



June 6, 2006

## **Amendments to the Homeland Security Appropriations Act, 2007, H.R. 5441**

### **Part IV**

The following contains information on the amendments made in order under the UC Agreement.

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**Crowley (D-NY).** The amendment increases funding for discretionary grants to high-threat, high-density urban areas by \$88 million (from \$750 million to \$838 million). The amendment funds this increase by reducing the Chief Information Officer's budget for Department-wide technology investments by \$88 million (from \$364.765 million to \$276.765). According to the sponsor's office, the High Threat, High Density Urban Area Program is the only homeland security program specifically targeted towards those municipalities with the greatest threat and vulnerability for terror attacks.

*60 Minutes* aired a piece on how some localities were spending their homeland security grants. Tiptonville, Tenn., bought an all-terrain vehicle, a couple of defibrillators — one was used at high-school basketball games — and protective suits for the volunteer fire department. Newark, N.J., purchased air-conditioned garbage trucks and Columbus, Ohio, spent its terror money on bulletproof dog vests (Source: <http://www.jewishworldreview.com/0705/saunders072005.php3>). **This amendment was agreed to by voice vote.**

**Reyes (TX)/Ortiz (TX).** Increases by \$1.95 billion, funding for Customs and Border Protection. The amendment designates \$1.7 billion for hiring 10,000 additional border patrol agents and \$250 million for expanding the Border Patrol Training Academy to accommodate the training of the additional agents. **Note: The amendment does not provide an offset for the additional funding. As such, this amendment should be subject to a point of order.**

**King (R-IA).** Increases by \$5 million, funding for the Customs and Border Patrol, salaries and Expenses and decreases by \$5 million funding for the Immigration and

Customs Enforcement Salaries and Expenses appropriation. According to the sponsor's office, this is in order to "transfer a specialized unit of Customs Patrol Officers known as the "Shadow Wolves" from Customs and Border Patrol into Immigrations and Customs Enforcement. The Shadow Wolves were recognized by Congress in 1972. They patrol the international land border within the Tohono O'odham Indian nation in the State of Arizona. The Shadow Wolves' officers are Native Americans who combine modern technology and traditional Native American tracking techniques. The intention of this amendment is also to support the idea of setting the pay scale of the Shadow Wolves at the same rate as Special Agents at ICE, who have similar work responsibilities and expertise."

**Mica (R-FL).** Adds the Committee on Transportation to the list of Committees (currently the Appropriations and Homeland Security Committees) that will receive a DHS report on the April 25, 2006 incident involving the Customs and Border Protection unmanned aerial vehicle. **This amendment was agreed to by voice vote.**

**Ortiz (D-TX)/Reyes (D-TX).** Increases by \$2.05 billion, funding available for Immigration and Customs Enforcement. According to the amendment, this additional funding is intended "to fund the detention bedspace, personnel and removal costs required to end the 'catch and release' policy, under which certain illegal immigrants who are arrested for violations are released pending their court proceedings." **Note: The amendment does not provide an offset for the additional funding. As such, this amendment was subject to a point of order and was withdrawn.**

**Jindal (R-LA).** Increases, then decreases, by \$1 million, funds available for FEMA for readiness, mitigation, response, and recovery activities. According to the sponsor's office, this earmarking of funds will allow Rep. Jindal to speak on floor in order to direct FEMA to "implement a fully tested process that can provide real-time access to data required to validate identities and addresses for those seeking disaster assistance." To view an RSC document on FEMA, Katrina-related waste, please click here: <http://www.house.gov/pence/rsc/doc/KatrinaWaste06.doc>. **This amendment was agreed to by voice vote.**

