

Public Law 108–90
108th Congress

An Act

Making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2004, and for other purposes.

Oct. 1, 2003
[H.R. 2555]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Homeland Security for the fiscal year ending September 30, 2004, and for other purposes, namely:

Department of
Homeland
Security
Appropriations
Act, 2004.

TITLE I—DEPARTMENTAL MANAGEMENT AND OPERATIONS

OFFICE OF THE SECRETARY AND EXECUTIVE MANAGEMENT

For necessary expenses of the Office of the Secretary of Homeland Security, as authorized by section 102 of the Homeland Security Act of 2002 (6 U.S.C. 112), and executive management of the Department of Homeland Security, as authorized by law, \$80,794,000: *Provided*, That not to exceed \$40,000 shall be for allocation within the Department for official reception and representation expenses as the Secretary may determine.

OFFICE OF THE UNDER SECRETARY FOR MANAGEMENT

For necessary expenses of the Office of the Under Secretary for Management and Administration, as authorized by sections 701–705 of the Homeland Security Act of 2002 (6 U.S.C. 341–345), \$130,983,000: *Provided*, That of the total amount provided, \$20,000,000 shall remain available until expended solely for the alteration and improvement of facilities and for relocation costs necessary for the interim housing of the Department’s headquarters’ operations and organizations collocated therewith.

DEPARTMENT-WIDE TECHNOLOGY INVESTMENTS

For development and acquisition of information technology equipment, software, services, and related activities for the Department of Homeland Security, and for the costs of conversion to narrowband communications, including the cost for operation of the land mobile radio legacy systems, \$185,000,000, to remain available until expended: *Provided*, That none of the funds appropriated shall be used to support or supplement the appropriations provided for the United States Visitor and Immigrant Status Indicator Technology project or the Automated Commercial Environment.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978 (5 U.S.C. App.), \$58,664,000, of which not to exceed \$100,000 may be used for certain confidential operational expenses, including the payment of informants, to be expended at the direction of the Inspector General.

TITLE II—SECURITY, ENFORCEMENT, AND
INVESTIGATIONSOFFICE OF THE UNDER SECRETARY FOR BORDER AND
TRANSPORTATION SECURITY

SALARIES AND EXPENSES

For necessary expenses of the Office of the Under Secretary for Border and Transportation Security, as authorized by subtitle A, title IV, of the Homeland Security Act of 2002 (6 U.S.C. 201 et seq.), \$8,106,000.

UNITED STATES VISITOR AND IMMIGRANT STATUS INDICATOR
TECHNOLOGY

For necessary expenses for the development of the United States Visitor and Immigrant Status Indicator Technology project, as authorized by section 110 of the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (8 U.S.C. 1221 note), \$330,000,000, to remain available until expended: *Provided*, That none of the funds appropriated under this heading may be obligated for the United States Visitor and Immigrant Status Indicator Technology project until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security that: (1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A–11, part 3; (2) complies with the Department of Homeland Security enterprise information systems architecture; (3) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government; (4) is reviewed and approved by the Department of Homeland Security and the Office of Management and Budget; and (5) is reviewed by the General Accounting Office.

CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

For necessary expenses for enforcement of laws relating to border security, immigration, customs, and agricultural inspections and regulatory activities related to plant and animal imports; acquisition, lease, maintenance and operation of aircraft; purchase and lease of up to 4,500 (3,935 for replacement only) police-type vehicles; and contracting with individuals for personal services abroad; \$4,396,350,000; of which \$3,000,000 shall be derived from the Harbor Maintenance Trust Fund for administrative expenses related to the collection of the Harbor Maintenance Fee pursuant to Public Law 103–182 and notwithstanding section 1511(e)(1) of

Public Law 107–296; of which not to exceed \$40,000 shall be for official reception and representation expenses; of which not to exceed \$100,800,000 shall remain available until September 30, 2005, for inspection technology; of which such sums as become available in the Customs User Fee Account, except sums subject to section 13031(f)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)), shall be derived from that account; of which not to exceed \$150,000 shall be available for payment for rental space in connection with preclearance operations; of which not to exceed \$1,000,000 shall be for awards of compensation to informants, to be accounted for solely under the certificate of the Under Secretary for Border and Transportation Security; and of which not to exceed \$5,000,000 shall be available for payments or advances arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to immigration: *Provided*, That none of the funds appropriated shall be available to compensate any employee for overtime in an annual amount in excess of \$30,000, except that the Under Secretary for Border and Transportation Security may exceed that amount as necessary for national security purposes and in cases of immigration emergencies: *Provided further*, That of the total amount provided, \$12,725,000 shall be for activities to enforce laws against forced child labor in fiscal year 2004, of which not to exceed \$4,000,000 shall remain available until expended: *Provided further*, That no funds shall be available for the site acquisition, design, or construction of any Border Patrol checkpoint in the Tucson sector: *Provided further*, That the Border Patrol shall relocate its checkpoints in the Tucson sector at least once every 7 days in a manner designed to prevent persons subject to inspection from predicting the location of any such checkpoint.

Arizona.

