

Public Law 111–145
111th Congress

An Act

To make technical corrections to the laws affecting certain administrative authorities of the United States Capitol Police, and for other purposes.

Mar. 4, 2010
[H.R. 1299]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “United States Capitol Police Administrative Technical Corrections Act of 2009”.

United States
Capitol Police
Administrative
Technical
Corrections Act
of 2009.
2 USC 1901 note.

SEC. 2. ADMINISTRATIVE AUTHORITIES OF THE CHIEF OF THE CAPITOL POLICE.

(a) CLARIFICATION OF CERTAIN HIRING AUTHORITIES.—

(1) CHIEF ADMINISTRATIVE OFFICER.—Section 108(a) of the Legislative Branch Appropriations Act, 2001 (2 U.S.C. 1903(a)) is amended to read as follows:

“(a) CHIEF ADMINISTRATIVE OFFICER.—

“(1) ESTABLISHMENT.—There shall be within the United States Capitol Police an Office of Administration, to be headed by the Chief Administrative Officer, who shall report to and serve at the pleasure of the Chief of the Capitol Police.

“(2) APPOINTMENT.—The Chief Administrative Officer shall be appointed by the Chief of the United States Capitol Police, after consultation with the Capitol Police Board, without regard to political affiliation and solely on the basis of fitness to perform the duties of the position.

“(3) COMPENSATION.—The annual rate of pay for the Chief Administrative Officer shall be the amount equal to \$1,000 less than the annual rate of pay in effect for the Chief of the Capitol Police.”.

(2) ADMINISTRATIVE PROVISIONS.—Section 108 of the Legislative Branch Appropriations Act, 2001 (2 U.S.C. 1903) is amended by striking subsection (c).

(3) CERTIFYING OFFICERS.—Section 107 of the Legislative Branch Appropriations Act, 2001 (2 U.S.C. 1904) is amended—

(A) in subsection (a), by striking “the Capitol Police Board” and inserting “the Chief of the Capitol Police”; and

(B) in subsection (b)(1), by striking “the Capitol Police Board” and inserting “the Chief of the Capitol Police”.

(4) PERSONNEL ACTIONS OF THE CHIEF OF THE CAPITOL POLICE.—

(A) IN GENERAL.—Section 1018(e) of the Legislative Branch Appropriations Act, 2003 (2 U.S.C. 1907(e)) is

amended by striking paragraph (1) and inserting the following:

“(1) AUTHORITY.—

“(A) IN GENERAL.—The Chief of the Capitol Police, in carrying out the duties of office, is authorized to appoint, hire, suspend with or without pay, discipline, discharge, and set the terms, conditions, and privileges of employment of employees of the Capitol Police, subject to and in accordance with applicable laws and regulations.

“(B) SPECIAL RULE FOR TERMINATIONS.—The Chief may terminate an officer, member, or employee only after the Chief has provided notice of the termination to the Capitol Police Board (in such manner as the Board may from time to time require) and the Board has approved the termination, except that if the Board has not disapproved the termination prior to the expiration of the 30-day period which begins on the date the Board receives the notice, the Board shall be deemed to have approved the termination.

“(C) NOTICE OR APPROVAL.—The Chief of the Capitol Police shall provide notice or receive approval, as required by the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives, as each Committee determines appropriate for—

“(i) the exercise of any authority under subparagraph (A); or

“(ii) the establishment of any new position for officers, members, or employees of the Capitol Police, for reclassification of existing positions, for reorganization plans, or for hiring, termination, or promotion for officers, members, or employees of the Capitol Police.”.

(B) TECHNICAL AND CONFORMING AMENDMENTS.—

(i) SUSPENSION AUTHORITY.—Section 1823 of the Revised Statutes of the United States (2 U.S.C. 1928) is repealed.

(ii) PAY OF MEMBERS UNDER SUSPENSION.—The proviso in the Act of Mar. 3, 1875 (ch. 129; 18 Stat. 345), popularly known as the “Legislature, Executive, and Judicial Appropriation Act, fiscal year 1876”, which is codified at section 1929 of title 2, United States Code (2000 Editions, Supp. V), is repealed.

(5) CONFORMING APPLICATION OF CONGRESSIONAL ACCOUNTABILITY ACT OF 1995.—

(A) IN GENERAL.—Section 101(9)(D) of the Congressional Accountability Act of 1995 (2 U.S.C. 1301(9)(D)) is amended by striking “the Capitol Police Board,” and inserting “the United States Capitol Police,”.

(B) NO EFFECT ON CURRENT PROCEEDINGS.—Nothing in the amendment made by subparagraph (A) may be construed to affect any procedure initiated under title IV of the Congressional Accountability Act of 1995 prior to the date of the enactment of this Act.

(6) NO EFFECT ON CURRENT PERSONNEL.—Nothing in the amendments made by this subsection may be construed to affect the status of any individual serving as an officer or

Notice.
Time period.

Repeal.

Repeal.

2 USC 1929.

2 USC 1301 note.

2 USC 1903 note.

employee of the United States Capitol Police as of the date of the enactment of this Act.

(b) DEPOSIT OF REIMBURSEMENTS FOR LAW ENFORCEMENT ASSISTANCE.—

(1) IN GENERAL.—Section 2802 of the Supplemental Appropriations Act, 2001 (2 U.S.C. 1905) is amended—

(A) in subsection (a)(1), by striking “Capitol Police Board” each place it appears and inserting “United States Capitol Police”; and

(B) in subsection (a)(2), by striking “Capitol Police Board” and inserting “Chief of the United States Capitol Police”.

