Inspector
 8 General in carrying out the provisions of the Inspector
 9 General Act of 1978 (5 U.S.C. App.), \$82,317,000, of
 10 which not to exceed \$100,000 may be used for certain con-
 11 fidential operational expenses, including the payment of
 12 informants, to be expended at the direction of the Inspec-
 13 tor General.

14 TITLE II—SECURITY, ENFORCEMENT, AND 15 INVESTIGATIONS

16 BORDER AND TRANSPORTATION SECURITY

17 OFFICE OF THE UNDER SECRETARY FOR BORDER AND

18 TRANSPORTATION SECURITY

19 SALARIES AND EXPENSES

20 For necessary expenses of the Office of the Under
 21 Secretary for Border and Transportation Security, as au-
 22 thorized by subtitle A of title IV of the Homeland Security
 23 Act of 2002 (6 U.S.C. 201 et seq.), \$8,864,000.

1 UNITED STATES VISITOR AND IMMIGRANT STATUS
2 INDICATOR TECHNOLOGY

3 For necessary expenses for the development of the
4 United States Visitor and Immigrant Status Indicator
5 Technology project, as authorized by section 110 of the
6 Illegal Immigration Reform and Immigrant Responsibility
7 Act of 1996 (8 U.S.C. 1221 note), \$340,000,000, to re-
8 main available until expended.

9 CUSTOMS AND BORDER PROTECTION
10 SALARIES AND EXPENSES

11 For necessary expenses for enforcement of laws relat-
12 ing to border security, immigration, customs, and agricul-
13 tural inspections and regulatory activities related to plant
14 and animal imports; acquisition, lease, maintenance and
15 operation of aircraft; purchase and lease of up to 4,500
16 (3,935 for replacement only) police-type vehicles; and con-
17 tracting with individuals for personal services abroad;
18 \$4,466,960,000; of which \$3,000,000 shall be derived
19 from the Harbor Maintenance Trust Fund for administra-
20 tive expenses related to the collection of the Harbor Main-
21 tenance Fee pursuant to section 9505(c)(3) of the Internal
22 Revenue Code of 1986 and notwithstanding section
23 1511(e)(1) of the Homeland Security Act of 2002 (6
24 U.S.C. 551(e)(1)); of which not to exceed \$40,000 shall
25 be for official reception and representation expenses; of
26 which not to exceed \$126,162,000 shall remain available

1 until September 30, 2006, for inspection and surveillance
2 technology, and equipment for the Container Security Ini-
3 tiative; of which such sums as become available in the Cus-
4 toms User Fee Account, except sums subject to section
5 13031(f)(3) of the Consolidated Omnibus Budget Rec-
6 onciliation Act of 1985 (19 U.S.C. 58c(f)(3)), shall be de-
7 rived from that account; of which not to exceed \$150,000
8 shall be available for payment for rental space in connec-
9 tion with preclearance operations; of which not to exceed
10 \$1,000,000 shall be for awards of compensation to inform-
11 ants, to be accounted for solely under the certificate of
12 the Under Secretary for Border and Transportation Secu-
13 rity; and of which not to exceed \$5,000,000 shall be avail-
14 able for payments or advances arising out of contractual
15 or reimbursable agreements with State and local law en-
16 forcement agencies while engaged in cooperative activities
17 related to immigration: *Provided*, That none of the funds
18 appropriated shall be available to compensate any em-
19 ployee for overtime in an annual amount in excess of
20 \$30,000, except that the Under Secretary for Border and
21 Transportation Security may exceed that amount as nec-
22 essary for national security purposes and in cases of immi-
23 gration emergencies: *Provided further*, That of the total
24 amount provided, \$12,725,000 shall be for activities to en-
25 force laws against forced child labor in fiscal year 2005,

1 of which not to exceed \$4,000,000 shall remain available
2 until expended.

3 AUTOMATION MODERNIZATION

4 For expenses for customs and border protection auto-
5 mated systems, \$449,909,000, to remain available until
6 expended, of which not less than \$321,690,000 shall be
7 for the development of the Automated Commercial Envi-
8 ronment: *Provided*, That none of the funds appropriated
9 under this heading may be obligated for the Automated
10 Commercial Environment until the Committees on Appro-
11 priations of the Senate and the House of Representatives
12 receive and approve a plan for expenditure prepared by
13 the Under Secretary for Border and Transportation Secu-
14 rity that:

15 (1) meets the capital planning and investment
16 control review requirements established by the Office
17 of Management and Budget, including Circular A-
18 11, part 3;

19 (2) complies with the Bureau of Customs and
20 Border Protection's enterprise information systems
21 architecture;

22 (3) complies with the acquisition rules, require-
23 ments, guidelines, and systems acquisition manage-
24 ment practices of the Federal Government;

25 (4) is reviewed and approved by the Bureau of
26 Customs and Border Protection Investment Review

1 Board, the Department of Homeland Security, and
2 the Office of Management and Budget; and

3 (5) is reviewed by the General Accounting Of-
4 fice.

5 CONSTRUCTION

6 For necessary expenses to plan, construct, renovate,
7 equip, and maintain buildings and facilities necessary for
8 the administration and enforcement of the laws relating
9 to customs and immigration, \$91,718,000, to remain
10 available until expended.