AUTOMATION MODERNIZATION

For expenses for customs and border protection automated systems, \$441,122,000, to remain available until expended, of which not less than \$318,690,000 shall be for the development of the Automated Commercial Environment: *Provided*, That none of the funds appropriated under this heading may be obligated for the Automated Commercial Environment until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Under Secretary for Border and Transportation Security that: (1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A–11, part 3; (2) complies with the Bureau of Customs and Border Protection’s enterprise information systems architecture; (3) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government; (4) is reviewed and approved by the Bureau of Customs and Border Protection Investment Review Board, the Department of Homeland Security, and the Office of Management and Budget; and (5) is reviewed by the General Accounting Office.

CONSTRUCTION

For necessary expenses to plan, construct, renovate, equip, and maintain buildings and facilities necessary for the administration and enforcement of laws relating to customs and immigration, \$90,363,000, to remain available until expended.

IMMIGRATION AND CUSTOMS ENFORCEMENT

SALARIES AND EXPENSES

(INCLUDING RESCISSION OF FUNDS)

For necessary expenses for enforcement of immigration and customs laws, detention and removals, and investigations; and purchase and lease of up to 1,600 (1,450 for replacement only) police-type vehicles; \$2,151,050,000, of which not to exceed \$5,000,000 shall be available until expended for conducting special operations pursuant to section 3131 of the Customs Enforcement Act of 1986 (19 U.S.C. 2081); of which not to exceed \$15,000 shall be for official reception and representation expenses; of which not to exceed \$1,000,000 shall be for awards of compensation to informants, to be accounted for solely under the certificate of the Under Secretary for Border and Transportation Security; of which not less than \$100,000 shall be for promotion of public awareness of the child pornography tipline; of which not less than \$200,000 shall be for Project Alert; and of which not to exceed \$5,000,000 shall be available to fund or reimburse other Federal agencies for the costs associated with the care, maintenance, and repatriation of smuggled illegal aliens: *Provided*, That none of the funds appropriated shall be available to compensate any employee for overtime in an annual amount in excess of \$30,000, except that the Under Secretary for Border and Transportation Security may waive that amount as necessary for national security purposes and in cases of immigration emergencies: *Provided further*, That of the total amount provided, \$3,000,000 shall be for activities to enforce laws against forced child labor in fiscal year 2004, of which not to exceed \$1,000,000 shall remain available until expended.

In addition, of the funds appropriated under this heading in chapter 6 of title I of Public Law 108–11 (117 Stat. 583), \$54,000,000 are rescinded.

FEDERAL AIR MARSHALS

For necessary expenses of the Federal air marshals, \$626,400,000, to remain available until expended.

FEDERAL PROTECTIVE SERVICE

(TRANSFER OF FUNDS)

For necessary expenses for the operations of the Federal Protective Service, \$424,211,000 shall be transferred from the revenues and collections in the General Services Administration, Federal Buildings Fund.

AUTOMATION MODERNIZATION

For expenses of immigration and customs enforcement automated systems, \$40,000,000, to remain available until expended:

Provided, That none of the funds appropriated under this heading may be obligated for Atlas until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Under Secretary for Border and Transportation Security that: (1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A-11, part 3; (2) complies with the Bureau of Immigration and Customs enforcement enterprise information systems architecture; (3) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government; (4) is reviewed and approved by the Bureau of Immigration and Customs Enforcement Investment Review Board, the Department of Homeland Security, and the Office of Management and Budget; and (5) is reviewed by the General Accounting Office.

AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND
PROCUREMENT

For necessary expenses for the operations, maintenance, and procurement of marine vessels, aircraft, and other related equipment of the air and marine program, including operational training and mission-related travel, and rental payments for facilities occupied by the air or marine interdiction and demand reduction programs, the operations of which include the following: the interdiction of narcotics and other goods; the provision of support to Federal, State, and local agencies in the enforcement or administration of laws enforced by the Bureau of Immigration and Customs Enforcement; and at the discretion of the Under Secretary for Border and Transportation Security, the provision of assistance to Federal, State, and local agencies in other law enforcement and emergency humanitarian efforts, \$210,200,000, to remain available until expended: *Provided*, That no aircraft or other related equipment, with the exception of aircraft that are one of a kind and have been identified as excess to Bureau of Immigration and Customs Enforcement requirements and aircraft that have been damaged beyond repair, shall be transferred to any other Federal agency, department, or office outside of the Department of Homeland Security during fiscal year 2004 without the prior approval of the Committees on Appropriations of the Senate and the House of Representatives.

CONSTRUCTION

For necessary expenses to plan, construct, renovate, equip, and maintain buildings and facilities necessary for the administration and enforcement of the laws relating to customs and immigration, \$26,775,000, to remain available until expended.