**Jindal (R-LA).** Increases, then decreases, by \$9 million, funds available for the Office of the Under Secretary for Preparedness, salaries and expenses account. According to the sponsor's office, this earmarking of funds will allow Mr. Jindal to speak on floor in order "to further direct the Department of Homeland Security to develop a system that verifies and validates, in real-time, what qualified assets (people, equipment, supplies, teams, including volunteers) are available in order to meet emergent or anticipated events, even when the information supplied is coming from disparate or incompatible databases." **This amendment was agreed to by voice vote.**

**Nadler (D-NY).** Strikes the following section from the underlying bill:

“Provided that no funds provided in this Act shall be used to create a Sodium-Iodide Manufacturing Program until the Office demonstrates that Advanced Spectroscopic Portal monitors will significantly speed commerce, reduce the costs of secondary inspection, or significantly increase sensitivity over current generation Radiation Portal Monitors.”

According to the sponsor’s office, in an attempt to speed deployment of Advanced Spectroscopic Portal monitors (ASP), striking the text will eliminate Domestic Nuclear Detection Office (DNDO) testing to prove ASPs can “significantly speed commerce, reduce the costs of secondary inspection, or significantly increase sensitivity over current generation Radiation Portal Monitors.” The sponsor asserts initial testing has already been done, showing ASPs can not only detect radiation coming from shipping containers, but can also determine exactly what is emitting the radiation. Additionally, striking the text will allow \$20 million to be spent on domestic production of sodium-iodide crystals used in ASP production. Only one foreign company currently produces the crystals.

**This amendment failed on a recorded vote, 172-240.**

**Tiahrt (R-KS).** Prohibits funds from being used to promulgate regulations without consideration of the effect of such regulations on the competitiveness of American businesses. *This amendment is subject to a point of order. The amendment sponsor will offer the amendment, discuss the issue, and withdraw the amendment.*

**Gordon (D-TN).** Prohibits funds from being used in contravention of current law and an executive order setting energy efficiency standards in federal buildings. According to the sponsor’s office the amendment’s purpose “is to bring attention to the failure of the Federal government to meet its responsibilities to significantly reduce energy use in Federal buildings .... In recent years, goals have not been met and funds requested for energy conservation purposes have not kept up with the need, despite the fact that energy efficiency improvements generally save substantial amounts of money.” To view Executive Order 13123, please click here: <http://www.ofee.gov/eo/eo13123.pdf>.

**Obey (R-WI).** The sponsor’s office did not provide text. However, according to the Appropriations Committee Democratic Staff, the amendment increases by \$3.5 billion, funding in the bill for border security, port security, first responders and preparedness programs. The amendment is offset by rolling back the Bush Tax Cuts on taxpayers with income above \$1 million in 2007. *This amendment is subject to a point of order.*

**Doolittle (R-CA).** Provides that none of the funds may be used for expedited removal of illegal aliens unless El Salvadorans are subject to the same expedited removal provisions as other illegal aliens. According to the sponsor’s office, the amendment is being offered to allow Maria Salvatrucha-13, commonly known as MS-13, gang members to be deported. A long-standing court injunction prevents El Salvadorans from being deported due to the civil war, but the El Salvadoran civil war ended in 1992. According to the sponsor’s office, the amendment will likely be subject to a point of order and likely will be withdrawn.

**Campbell (R-CA).** Provides that none of the funds may be used in contravention of section 642(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373(a)). According to the sponsor, “Section 642(a) of the Illegal Immigration Reform and Immigrant Responsibility of 1996 makes it illegal for state and local governments to prevent their police from sending information to, or receiving information from federal enforcement authorities about the immigration status of foreign nationals that they encounter in the course of their police duties. ...[This] amendment to the Department of Homeland Security Appropriations bill that would prevent state and local governments who refuse to share information with federal immigration authorities by adopting ‘sanctuary policies’ from obtaining federal funds under this act.” **This amendment is now being offered by Rep. King (R-IA).**

**Jackson-Lee (D-TX).** Prohibits funds from being used to close the FEMA field office in Houston, Texas. The sponsor has stated that “there is considerable concern in Houston that FEMA will do exactly that” but did not provide supporting documentation or statements from FEMA corroborating this statement. **This amendment failed by voice vote.**

**Jackson-Lee (D-TX).** Prohibits funds from being used by DHS to terminate financial assistance for FEMA housing (authorized under section 408 of the Stafford Act; 42 U.S.C. 5174) prior to December 31, 2006, to any Hurricane Katrina evacuee located in Harris County, Texas, who was previously determined eligible by FEMA.