11 IMMIGRATION AND CUSTOMS ENFORCEMENT

12 SALARIES AND EXPENSES

13 For necessary expenses for enforcement of immigra-
14 tion and customs laws, detention and removals, and inves-
15 tigation; and purchase and lease of up to 2,300 (2,000
16 for replacement only) police-type vehicles, \$2,413,438,000,
17 of which not to exceed \$5,000,000 shall be available until
18 expended for conducting special operations pursuant to
19 section 3131 of the Customs Enforcement Act of 1986 (19
20 U.S.C. 2081); of which not to exceed \$15,000 shall be for
21 official reception and representation expenses; of which
22 not to exceed \$1,000,000 shall be for awards of compensa-
23 tion to informants, to be accounted for solely under the
24 certificate of the Under Secretary for Border and Trans-
25 portation Security; of which not less than \$102,000 shall
26 be for promotion of public awareness of the child pornog-

1 raphy tipline; of which not less than \$203,000 shall be
 2 for Project Alert; of which \$5,000,000 shall be a grant
 3 for activities related to the investigations of exploited chil-
 4 dren and shall remain available until expended; and of
 5 which not to exceed \$11,216,000 shall be available to fund
 6 or reimburse other Federal agencies for the costs associ-
 7 ated with the care, maintenance, and repatriation of
 8 smuggled illegal aliens: *Provided*, That none of the funds
 9 appropriated shall be available to compensate any em-
 10 ployee for overtime in an annual amount in excess of
 11 \$30,000, except that the Under Secretary for Border and
 12 Transportation Security may waive that amount as nec-
 13 essary for national security purposes and in cases of immi-
 14 gration emergencies: *Provided further*, That of the total
 15 amount provided, \$3,045,000 shall be for activities to en-
 16 force laws against forced child labor in fiscal year 2005,
 17 of which not to exceed \$2,000,000 shall remain available
 18 until expended.

19 FEDERAL AIR MARSHALS

20 For necessary expenses of the Federal Air Marshals,
 21 \$662,900,000.

22 FEDERAL PROTECTIVE SERVICE

23 The revenues and collections of security fees credited
 24 to this account, not to exceed \$478,000,000, shall be avail-
 25 able until expended for necessary expenses related to the

1 protection of federally owned and leased buildings and for
2 the operations of the Federal Protective Service.

3 AUTOMATION MODERNIZATION

4 For expenses of immigration and customs enforce-
5 ment automated systems, \$39,605,000, to remain avail-
6 able until expended.

7 AIR AND MARINE INTERDICTION, OPERATIONS,
8 MAINTENANCE, AND PROCUREMENT

9 For necessary expenses for the operations, mainte-
10 nance, and procurement of marine vessels, aircraft, and
11 other related equipment of the air and marine program,
12 including operational training and mission-related travel,
13 and rental payments for facilities occupied by the air or
14 marine interdiction and demand reduction programs, the
15 operations of which include the following: the interdiction
16 of narcotics and other goods; the provision of support to
17 Federal, State, and local agencies in the enforcement or
18 administration of laws enforced by the Bureau of Immi-
19 gration and Customs Enforcement; and at the discretion
20 of the Under Secretary for Border and Transportation Se-
21 curity, the provision of assistance to Federal, State, and
22 local agencies in other law enforcement and emergency hu-
23 manitarian efforts, \$267,535,000, to remain available
24 until expended: *Provided*, That no aircraft or other related
25 equipment, with the exception of aircraft that are one of
26 a kind and have been identified as excess to Bureau of

1 Immigration and Customs Enforcement requirements and
 2 aircraft that have been damaged beyond repair, shall be
 3 transferred to any other Federal agency, department, or
 4 office outside of the Department of Homeland Security
 5 during fiscal year 2005 without the prior approval of the
 6 Committees on Appropriations of the Senate and the
 7 House of Representatives.

8 CONSTRUCTION

9 For necessary expenses to plan, construct, renovate,
 10 equip, and maintain buildings and facilities necessary for
 11 the administration and enforcement of the laws relating
 12 to customs and immigration, \$26,179,000, to remain
 13 available until expended.

14 TRANSPORTATION SECURITY ADMINISTRATION

15 AVIATION SECURITY

16 For necessary expenses of the Transportation Secu-
 17 rity Administration related to providing civil aviation secu-
 18 rity services pursuant to the Aviation and Transportation
 19 Security Act (Public Law 107-71; 115 Stat. 597),
 20 \$4,386,083,000, to remain available until expended, of
 21 which not to exceed \$3,000 shall be for official reception
 22 and representation expenses: *Provided*, That of the total
 23 amount provided under this heading, not to exceed
 24 \$2,076,733,000 shall be for passenger screening activities;
 25 not to exceed \$1,437,460,000 shall be for baggage screen-
 26 ing activities, of which \$210,000,000 shall be available

1 only for procurement of checked baggage explosive detec-
2 tion systems; and not to exceed \$871,890,000 shall be for
3 airport security direction and enforcement presence: *Pro-*
4 *vided further*, That security service fees authorized under
5 section 44940 of title 49, United States Code, shall be
6 credited to this appropriation as offsetting collections:
7 *Provided further*, That, except as provided in the following
8 proviso, the sum herein appropriated from the General
9 Fund shall be reduced on a dollar-for-dollar basis as such
10 offsetting collections are received during fiscal year 2005,
11 so as to result in a final fiscal year appropriation from
12 the General Fund estimated at not more than
13 \$2,563,083,000: *Provided further*, That the General Ac-
14 counting Office shall undertake an audit of the calendar
15 year 2000 cost information of air carriers and foreign air
16 carriers engaged in air transportation pursuant to section
17 44940(a)(2) of Title 49, United States Code: *Provided fur-*
18 *ther*, That the Comptroller General, or any of the Comp-
19 troller General's duly authorized representatives, shall
20 have access for the purpose of audit and examination to
21 any books, accounts, documents, papers, and records of
22 air carriers that relate to the information required to im-
23 plement the provisions of the preceding proviso: *Provided*
24 *further*, That beginning with amounts due in calendar year
25 2005, if the result of this audit is that an air carrier or

1 foreign air carrier has not paid the appropriate fee to the
 2 Transportation Security Administration pursuant to sec-
 3 tion 44940(a)(2) of title 49 United States Code, the Sec-
 4 retary of Homeland Security shall undertake all necessary
 5 actions to ensure that such amounts are collected: *Pro-*
 6 *vided further*, That such collections received during fiscal
 7 year 2005 shall be credited to this appropriation as offset-
 8 ting collections and shall be available only for security
 9 modifications at commercial airports: *Provided further*,
 10 That if the Secretary exercises his discretion to set the
 11 fee under 44940(a)(2) of title 49 United States Code, such
 12 determination shall not be subject to judicial review: *Pro-*
 13 *vided further*, That any security service fees collected pur-
 14 suant to section 44940 of title 49 note, United States
 15 Code, in excess of the amount appropriated under this
 16 heading shall be treated as offsetting collections in fiscal
 17 year 2006.