TRANSPORTATION SECURITY ADMINISTRATION

AVIATION SECURITY

For necessary expenses of the Transportation Security Administration related to providing civil aviation security services pursuant to the Aviation and Transportation Security Act (Public Law 107-71; 115 Stat. 597), \$3,732,700,000, to remain available until expended, of which not to exceed \$3,000 shall be for official reception

and representation expenses: *Provided*, That of the total amount provided under this heading, not to exceed \$1,805,700,000 shall be for passenger screening activities; not to exceed \$1,318,700,000 shall be for baggage screening activities; and not to exceed \$703,300,000 shall be for airport security direction and enforcement presence: *Provided further*, That security service fees authorized under section 44940 of title 49, United States Code, shall be credited to this appropriation as offsetting collections: *Provided further*, That none of the funds appropriated or otherwise made available by this or any other Act may be obligated or expended to carry out provisions of section 44923(h) of title 49 United States Code: *Provided further*, That the sum herein appropriated from the General Fund shall be reduced on a dollar-for-dollar basis as such offsetting collections are received during fiscal year 2004, so as to result in a final fiscal year appropriation from the General Fund estimated at not more than \$1,662,700,000: *Provided further*, That any security service fees collected pursuant to section 118 of Public Law 107–71 in excess of the amount appropriated under this heading shall be treated as offsetting collections in fiscal year 2005: *Provided further*, That none of the funds in this Act shall be used to recruit or hire personnel into the Transportation Security Administration which would cause the agency to exceed a staffing level of 45,000 full-time equivalent screeners: *Provided further*, That of the total amount provided under this heading, \$250,000,000 shall be available only for physical modification of commercial service airports for the purpose of installing checked baggage explosive detection systems and \$150,000,000 shall be available only for procurement of checked baggage explosive detection systems.

MARITIME AND LAND SECURITY

For necessary expenses of the Transportation Security Administration related to maritime and land transportation security grants and services pursuant to the Aviation and Transportation Security Act (49 U.S.C. 40101 note), \$263,000,000, to remain available until September 30, 2005: *Provided*, That of the total amount provided under this heading, \$125,000,000 shall be available for port security grants, which shall be distributed under the same terms and conditions as provided for under Public Law 107–117; and \$17,000,000 shall be available to execute grants, contracts, and interagency agreements for the purpose of deploying Operation Safe Commerce.

INTELLIGENCE

For necessary expenses for intelligence activities pursuant to the Aviation and Transportation Security Act (115 Stat. 597), \$13,600,000.

RESEARCH AND DEVELOPMENT

For necessary expenses for research and development related to transportation security, \$155,200,000, to remain available until expended: *Provided*, That of the total amount provided under this heading, \$45,000,000 shall be available for the research and development of explosive detection devices.

ADMINISTRATION

For necessary administrative expenses of the Transportation Security Administration to carry out the Aviation and Transportation Security Act (115 Stat. 597), \$427,200,000, to remain available until September 30, 2005.

UNITED STATES COAST GUARD

OPERATING EXPENSES

(INCLUDING RESCISSION OF FUNDS)

For necessary expenses for the operation and maintenance of the Coast Guard not otherwise provided for; purchase or lease of not to exceed twenty-five passenger motor vehicles for replacement only; payments pursuant to section 156 of Public Law 97–377 (42 U.S.C. 402 note); section 229(b) of the Social Security Act (42 U.S.C. 429(b)); and recreation and welfare; \$4,713,055,000, of which \$340,000,000 shall be for defense-related activities; of which \$25,000,000 shall be derived from the Oil Spill Liability Trust Fund; and of which not to exceed \$3,000 shall be for official reception and representation expenses: *Provided*, That none of the funds appropriated by this or any other Act shall be available for administrative expenses in connection with shipping commissioners in the United States: *Provided further*, That none of the funds provided by this Act shall be available for expenses incurred for yacht documentation under section 12109 of title 46, United States Code, except to the extent fees are collected from yacht owners and credited to this appropriation: *Provided further*, That notwithstanding section 1116(c) of title 10, United States Code, amounts made available under this heading may be used to make payments into the Department of Defense Medicare-Eligible Retiree Health Care Fund for fiscal year 2004 under section 1116(a) of such title.

In addition, of the funds appropriated under this heading in chapter 6 of title I of Public Law 108–11 (117 Stat. 583), \$71,000,000 are rescinded.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

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

RESERVE TRAINING

For necessary expenses of the Coast Guard Reserve, as authorized by law; maintenance and operation of facilities; and supplies, equipment, and services; \$95,000,000.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For necessary expenses of acquisition, construction, renovation, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto; and maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law; \$967,200,000, of which \$23,500,000 shall be

Budget.

derived from the Oil Spill Liability Trust Fund; of which \$66,500,000 shall be available until September 30, 2008, to acquire, repair, renovate, or improve vessels, small boats, and related equipment; of which \$162,500,000 shall be available until September 30, 2006, for other equipment, including \$3,500,000 for defense message system implementation and \$1,000,000 for oil spill prevention efforts under the Ports and Waterways Safety Systems program; of which \$70,000,000 shall be available for personnel compensation and benefits and related costs; of which \$668,200,000 shall be available until September 30, 2008, for the Integrated Deepwater Systems program: *Provided*, That the Commandant of the Coast Guard is authorized to dispose of surplus real property, by sale or lease, and the proceeds shall be credited to this appropriation as offsetting collections and shall be available until September 30, 2006, only for Rescue 21: *Provided further*, That upon initial submission to the Congress of the fiscal year 2005 President's budget, the Secretary of Homeland Security shall transmit to the Congress a comprehensive capital investment plan for the United States Coast Guard that includes funding for each budget line item for fiscal years 2005 through 2009, with total funding for each year of the plan constrained to the funding targets for those years as estimated and approved by the Office of Management and Budget.