According to the sponsor’s office, FEMA previously stated that financial assistance will be terminated by June 30, 2006. FEMA has provided financial assistance for housing and other hurricane-related needs for over eight months thus far, since President Bush declared the hurricane-affected areas (covering three states) a disaster area on August 28, 2005.

**Jackson-Lee (D-TX).** Prohibits funds from being used by DHS before December 31, 2006, to pay the salary of any departmental employee to contest the legal class action suit *Watson et al v. FEMA* (No. H-06-1709, filed on May 19, 2006) filed on behalf of Hurricane Katrina evacuees in Harris County, Texas, against FEMA, seeking to stop FEMA from terminating financial assistance for housing (as authorized under the Stafford Act) to eligible evacuees.

According to the sponsor’s office, FEMA previously stated that financial assistance will be terminated by June 30, 2006. FEMA has provided financial assistance for housing and other hurricane-related needs for over eight months thus far, since President Bush declared the hurricane-affected areas (covering three states) a disaster area on August 28, 2005.

**Markey (D-MA).** Provides that none of the funds may be used to approve, implement, or approve a cargo screening program for passenger airlines that allows unscreened cargo on passenger planes. According to the sponsor’s office, the amendment is being offered to

highlight the fact that current cargo screening processes do not require every container to be screened and “scanning all cargo would not hurt the economy, and the Known Shipper program is flawed so as to threaten security.” *According to the sponsor’s office, the amendment may not be offered.*

**Filner (D-CA)/Matsui (D-CA).** Provides that none of the funds made available in the Act may be used to carry out the policy of the Department of Homeland Security that the risk-based formula used for purposes of the Urban Area Security Initiative does not take into account strategic defense considerations, local government assets that serve the military, proximity to international borders, presence of visitors to the urban area, the presence of drug trafficking and other organized crime activities that relate to terrorism, or the catastrophic and cascading effects of an attack on critical infrastructure including dams and levees. According to the sponsor’s office, “Funding from the Urban Area Security Initiative grant program is distributed according to a risk-based formula, which takes a variety of factors into account. However, DHS has specifically stated that they do not take into account a variety of factors that clearly impact a city’s risk of facing a terrorist attack. This includes strategic defense considerations (certain military bases and complexes are more vital than others), local government assets that serve the military (for example, local infrastructure), proximity to international borders, the presence of visitors to the urban area, the presence of drug trafficking and other organized crime activities that relate to terrorism, and the catastrophic and cascading effects of an attack on critical infrastructure including dams and levees. This amendment prevents funds from this bill to be used to continue the policy of DHS that they will not take these factors into account. This amendment will cause DHS to consider these important factors as they develop a new formula for the 2007 grant program.” **This amendment will likely be subject to a point of order.**

**Deal (R-GA).** Provides that none of the funds may be used to grant birthright citizenship to the children of those individuals who are not subject to the jurisdiction of the United States, including the children of illegal aliens. The sponsor’s office stressed that the phrase in his amendment “subject to the jurisdiction of the United States,” is the same phrase in the Fourteenth Amendment of the Constitution. The office also cited Center for Immigration Studies statistics that 10% of births in the U.S. are births to illegal immigrants. This amendment is likely subject to a point of order.

**Poe (R-TX).** Prohibits funds from being used to implement a plan in current law (section 7209 of the Intelligence and Terrorism Prevention Act; 8 U.S.C. 1185 note) that permits foreigners to travel in the U.S. using documents other than a passport. Thus, this amendment would require a passport for all travel into and out of the U.S.

