

AMENDMENTS ADOPTED TO THE
HOMELAND SECURITY APPROPRIATIONS BILL
FOR FY 2016

Full Committee Markup
House Appropriations Committee
Tuesday, July 14, 2015

#1

Carter
AG 440 TOVV

Committee on Appropriations
Subcommittee on Homeland Security

FY16 Department of Homeland Security Appropriations Bill
Full Committee Markup

MANAGER'S AMENDMENT

Offered by Mr. Carter of Texas

(Carter #1)

In the BILL:

On page 10, line 10, strike “5,728,795,000” and insert “5,736,286,000”. [S&E]
On page 12, line 7, strike “\$3,259,275,000” and insert “\$3,266,766,000”. [DRO]
On page 66, Line 16, strike Sec. 554 and insert the following:

“SEC. 554. Notwithstanding any other provision of law, grants awarded to States along the Southwest Border of the United States under sections 2003 to 2004 of the Homeland Security Act of 2002 (6 U.S.C. 604 and 605) using funds provided under the heading “Federal Emergency Management Agency, State and Local Programs” in this Act, Public Law 114-4, division F of Public Law 113-76, or division D of Public Law 113-6 may be used by recipient or sub-recipients for costs, or reimbursements of costs, related to providing humanitarian relief to unaccompanied alien children and alien adults accompanied by an alien minor where they are encountered after entering the United States, provided that such costs were incurred between January 1, 2014 and December 31, 2014 or during the award period of performance.”

On page 74, line 24, strike “\$1,258,373,000” and insert “\$1,265,864,000”. [GP]

In the REPORT:

On page 25, within the section entitled “Headquarters, Management, and Administration”, after the second full paragraph add the following:

“The Committee is concerned that technology currently used to analyze vehicular traffic crossing our borders has become outdated and should be improved. As part of the overall effort to improve situational awareness, the Committee expects the Department to continue to improve land border integration

by procuring and implementing the latest, most effective technologies available to monitor vehicles crossing our borders.

When fully implemented in 2016, ACE will serve as the “single window” system for the private sector to report import and export data for automated processing. It will also allow CBP to more rapidly share data with its federal agency partners, such as the Food Safety and Inspection Service (FSIS) at the U.S. Department of Agriculture. The Committee is concerned that, prior to full ACE implementation, FSIS personnel are required to manually review CBP import data to identify importers who fail to present meat and poultry imports for FSIS inspection. Such “failures to present” can lead to the introduction into commerce of uninspected meat and poultry products. A May 2015 OIG report (OIG-15-91) found that, while CBP is making progress in the development and deployment of ACE, it has insufficient internal controls in place to ensure that the deployment schedule remains on track. As part of the semi-annual ACE briefings, CBP shall identify any risks that could result in a delay in fully implementing ACE, including an assessment of the adequacy of internal controls to mitigate risk and the status of responding to the recommendations of OIG-15-91.

The Committee continues to be concerned about the impact of carrizo cane and other invasive plant species on the activities of the Border Patrol along the Rio Grande, and is aware that the State of Texas recently established a Carrizo Cane Eradication Program to be administered by the Texas State Soil and Water Conservation Board (TSSWCB). The Committee expects CBP to work with the TSSWCB and other Federal, state, and local stakeholders on efforts to control carrizo cane, and directs CBP to update the Committee, within 30 days of the date of enactment of this act, on its efforts. The update shall address progress made; a plan for working with stakeholders to make future progress; strategies under consideration by other Federal agencies, as well as State and local stakeholders; and efforts to work the Government of Mexico to eradicate or control carrizo cane on the Mexican side of the river. The update should also identify CBP resources expended during fiscal year 2015 for this effort, along with resources required for it during fiscal year 2016 and future years.

With CBP’s recent release of its risk-based Agriculture Resource Allocation Model (AgRAM), the Committee is concerned about how CBP plans to carry out its agriculture quarantine inspection (AQI) mission with current staffing levels. CBP is directed to brief the Committee within 90 days of enactment of this Act on a plan to address these staffing needs to meet its AQI mission to protect U.S. food, agriculture, and natural resources.

Under CBP’s Outlying Area Reporting Station (OARS) program, CBP officers can conduct inspections of Canadian citizens and residents arriving to the United States by private boat at some public marinas through videophone

technology. The program has helped improve border security while facilitating the flow of international tourism and commerce. The Committee is concerned by reports that the current videophone technology is old, and urges CBP to review upgrading the technology with more reliable, modern devices, including mobile technology.