(2) EFFECTIVE DATE.—The amendments made by paragraph 2 USC 1905 note.

(1) shall take effect as if included in the enactment of the Supplemental Appropriations Act, 2001.

(c) PRIOR NOTICE TO AUTHORIZING COMMITTEES OF DEPLOYMENT OUTSIDE JURISDICTION.—Section 1007(a)(1) of the Legislative Branch Appropriations Act, 2005 (2 U.S.C. 1978(a)(1)) is amended by striking “prior notification to” and inserting the following: “prior notification to the Committee on House Administration of the House of Representatives, the Committee on Rules and Administration of the Senate, and”.

(d) ADVANCE PAYMENTS FOR SUBSCRIPTION SERVICES.—

(1) IN GENERAL.—Section 1002 of the Legislative Branch Appropriations Act, 2008 (Public Law 110-161; 2 U.S.C. 1981) is amended by inserting “the Committee on House Administration of the House of Representatives, and the Committee on Rules and Administration of the Senate” after “the Senate,”.

(2) EFFECTIVE DATE AND APPLICATION.—The amendment made by this subsection shall take effect 30 days after the date of enactment of this Act and apply to payments made on or after that effective date. 2 USC 1981 note.

SEC. 3. GENERAL COUNSEL TO THE CHIEF OF POLICE AND THE UNITED STATES CAPITOL POLICE.

(a) APPOINTMENT AND SERVICE.—

2 USC 1911.

(1) IN GENERAL.—There shall be within the United States Capitol Police the General Counsel to the Chief of Police and the United States Capitol Police (in this subsection referred to as the “General Counsel”), who shall report to and serve at the pleasure of the Chief of the United States Capitol Police.

(2) APPOINTMENT.—The General Counsel shall be appointed by the Chief of the Capitol Police in accordance with section 1018(e)(1) of the Legislative Branch Appropriations Act, 2003 (2 U.S.C. 1907(e)(1)) (as amended by section 2(a)(4)), after consultation with the Capitol Police Board, without regard to political affiliation and solely on the basis of fitness to perform the duties of the position.

(3) COMPENSATION.—

(A) IN GENERAL.—Subject to subparagraph (B), the annual rate of pay for the General Counsel shall be fixed by the Chief of the Capitol Police.

(B) LIMITATION.—The annual rate of pay for the General Counsel may not exceed an annual rate equal to \$1,000 less than the annual rate of pay in effect for the Chief of the Capitol Police.

Repeal.

(4) **TECHNICAL AND CONFORMING AMENDMENT.**—House Resolution 661, Ninety-fifth Congress, agreed to July 29, 1977, as enacted into permanent law by section 111 of the Legislative Branch Appropriation Act, 1979 (2 U.S.C. 1901 note) is repealed.

2 USC 84-2.

(5) **NO EFFECT ON CURRENT GENERAL COUNSEL.**—Nothing in this subsection or the amendments made by this subsection may be construed to affect the status of the individual serving as the General Counsel to the Chief of Police and the United States Capitol Police as of the date of the enactment of this Act.

(b) **LEGAL REPRESENTATION AUTHORITY.**—

(1) **IN GENERAL.**—Section 1002(a)(2)(A) of the Legislative Branch Appropriations Act, 2004 (2 U.S.C. 1908(a)(2)(A)) is amended by striking “the General Counsel for the United States Capitol Police Board and the Chief of the Capitol Police” and inserting “the General Counsel to the Chief of Police and the United States Capitol Police”.

2 USC 1908 note.

(2) **NO EFFECT ON CURRENT PROCEEDINGS.**—Nothing in the amendment made by paragraph (1) may be construed to affect the authority of any individual to enter an appearance in any proceeding before any court of the United States or of any State or political subdivision thereof which is initiated prior to the date of the enactment of this Act.

SEC. 4. EMPLOYMENT COUNSEL TO THE CHIEF OF POLICE AND THE UNITED STATES CAPITOL POLICE.

(a) **LEGAL REPRESENTATION AUTHORITY.**—

(1) **IN GENERAL.**—Section 1002(a)(2)(B) of the Legislative Branch Appropriations Act, 2004 (2 U.S.C. 1908(a)(2)(B)) is amended by striking “the Employment Counsel for the United States Capitol Police Board and the United States Capitol Police” and inserting “the Employment Counsel to the Chief of Police and the United States Capitol Police”.

2 USC 1908 note.

(2) **NO EFFECT ON CURRENT PROCEEDINGS.**—Nothing in the amendment made by paragraph (1) may be construed to affect the authority of any individual to enter an appearance in any proceeding before any court of the United States or of any State or political subdivision thereof which is initiated prior to the date of the enactment of this Act.

2 USC 1908 note.

(b) **NO EFFECT ON CURRENT EMPLOYMENT COUNSEL.**—Nothing in this section or the amendments made by this section may be construed to affect the status of the individual serving as the Employment Counsel to the Chief of Police and the United States Capitol Police as of the date of the enactment of this Act.

2 USC 1933.

SEC. 5. CLARIFICATION OF AUTHORITIES REGARDING CERTAIN PERSONNEL BENEFITS.