18 MARITIME AND LAND SECURITY

19 For necessary expenses of the Transportation Secu-
 20 rity Administration related to maritime and land transpor-
 21 tation security grants and services pursuant to the Avia-
 22 tion and Transportation Security Act (Public Law 107–
 23 71; 115 Stat. 597), \$44,000,000.

24 In addition, fees authorized by section 520 of Public
 25 Law 108–90 shall be credited to this appropriation and
 26 shall be available until expended: *Provided*, That in fiscal

1 year 2005, fee collections shall be used for initial adminis-
 2 trative costs of credentialing activities.

3 INTELLIGENCE

4 For necessary expenses for intelligence activities pur-
 5 suant to the Aviation and Transportation Security Act
 6 (Public Law 107–71; 115 Stat. 597), \$14,000,000.

7 RESEARCH AND DEVELOPMENT

8 For necessary expenses for research and development
 9 related to transportation security, \$181,000,000, to re-
 10 main available until expended: *Provided*, That of the total
 11 amount provided under this heading, \$57,000,000 shall be
 12 available for the research and development of explosive de-
 13 tection devices.

14 ADMINISTRATION

15 For necessary administrative expenses of the Trans-
 16 portation Security Administration to carry out the Avia-
 17 tion and Transportation Security Act (Public Law 107–
 18 71; 115 Stat. 597), \$534,852,000.

19 UNITED STATES COAST GUARD

20 OPERATING EXPENSES

21 For necessary expenses for the operation and mainte-
 22 nance of the Coast Guard not otherwise provided for, pur-
 23 chase or lease of not to exceed 25 passenger motor vehicles
 24 for replacement only; payments pursuant to section 156
 25 of Public Law 97–377 (42 U.S.C. 402 note), section
 26 229(b) of the Social Security Act (42 U.S.C. 429(b)), and

1 recreation and welfare, \$5,153,220,000, of which
 2 \$1,090,000,000 shall be for defense-related activities; of
 3 which \$24,500,000 shall be derived from the Oil Spill Li-
 4 ability Trust Fund; and of which not to exceed \$3,000
 5 shall be for official reception and representation expenses:
 6 *Provided*, That none of the funds appropriated by this or
 7 any other Act shall be available for administrative ex-
 8 penses in connection with shipping commissioners in the
 9 United States: *Provided further*, That none of the funds
 10 provided by this Act shall be available for expenses in-
 11 curred for yacht documentation under section 12109 of
 12 title 46, United States Code, except to the extent fees are
 13 collected from yacht owners and credited to this appro-
 14 priation: *Provided further*, That notwithstanding section
 15 1116(c) of title 10, United States Code, amounts made
 16 available under this heading may be used to make pay-
 17 ments into the Department of Defense Medicare-Eligible
 18 Retiree Health Care Fund for fiscal year 2005 under sec-
 19 tion 1116(a) of such title.

20 ENVIRONMENTAL COMPLIANCE AND RESTORATION

21 For necessary expenses to carry out the Coast
 22 Guard's environmental compliance and restoration func-
 23 tions under chapter 19 of title 14, United States Code,
 24 \$17,000,000, to remain available until expended.

1 RESERVE TRAINING

2 For necessary expenses of the Coast Guard Reserve,
3 as authorized by law; operations and maintenance of the
4 reserve program, personnel and training costs, equipment,
5 and services, \$117,000,000.

6 ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

7 For necessary expenses of acquisition, construction,
8 renovation, and improvement of aids to navigation, shore
9 facilities, vessels, and aircraft, including equipment related
10 thereto; and maintenance, rehabilitation, lease and oper-
11 ation of facilities and equipment, as authorized by law,
12 \$1,062,550,000, of which \$20,000,000 shall be derived
13 from the Oil Spill Liability Trust Fund; of which
14 \$19,750,000 shall be available until September 30, 2009,
15 to acquire, repair, renovate, or improve vessels, small
16 boats, and related equipment; of which \$3,800,000 shall
17 be available until September 30, 2009, to increase aviation
18 capability; of which \$185,000,000 shall be available until
19 September 30, 2007, for other equipment; of which
20 \$5,000,000 shall be available until September 30, 2007,
21 for shore facilities and aids to navigation facilities; of
22 which \$73,000,000 shall be available for personnel com-
23 pensation and benefits and related costs; of which
24 \$776,000,000 shall be available until September 30, 2009,
25 for the Integrated Deepwater Systems program: *Provided*,
26 That the Commandant of the Coast Guard is authorized

1 to dispose of surplus real property, by sale or lease, and
2 the proceeds shall be credited to this appropriation as off-
3 setting collections and shall be available until September
4 30, 2007, only for Rescue 21.

5 ALTERATION OF BRIDGES

6 For necessary expenses for alteration or removal of
7 obstructive bridges, \$15,400,000, to remain available until
8 expended.