ALTERATION OF BRIDGES

33 USC 518 note.

For necessary expenses for alteration or removal of obstructive bridges, \$19,250,000, to remain available until expended: *Provided*, That in fiscal year 2004 and thereafter, funds for bridge alteration projects conducted pursuant to the Act of June 21, 1940 (33 U.S.C. 511 et seq.) shall be available for such projects only to the extent that the steel, iron, and manufactured products used in such projects are produced in the United States, unless contrary to law or international agreement, or unless the Commandant of the Coast Guard determines such action to be inconsistent with the public interest or the cost unreasonable.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

For necessary expenses for applied scientific research, development, test, and evaluation, and for maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law; \$15,000,000, to remain available until expended, of which \$3,500,000 shall be derived from the Oil Spill Liability Trust Fund: *Provided*, That there may be credited to and used for the purposes of this appropriation funds received from State and local governments, other public authorities, private sources, and foreign countries, for expenses incurred for research, development, testing, and evaluation.

RETIRED PAY

For retired pay, including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose, payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, payment for career status bonuses under the National Defense Authorization Act, and payments for medical care

of retired personnel and their dependents under chapter 55 of title 10, United States Code, \$1,020,000,000.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Secret Service, including purchase of not to exceed 730 vehicles for police-type use, of which 610 shall be for replacement only, and hire of passenger motor vehicles; purchase of American-made sidecar compatible motorcycles; hire of aircraft; services of expert witnesses at such rates as may be determined by the Director; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; payment of per diem or subsistence allowances to employees where a protective assignment during the actual day or days of the visit of a protectee require an employee to work 16 hours per day or to remain overnight at his or her post of duty; conduct of and participation in firearms matches; presentation of awards; travel of Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act if approval is obtained in advance from the Committees on Appropriations of the Senate and the House of Representatives; research and development; grants to conduct behavioral research in support of protective research and operations; and payment in advance for commercial accommodations as may be necessary to perform protective functions; \$1,137,280,000, of which not to exceed \$25,000 shall be for official reception and representation expenses; of which not to exceed \$100,000 shall be to provide technical assistance and equipment to foreign law enforcement organizations in counterfeit investigations; of which \$2,100,000 shall be for forensic and related support of investigations of missing and exploited children; and of which \$5,000,000 shall be a grant for activities related to the investigations of exploited children and shall remain available until expended: *Provided*, That up to \$18,000,000 provided for protective travel shall remain available until September 30, 2005: *Provided further*, That in fiscal year 2004 and thereafter, subject to the reimbursement of actual costs to this account, funds appropriated in this account shall be available, at the discretion of the Director, for the following: training United States Postal Service law enforcement personnel and Postal police officers, training Federal law enforcement officers, training State and local government law enforcement officers on a space-available basis, and training private sector security officials on a space-available basis: *Provided further*, That the United States Secret Service is authorized to obligate funds in anticipation of reimbursements from agencies and entities, as defined in section 105 of title 5, United States Code, receiving training sponsored by the James J. Rowley Training Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available under this heading at the end of the fiscal year: *Provided further*, That in fiscal year 2004 and thereafter, the James J. Rowley Training Center is authorized to provide short-term medical services for students undergoing training at the Center.

18 USC 3056
note.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED
EXPENSES

For necessary expenses for acquisition, construction, repair, alteration, and improvement of facilities, \$3,579,000, to remain available until expended.

TITLE III—PREPAREDNESS AND RECOVERY

OFFICE FOR DOMESTIC PREPAREDNESS

STATE AND LOCAL PROGRAMS

For grants, contracts, cooperative agreements, and other activities, including grants to State and local governments for terrorism prevention activities, notwithstanding any other provision of law, \$3,287,000,000, which shall be allocated as follows:

(1) \$1,700,000,000 for formula-based grants and \$500,000,000 for law enforcement terrorism prevention grants pursuant to section 1014 of the USA PATRIOT Act of 2001 (42 U.S.C. 3714): *Provided*, That no funds shall be made available to any State prior to the submission of an updated State plan to the Office for Domestic Preparedness: *Provided further*, That the application for grants shall be made available to States within 30 days after enactment of this Act; that States shall submit applications within 30 days after the grant announcement; and that the Office for Domestic Preparedness shall act within 15 days after receipt of an application or receipt of an updated State plan, whichever is later: *Provided further*, That each State shall obligate not less than 80 percent of the total amount of the grant to local governments within 60 days after the grant award; and

(2) \$725,000,000 for discretionary grants for use in high-threat, high-density urban areas, as determined by the Secretary of Homeland Security: *Provided*, That no less than 80 percent of any grant to a State shall be made available by the State to local governments within 60 days after the receipt of the funds: *Provided further*, That section 1014(c)(3) of the USA PATRIOT Act of 2001 (42 U.S.C. 3714(c)(3)) shall not apply to these grants:

Provided, That none of the funds appropriated under this heading shall be used for the construction or renovation of facilities: *Provided further*, That funds appropriated for law enforcement terrorism prevention grants under paragraph (1) and discretionary grants under paragraph (2) of this heading shall be available for operational costs, to include personnel overtime and overtime associated with Office for Domestic Preparedness certified training, as needed.