(a) **NO LUMP-SUM PAYMENT PERMITTED FOR UNUSED COMPENSATORY TIME.**—

(1) **IN GENERAL.**—No officer or employee of the United States Capitol Police whose service with the United States Capitol Police is terminated may receive any lump-sum payment with respect to accrued compensatory time off, except to the extent permitted under section 203(c)(4) of the Congressional Accountability Act of 1995 (2 U.S.C. 1313(c)(4)).

(2) **REPEAL OF RELATED OBSOLETE PROVISIONS.**—

(A) OVERTIME PAY DISBURSED BY HOUSE.—Section 3 of House Resolution 449, Ninety-second Congress, agreed to June 2, 1971, as enacted into permanent law by chapter IV of the Supplemental Appropriations Act, 1972 (85 Stat. 636) (2 U.S.C. 1924), together with any other provision of law which relates to compensatory time for the Capitol Police which is codified at section 1924 of title 2, United States Code (2000 Editions, Supp. V), is repealed.

(B) OVERTIME PAY DISBURSED BY SENATE.—The last full paragraph under the heading “Administrative Provisions” in the appropriation for the Senate in the Legislative Branch Appropriations Act, 1972 (85 Stat. 130) (2 U.S.C. 1925) is repealed.

(b) OVERTIME COMPENSATION FOR OFFICERS AND EMPLOYEES EXEMPT FROM FAIR LABOR STANDARDS ACT OF 1938.—

(1) CRITERIA UNDER WHICH COMPENSATION PERMITTED.—

The Chief of the Capitol Police may provide for the compensation of overtime work of exempt individuals which is performed on or after the date of the enactment of this Act, in the form of additional pay or compensatory time off, only if—

(A) the overtime work is carried out in connection with special circumstances, as determined by the Chief;

(B) the Chief has established a monetary value for the overtime work performed by such individual; and

(C) the sum of the total amount of the compensation paid to the individual for the overtime work (as determined on the basis of the monetary value established under subparagraph (B)) and the total regular compensation paid to the individual with respect to the pay period involved may not exceed an amount equal to the cap on the aggregate amount of annual compensation that may be paid to the individual under applicable law during the year in which the pay period occurs, as allocated on a per pay period basis consistent with premium pay regulations of the Capitol Police Board.

(2) EXEMPT INDIVIDUALS DEFINED.—In this subsection, an “exempt individual” is an officer or employee of the United States Capitol Police—

(A) who is classified under regulations issued pursuant to section 203 of the Congressional Accountability Act of 1995 (2 U.S.C. 1313) as exempt from the application of the rights and protections established by subsections (a)(1) and (d) of section 6, section 7, and section 12(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206 (a)(1) and (d), 207, 212(c)); or

(B) whose annual rate of pay is not established specifically under any law.

(3) CONFORMING AMENDMENT.—

(A) IN GENERAL.—Section 1009 of the Legislative Branch Appropriations Act, 2003 (Public Law 108-7; 117 Stat. 359) is repealed.

Repeal.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect as if included in the enactment of the Legislative Branch Appropriations Act, 2003, except that the amendment shall not apply with respect to any overtime work performed prior to the date of the enactment of this Act.

SEC. 6. OTHER MISCELLANEOUS TECHNICAL CORRECTIONS.

(a) **REPEAL OF OBSOLETE PROCEDURES FOR INITIAL APPOINTMENT OF CHIEF ADMINISTRATIVE OFFICER.**—Section 108 of the Legislative Branch Appropriations Act, 2001 (2 U.S.C. 1903) is amended by striking subsections (d) through (g).

(b) **REPEAL OF REQUIREMENT THAT OFFICERS PURCHASE OWN UNIFORMS.**—Section 1825 of the Revised Statutes of the United States (2 U.S.C. 1943) is repealed.

(c) **REPEAL OF REFERENCES TO OFFICERS AND PRIVATES IN AUTHORITIES RELATING TO HOUSE AND SENATE OFFICE BUILDINGS.**—

(1) **HOUSE OFFICE BUILDINGS.**—The item relating to “House of Representatives Office Building” in the Act entitled “An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and eight, and for other purposes”, approved March 4, 1907 (34 Stat. 1365; 2 U.S.C. 2001), is amended by striking “other than officers and privates of the Capitol police” each place it appears and inserting “other than the United States Capitol Police”.

(2) **SENATE OFFICE BUILDINGS.**—The item relating to “Senate Office Building” in the Legislative Branch Appropriation Act, 1943 (56 Stat. 343; 2 U.S.C. 2023) is amended by striking “other than for officers and privates of the Capitol Police” each place it appears and inserting “other than for the United States Capitol Police”.

2 USC 1901 note.

(d) **CLARIFICATION OF APPLICABILITY OF U.S. CAPITOL POLICE AND LIBRARY OF CONGRESS POLICE MERGER IMPLEMENTATION ACT OF 2007.**—

(1) **REPEAL OF DUPLICATE PROVISIONS.**—Effective as if included in the enactment of the Legislative Branch Appropriations Act, 2008 (Public Law 110-161), section 1004 of such Act is repealed, and any provision of law amended or repealed by such section is restored or revived to read as if such section had not been enacted into law.