9 RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

10 For necessary expenses for applied scientific re-
11 search, development, test, and evaluation, and for mainte-
12 nance, rehabilitation, lease and operation of facilities and
13 equipment, as authorized by law, \$18,500,000, to remain
14 available until expended, of which \$2,000,000 shall be de-
15 rived from the Oil Spill Liability Trust Fund: *Provided*,
16 That there may be credited to and used for the purposes
17 of this appropriation funds received from State and local
18 governments, other public authorities, private sources, and
19 foreign countries, for expenses incurred for research, de-
20 velopment, testing, and evaluation.

21 RETIRED PAY

22 For retired pay, including the payment of obligations
23 otherwise chargeable to lapsed appropriations for this pur-
24 pose, payments under the Retired Serviceman's Family
25 Protection and Survivor Benefits Plans, payment for ca-
26 reer status bonuses under the National Defense Author-

1 ization Act, and payments for medical care of retired per-
2 sonnel and their dependents under chapter 55 of title 10,
3 United States Code, \$1,085,460,000.

4 UNITED STATES SECRET SERVICE

5 SALARIES AND EXPENSES

6 For necessary expenses of the United States Secret
7 Service, including purchase of not to exceed 610 vehicles
8 for police-type use, which shall be for replacement only,
9 and hire of passenger motor vehicles; purchase of Amer-
10 ican-made sidecar compatible motorcycles; hire of aircraft;
11 services of expert witnesses at such rates as may be deter-
12 mined by the Director; rental of buildings in the District
13 of Columbia, and fencing, lighting, guard booths, and
14 other facilities on private or other property not in Govern-
15 ment ownership or control, as may be necessary to per-
16 form protective functions; payment of per diem or subsist-
17 ence allowances to employees where a protective assign-
18 ment during the actual day or days of the visit of a
19 protectee require an employee to work 16 hours per day
20 or to remain overnight at his or her post of duty; conduct
21 of and participation in firearms matches; presentation of
22 awards; travel of Secret Service employees on protective
23 missions without regard to the limitations on such expend-
24 itures in this or any other Act if approval is obtained in
25 advance from the Committees on Appropriations of the

1 Senate and the House of Representatives; research and
2 development; grants to conduct behavioral research in sup-
3 port of protective research and operations; and payment
4 in advance for commercial accommodations as may be nec-
5 essary to perform protective functions, \$1,159,125,000, of
6 which not to exceed \$25,000 shall be for official reception
7 and representation expenses; of which not to exceed
8 \$100,000 shall be to provide technical assistance and
9 equipment to foreign law enforcement organizations in
10 counterfeit investigations; of which \$2,100,000 shall be for
11 forensic and related support of investigations of missing
12 and exploited children: *Provided*, That up to \$18,000,000
13 provided for protective travel shall remain available until
14 September 30, 2006: *Provided further*, That the United
15 States Secret Service is authorized to obligate funds in
16 anticipation of reimbursements from agencies and entities,
17 as defined in section 105 of title 5, United States Code,
18 receiving training sponsored by the James J. Rowley
19 Training Center, except that total obligations at the end
20 of the fiscal year shall not exceed total budgetary re-
21 sources available under this heading at the end of the fis-
22 cal year.

1 ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND
 2 RELATED EXPENSES

3 For necessary expenses for acquisition, construction,
 4 repair, alteration, and improvement of facilities,
 5 \$3,633,000, to remain available until expended.

6 TITLE III—PREPAREDNESS AND RECOVERY

7 OFFICE OF STATE AND LOCAL GOVERNMENT

8 COORDINATION AND PREPAREDNESS

9 MANAGEMENT AND ADMINISTRATION

10 For necessary expenses for the Office of State and
 11 Local Government Coordination and Preparedness,
 12 \$25,000,000.

13 STATE AND LOCAL PROGRAMS

14 For grants, contracts, cooperative agreements, and
 15 other activities, including grants to State and local govern-
 16 ments for terrorism prevention activities, notwithstanding
 17 any other provision of law, \$2,845,081,000, which shall
 18 be allocated as follows:

19 (1) \$970,000,000 for formula-based grants and
 20 \$400,000,000 for law enforcement terrorism preven-
 21 tion grants pursuant to section 1014 of the USA
 22 PATRIOT ACT (42 U.S.C. 3714): *Provided*, That
 23 the application for grants shall be made available to
 24 states within 45 days after enactment of this Act;
 25 that States shall submit applications within 45 days
 26 after the grant announcement; and that the Office

1 of State and Local Government Coordination and
2 Preparedness shall act within 15 days after receipt
3 of an application: *Provided further*, That each State
4 shall obligate not less than 80 percent of the total
5 amount of the grant to local governments within 60
6 days after the grant award; and

7 (2) \$1,200,000,000 for discretionary grants for
8 use in high-threat, high-density urban areas, as de-
9 termined by the Secretary of Homeland Security:
10 *Provided*, That \$150,000,000 shall be for port secu-
11 rity grants; \$15,000,000 shall be for trucking indus-
12 try security grants; \$10,000,000 shall be for inter-
13 city bus security grants; and \$150,000,000 shall be
14 for rail and transit security grants: *Provided further*,
15 That no less than 80 percent of any grant to a State
16 shall be made available by the State to local govern-
17 ments within 60 days after the receipt of the funds:
18 *Provided further*, That section 1014(c)(3) of the
19 USA PATRIOT ACT (42 U.S.C. 3714(c)(3)) shall
20 not apply to these grants;

21 (3) \$275,081,000 for training, exercises, tech-
22 nical assistance, and other programs:

23 *Provided*, That none of the grants provided under this
24 heading shall be used for the construction or renovation
25 of facilities: *Provided further*, That notwithstanding the

1 previous proviso, funds under this heading may be used
 2 for a minor perimeter security project, the cost of which
 3 shall not exceed \$1,000,000, as deemed necessary by the
 4 Secretary of Homeland Security: *Provided further*, That
 5 grantees shall provide additional reports on their use of
 6 funds, as deemed necessary by the Secretary: *Provided*
 7 *further*, That not to exceed 10 percent of funds appro-
 8 priated for law enforcement terrorism prevention grants
 9 under paragraph (1) and discretionary grants under para-
 10 graph (2) of this heading shall be available for operational
 11 costs, to include personnel overtime and overtime associ-
 12 ated with Office of State and Local Government Coordina-
 13 tion and Preparedness certified training, as needed.