FIREFIGHTER ASSISTANCE GRANTS

For necessary expenses for programs authorized by section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229), \$750,000,000, to remain available until September 30, 2005: *Provided*, That not to exceed 5 percent of this amount shall be available for program administration.

Grants.
Deadlines.

COUNTERTERRORISM FUND

For necessary expenses, as determined by the Secretary of Homeland Security, to reimburse any Federal agency for the costs of providing support to counter, investigate, or prosecute unexpected threats or acts of terrorism, including payment of rewards in connection with these activities, \$10,000,000, to remain available until expended: *Provided*, That the Secretary shall notify the Committees on Appropriations of the Senate and the House of Representatives 15 days prior to the obligation of any amount of these funds in accordance with section 503 of this Act.

Notification.

EMERGENCY PREPAREDNESS AND RESPONSE

OFFICE OF THE UNDER SECRETARY FOR EMERGENCY PREPAREDNESS
AND RESPONSE

For necessary expenses for the Office of the Under Secretary for Emergency Preparedness and Response, as authorized by section 502 of the Homeland Security Act of 2002 (6 U.S.C. 312), \$3,450,000.

PREPAREDNESS, MITIGATION, RESPONSE, AND RECOVERY

For necessary expenses for preparedness, mitigation, response, and recovery activities of the Emergency Preparedness and Response Directorate, \$225,000,000, including activities authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.), the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947 (50 U.S.C. 404, 405), Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), and the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.): *Provided*, That of the total amount appropriated, \$60,000,000 shall be for Urban Search and Rescue Teams, of which not to exceed 3 percent may be made available for administrative costs.

ADMINISTRATIVE AND REGIONAL OPERATIONS

For necessary expenses for administrative and regional operations of the Emergency Preparedness and Response Directorate, \$167,000,000, including activities authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.), the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947 (50 U.S.C. 404, 405), Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), and the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.): *Provided*, That not to exceed \$3,000 shall be for official reception and representation expenses.

OPERATING EXPENSES

(RESCISSION OF FUNDS)

Of the funds appropriated under this heading by chapter 6 of title I of Public Law 108–11 (117 Stat. 583), \$3,000,000 are rescinded.

PUBLIC HEALTH PROGRAMS

For necessary expenses for countering potential biological, disease, and chemical threats to civilian populations, \$484,000,000, including \$400,000,000, to remain available until expended, for the Strategic National Stockpile.

BIODEFENSE COUNTERMEASURES

For necessary expenses for securing medical countermeasures against biological terror attacks, \$5,593,000,000, to remain available until September 30, 2013: *Provided*, That not to exceed \$3,418,000,000 may be obligated during fiscal years 2004 through 2008, of which not to exceed \$890,000,000 may be obligated during fiscal year 2004.

RADIOLOGICAL EMERGENCY PREPAREDNESS PROGRAM

The aggregate charges assessed during fiscal year 2004, as authorized by the Energy and Water Development Appropriations Act, 2001 (Public Law 106–377; 114 Stat. 1441A–59 et seq.), shall not be less than 100 percent of the amounts anticipated by the Department of Homeland Security necessary for its radiological emergency preparedness program for the next fiscal year: *Provided*, That the methodology for assessment and collection of fees shall be fair and equitable; and shall reflect costs of providing such services, including administrative costs of collecting such fees: *Provided further*, That fees received under this heading shall be deposited in this account as offsetting collections and will become available for authorized purposes on October 1, 2004, and remain available until expended.

DISASTER RELIEF

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in carrying out the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), \$1,800,000,000, to remain available until expended; of which not to exceed \$22,000,000 shall be transferred to and merged with the appropriation for “Office of Inspector General” for audits and investigations.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

For administrative expenses to carry out the direct loan program, as authorized by section 319 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5162), \$560,000: *Provided*, That gross obligations for the principal amount of direct loans shall not exceed \$25,000,000: *Provided further*, That the cost of modifying such loans shall be as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a).

NATIONAL PRE-DISASTER MITIGATION FUND

For a pre-disaster mitigation grant program pursuant to title II of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5131 et seq.), \$150,000,000, to remain available until expended: *Provided*, That grants made for pre-disaster mitigation shall be awarded on a competitive basis subject to the criteria in section 203(g) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133(g)): *Provided further*, That, notwithstanding section 203(f) of that Act (42 U.S.C. 5133(f)), grant awards shall be made without reference to State allocations, quotas, or other formula-based allocation of funds: *Provided further*, That total administrative costs shall not exceed 3 percent of the total appropriation.

FLOOD MAP MODERNIZATION FUND

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

NATIONAL FLOOD INSURANCE FUND

(INCLUDING TRANSFER OF FUNDS)

For activities under the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.) and the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.), not to exceed \$32,663,000 for salaries and expenses associated with flood mitigation and flood insurance operations; and not to exceed \$77,809,000 for flood hazard mitigation, to remain available until September 30, 2005, including up to \$20,000,000 for expenses under section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c), which amount shall be available for transfer to the National Flood Mitigation Fund until September 30, 2005, and which amount shall be derived from offsetting collections assessed and collected pursuant to section 1307 of that Act (42 U.S.C. 4014), and shall be retained and used for necessary expenses under this heading: *Provided*, That in fiscal year 2004, no funds in excess of: (1) \$55,000,000 for operating expenses; (2) \$565,897,000 for agents' commissions and taxes; and (3) \$40,000,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund.