(2) **NO EFFECT ON OTHER ACT.**—Nothing in paragraph (1) may be construed to prevent the enactment or implementation of any provision of the U.S. Capitol Police and Library of Congress Police Merger Implementation Act of 2007 (Public Law 110-178), including any provision of such Act that amends or repeals a provision of law which is restored or revived pursuant to paragraph (1).

(e) **AUTHORITY OF CHIEF OF POLICE.**—

(1) **REPEAL OF CERTAIN PROVISIONS CODIFIED IN TITLE 2, UNITED STATES CODE.**—The provisions appearing in the first paragraph under the heading “Capitol Police” in the Act of April 28, 1902 (ch. 594; 32 Stat. 124), and the provisions appearing in the first paragraph under the heading “Capitol Police” in title I of the Legislative and Judiciary Appropriation Act, 1944 (ch. 173; 57 Stat. 230), insofar as all of those provisions are related to the sentence “The captain and lieutenants shall be selected jointly by the Sergeant at Arms of the Senate and the Sergeant at Arms of the House of Representatives; and one-half of the privates shall be selected by the Sergeant at Arms of the Senate and one-half by the Sergeant at Arms of the House of Representatives.”, which appears in 2 U.S.C. 1901 (2000 Edition, Supp. V), are repealed.

(2) **RESTORATION OF REPEALED PROVISION.**—Section 1018(h)(1) of the Legislative Branch Appropriations Act, 2003 (Public Law 108-7, div. H, title I, 117 Stat. 368) is repealed, and the sentence “The Capitol Police shall be headed by a Chief who shall be appointed by the Capitol Police Board and shall serve at the pleasure of the Board.”, which was repealed by such section, is restored to appear at the end of section 1821 of the Revised Statutes of the United States (2 U.S.C. 1901). 2 USC 1901.

(3) **CONFORMING AMENDMENT.**—The first sentence of section 1821 of the Revised Statutes of the United States (2 U.S.C. 1901) is amended by striking “, the members of which shall be appointed by the Sergeants-at-Arms of the two Houses and the Architect of the Capitol Extension”.

(4) **EFFECTIVE DATE.**—The amendments made by this subsection shall take effect as if included in the enactment of the Legislative Branch Appropriations Act, 2003. 2 USC 1901 note.

SEC. 7. TREATMENT OF CAPITOL POLICE EMPLOYEES AS CONGRESSIONAL EMPLOYEES.

(a) **DEFINITION OF CONGRESSIONAL EMPLOYEE.**—Section 2107(4) of title 5, United States Code, is amended by inserting “or employee” after “member”.

(b) **DUAL PAY AND DUAL EMPLOYMENT.**—

(1) **DEFINITION OF AGENCY IN THE LEGISLATIVE BRANCH.**—Section 5531(4) of title 5, United States Code, is amended by striking “and the Congressional Budget Office” and inserting “the Congressional Budget Office, and the United States Capitol Police”.

(2) **DUAL PAY.**—Section 5533 of title 5, United States Code, is amended—

(A) in subsection (c)—

(i) in paragraph (1), by striking “or the Chief Administrative Officer of the House of Representatives” and inserting “, the Chief Administrative Officer of the House of Representatives, or the Chief of the Capitol Police”; and

(ii) in paragraph (2), by inserting “or the Chief of the Capitol Police” after “House of Representatives”; and

(B) in subsection (d)(5)(A), by striking “or the Chief Administrative Officer of the House of Representatives” and inserting “, the Chief Administrative Officer of the House of Representatives, or the Chief of the Capitol Police”.

(c) **FEES FOR JURY AND WITNESS SERVICE.**—

(1) **CREDITING AMOUNTS RECEIVED.**—Section 5515 of title 5, United States Code, is amended by striking “or the Chief Administrative Officer of the House of Representatives” and inserting “, the Chief Administrative Officer of the House of Representatives, or the Chief of the Capitol Police”.

(2) **FEES FOR SERVICE.**—Section 5537(a) of title 5, United States Code, is amended by striking “or the Chief Administrative Officer of the House of Representatives” and inserting “, the Chief Administrative Officer of the House of Representatives, or the Chief of the Capitol Police”.

5 USC 2107 note.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall take effect as though enacted as part of section 1018 of the Legislative Branch Appropriations Act, 2003 (2 U.S.C. 1907).

2 USC 61f-14.

SEC. 8. LAW ENFORCEMENT AUTHORITY OF SERGEANT-AT-ARMS AND DOORKEEPER OF THE SENATE.

(a) **IN GENERAL.**—The Sergeant-at-Arms and Doorkeeper of the Senate shall have the same law enforcement authority, including the authority to carry firearms, as a member of the Capitol Police. The law enforcement authority under the preceding sentence shall be subject to the requirement that the Sergeant-at-Arms and Doorkeeper of the Senate have the qualifications specified in subsection (b).

(b) **QUALIFICATIONS.**—The qualifications referred to in subsection (a) are the following:

(1) A minimum of 5 years of experience as a law enforcement officer before beginning service as the Sergeant-at-Arms and Doorkeeper of the Senate.

(2) Current certification in the use of firearms by the appropriate Federal law enforcement entity or an equivalent non-Federal entity.

(3) Any other firearms qualification required for members of the Capitol Police.

(c) **REGULATIONS.**—The Committee on Rules and Administration of the Senate shall have authority to prescribe regulations to carry out this section.

Travel Promotion
Act of 2009.
22 USC 2131.