14 FIREFIGHTER ASSISTANCE GRANTS

15 For necessary expenses for programs authorized by
 16 section 33 of the Federal Fire Prevention and Control Act
 17 of 1974 (15 U.S.C. 2229), \$700,000,000, to remain avail-
 18 able until September 30, 2006: *Provided*, That not to ex-
 19 ceed 5 percent of this amount shall be available for pro-
 20 gram administration.

21 EMERGENCY MANAGEMENT PERFORMANCE GRANTS

22 For necessary expenses for emergency management
 23 performance grants, as authorized by the National Flood
 24 Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Rob-
 25 ert T. Stafford Disaster Relief and Emergency Assistance
 26 Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards

1 Reductions Act of 1977 (42 U.S.C. 7701 et seq.), and Re-
 2 organization Plan No. 3 of 1978 (5 U.S.C. App.),
 3 \$180,000,000: *Provided*, That total administrative costs
 4 shall not exceed 3 percent of the total appropriation.

5 COUNTERTERRORISM FUND

6 For necessary expenses, as determined by the Sec-
 7 retary of Homeland Security, to reimburse any Federal
 8 agency for the costs of providing support to counter, inves-
 9 tigate, or respond to unexpected threats or acts of ter-
 10 rorism, including payment of rewards in connection with
 11 these activities, \$10,000,000, to remain available until ex-
 12 pended: *Provided*, That the Secretary shall notify the
 13 Committees on Appropriations of the Senate and the
 14 House of Representatives 15 days prior to the obligation
 15 of any amount of these funds in accordance with section
 16 502 of this Act.

17 EMERGENCY PREPAREDNESS AND RESPONSE

18 OFFICE OF THE UNDER SECRETARY FOR EMERGENCY

19 PREPAREDNESS AND RESPONSE

20 For necessary expenses for the Office of the Under
 21 Secretary for Emergency Preparedness and Response, as
 22 authorized by section 502 of the Homeland Security Act
 23 of 2002 (6 U.S.C. 312), \$4,211,000.

24 PREPAREDNESS, MITIGATION, RESPONSE, AND RECOVERY

25 For necessary expenses for preparedness, mitigation,
 26 response, and recovery activities of the Directorate of

1 Emergency Preparedness and Response, \$231,499,000,
 2 including activities authorized by the National Flood In-
 3 surance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert
 4 T. Stafford Disaster Relief and Emergency Assistance Act
 5 (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduc-
 6 tion Act of 1977 (42 U.S.C. 7701 et seq.), the Federal
 7 Fire Prevention and Control Act of 1974 (15 U.S.C. 2201
 8 et seq.), the Defense Production Act of 1950 (50 U.S.C.
 9 App. 2061 et seq.), sections 107 and 303 of the National
 10 Security Act of 1947 (50 U.S.C. 404, 405), Reorganiza-
 11 tion Plan No. 3 of 1978 (5 U.S.C. App.), and the Home-
 12 land Security Act of 2002 (6 U.S.C. 101 et seq.): *Pro-*
 13 *vided*, That of the total amount appropriated,
 14 \$30,000,000 shall be for Urban Search and Rescue
 15 Teams, of which not to exceed 3 percent may be made
 16 available for administrative costs.

17 ADMINISTRATIVE AND REGIONAL OPERATIONS

18 For necessary expenses for administrative and re-
 19 gional operations of the Emergency Preparedness and Re-
 20 sponse Directorate, \$196,939,000, including activities au-
 21 thorized by the National Flood Insurance Act of 1968 (42
 22 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Re-
 23 lief and Emergency Assistance Act (42 U.S.C. 5121 et
 24 seq.), the Earthquake Hazards Reduction Act of 1977 (42
 25 U.S.C. 7701 et seq.), the Federal Fire Prevention and
 26 Control Act of 1974 (15 U.S.C. 2201 et seq.), the Defense

1 Production Act of 1950 (50 U.S.C. App. 2061 et seq.),
 2 sections 107 and 303 of the National Security Act of 1947
 3 (50 U.S.C. 404, 405), Reorganization Plan No. 3 of 1978
 4 (5 U.S.C. App.), and the Homeland Security Act of 2002
 5 (6 U.S.C. 101 et seq.): *Provided*, That not to exceed
 6 \$3,000 shall be for official reception and representation
 7 expenses.

8 PUBLIC HEALTH PROGRAMS

9 For necessary expenses for countering potential bio-
 10 logical, disease, and chemical threats to civilian popu-
 11 lations, \$34,000,000.

12 RADIOLOGICAL EMERGENCY PREPAREDNESS PROGRAM

13 The aggregate charges assessed during fiscal year
 14 2005, as authorized in title III of the Departments of Vet-
 15 erans Affairs and Housing and Urban Development, and
 16 Independent Agencies Appropriations Act, 1999 (42
 17 U.S.C. 5196e), shall not be less than 100 percent of the
 18 amounts anticipated by the Department of Homeland Se-
 19 curity necessary for its radiological emergency prepared-
 20 ness program for the next fiscal year: *Provided*, That the
 21 methodology for assessment and collection of fees shall be
 22 fair and equitable; and shall reflect costs of providing such
 23 services, including administrative costs of collecting such
 24 fees: *Provided further*, That fees received under this head-
 25 ing shall be deposited in this account as offsetting collec-

1 tions and will become available for authorized purposes on
 2 October 1, 2005, and remain available until expended.