NATIONAL FLOOD MITIGATION FUND

(INCLUDING TRANSFER OF FUNDS)

Notwithstanding subparagraphs (B) and (C) of subsection (b)(3), and subsection (f) of section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c), \$20,000,000, to remain available until September 30, 2005, for activities designed to reduce the risk of flood damage to structures pursuant to such Act, of which \$20,000,000 shall be derived from the National Flood Insurance Fund.

EMERGENCY MANAGEMENT PERFORMANCE GRANTS

For necessary expenses for emergency management performance grants, as authorized by the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reductions Act of 1977 (42 U.S.C. 7701 et seq.), and Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), \$180,000,000: *Provided*, That total administrative costs shall not exceed 3 percent of the total appropriation.

EMERGENCY FOOD AND SHELTER

To carry out an emergency food and shelter program pursuant to title III of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11331 et seq.), \$153,000,000, to remain available until expended: *Provided*, That total administrative costs shall not exceed 3.5 percent of the total appropriation.

CERRO GRANDE FIRE CLAIMS

For payment of claims under the Cerro Grande Fire Assistance Act (Public Law 106–246; 114 Stat. 583), \$38,062,000, to remain available until expended: *Provided*, That not to exceed 5 percent may be made available for administrative costs.

TITLE IV—RESEARCH AND DEVELOPMENT, TRAINING,
ASSESSMENTS, AND SERVICES

CITIZENSHIP AND IMMIGRATION SERVICES

For necessary expenses for citizenship and immigration services, including international services, \$236,126,000, of which not to exceed \$5,000 shall be for official reception and representation expenses.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Law Enforcement Training Center, including materials and support costs of Federal law enforcement basic training; purchase of not to exceed 117 vehicles for police-type use and hire of passenger motor vehicles; expenses for student athletic and related activities; the conduct of and participation in firearms matches and presentation of awards; public awareness and enhancement of community support of law enforcement training; room and board for student interns; a flat monthly reimbursement to employees authorized to use personal cell phones for official duties; and services as authorized by section 3109 of title 5, United States Code; \$155,423,000, of which up to \$36,174,000 for materials and support costs of Federal law enforcement basic training shall remain available until September 30, 2005; and of which not to exceed \$12,000 shall be for official reception and representation expenses: *Provided*, That in fiscal year 2004 and thereafter, the Center is authorized to accept and use gifts of property, both real and personal, and to accept services, for authorized purposes: *Provided further*, That

6 USC 464a.

6 USC 464b.

in fiscal year 2004 and thereafter, the Center is authorized to accept detailees from other Federal agencies, on a non-reimbursable basis, to staff the accreditation function: *Provided further*, That in fiscal year 2004 and thereafter, students attending training at any Center site shall reside in on-Center or Center-provided housing, insofar as available and in accordance with Center policy: *Provided further*, That in fiscal year 2004 and thereafter, funds appropriated in this account shall be available, at the discretion of the Director, for the following: training United States Postal Service law enforcement personnel and Postal police officers; State and local government law enforcement training on a space-available basis; training of foreign law enforcement officials on a space-available basis with reimbursement of actual costs to this appropriation, except that reimbursement may be waived by the Secretary for law enforcement training activities in foreign countries undertaken under section 801 of the Antiterrorism and Effective Death Penalty Act of 1996 (28 U.S.C. 509 note); training of private sector security officials on a space-available basis with reimbursement of actual costs to this appropriation; and travel expenses of non-Federal personnel to attend course development meetings and training sponsored by the Center: *Provided further*, That the Center is authorized to obligate funds in anticipation of reimbursements from agencies receiving training sponsored by the Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available at the end of the fiscal year: *Provided further*, That in fiscal year 2004 and thereafter, the Center is authorized to provide short-term medical services for students undergoing training at the Center.

6 USC 464c.

6 USC 464d.

6 USC 464e.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For acquisition of necessary additional real property and facilities, construction, and ongoing maintenance, facility improvements, and related expenses of the Federal Law Enforcement Training Center, \$37,357,000, to remain available until expended: *Provided*, That the Center is authorized to accept reimbursement to this appropriation from government agencies requesting the construction of special use facilities.

INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

MANAGEMENT AND ADMINISTRATION

For salaries and expenses of the immediate Office of the Under Secretary for Information Analysis and Infrastructure Protection and for management and administration of programs and activities, as authorized by title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.), \$125,000,000.

ASSESSMENTS AND EVALUATIONS

For expenses for information analysis and infrastructure protection as authorized by title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.), \$714,300,000, to remain available until September 30, 2005.

SCIENCE AND TECHNOLOGY

MANAGEMENT AND ADMINISTRATION

For salaries and expenses of the immediate Office of the Under Secretary for Science and Technology and for management and administration of programs and activities, as authorized by title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.), \$44,168,000.

RESEARCH, DEVELOPMENT, ACQUISITION, AND OPERATIONS

For expenses of science and technology research, including advanced research projects; development; test and evaluation; acquisition; and operations, as authorized by title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.), \$874,000,000, to remain available until expended.