Under provisions in the Intelligence and Terrorism Prevention Act of 2004 (P.L. 108-458), beginning on January 1, 2008, the Department of Homeland Security is directed to implement a plan that may allow documents *other than a passport* to be used for travel in and out of the U.S., so long as the DHS Secretary determines that the other document or combination of documents are “sufficient to denote citizenship and identity.”

**Engel (D-NY).** Provides that none of the funds in the Act may be used in contravention of section 303 of the Energy Policy Act of 1992 or in contravention of the Federal buildings performance and reporting requirements of Executive Order 13123, part 3 of title V of the National Energy Conservation Policy Act or subtitle A of title I of the Energy Policy Act of 2005. **This amendment was agreed to by voice vote.**

**Tancredo (R-CO).** Provides that none of the funds may be used to administer any extension of designation made under section 244(b) of the Immigration and Nationality Act before the date of the enactment of this Act with respect to Guatemala, Honduras, or Nicaragua. According to the sponsor, last year, “Guatemala requested Temporary Protective Status (TPS) for its nationals present in the U.S. ... We feel strongly that Guatemala can handle the return of its deported nationals. We are also concerned that the TPS authority is being used inappropriately. ... The authority to extend this status was extended to the administration so that the U.S. government could provide temporary refuge to certain individuals in situations where wars or massive disasters have *temporarily* made it unsafe for them to return. The authority was not created to allow the administration to provide *de facto* amnesty in 18 month installments.” **This amendment failed on a recorded vote, 134-284.**

**Kingston (R-GA).** Prohibits funds from being used to provide a foreign government information relating to the activities on Non-Integrated Surveillance Intelligence System (as defined by DHS OIG-06-15) operating along the international border between Mexico and the states of California, Texas, New Mexico, and Arizona, unless required by international treaty.

According to the sponsor’s office, this amendment will prevent the U.S. Border Patrol from notifying the Mexican government (or any government) about the location of Minuteman Civil Defense Corps patrols and other civilian militia operating along the U.S. border.

**Garrett (R-NJ).** Provides that none of the FEMA funding may be used for adult entertainment, bail bonds, parking tickets, jewelry, or weapons. These are all items that were purchased by Katrina victims with the \$2,000 debit cards handed out by FEMA. To view an RSC document on FEMA, Katrina-related waste, please click here: <http://www.house.gov/pence/rsc/doc/KatrinaWaste06.doc>.

**Pickering (R-MS).** Prohibits FY07 funds from being used for new, continuing, or existing disaster relief contracts, except in accordance with Section 307 of the Stafford Act (42 U.S.C. 5150), which instructs federal agencies to give preference (where practicable and feasible) to local firms in disaster areas when awarding such contracts. The sponsor states that this amendment “simply prohibits FEMA from using funds for contracts” where Section 307 is not considered and that it “does not expand or otherwise modify any authority, duties, obligations of FEMA or the Department of Homeland Security in its implementation of the Stafford Act.” The bill seeks to enforce the law, as recently amended by H.R. 4979. (To see the RSC write up on that bill see [http://www.house.gov/pence/rsc/doc/LB\\_032806\\_Suspensions.doc](http://www.house.gov/pence/rsc/doc/LB_032806_Suspensions.doc)). H.R. 4979 modified Section 307, to give discretionary authority to federal agencies to award contracts based



on geographic areas in the implementation of the local preference authority. The sponsor had reported (when passing H.R. 4979) that certain Katrina-related contracts in Mississippi were under dispute and in pending GAO proceedings as a result of bid protests brought by out-of-state contractors because FEMA had awarded such contracts to local Mississippi contractors. This amendment affirms funds may not be spent in contravention of this new law. **This amendment was agreed to by voice vote.**

**Tancredo (R-CO).** Provides that none of the funds in the Act may be used to carry out the diversity visa program established in section 203(c) of the Immigration and Nationality Act (8 U.S.C. 1153(c)). According to the sponsor's office, the amendment will not be offered.