SEC. 9. TRAVEL PROMOTION ACT OF 2009.

(a) **SHORT TITLE.**—This section may be cited as the “Travel Promotion Act of 2009”.

(b) **THE CORPORATION FOR TRAVEL PROMOTION.**—

(1) **ESTABLISHMENT.**—The Corporation for Travel Promotion is established as a nonprofit corporation. The Corporation shall not be an agency or establishment of the United States Government. The Corporation shall be subject to the provisions of the District of Columbia Nonprofit Corporation Act (D.C. Code, section 29-1001 et seq.), to the extent that such provisions are consistent with this subsection, and shall have the powers conferred upon a nonprofit corporation by that Act to carry out its purposes and activities.

(2) **BOARD OF DIRECTORS.**—

(A) **IN GENERAL.**—The Corporation shall have a board of directors of 11 members with knowledge of international travel promotion and marketing, broadly representing various regions of the United States, who are United States citizens. Members of the board shall be appointed by the Secretary of Commerce (after consultation with the Secretary of Homeland Security and the Secretary of State), as follows:

(i) 1 shall have appropriate expertise and experience in the hotel accommodations sector;

(ii) 1 shall have appropriate expertise and experience in the restaurant sector;

(iii) 1 shall have appropriate expertise and experience in the small business or retail sector or in associations representing that sector;

(iv) 1 shall have appropriate expertise and experience in the travel distribution services sector;

Appointment.

(v) 1 shall have appropriate expertise and experience in the attractions or recreations sector;

(vi) 1 shall have appropriate expertise and experience as officials of a city convention and visitors' bureau;

(vii) 2 shall have appropriate expertise and experience as officials of a State tourism office;

(viii) 1 shall have appropriate expertise and experience in the passenger air sector;

(ix) 1 shall have appropriate expertise and experience in immigration law and policy, including visa requirements and United States entry procedures; and

(x) 1 shall have appropriate expertise in the inter-city passenger railroad business.

(B) INCORPORATION.—The members of the initial board of directors shall serve as incorporators and shall take whatever actions are necessary to establish the Corporation under the District of Columbia Nonprofit Corporation Act (D.C. Code, section 29–301.01 et seq.).

(C) TERM OF OFFICE.—The term of office of each member of the board appointed by the Secretary shall be 3 years, except that, of the members first appointed—

(i) 3 shall be appointed for terms of 1 year;

(ii) 4 shall be appointed for terms of 2 years; and

(iii) 4 shall be appointed for terms of 3 years.

(D) REMOVAL FOR CAUSE.—The Secretary of Commerce may remove any member of the board for good cause.

(E) VACANCIES.—Any vacancy in the board shall not affect its power, but shall be filled in the manner required by this subsection. Any member whose term has expired may serve until the member's successor has taken office, or until the end of the calendar year in which the member's term has expired, whichever is earlier. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which that member's predecessor was appointed shall be appointed for the remainder of the predecessor's term. No member of the board shall be eligible to serve more than 2 consecutive full 3-year terms.

(F) ELECTION OF CHAIRMAN AND VICE CHAIRMAN.—Deadline. Members of the board shall annually elect one of the members to be Chairman and elect 1 or 2 of the members as Vice Chairman or Vice Chairmen.

(G) STATUS AS FEDERAL EMPLOYEES.—Notwithstanding any provision of law to the contrary, no member of the board may be considered to be a Federal employee of the United States by virtue of his or her service as a member of the board.

(H) COMPENSATION; EXPENSES.—No member shall receive any compensation from the Federal government for serving on the Board. Each member of the Board shall be paid actual travel expenses and per diem in lieu of subsistence expenses when away from his or her usual place of residence, in accordance with section 5703 of title 5, United States Code.

(3) OFFICERS AND EMPLOYEES.—

(A) IN GENERAL.—The Corporation shall have an executive director and such other officers as may be named and appointed by the board for terms and at rates of compensation fixed by the board. No individual other than a citizen of the United States may be an officer of the Corporation. The Corporation may hire and fix the compensation of such employees as may be necessary to carry out its purposes. No officer or employee of the Corporation may receive any salary or other compensation (except for compensation for services on boards of directors of other organizations that do not receive funds from the Corporation, on committees of such boards, and in similar activities for such organizations) from any sources other than the Corporation for services rendered during the period of his or her employment by the Corporation. Service by any officer on boards of directors of other organizations, on committees of such boards, and in similar activities for such organizations shall be subject to annual advance approval by the board and subject to the provisions of the Corporation's Statement of Ethical Conduct. All officers and employees shall serve at the pleasure of the board.

(B) NONPOLITICAL NATURE OF APPOINTMENT.—No political test or qualification shall be used in selecting, appointing, promoting, or taking other personnel actions with respect to officers, agents, or employees of the Corporation.

(4) NONPROFIT AND NONPOLITICAL NATURE OF CORPORATION.—

(A) STOCK.—The Corporation shall have no power to issue any shares of stock, or to declare or pay any dividends.

(B) PROFIT.—No part of the income or assets of the Corporation shall inure to the benefit of any director, officer, employee, or any other individual except as salary or reasonable compensation for services.

(C) POLITICS.—The Corporation may not contribute to or otherwise support any political party or candidate for elective public office.