TITLE V—GENERAL PROVISIONS

(INCLUDING TRANSFERS OF FUNDS)

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 502. Subject to the requirements of section 503 of this Act, the unexpended balances of prior appropriations provided for activities in this Act may be transferred to appropriation accounts for such activities established pursuant to this Act: *Provided*, That balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

SEC. 503. (a) None of the funds provided by this Act, provided by previous appropriation Acts to the agencies in or transferred to the Department of Homeland Security that remain available for obligation or expenditure in fiscal year 2004, 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; or (4) proposes to use funds directed for a specific activity by either the House or Senate Committees on Appropriations for a different purpose, unless both Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such reprogramming of funds.

(b) None of the funds provided by this Act, provided by previous appropriation Acts to the agencies in or transferred to the Department of Homeland Security that remain available for obligation or expenditure in fiscal year 2004, 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 for programs, projects, or activities through a reprogramming of funds in excess of \$5,000,000 or 10 percent, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by

10 percent as approved by the Congress; or (3) results from any general savings from a reduction in personnel that would result in a change in existing programs, projects, or activities as approved by the Congress; unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such reprogramming of funds.

(c) Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Homeland Security by this Act or provided by previous appropriation Acts may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by such transfers: *Provided*, That any transfer under this section shall be treated as a reprogramming of funds under subsection (b) of this section and shall not be available for obligation unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such transfer.

SEC. 504. Except as otherwise specifically provided by law, not to exceed 50 percent of unobligated balances remaining available at the end of fiscal year 2004 from appropriations for salaries and expenses for fiscal year 2004 in this Act shall remain available through September 30, 2005, in the account and for the purposes for which the appropriations were provided: *Provided*, That prior to the obligation of such funds, a request shall be submitted to the Committees on Appropriations of the Senate and the House of Representatives for approval in accordance with section 503 of this Act. 6 USC 453a.

SEC. 505. In fiscal year 2004 and thereafter, unless otherwise provided, funds may be used for purchase of uniforms without regard to the general purchase price limitation for the current fiscal year; purchase of insurance for official motor vehicles operated in foreign countries; entering into contracts with the Department of State to furnish health and medical services to employees and their dependents serving in foreign countries; services authorized by section 3109 of title 5, United States Code; and the hire and purchase of motor vehicles, as authorized by section 1343 of title 31, United States Code: *Provided*, That purchase for police-type use of passenger vehicles may be made without regard to the general purchase price limitation for the current fiscal year.

SEC. 506. The Federal Emergency Management Agency “Working Capital Fund” shall be available to the Department of Homeland Security, as authorized by sections 503 and 1517 of the Homeland Security Act of 2002 (6 U.S.C. 313, 557), for expenses and equipment necessary for maintenance and operations of such administrative services as the Secretary of Homeland Security determines may be performed more advantageously as central services: *Provided*, That such fund shall hereafter be known as the “Department of Homeland Security Working Capital Fund”. 31 USC 501 note.

SEC. 507. The Federal Emergency Management Agency “Bequests and Gifts” account shall be available to the Department of Homeland Security, as authorized by sections 503 and 1517 of the Homeland Security Act of 2002 (6 U.S.C. 313, 557), for the Secretary of Homeland Security to accept, hold, administer and utilize gifts and bequests, including property, to facilitate the work of the Department of Homeland Security: *Provided*, That such fund shall hereafter be known as “Department of Homeland Security, Gifts and Donations”: *Provided further*, That any gift

or bequest shall be used in accordance with the terms of that gift or bequest to the greatest extent practicable.

SEC. 508. Funds made available by this Act for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2004 until the enactment of an Act authorizing intelligence activities for fiscal year 2004.

Establishment.
6 USC 464a note.

SEC. 509. The Federal Law Enforcement Training Center shall establish an accrediting body, to include representatives from the Federal law enforcement community and non-Federal accreditation experts involved in law enforcement training, to establish standards for measuring and assessing the quality and effectiveness of Federal law enforcement training programs, facilities, and instructors.

SEC. 510. None of the funds in this Act may be used to make a grant unless the Secretary of Homeland Security notifies the Committees on Appropriations of the Senate and the House of Representatives not less than 3 full business days before any grant allocation, discretionary grant award, or letter of intent totaling \$1,000,000 or more is announced by the Department or its directorates from: (1) any discretionary or formula-based grant program of the Office for Domestic Preparedness; (2) any letter of intent from the Transportation Security Administration; or (3) any port security grant: *Provided*, That no notification shall involve funds that are not available for obligation.

SEC. 511. Notwithstanding any other provision of law, no agency shall purchase, construct, and/or lease any additional facilities, except within or contiguous to existing locations, to be used for the purpose of conducting Federal law enforcement training without the advance approval of the Committees on Appropriations of the Senate and the House of Representatives, except that the Federal Law Enforcement Training Center is authorized to obtain the temporary use of additional facilities by lease, contract, or other agreement for training which cannot be accommodated in existing Center facilities.

SEC. 512. The Director of the Federal Law Enforcement Training Center shall ensure that all training facilities under the control of the Center are operated at optimal capacity throughout the fiscal year.

