

DIVISION E — DEPARTMENT OF HOMELAND SECURITY  
APPROPRIATIONS ACT, 2008

The following is an explanation of the effects of this division on the House amendment to the Senate amendment to H.R. 2764 (hereafter referred to as “the amended bill”) relative to the versions of the Department of Homeland Security Appropriations Act, 2008 (H.R. 2638 and S. 1644) passed by the House of Representatives and the Senate. The language and allocations contained in House Report 110-181 and Senate Report 110-84 should be complied with unless specifically addressed to the contrary in the amended bill or this explanatory statement. When this explanatory statement refers to the Committees on Appropriations, unless otherwise noted, this reference is to the House Subcommittee on Homeland Security and the Senate Subcommittee on Homeland Security.

While repeating some report language for emphasis, this explanatory statement does not intend to negate the language referred to above unless expressly provided herein. In cases where both the House and Senate reports address a particular issue not specifically addressed in the amended bill or explanatory statement, the Committees on Appropriations have determined the House report and the Senate report are not inconsistent and are to be interpreted accordingly.

In cases where the House or Senate report directs the submission of a report, such report is to be submitted to both Committees on Appropriations. In a number of instances, House Report 110-181 and Senate Report 110-84 direct agencies to report to the Committees by specific dates. In those instances, and unless alternative dates are provided in the explanatory statement, agencies are directed to provide these reports to the Committees on Appropriations no later than five months after the date of enactment of this Act. Further, the Committees on Appropriations have attempted to reduce the number of reports required of the Department and in certain instances in lieu of reports have requested briefings. Unless alternative dates are provided in the explanatory statement, agencies are directed to provide these briefings within four months after the date of enactment of this Act.

Last, this explanatory statement refers to the following laws as follows: Implementing Recommendations of the 9/11 Commission Act of 2007, Public Law 110-53, is referenced as the 9/11 Act; Security And Accountability For Every Port Act of 2006, Public Law 109-347, is referenced as the SAFE Port Act; and The Intelligence Reform and Terrorism Prevention Act of 2004, Public Law 108-458, is referenced as the Intelligence Reform Act.

## CLASSIFIED PROGRAMS

Recommended adjustments to classified programs are addressed in a classified annex accompanying this explanatory statement.

are selected to participate in this program, how S&T determines the type of research each Center of Excellence will specialize in, how the Directorate evaluates the quality of work from the Centers, and assess the impact a time limit may have on the quality and breadth of research conducted.

DOMESTIC NUCLEAR DETECTION OFFICE

MANAGEMENT AND ADMINISTRATION

The amended bill provides \$31,500,000 for Management and Administration instead of \$31,176,000 as proposed by the House and \$32,000,000 as proposed by the Senate. The increase of \$1,032,000 above the current services level is intended to partially address critical staff vacancies. The Committees on Appropriation are concerned with the Domestic Nuclear Detection Office's (DNDO) shortfall in critical staffing positions and the impact of this shortfall upon the agency's administrative functions. As a result, there have been significant delays in obtaining quality budgetary information on major acquisitions and research projects from the agency. As of the end of September 2007, DNDO was only supporting 91 positions, or 21 below the fiscal year 2007 enacted level. Furthermore, the fiscal year 2008 budget justification fails to provide detailed data and explanatory statements for the additional 18 program management staff requested. Without an effective staffing plan and the appropriate complement of budgetary and support personnel, DNDO will be unable to manage its projected acquisition, fielding and integration of next generation devices. Therefore, DNDO is directed to prioritize its program management support needs and make every effort to fill associated positions as soon as possible. DNDO shall brief the Committees on Appropriations by February 1, 2008 on its hiring plan.

RESEARCH, DEVELOPMENT, AND OPERATIONS

The amended bill provides \$323,500,000 for Research, Development, and Operations instead of \$316,900,000 as proposed by the House and \$336,000,000 as proposed by the Senate. The following table specifies funding by budget activity:

Systems Engineering and Architecture .....	\$22,400,000
Systems Development .....	118,100,000
Transformational Research and Development .....	96,000,000
Assessments .....	37,500,000
Operations Support .....	34,500,000
National Technical Nuclear Forensics Center .....	15,000,000
Total .....	\$323,500,000

Systems Development

The Committees on Appropriations provide \$118,100,000 for systems development instead of \$108,100,000 as proposed by the House and \$132,100,000 as proposed by the Senate. Within the amount appropriated: \$10,000,000 shall be available

## Red Teaming

DNDO is directed to brief the Committees on Appropriations on red team exercises it has conducted, any vulnerabilities identified, and any changes that are being made to the system to address these vulnerabilities. The first briefing shall be within 120 days after enactment of this Act.