The Committee is aware of concerns that CBP may not be consistently applying its rules for classifying textile costumes and related items as festive articles. In particular, some importers believe that CBP's current standard for categorizing an item as a festive article under heading 9505 of the Harmonized Tariff Schedule of the United States—that it is a textile costume of a flimsy nature and construction, lacking in durability, and generally recognized as not being normal articles of apparel—is too subjective and leads to disparate treatment of similar imported items for tariff purposes. The Committee urges CBP to work with private sector stakeholders to ensure that the agency's classification approach is both fair and objective.

The Committee is concerned about CBP's resource allocation at airports actively expanding services, including the threshold of passengers and primary processing times as specified under the workload staffing model. CBP is directed to brief the Committee on how CBP addresses staffing shortfalls and screening times at expanding airports not later than 90 days after the date of enactment of this Act. Further, the briefing shall include the feasibility of reimbursement for the salaries of CBP officer included public-private partnerships.”

On page 33 within the heading “Operations and Maintenance” within the second paragraph after the word “services” insert the following:
“, including airships and fixed-wing or rotary aircraft,”

On page 39, within the section entitled, “Enforcement and Removal Operations”, strike the second paragraph and replace with the following:

“The Committee recommends \$3,266,766,000 for ERO, \$44,316,000 below the amount requested and \$164,678,000 below the amount provided in fiscal year 2015. The recommendation includes reductions to the request corresponding to the amounts associated with the pay raise assumed in the President's budget, as well as reductions due to projected underexecution of personnel funds. Additionally, the recommendation does not include the proposed \$8,000,000 in contingency funding for the transportation and removal of unaccompanied children in numbers that significantly exceed the Department's current estimate.”

On page 39, within the section entitled, "Enforcement and Removal Operations", after the second paragraph add the following:

"Over the last few years, there has been a growing trend of jurisdictions and Law Enforcement Agencies (LEA) around the country deciding not to honor ICE detainers issued under the Secure Communities program. The Committee acknowledges the complexities of the Secure Communities program that motivated such policies and recognizes the legal right of state and local LEA to refuse to cooperate with ICE by choosing not to honor detainer requests; however, it remains gravely concerned with the tragic consequences that can occur if dangerous illegal aliens, eligible for removal from the United States, are released into our communities. This not only endangers our citizens, it also makes the job of finding and removing that alien substantially more difficult and dangerous for our immigration officers. Furthermore, it places a significant burden on ICE, which must now expend considerable resources and effort in locating individuals who are enforcement priorities after they have been released from LEA custody.

The Department has replaced Secure Communities with the Priority Enforcement Program (PEP). PEP is designed to alleviate many of the previous concerns and enable DHS to better work with state and local law enforcement to take custody of criminal aliens who pose a danger to public safety before they are released into our communities.

The Committee is encouraged by this effort and fully funds the request for the Criminal Alien Program and Fugitive Operations. The Committee directs the Director of ICE to prioritize hiring efforts to fill the ranks of enforcement officers to the enacted level most expeditiously and to implement an in-depth outreach program to engage communities on the new Priority Enforcement Program and seek their cooperation. The Director of ICE will brief the Committee on the results of this outreach within 120 days after the enactment of this Act. The briefing will include details as to the LEA approached and the level of participation on a by-community basis."

On page 41, within the section entitled, "Fugitive Operations", strike the first paragraph and replace with the following:

"The Committee recommends \$128,072,000 for Fugitive Operations, \$1,366,000 below the request and \$14,543,000 below fiscal year 2015. The recommendation includes reductions to the request corresponding to the amounts associated with the pay raise assumed in the President's budget."

On page 42, within the section entitled "Criminal Alien Program", replace the first sentence of the first paragraph with the following:

“The Committee recommends \$317,177,000 for the Criminal Alien Program (CAP), \$3,090,000 below the amount requested and \$10,046,000 below the amount provided in fiscal year 2015. The recommendation includes reductions to the request corresponding to the amounts associated with the pay raise assumed in the President’s budget.”