(D) SENSE OF CONGRESS REGARDING LOBBYING ACTIVITIES.—It is the sense of Congress that the Corporation should not engage in lobbying activities (as defined in section 3(7) of the Lobbying Disclosure Act of 1995 (5 U.S.C. 1602(7))).

(5) DUTIES AND POWERS.—

Plan.

(A) IN GENERAL.—The Corporation shall develop and execute a plan—

(i) to provide useful information to foreign tourists, business people, students, scholars, scientists, and others interested in traveling to the United States, including the distribution of material provided by the Federal government concerning entry requirements, required documentation, fees, processes, and information concerning declared public health emergencies, to prospective travelers, travel agents, tour operators, meeting planners, foreign governments, travel media and other international stakeholders;

(ii) to identify, counter, and correct misperceptions regarding United States entry policies around the world;

(iii) to maximize the economic and diplomatic benefits of travel to the United States by promoting the United States of America to world travelers through the use of, but not limited to, all forms of advertising, outreach to trade shows, and other appropriate promotional activities;

(iv) to ensure that international travel benefits all States and the District of Columbia and to identify opportunities and strategies to promote tourism to rural and urban areas equally, including areas not traditionally visited by international travelers; and

(v) to give priority to the Corporation's efforts with respect to countries and populations most likely to travel to the United States.

(B) SPECIFIC POWERS.—In order to carry out the purposes of this subsection, the Corporation may—

(i) obtain grants from and make contracts with individuals and private companies, State, and Federal agencies, organizations, and institutions;

(ii) hire or accept the voluntary services of consultants, experts, advisory boards, and panels to aid the Corporation in carrying out its purposes; and

(iii) take such other actions as may be necessary to accomplish the purposes set forth in this subsection.

(C) PUBLIC OUTREACH AND INFORMATION.—The Corporation shall develop and maintain a publicly accessible website.

Web site.

(6) OPEN MEETINGS.—Meetings of the board of directors of the Corporation, including any committee of the board, shall be open to the public. The board may, by majority vote, close any such meeting only for the time necessary to preserve the confidentiality of commercial or financial information that is privileged or confidential, to discuss personnel matters, or to discuss legal matters affecting the Corporation, including pending or potential litigation.

(7) MAJOR CAMPAIGNS.—The board may not authorize the Corporation to obligate or expend more than \$25,000,000 on any advertising campaign, promotion, or related effort unless—

(A) the obligation or expenditure is approved by an affirmative vote of at least 2/3 of the members of the board present at the meeting;

(B) at least 6 members of the board are present at the meeting at which it is approved; and

(C) each member of the board has been given at least 3 days advance notice of the meeting at which the vote is to be taken and the matters to be voted upon at that meeting.

(8) FISCAL ACCOUNTABILITY.—

(A) FISCAL YEAR.—The Corporation shall establish as its fiscal year the 12-month period beginning on October 1.

(B) BUDGET.—The Corporation shall adopt a budget for each fiscal year.

(C) ANNUAL AUDITS.—The Corporation shall engage an independent accounting firm to conduct an annual financial audit of the Corporation's operations and shall publish the results of the audit. The Comptroller General of the United States may review any audit of a financial statement conducted under this paragraph by an independent accounting firm and may audit the Corporation's operations at the discretion of the Comptroller General. The Comptroller General and the Congress shall have full and complete access to the books and records of the Corporation.

Deadlines.
Review.

(D) PROGRAM AUDITS.—Not later than 2 years after the date of enactment of this section, the Comptroller General shall conduct a review of the programmatic activities of the Corporation for Travel Promotion. This report shall be provided to appropriate congressional committees.

Deadlines.

(c) ACCOUNTABILITY MEASURES.—

Marketing plan.

(1) OBJECTIVES.—The Board shall establish annual objectives for the Corporation for each fiscal year subject to approval by the Secretary of Commerce (after consultation with the Secretary of Homeland Security and the Secretary of State). The Corporation shall establish a marketing plan for each fiscal year not less than 60 days before the beginning of that year and provide a copy of the plan, and any revisions thereof, to the Secretary.

Public
information.
Web posting.

(2) BUDGET.—The board shall transmit a copy of the Corporation's budget for the forthcoming fiscal year to the Secretary not less than 60 days before the beginning of each fiscal year, together with an explanation of any expenditure provided for by the budget in excess of \$5,000,000 for the fiscal year. The Corporation shall make a copy of the budget and the explanation available to the public and shall provide public access to the budget and explanation on the Corporation's website.

(3) ANNUAL REPORT TO CONGRESS.—The Corporation shall submit an annual report for the preceding fiscal year to the Secretary of Commerce for transmittal to the Congress on or before the 15th day of May of each year. The report shall include—

(A) a comprehensive and detailed report of the Corporation's operations, activities, financial condition, and accomplishments under this section;

(B) a comprehensive and detailed inventory of amounts obligated or expended by the Corporation during the preceding fiscal year;

(C) a detailed description of each in-kind contribution, its fair market value, the individual or organization responsible for contributing, its specific use, and a justification for its use within the context of the Corporation's mission;

(D) an objective and quantifiable measurement of its progress, on an objective-by-objective basis, in meeting the objectives established by the board;

(E) an explanation of the reason for any failure to achieve an objective established by the board and any revisions or alterations to the Corporation's objectives under paragraph (1);

(F) a comprehensive and detailed report of the Corporation's operations and activities to promote tourism in rural and urban areas; and

(G) such recommendations as the Corporation deems appropriate.