3 DISASTER RELIEF

4 For necessary expenses in carrying out the Robert
 5 T. Stafford Disaster Relief and Emergency Assistance Act
 6 (42 U.S.C. 5121 et seq.), \$2,151,000,000, to remain avail-
 7 able until expended.

8 DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

9 For administrative expenses to carry out the direct
 10 loan program, as authorized by section 319 of the Robert
 11 T. Stafford Disaster Relief and Emergency Assistance Act
 12 (42 U.S.C. 5162), \$567,000: *Provided*, That gross obliga-
 13 tions for the principal amount of direct loans shall not
 14 exceed \$25,000,000: *Provided further*, That the cost of
 15 modifying such loans shall be as defined in section 502
 16 of the Congressional Budget Act of 1974 (2 U.S.C. 661a).

17 FLOOD MAP MODERNIZATION FUND

18 For necessary expenses pursuant to section 1360 of
 19 the National Flood Insurance Act of 1968 (42 U.S.C.
 20 4101), \$200,000,000, and such additional sums as may
 21 be provided by State and local governments or other polit-
 22 ical subdivisions for cost-shared mapping activities under
 23 section 1360(f)(2) of such Act, to remain available until
 24 expended: *Provided*, That total administrative costs shall
 25 not exceed 3 percent of the total appropriation.

1 NATIONAL FLOOD INSURANCE FUND

2 (INCLUDING TRANSFER OF FUNDS)

3 For activities under the National Flood Insurance
4 Act of 1968 (42 U.S.C. 4001 et seq.), not to exceed
5 \$33,336,000 for salaries and expenses associated with
6 flood mitigation and flood insurance operations; and not
7 to exceed \$79,257,000 for flood hazard mitigation, to re-
8 main available until September 30, 2006, including up to
9 \$20,000,000 for expenses under section 1366 of the Na-
10 tional Flood Insurance Act of 1968 (42 U.S.C. 4104e),
11 which amount shall be available for transfer to the Na-
12 tional Flood Mitigation Fund until September 30, 2006,
13 and which amount shall be derived from offsetting collec-
14 tions assessed and collected pursuant to section 1307 of
15 that Act (42 U.S.C. 4014), and shall be retained and used
16 for necessary expenses under this heading: *Provided, That*
17 in fiscal year 2005, no funds in excess of: (1) \$55,000,000
18 for operating expenses; (2) \$562,881,000 for agents' com-
19 missions and taxes; and (3) \$30,000,000 for interest on
20 Treasury borrowings shall be available from the National
21 Flood Insurance Fund.

22 MITIGATION GRANTS

23 For activities designed to reduce the risk of flood
24 damage to structures pursuant to the National Flood In-
25 surance Act of 1968, notwithstanding subsections (b)(3)
26 and (f) of section 1366, and for a pre-disaster mitigation

1 grant program pursuant to title II of the Disaster Relief
2 Act of 1974 (42 U.S.C. 5131 et seq.), \$170,000,000, of
3 which \$20,000,000 shall be derived from the National
4 Flood Insurance Fund, to remain available until Sep-
5 tember 30, 2006, and \$150,000,000, to remain available
6 until expended, for the Pre-Disaster Mitigation Fund:
7 *Provided*, That grants made for pre-disaster mitigation
8 shall be awarded on a competitive basis subject to the cri-
9 teria in section 203(g) of the Disaster Relief Act of 1974
10 (42 U.S.C. 5133(g)), and notwithstanding section 203(f)
11 of such Act, shall be made without reference to State allo-
12 cations, quotas, or other formula-based allocation of
13 funds: *Provided further*, That total administrative costs for
14 pre-disaster mitigation shall not exceed 3 percent of the
15 total appropriation.

16 EMERGENCY FOOD AND SHELTER

17 To carry out an emergency food and shelter program
18 pursuant to subtitle B of title III of the Stewart B.
19 McKinney Homeless Assistance Act (42 U.S.C. 11341 et
20 seq.), \$153,000,000, to remain available until expended:
21 *Provided*, That total administrative costs shall not exceed
22 3.5 percent of the total appropriation.

1 TITLE IV—RESEARCH AND DEVELOPMENT,
 2 TRAINING, ASSESSMENTS, AND SERVICES
 3 CITIZENSHIP AND IMMIGRATION SERVICES

4 For necessary expenses for citizenship and immigra-
 5 tion services for backlog reduction activities,
 6 \$140,000,000.

7 FEDERAL LAW ENFORCEMENT TRAINING CENTER
 8 SALARIES AND EXPENSES

9 For necessary expenses of the Federal Law Enforce-
 10 ment Training Center, including materials and support
 11 costs of Federal law enforcement basic training; purchase
 12 of not to exceed 117 vehicles for police-type use and hire
 13 of passenger motor vehicles; expenses for student athletic
 14 and related activities; the conduct of and participation in
 15 firearms matches and presentation of awards; public
 16 awareness and enhancement of community support of law
 17 enforcement training; room and board for student interns;
 18 a flat monthly reimbursement to employees authorized to
 19 use personal cell phones for official duties; and services
 20 as authorized by section 3109 of title 5, United States
 21 Code; \$181,440,000, of which up to \$36,174,000 for ma-
 22 terials and support costs of Federal law enforcement basic
 23 training shall remain available until September 30, 2006;
 24 and of which not to exceed \$12,000 shall be for official
 25 reception and representation expenses: *Provided*, That the

1 Center is authorized to obligate funds in anticipation of
 2 reimbursements from agencies receiving training spon-
 3 sored by the Center, except that total obligations at the
 4 end of the fiscal year shall not exceed total budgetary re-
 5 sources available at the end of the fiscal year.