**Foxx (R-NC).** Provides that none of the funds may be used to purchase a Louis Vuitton handbag. According to recent news reports, two, \$800 Louis Vuitton handbags were purchased with the \$2,000 FEMA debit cards that were given to Katrina victims. The debit cards were intended to be used for emergency needs, such as food and water. To view the RSC document highlighting this government waste, please view this site: <http://www.house.gov/pence/rsc/doc/Vuitton.doc>.

**Bishop (D-NY).** Provides that none of the funds made available in the Act may be used to reimburse L.B.& B. Associates, Inc. or Olgoonik Logistics, LLC (or both) for attorneys fees related to pending litigation against Local 30 of the International Union of Operating Engineers. According to the sponsor, the "amendment affects only LB&B Assoc. that have litigated against the Local 30 at the Plum Island Animal Disease Center on Long Island, NY."

**Berkley (D-NV).** Provides that none of the funds made available in the Act may be used for the making of any risk or threat assessment calculation by any person who is an officer or employee of the Department of Homeland Security based on the population of an area, unless such calculation includes consideration of such number of guests, tourists, and commuters in such area as is available to the person.

**Mica (R-FL).** Provides that none of the funds in the Act may be used to recruit, hire, or employ nonscreener personnel into the Transportation Security Administration's Federal Security Director office at each airport participating in the security partnership program under section 44920 of title 49, United States Code, whose job title and job description would duplicate those of nonscreener personnel employed by the screening company that is under contract with the Transportation Security Administration to provide security screening services at the airport. According to the sponsor, "there is no need for excessive numbers of TSA administrative staff duplicating the functions of the private screening companies in such things as operations and human resources. ...Many of these positions pay over \$100,000.00 annually."

**Tierney (D-MA).** Provides that none of the funds made available in the Act may be used for any application for a deepwater port for natural gas with respect to which Massachusetts is designated as an adjacent coastal State under the Deepwater Port Act of

1974, until the Commandant of the Coast Guard submits a report to Congress assessing energy needs and conducts, completes, and submits a report on a study on the costs of providing security for the proposed deepwater ports. **This amendment was subject to a point of order and was withdrawn.**

**Culberson (R-TX)/Kingston (R-GA).** Provides that none of the funds may be used to process immigration benefits petitions until October 1, 2007. The amendment stipulates that the prohibition of funds does *not* apply to petitions submitted before October 1, 2006, and it does *not* apply to performance of background checks for H-1B non-immigrant visas.

The sponsors list a number of alarming CIS activities that may be rectified by a halt to new petitions entering the pipeline including: a reliance on easily counterfeited documents, an assumption that no response from the FBI or CIA on a background check means a clear background, a failure to issue a Notice to Appear for a removal hearing if an applicant's petition is denied (unless the denial is based on a national security issue), the possibility of issuance of asylee status to illegal aliens who provide stolen identity data, and CIS waiver of fingerprinting requirements.

**Kuhl (R-NY).** Increases by \$22 million, funds for FIRE and SAFER grants, and decreases by \$22 million funds for Departmental Management and Operations in the Office of the Secretary and Executive Management. According to the sponsor, this money was wasted by DHS on a \$22 million contract with a Shirlington limousine service. **This amendment was offered by Rep. Price (R-GA) and was agreed to by voice vote.**

**Rogers (R-KY).** The sponsor's office did not provide text. However, according to the sponsor, the amendment may appropriate \$2 million for the Secret Service and \$2 million for the National Response Plan. These were projects originally funded as earmarks in the Emergency Supplemental. The Homeland Security bill was reportedly \$4 million under its 302(b) allocation, allowing for this amendment to be made in order. **This amendment was agreed to by voice vote.**