(4) LIMITATION ON USE OF FUNDS.—Amounts deposited in the Fund may not be used for any purpose inconsistent with carrying out the objectives, budget, and report described in this subsection.

(d) MATCHING PUBLIC AND PRIVATE FUNDING.—

(1) ESTABLISHMENT OF TRAVEL PROMOTION FUND.—There is hereby established in the Treasury a fund which shall be known as the Travel Promotion Fund.

(2) FUNDING.—

Deadlines.

(A) START-UP EXPENSES.—For fiscal year 2010, the Secretary of the Treasury shall make available to the Corporation such sums as may be necessary, but not to exceed \$10,000,000, from amounts deposited in the general fund of the Treasury from fees under section 217(h)(3)(B)(i)(I) of the Immigration and Nationality Act (8 U.S.C. 1187(h)(3)(B)(i)(I)) to cover the Corporation's initial expenses and activities under this section. Transfers shall be made at least quarterly, beginning on January 1, 2010, on the basis of estimates by the Secretary, and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess or less than the amounts required to be transferred.

Effective date.

(B) SUBSEQUENT YEARS.—For each of fiscal years 2011 through 2014, from amounts deposited in the general fund of the Treasury during the preceding fiscal year from fees under section 217(h)(3)(B)(i)(I) of the Immigration and Nationality Act (8 U.S.C. 1187(h)(3)(B)(i)(I)), the Secretary of the Treasury shall transfer not more than \$100,000,000 to the Fund, which shall be made available to the Corporation, subject to paragraph (3) of this subsection, to carry out its functions under this section. Transfers shall be made at least quarterly on the basis of estimates by the Secretary, and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess or less than the amounts required to be transferred.

(3) MATCHING REQUIREMENT.—

(A) IN GENERAL.—No amounts may be made available to the Corporation under this subsection after fiscal year 2010, except to the extent that—

(i) for fiscal year 2011, the Corporation provides matching amounts from non-Federal sources equal in the aggregate to 50 percent or more of the amount transferred to the Fund under paragraph (2); and

(ii) for any fiscal year after fiscal year 2011, the Corporation provides matching amounts from non-Federal sources equal in the aggregate to 100 percent of the amount transferred to the Fund under paragraph (2) for the fiscal year.

(B) GOODS AND SERVICES.—For the purpose of determining the amount received from non-Federal sources by the Corporation, other than money—

(i) the fair market value of goods and services (including advertising) contributed to the Corporation for use under this section may be included in the determination; but

(ii) the fair market value of such goods and services may not account for more than 80 percent of the matching requirement under subparagraph (A) for the Corporation in any fiscal year.

(C) RIGHT OF REFUSAL.—The Corporation may decline to accept any contribution in-kind that it determines to be inappropriate, not useful, or commercially worthless.

(D) LIMITATION.—The Corporation may not obligate or expend funds in excess of the total amount received by the Corporation for a fiscal year from Federal and non-Federal sources.

(4) CARRYFORWARD.—

(A) FEDERAL FUNDS.—Amounts transferred to the Fund under paragraph (2)(B) shall remain available until expended.

(B) MATCHING FUNDS.—Any amount received by the Corporation from non-Federal sources in fiscal year 2010, 2011, 2012, 2013, or 2014 that cannot be used to meet the matching requirement under paragraph (3)(A) for the fiscal year in which amount was collected may be carried forward and treated as having been received in the succeeding fiscal year for purposes of meeting the matching requirement of paragraph (3)(A) in such succeeding fiscal year.

(e) TRAVEL PROMOTION FUND FEES.—Section 217(h)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1187(h)(3)(B)) is amended to read as follows:

“(B) FEES.—

Deadline.

“(i) IN GENERAL.—No later than 6 months after the date of enactment of the Travel Promotion Act of 2009, the Secretary of Homeland Security shall establish a fee for the use of the System and begin assessment and collection of that fee. The initial fee shall be the sum of—

“(I) \$10 per travel authorization; and

“(II) an amount that will at least ensure recovery of the full costs of providing and administering the System, as determined by the Secretary.

“(ii) DISPOSITION OF AMOUNTS COLLECTED.—Amounts collected under clause (i)(I) shall be credited to the Travel Promotion Fund established by subsection (d) of section 11 of the Travel Promotion Act of 2009. Amounts collected under clause (i)(II) shall be transferred to the general fund of the Treasury and made available to pay the costs incurred to administer the System.

“(iii) SUNSET OF TRAVEL PROMOTION FUND FEE.—The Secretary may not collect the fee authorized by clause (i)(I) for fiscal years beginning after September 30, 2014.”.

(f) ASSESSMENT AUTHORITY.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the Corporation may impose an annual assessment on United States members of the international travel and tourism industry (other than those described in subsection (b)(2)(A)(iii) or (H)) represented on the Board in proportion to their share of the aggregate international travel and tourism revenue of the industry. The Corporation shall be responsible for verifying, implementing, and collecting the assessment authorized by this subsection.

(2) INITIAL ASSESSMENT LIMITED.—The Corporation may establish the initial assessment after the date of enactment of this section at no greater, in the aggregate, than \$20,000,000.

(3) REFERENDA.—

(A) IN GENERAL.—The Corporation may not impose an annual assessment unless—

(i) the Corporation submits the proposed annual assessment to members of the industry in a referendum; and

(ii) the assessment is approved by a majority of those voting in the referendum.