### SYSTEMS ACQUISITION

The amended bill provides \$129,750,000 for Systems Acquisition instead of \$171,500,000 as proposed by the House and \$139,000,000 as proposed by the Senate. The following table specifies funding by budget activity:

Radiation Portal Monitor Program.....	\$90,000,000
Securing the Cities.....	30,000,000
Human Portal Radiation Detection Systems Program.....	9,750,000
Total .....	\$129,750,000

### Radiation Portal Monitor Program

The Committees on Appropriations provide \$90,000,000 for the radiation portal monitor program instead of \$171,500,000 as proposed by the House and \$139,000,000 as proposed by the Senate. Within this appropriation, full funding has been provided for DNDO's effort to: procure and deploy additional polyvinyl toluene (PVT) based fixed radiation portal monitors (RPMs) to all remaining northern border sites by calendar year 2009, deploy PVT units in the air cargo environment, upgrade and deploy the 45 low rate initial production Advanced Spectroscopic Portal (ASPs) units, and support field validation for ASPs to determine that these systems meet CBP's functionality requirements.

As of November 15, 2007, 100-percent of all containerized cargo is being screened by RPMs at the southern border. However, the Committees on Appropriations remain deeply concerned about the Department's ability to detect non-containerized illicit radioactive materials entering the nation. Since the President's budget submission in February 2007, Congress has appropriated \$100,000,000 in unrequested emergency resources to speed placement of fixed radiation detectors at ports of entry (POE). Unfortunately, these resources, as well as prior year appropriations of \$64,330,000, remain largely unspent due to additional development required of the ASP monitors and additional evaluation to determine if ASP monitors are significantly more effective than currently deployed technologies. To date, the Committees on Appropriations have not received a certification from the Secretary that the ASP monitors perform more effectively in an operational environment compared to current generation portal monitors. Therefore, limited funding is provided for ASP in fiscal year 2008. The Committees on Appropriations direct \$147,000,000, from supplemental funds provided in fiscal year

2007 and annual appropriations provided in fiscal year 2008, be utilized to accelerate the procurement and deployment of PVTs to complete deployment of these systems at all remaining northern border sites. While the current generation technologies may not have the expected capabilities of ASP systems, they are substantially less expensive, proven to work within known limits, and can be quickly deployed to POEs.

The Committees on Appropriations appreciate the difficulties the Secretary faces in certifying the ASP systems and provide sufficient resources to allow DNDO to enter into an agreement with the National Academy of Sciences (NAS) to assist the Secretary in his certification decisions. NAS will help validate testing completed to date, provide support for future testing, assess the costs and benefits of this technology, and bring robustness and scientific rigor to the procurement process. As in prior fiscal years, the Committees on Appropriations include a prohibition of full scale procurement of ASP systems until the Secretary has certified and reported to the Committees that a significant increase in operational effectiveness merits such a decision. However, the amended bill also requires separate and distinct certifications for primary and secondary deployments in recognition of the inherently unique operational requirements each presents. The amended bill also prohibits high-risk concurrent development and production of mutually dependent software and hardware components of detection systems. This restriction is included to address the acquisition and fiscal risks associated with such concurrency and in response to the testing difficulties DNDO has encountered over the last fiscal year.

#### TITLE V—GENERAL PROVISIONS

Section 501. The amended bill continues a provision proposed by the House and Senate that no part of any appropriation shall remain available for obligation beyond the current year unless expressly provided.

Section 502. The amended bill continues a provision proposed by the House that unexpended balances of prior appropriations may be merged with new appropriations accounts and used for the same purpose, subject to reprogramming guidelines.

Section 503. The amended bill continues and modifies a provision proposed by the House and Senate that provides authority to reprogram appropriations within an account and to transfer up to 5 percent between appropriations accounts with 15-day advance notification of the Committees on Appropriations. Modifications adopted include in (1) adding “project” or “activity”; and in (2) adding “office”. A detailed funding table identifying each congressional control level for reprogramming purposes is included at the end of this statement. These reprogramming guidelines shall be complied with by all agencies funded by the Department of Homeland Security Appropriations Act, 2008.

The Committees on Appropriations expect the Department to submit reprogramming requests on a timely basis, and to provide complete explanations of the reallocations proposed, including detailed justifications of the increases and offsets, and any specific impact the proposed changes will have on the budget request for the following fiscal year and future-year appropriations requirements. Each request

FILING  
12/14/2007

1 DIVISION E—DEPARTMENT OF HOMELAND  
2 SECURITY APPROPRIATIONS ACT, 2008

3 TITLE I

4 DEPARTMENT OF HOMELAND SECURITY  
5 DEPARTMENTAL MANAGEMENT AND  
6 OPERATIONS

7 OFFICE OF THE SECRETARY AND EXECUTIVE  
8 MANAGEMENT

9 For necessary expenses of the Office of the Secretary  
10 of Homeland Security, as authorized by section 102 of the  
11 Homeland Security Act of 2002 (6 U.S.C. 112), and execu-  
12 tive management of the Department of Homeland Secu-  
13 rity, as authorized by law, \$97,353,000: *Provided*, That  
14 not to exceed \$40,000 shall be for official reception and  
15 representation expenses: *Provided further*, That  
16 \$15,000,000 shall not be available for obligation until the  
17 Secretary (1) certifies and reports to the Committees on  
18 Appropriations of the Senate and the House of Represent-  
19 atives that the Department has revised Departmental  
20 guidance with respect to relations with the Government  
21 Accountability Office to specifically provide for: (a) exped-  
22 ited timeframes for providing the Government Account-  
23 ability Office with access to records within 20 days from  
24 the date of request; (b) expedited timeframes for inter-  
25 views of program officials by the Government Account-