On page 49, within the section entitled, “Explosives Detection Systems Procurement and Installation”, strike the fourth paragraph and replace with the following:

“The Committee understands that, consistent with the 9/11 Act, TSA must prioritize EDS funding based on risk reduction. TSA is also required under section 1604(b)(2) of the 9/11 Act to give funding consideration to airports that incurred eligible costs for in-line baggage screening systems but were not recipients for funding agreements. However, there remain claims from at least 16 airports for reimbursement of costs incurred for in-line baggage systems installed prior to 2008. In House Report 113-481, TSA was directed to establish a process to resolve these outstanding claims. However, TSA has not established a process or plan that has resulted in the reimbursement of eligible costs to those affected airports. The Committee directs TSA to develop such a plan and to propose sufficient funding to begin implementing this plan as part of the fiscal year 2017 budget request. In addition, TSA is urged to explore how reimbursements could be initiated during fiscal year 2016 through the Aviation Security Capital Fund or using other TSA resources through a mid-year reprogramming. TSA is directed to provide a reimbursement plan to Congress not later than 60 days after the date of enactment of this Act.”

On page 74, before the section entitled, “Communications”, insert the following section:

“Cybersecurity Best Practices”

“In recent hearing testimony (GAO-15-758T), GAO identified the oversight of contractors providing IT services as a government-wide cybersecurity challenge. GAO reviewed six federal agencies, including DHS, and determined that only DHS had adequate processes in place to provide consistent oversight of contractor implementation of security controls. The DHS CIO is directed to work through the CIO Council to share DHS best practices for enhancing oversight of contractors providing IT services, and to update the Committee within 180 days of the enactment of this act on these activities.”

One page 84, within the section entitled “Recommendations” at the end of the paragraph add the following:

“The Surface Transportation Board reports that crude-by-rail shipments increased from 21,000 barrels/day in 2009 to 1.1 million/day in 2014; the Department of Transportation projects that over the next two decades, an average of ten crude-by-rail derailments will occur each year. Furthermore, accidents and explosions in West Virginia, Illinois, North Dakota, Canada, and elsewhere have underscored the need for local first responders to be adequately prepared for crude- and ethanol-by-rail incidents. Today, crude-by-rail communities and their first responders lack the equipment, training, and operational support they need to meet the public safety challenges posed by derailments. FEMA is encouraged to categorize AFG hazmat and other applications related to crude- and ethanol-by-rail preparation and response as “high priority,” so the Agency can better meet the needs of our most vulnerable communities and first responders.”

One page 86, within the section entitled “Recommendations” at the end of the third paragraph add the following:

“House Report 113-91 directed FEMA to submit a report describing options for making housing cooperative and condominium associations eligible for Federal disaster assistance, including statutory recommendations for making such entities directly eligible for assistance based on disaster-related damages to common areas. In its May 2014 report, FEMA stated that it was “exploring the program implications surrounding Stafford Act changes that would authorize FEMA to provide federal assistance directly to housing cooperatives and condominium associations.” The Committee directs FEMA to provide an updated report to Congress on the status of its exploration, including options for statutory changes to the Stafford Act and associated changes to regulation or guidance that would be required to make housing cooperatives, condominium association, and community associations eligible for disaster assistance.”

On page 90, within the section entitled “Recommendations” after the second paragraph add the following:

“The Committee urges the United States Citizenship and Immigration Services to consider adding a question related to the National Park System to the civics test administered during the naturalization process during the next regularly scheduled review of the examination.”

On page 96, within the section entitled, "Non-Intrusive Inspection", in the first sentence strike "a mobile" and replace with "an automated"; and insert "primary and" between "CBP" and "secondary".

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ROONEY
AG 1940 TO VV

**AMENDMENT TO HOMELAND SECURITY
APPROPRIATIONS BILL
OFFERED BY MR. ROONEY OF FLORIDA**

At the end of the bill (before the spending reduction account), insert the following:

1 SEC. _____. None of the funds made available by this
2 Act may be used to fund the creation or continued use
3 of metal badges resembling law enforcement badges by
4 Transportation Security Administration personnel, unless
5 such person has received Federal law enforcement train-
6 ing, or is eligible for Federal law enforcement benefits.



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**AMENDMENT TO HOMELAND SECURITY
APPROPRIATIONS BILL
OFFERED BY MR. CULBERSON OF TEXAS**

At the end of the bill (before the spending reduction account), insert the following:

1 SEC. _____. No funds or fees made available to the
2 Secretary of Homeland Security, or to the head of any
3 other Federal agency, by this Act or any other Act may
4 be used to release from custody, other than for removal
5 from the United States, any alien described in the Priority
6 1 or Priority 2 category in the memorandum from the Sec-
7 retary of Homeland Security entitled "Policies for the Ap-
8 prehension, Detention and Removal of Undocumented Im-
9 migrants" dated November 20, 2014.