6 ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND
 7 RELATED EXPENSES

8 For acquisition of necessary additional real property
 9 and facilities, construction, and ongoing maintenance, fa-
 10 cility improvements, and related expenses of the Federal
 11 Law Enforcement Training Center, \$42,917,000, to re-
 12 main available until expended: *Provided*, That the Center
 13 is authorized to accept reimbursement to this appropria-
 14 tion from government agencies requesting the construction
 15 of special use facilities.

16 INFORMATION ANALYSIS AND INFRASTRUCTURE
 17 PROTECTION

18 MANAGEMENT AND ADMINISTRATION

19 For necessary expenses of the Directorate of Infor-
 20 mation Analysis and Infrastructure Protection, including
 21 the immediate Office of the Under Secretary for Informa-
 22 tion Analysis and Infrastructure Protection, for manage-
 23 ment and administration of programs and activities, as
 24 authorized by title II of the Homeland Security Act of
 25 2002 (6 U.S.C. 121 et seq.), \$157,064,000.

1 ASSESSMENTS AND EVALUATIONS

2 For necessary expenses for information analysis and
3 infrastructure protection as authorized by title II of the
4 Homeland Security Act of 2002 (6 U.S.C. 121 et seq.),
5 \$718,512,000, to remain available until September 30,
6 2006, of which not to exceed \$20,000 may be used for
7 official reception and representation expenses: *Provided*,
8 That none of the funds available under this heading shall
9 be available for sole-source contractual agreements unless
10 the Committees on Appropriations of the Senate and the
11 House of Representatives are notified 15 days in advance
12 of such decision, or the Secretary of Homeland Security
13 certifies to the Committee that such agreement is nec-
14 essary to respond to a national emergency or prevent an
15 impending terrorist attack.

16 SCIENCE AND TECHNOLOGY

17 MANAGEMENT AND ADMINISTRATION

18 For salaries and expenses of the immediate Office of
19 the Under Secretary for Science and Technology and for
20 management and administration of programs and activi-
21 ties, as authorized by title III of the Homeland Security
22 Act of 2002 (6 U.S.C. 181 et seq.), \$52,550,000.

9 TITLE V—GENERAL PROVISIONS

SEC. 502. (a) None of the funds provided by this Act, provided by previous appropriations Acts to the agencies in or transferred to the Department of Homeland Security that remain available for obligation or expenditure in fiscal year 2005, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds that: (1) creates a new program; (2) eliminates a program, project, or activity; (3) increases funds for any program, project, or activity for which funds have been denied or restricted by the Congress; (4) proposes to use funds directed for a specific activity by either the House

1 or Senate Committees on Appropriations for a different
2 purpose; (5) relocates an office or employees; or (6) con-
3 tracts out or privatizes any functions or activities pres-
4 ently performed by Federal employees, unless the Commit-
5 tees on Appropriations of the Senate and the House of
6 Representatives are notified 15 days in advance of such
7 reprogramming of funds.

8 (b) None of the funds provided by this Act, provided
9 by previous appropriation Acts to the agencies in or trans-
10 ferred to the Department of Homeland Security that re-
11 main available for obligation or expenditure in fiscal year
12 2005, or provided from any accounts in the Treasury of
13 the United States derived by the collection of fees available
14 to the agencies funded by this Act, shall be available for
15 obligation or expenditure for programs, projects, or activi-
16 ties through a reprogramming of funds in excess of
17 \$5,000,000 or 10 percent, whichever is less, that: (1) aug-
18 ments existing programs, projects, or activities; (2) re-
19 duces by 10 percent funding for any existing program,
20 project, or activity, or numbers of personnel by 10 percent
21 as approved by the Congress; or (3) results from any gen-
22 eral savings from a reduction in personnel that would re-
23 sult in a change in existing programs, projects, or activi-
24 ties as approved by the Congress, unless the Committees
25 on Appropriations of the Senate and the House of Rep-

1 representatives are notified 15 days in advance of such re-
2 programming of funds.

3 (c) Not to exceed 5 percent of any appropriation
4 made available for the current fiscal year for the Depart-
5 ment of Homeland Security by this Act or provided by
6 previous appropriations Acts may be transferred between
7 such appropriations, but no such appropriations, except
8 as otherwise specifically provided, shall be increased by
9 more than 10 percent by such transfers: *Provided*, That
10 any transfer under this section shall be treated as a re-
11 programming of funds under subsection (b) of this section
12 and shall not be available for obligation unless the Com-
13 mittees on Appropriations of the Senate and the House
14 of Representatives are notified 15 days in advance of such
15 transfer.

16 SEC. 503. Except as otherwise specifically provided
17 by law, not to exceed 50 percent of unobligated balances
18 remaining available at the end of fiscal year 2005 from
19 appropriations for salaries and expenses for fiscal year
20 2005 in this Act shall remain available through September
21 30, 2006, in the account and for the purposes for which
22 the appropriations were provided: *Provided*, That prior to
23 the obligation of such funds, a request shall be submitted
24 to the Committees on Appropriations of the Senate and

1 the House of Representatives for approval in accordance
2 with section 502 of this Act.

3 SEC. 504. Funds made available by this Act for intel-
4 ligence activities are deemed to be specifically authorized
5 by the Congress for purposes of section 504 of the Na-
6 tional Security Act of 1947 (50 U.S.C. 414) during fiscal
7 year 2005 until the enactment of an Act authorizing intel-
8 ligence activities for fiscal year 2005.

9 SEC. 505. The Federal Law Enforcement Training
10 Center shall establish an accrediting body, to include rep-
11 resentatives from the Federal law enforcement community
12 and non-Federal accreditation experts involved in law en-
13 forcement training, to establish standards for measuring
14 and assessing the quality and effectiveness of Federal law
15 enforcement training programs, facilities, and instructors.