(B) PROCEDURAL REQUIREMENTS.—In conducting a referendum under this paragraph, the Corporation shall—

Notice.
Deadline.

(i) provide written or electronic notice not less than 60 days before the date of the referendum;

(ii) describe the proposed assessment or increase and explain the reasons for the referendum in the notice; and

(iii) determine the results of the referendum on the basis of weighted voting apportioned according to each business entity's relative share of the aggregate annual United States international travel and tourism revenue for the industry per business entity, treating all related entities as a single entity.

(4) COLLECTION.—

(A) IN GENERAL.—The Corporation shall establish a means of collecting the assessment that it finds to be efficient and effective. The Corporation may establish a late payment charge and rate of interest to be imposed on any person who fails to remit or pay to the Corporation any amount assessed by the Corporation under this section.

(B) ENFORCEMENT.—The Corporation may bring suit in Federal court to compel compliance with an assessment levied by the Corporation under this section.

(5) INVESTMENT OF FUNDS.—Pending disbursement pursuant to a program, plan, or project, the Corporation may invest funds collected through assessments, and any other funds received by the Corporation, only in obligations of the United States or any agency thereof, in general obligations of any State or any political subdivision thereof, in any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States.

(g) OFFICE OF TRAVEL PROMOTION.—Title II of the International Travel Act of 1961 (22 U.S.C. 2121 et seq.) is amended by inserting after section 201 the following:

22 USC 2123.

“SEC. 202. OFFICE OF TRAVEL PROMOTION.

“(a) OFFICE ESTABLISHED.—There is established within the Department of Commerce an office to be known as the Office of Travel Promotion.

“(b) DIRECTOR.—

“(1) APPOINTMENT.—The Office shall be headed by a Director who shall be appointed by the Secretary.

“(2) QUALIFICATIONS.—The Director shall be a citizen of the United States and have experience in a field directly related to the promotion of travel to and within the United States.

“(3) DUTIES.—The Director shall be responsible for ensuring the office is carrying out its functions effectively and shall report to the Secretary.

“(c) FUNCTIONS.—The Office shall—

“(1) serve as liaison to the Corporation for Travel Promotion established by subsection (b) of section 11 of the Travel Promotion Act of 2009 and support and encourage the development of programs to increase the number of international visitors to the United States for business, leisure, educational, medical, exchange, and other purposes;

“(2) work with the Corporation, the Secretary of State and the Secretary of Homeland Security—

“(A) to disseminate information more effectively to potential international visitors about documentation and procedures required for admission to the United States as a visitor;

“(B) to ensure that arriving international visitors are generally welcomed with accurate information and in an inviting manner;

“(C) to collect accurate data on the total number of international visitors that visit each State; and

“(D) enhance the entry and departure experience for international visitors through the use of advertising, signage, and customer service; and

“(3) support State, regional, and private sector initiatives to promote travel to and within the United States.

“(d) REPORTS TO CONGRESS.—Within a year after the date of enactment of the Travel Promotion Act of 2009, and periodically thereafter as appropriate, the Secretary shall transmit a report to the Senate Committee on Commerce, Science, and Transportation, the Senate Committee on Homeland Security and Governmental Affairs, the Senate Committee on Foreign Relations, the House of Representatives Committee on Energy and Commerce, the House of Representatives Committee on Homeland Security, and the House of Representatives Committee on Foreign Affairs describing the Office’s work with the Corporation, the Secretary of State and the Secretary of Homeland Security to carry out subsection (c)(2).”.

(h) RESEARCH PROGRAM.—Title II of the International Travel Act of 1961 (22 U.S.C. 2121 et seq.), as amended by subsection (g), is further amended by inserting after section 202 the following:

22 USC 2123a.

“SEC. 203. RESEARCH PROGRAM.

“(a) IN GENERAL.—The Office of Travel and Tourism Industries shall expand and continue its research and development activities in connection with the promotion of international travel to the United States, including—

“(1) expanding access to the official Mexican travel surveys data to provide the States with traveler characteristics and visitation estimates for targeted marketing programs;

“(2) expanding the number of inbound air travelers sampled by the Commerce Department’s Survey of International Travelers to reach a 1 percent sample size and revising the design and format of questionnaires to accommodate a new survey instrument, improve response rates to at least double the number of States and cities with reliable international visitor estimates and improve market coverage;

“(3) developing estimates of international travel exports (expenditures) on a State-by-State basis to enable each State to compare its comparative position to national totals and other States;

“(4) evaluate the success of the Corporation in achieving its objectives and carrying out the purposes of the Travel Promotion Act of 2009; and

“(5) research to support the annual reports required by section 202(d) of this Act.

“(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce for fiscal years 2010 through 2014 such sums as may be necessary to carry out this section.”.

Approved March 4, 2010.

LEGISLATIVE HISTORY—H.R. 1299:

HOUSE REPORTS: No. 111–66 (Comm. on House Administration).

CONGRESSIONAL RECORD:

Vol. 155 (2009): Mar. 31, considered and passed House.

Oct. 29, considered and passed Senate, amended.

Nov. 6, House concurred in Senate amendment with an amendment pursuant to H. Res. 896.

Vol. 156 (2010): Feb. 24, 25, Senate considered and concurred in House amendment.