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Yoder
AG 28-21
28-21

**AMENDMENT TO HOMELAND SECURITY
APPROPRIATIONS BILL
OFFERED BY MR. YODER OF KANSAS**

At the end of the bill (before the spending reduction account), insert the following:

1 SEC. _____. (a) In this section, the term “sanctuary
2 city” means a State or a political subdivision of a State
3 that has in place a statute, policy, or practice that pro-
4 hibits law enforcement officers of the State, or of the polit-
5 ical subdivision, from assisting or cooperating with Fed-
6 eral immigration law enforcement in the course of carrying
7 out the officers’ routine law enforcement duties.

8 (b) A sanctuary city shall not be eligible to receive,
9 for a minimum period of at least 1 year, any Department
10 of Homeland Security grant funded under the heading
11 “Federal Emergency Management Agency—State and
12 Local Programs”.

13 (2) A jurisdiction that is found to be a sanctuary city
14 shall only become eligible to receive funds or grants under
15 paragraph (1) after the Secretary of Homeland Security
16 certifies that the jurisdiction is no longer a sanctuary city.

17 (c)(1) Not later than March 1 of each year, the Sec-
18 retary of Homeland Security shall determine which States

1 or political subdivisions of a State are sanctuary cities and
2 shall report to Congress such determinations.

3 (2) The Secretary of Homeland Security shall issue
4 a report concerning the compliance of any particular State
5 or political subdivision of a State at the request of the
6 Committee on Appropriations of the Senate, the Com-
7 mittee on Appropriations of the House of Representatives,
8 the Committee on the Judiciary of the Senate, or the Com-
9 mittee on the Judiciary of the House of Representatives.

10 (d) Any funds that are not allocated to a sanctuary
11 city, due to the jurisdiction's designation as a sanctuary
12 city, shall be reallocated to the States and political subdivi-
13 sions of States that are not sanctuary cities.

14 (e) Nothing in this section may be construed to re-
15 quire law enforcement officials from a State or political
16 subdivision of a State to report or arrest victims or wit-
17 nesses of a criminal offense.

18 (f) This section shall take effect on the date of the
19 enactment of this Act.



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ADERHOLT

AG LEAD

31-18

**AMENDMENT TO THE FISCAL YEAR 2016
HOMELAND SECURITY APPROPRIATIONS BILL
OFFERED BY MR. ADERHOLT OF ALABAMA**

At the appropriate place in the bill, insert the following:

“SEC. _____. None of the funds appropriated by this Act for U.S. Immigration and Customs Enforcement shall be available to pay for an abortion, except where the life of the mother would be endangered if the fetus were carried to term, or in the case of rape or incest: *Provided*, That should this prohibition be declared unconstitutional by a court of competent jurisdiction, this section shall be null and void.

SEC. _____. None of the funds appropriated by this Act for U.S. Immigration and Customs Enforcement shall be used to require any person to perform, or facilitate in any way the performance of, any abortion.

SEC. _____. Nothing in the preceding section shall remove the obligation of the Assistant Secretary of Homeland Security for U.S. Immigration and Customs Enforcement to provide escort services necessary for a female detainee to receive such service outside the detention facility: *Provided*, That nothing in this section in any way diminishes the effect of section ____ [preceding section] intended to address the philosophical beliefs of individual employees of U.S. Immigration and Customs Enforcement.”

And amend the report accordingly.

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YOUNG ~~████████~~

**AMENDMENT TO THE FISCAL YEAR 2016
HOMELAND SECURITY APPROPRIATIONS BILL
OFFERED BY MR. YOUNG OF IOWA**

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In the Bill:

Page 11, line 10, after "June 30, 2016:" insert "*Provided further, That, of the total amount available under this heading, \$5,000,000 shall be withheld from obligation until the Director of United States Immigration and Customs Enforcement briefs the Committee on efforts to increase the number of communities and law enforcement agencies participating in the Priority Enforcement Program. The briefing will include details as to the jurisdiction and law enforcement agency approached and the level of participation on a by-community basis*"

In the REPORT:

Page 37, within the section entitled, "Headquarters Management and Administration", after the first paragraph, insert the following:

"ICE's reticence in responding to the Congressional requests for information, especially when it relates to the agency's policies regarding the disciplining of agents who fail to follow the President's directives on immigration, demonstrates a lack of respect for the role of Congress in overseeing ICE operations and ensuring the enforcement of the immigration laws of the nation. Therefore, \$5,000,000 of funding for Headquarters Management and Administration is withheld to motivate the Director of ICE to be more responsive to Congress in a timely way. The funds will be released if the Director briefs the Committee on the Priority Enforcement Program as directed later in this report."