16 SEC. 506. None of the funds in this Act may be used
17 to make a grant allocation, discretionary grant award, dis-
18 cretionary contract award, or to issue a letter of intent
19 totaling in excess of \$1,000,000 unless the Secretary of
20 Homeland Security notifies the Committees on Appropria-
21 tions of the Senate and House of Representatives at least
22 3 full business days in advance: *Provided*, That no notifi-
23 cation shall involve funds that are not available for obliga-
24 tion.

1 SEC. 507. Notwithstanding any other provision of
2 law, no agency shall purchase, construct, or lease any ad-
3 ditional facilities, except within or contiguous to existing
4 locations, to be used for the purpose of conducting Federal
5 law enforcement training without the advance approval of
6 the Committees on Appropriations of the Senate and the
7 House of Representatives, except that the Federal Law
8 Enforcement Training Center is authorized to obtain the
9 temporary use of additional facilities by lease, contract,
10 or other agreement for training which cannot be accommo-
11 dated in existing Center facilities.

12 SEC. 508. The Director of the Federal Law Enforce-
13 ment Training Center (FLETC) shall schedule basic and
14 advanced law enforcement training at all four training fa-
15 cilities under FLETC's control to ensure that these train-
16 ing centers are operated at the highest capacity through-
17 out the fiscal year.

18 SEC. 509. None of the funds appropriated or other-
19 wise made available by this Act may be used for expenses
20 of any construction, repair, alteration, and acquisition
21 project for which a prospectus, if required by the Public
22 Buildings Act of 1959, has not been approved, except that
23 necessary funds may be expended for each project for re-
24 quired expenses for the development of a proposed pro-
25 spectus.

1 SEC. 510. None of the funds appropriated or other-
2 wise made available by this Act shall be used to pursue
3 or adopt guidelines or regulations requiring airport spon-
4 sors to provide to the Transportation Security Administra-
5 tion without cost building construction, maintenance, utili-
6 ties and expenses, or space in airport sponsor-owned build-
7 ings for services relating to aviation security: *Provided*,
8 That the prohibition of funds in this section does not apply
9 to—

10 (1) negotiations between the agency and airport
11 sponsors to achieve agreement on “below-market”
12 rates for these items, or

13 (2) space for necessary security checkpoints.

14 SEC. 511. None of the funds in this Act may be used
15 in contravention of the applicable provisions of the Buy
16 American Act (41 U.S.C. 10a et seq.).

17 SEC. 512. The Secretary of Homeland Security is di-
18 rected to research, develop, and procure certified systems
19 to inspect and screen air cargo on passenger aircraft at
20 the earliest date possible: *Provided*, That until such tech-
21 nology is procured and installed, the Secretary shall take
22 all possible actions to prohibit high-risk cargo from being
23 transported on passenger aircraft.

24 SEC. 513. None of the funds made available by this
25 or previous appropriations Acts may be obligated for con-

1 tracting out a full-time equivalent position of the Depart-
2 ment of Homeland Security for which funds have been
3 made available unless the Committees on Appropriations
4 of the Senate and the House of Representatives are noti-
5 fied 15 days in advance.

6 SEC. 514. (a) None of the funds provided by this or
7 previous appropriations Acts may be obligated for deploy-
8 ment or implementation, on other than a test basis, of the
9 Computer Assisted Passenger Prescreening System
10 (CAPPS II) that the Transportation Security Administra-
11 tion (TSA) plans to utilize to screen aviation passengers,
12 until the General Accounting Office has reported to the
13 Committees on Appropriations of the Senate and the
14 House of Representatives that—

15 (1) a system of due process exists whereby avia-
16 tion passengers determined to pose a threat and ei-
17 ther delayed or prohibited from boarding their
18 scheduled flights by the TSA may appeal such deci-
19 sion and correct erroneous information contained in
20 CAPPS II;

21 (2) the underlying error rate of the government
22 and private data bases that will be used both to es-
23 tablish identity and assign a risk level to a pas-
24 senger will not produce a large number of false
25 positives that will result in a significant number of

1 passengers being treated mistakenly or security re-
2 sources being diverted;

3 (3) the TSA has stress-tested and demonstrated
4 the efficacy and accuracy of all search tools in
5 CAPPS II and has demonstrated that CAPPS II
6 can make an accurate predictive assessment of those
7 passengers who may constitute a threat to aviation;

8 (4) the Secretary of Homeland Security has es-
9 tablished an internal oversight board to monitor the
10 manner in which CAPPS II is being developed and
11 prepared;

12 (5) the TSA has built in sufficient operational
13 safeguards to reduce the opportunities for abuse;

14 (6) substantial security measures are in place to
15 protect CAPPS II from unauthorized access by
16 hackers or other intruders;

17 (7) the TSA has adopted policies establishing
18 effective oversight of the use and operation of the
19 system; and

20 (8) there are no specific privacy concerns with
21 the technological architecture of the system.

22 (b) During the testing phase permitted by paragraph
23 (a) of this section, no information gathered from pas-
24 sengers, foreign or domestic air carriers, or reservation

1 systems may be used to screen aviation passengers, or
2 delay or deny boarding to such passengers.

3 (c) The General Accounting Office shall submit the
4 report required under paragraph (a) of this section no
5 later than February 15, 2005.

6 This Act may be cited as the “Department of Home-
7 land Security Appropriations Act, 2005”.

Calendar No. 583

108TH CONGRESS
2^D Session

S. 2537

[Report No. 108-280]

A BILL

Making appropriations for the Department of
Homeland Security for the fiscal year ending
September 30, 2005, and for other purposes.

JUNE 17, 2004

Read twice and placed on the calendar