## 1           DOMESTIC NUCLEAR DETECTION OFFICE

## 2                   MANAGEMENT AND ADMINISTRATION

3           For salaries and expenses of the Domestic Nuclear  
4 Detection Office as authorized by the second title XVIII  
5 of the Homeland Security Act of 2002 and for manage-  
6 ment and administration of programs and activities,  
7 \$31,500,000: *Provided*, That not to exceed \$3,000 shall  
8 be for official reception and representation expenses.

## 9                   RESEARCH, DEVELOPMENT, AND OPERATIONS

10          For necessary expenses for radiological and nuclear  
11 research, development, testing, evaluation, and operations,  
12 \$323,500,000, to remain available until expended.

## 13                   SYSTEMS ACQUISITION

14          For expenses for the Domestic Nuclear Detection Of-  
15 fice acquisition and deployment of radiological detection  
16 systems in accordance with the global nuclear detection  
17 architecture, \$129,750,000, to remain available until Sep-  
18 tember 30, 2010: *Provided*, That none of the funds appro-  
19 priated under this heading shall be obligated for full-scale  
20 procurement of Advanced Spectroscopic Portal Monitors  
21 until the Secretary of Homeland Security submits to the  
22 Committees on Appropriations of the Senate and the  
23 House of Representatives a report certifying that a signifi-  
24 cant increase in operational effectiveness will be achieved:  
25 *Provided further*, That the Secretary shall submit separate  
26 and distinct certifications prior to the procurement of Ad-

1 shall not utilize any prior year balances from the following  
2 programs: screener partnership program; explosives detec-  
3 tion system purchase; explosives detection system installa-  
4 tion; checkpoint support; aviation regulation and other en-  
5 forcement; air cargo; and air cargo research and develop-  
6 ment: *Provided*, That any funds proposed to be trans-  
7 ferred under this section shall not be available for obliga-  
8 tion until the Committees on Appropriations of the Senate  
9 and the House of Representatives receive and approve a  
10 plan for expenditure for such funds that is submitted by  
11 the Secretary of Homeland Security: *Provided further*,  
12 That the plan shall be submitted simultaneously to the  
13 Government Accountability Office for review consistent  
14 with its ongoing assessment of the Secure Flight Program  
15 as mandated by section 522(a) of Public Law 108-334  
16 (118 Stat. 1319).

17 SEC. 551. RESCISSIONS. (a) The following unobli-  
18 gated balances made available pursuant to section 505 of  
19 Public Law 109-295 are rescinded: \$2,003,441 from U.S.  
20 Customs and Border Protection "Salaries and Expenses";  
21 \$9,583,611 from Coast Guard "Operating Expenses";  
22 \$672,230 from "United States Citizenship and Immigra-  
23 tion Services"; \$2,790,513 from Federal Emergency Man-  
24 agement Agency "Management and Administration";  
25 \$127,994 from Federal Emergency Management Agency

1 “Disaster Assistance Direct Loan Program Account”;  
2 \$5,136,819 from U.S. Immigration and Customs Enforce-  
3 ment “Salaries and Expenses”; \$333,520 from Federal  
4 Law Enforcement Training Center “Salaries and Ex-  
5 penses”; \$4,211,376 from the “Office of the Secretary and  
6 Executive Management”; \$443,672 from the “Office of  
7 the Under Secretary for Management”; \$380,166 from  
8 the “Office of the Chief Financial Officer”; \$493,106 from  
9 the “Office of the Chief Information Officer”; \$368,166  
10 from Domestic Nuclear Detection Office “Management  
11 and Administration”; \$45,369 from the “Office of Health  
12 Affairs”; \$32,299 from the “Office of Inspector General”;  
13 \$1,994,454 from National Protection and Programs Di-  
14 rectorate “Management and Administration”; and  
15 \$216,727 from Science and Technology “Management and  
16 Administration”.

17 (b) From the unobligated balances of funds trans-  
18 ferred to the Department of Homeland Security when it  
19 was created in 2003, \$59,286,537 are rescinded: *Provided,*  
20 That the rescission made under this subsection shall not  
21 be executed from the following programs: Coast Guard Re-  
22 tired Pay; U.S. Immigration and Customs Enforcement  
23 Violent Crime Reduction Program; Federal Law Enforce-  
24 ment Training Center Instructor Salaries; and Federal