19 USC 1498
note.

SEC. 513. For fiscal year 2004 and thereafter, none of the funds appropriated or otherwise made available to the Department of Homeland Security may be used for the production of customs declarations that do not inquire whether the passenger had been in the proximity of livestock.

19 USC 1307
note.

SEC. 514. For fiscal year 2004 and thereafter, none of the funds appropriated or otherwise made available to the Department of Homeland Security shall be available for any activity or for paying the salary of any Government employee where funding an activity or paying a salary to a Government employee would result in a determination, regulation, or policy that would prohibit the enforcement of section 307 of the Tariff Act of 1930 (19 U.S.C. 1307).

19 USC 1307
note.

SEC. 515. For fiscal year 2004 and thereafter, none of the funds appropriated or otherwise made available to the Department of Homeland Security may be used to allow—

(1) the importation into the United States of any good, ware, article, or merchandise mined, produced, or manufactured

by forced or indentured child labor, as determined under section 307 of the Tariff Act of 1930 (19 U.S.C. 1307); or

(2) the release into the United States of any good, ware, article, or merchandise on which there is in effect a detention order under such section 307 on the basis that the good, ware, article, or merchandise may have been mined, produced, or manufactured by forced or indentured child labor.

SEC. 516. None of the funds appropriated or otherwise made available by this Act may be used for expenses of any construction, repair, alteration, and acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, has not been approved, except that necessary funds may be expended for each project for required expenses for the development of a proposed prospectus.

SEC. 517. None of the funds appropriated or otherwise made available by this Act shall be used to pursue or adopt guidelines or regulations requiring airport sponsors to provide to the Transportation Security Administration without cost building construction, maintenance, utilities and expenses, or space in airport sponsored buildings for services relating to aviation security: *Provided*, That the prohibition of funds in this section does not apply to—

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

(2) space for necessary security checkpoints.

SEC. 518. None of the funds in this Act may be used in contravention of the applicable provisions of the Buy American Act (41 U.S.C. 10a et seq.).

SEC. 519. (a) None of the funds provided by this or previous appropriations Acts may be obligated for deployment or implementation, on other than a test basis, of the Computer Assisted Passenger Prescreening System (CAPPS II) that the Transportation Security Administration (TSA) plans to utilize to screen aviation passengers, until the General Accounting Office has reported to the Committees on Appropriations of the Senate and the House of Representatives that—

(1) a system of due process exists whereby aviation passengers determined to pose a threat and either delayed or prohibited from boarding their scheduled flights by the TSA may appeal such decision and correct erroneous information contained in CAPPS II;

(2) the underlying error rate of the government and private data bases that will be used both to establish identity and assign a risk level to a passenger will not produce a large number of false positives that will result in a significant number of passengers being treated mistakenly or security resources being diverted;

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

(4) the Secretary of Homeland Security has established an internal oversight board to monitor the manner in which CAPPS II is being developed and prepared;

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

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

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

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

(b) During the testing phase permitted by paragraph (a) of this section, no information gathered from passengers, foreign or domestic air carriers, or reservation systems may be used to screen aviation passengers, or delay or deny boarding to such passengers.

Reports.
Deadline.

(c) The General Accounting Office shall submit the report required under paragraph (a) of this section no later than February 15, 2004.

Fees.
6 USC 469.

SEC. 520. For fiscal year 2004 and thereafter, the Secretary of Homeland Security shall charge reasonable fees for providing credentialing and background investigations in the field of transportation: *Provided*, That the establishment and collection of fees shall be subject to the following requirements:

(1) such fees, in the aggregate, shall not exceed the costs incurred by the Department of Homeland Security associated with providing the credential or performing the background record checks;

(2) the Secretary shall charge fees in amounts that are reasonably related to the costs of providing services in connection with the activity or item for which the fee is charged;

(3) a fee may not be collected except to the extent such fee will be expended to pay for the costs of conducting or obtaining a criminal history record check and a review of available law enforcement databases and commercial databases and records of other governmental and international agencies; reviewing and adjudicating requests for waiver and appeals of agency decisions with respect to providing the credential, performing the background record check, and denying requests for waiver and appeals; and any other costs related to providing the credential or performing the background record check; and

(4) any fee collected shall be available for expenditure only to pay the costs incurred in providing services in connection with the activity or item for which the fee is charged and shall remain available until expended.

Air Cargo.

SEC. 521. The Secretary of Homeland Security is directed to research, develop, and procure certified systems to inspect and screen air cargo on passenger aircraft at the earliest date possible: *Provided*, That until such technology is procured and installed, the Secretary shall take all possible actions to enhance the known shipper program to prohibit high-risk cargo from being transported on passenger aircraft.

This Act may be cited as the “Department of Homeland Security Appropriations Act, 2004”.

Approved October 1, 2003.

LEGISLATIVE HISTORY—H.R. 2555:

HOUSE REPORTS: Nos. 108–169 (Comm. on Appropriations) and 108–280 (Comm. of Conference).

SENATE REPORTS: No. 108–86 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 149 (2003):

June 24, considered and passed House.

July 21–24, considered and passed Senate, amended.

Sept. 24, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 39 (2003):

Oct. 1, Presidential remarks and statement.

