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The Homeland Security Authorization Bill: Hits and Misses

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In an important step toward making America safer, the House of Representatives has passed the first authorization bill for the Department of Homeland Security (DHS). Introduced by Representative Christopher Cox (R-CA), the measure (H.R. 1815) authorizes spending for fiscal year 2006. The bill is a vital step toward coherent congressional oversight of the department's allocation and use of resources. The legislation also gives Congress the management tools to exercise oversight of major DHS activities (e.g., key personnel programs, critical mission performance, major research programs, and information technology investments). The Senate should take up this legislation as soon as possible.

The House bill, however, is not perfect. The Senate should reaffirm the bill's key initiatives but rethink the provisions that add protectionist restrictions and mandate state and local enforcement of federal immigration laws.

The Hits. The DHS authorization bill contains many valuable provisions, which the Senate should retain.

Section 205 improves the Homeland Security Advisory System. The current color-coded warning system used by the DHS is deeply flawed. By requiring that threats and alerts include more than color des-

ignations, Section 205 directs the DHS to send out more practical and realistic warnings. In addition, the section limits the scope of advisories to specific regions and sectors whenever possible.

Section 302 calls for establishment of a technology clearinghouse and a technology transfer program. These initiatives will provide a means for federal, state, and

local governments, as well as the private sector and countries that are friends and allies in the war on terrorism, to exchange information about useful anti-terrorism technologies. It is more efficient to develop jointly the means and technologies to counter the threat of terrorism.

Section 331 requires prioritization of critical infrastructure. The current list of critical infrastructure (the systems and assets that are vital to the national economy and national security) is too expansive. Section 331 would require the Homeland Security Secretary to prioritize critical infrastructure according to:

- The threat of attack,

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- The House has passed the first homeland security authorization bill, a vital step toward coherent oversight of the DHS.
 - The Senate should take up the bill as soon as possible, as part of its responsibility for overseeing the Department of Homeland Security.
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- The likelihood that the attack would cause significant destruction or disruption of the infrastructure, and
- The likelihood that the attack would cause a large number of deaths or significantly harm the national economy or national security.

The federal government should focus its attention on infrastructure that is vulnerable to attacks that might result in catastrophic destruction or immediately and significantly harm the economy. Most of these concerns are in the energy, finance, telecommunications, and transportation sectors.

Sections 401 and 402 call for reports to Congress on restructuring the department. Section 401 directs the DHS to assess the current structure of the department, focusing on whether or not the Bureau of Immigration and Customs Enforcement (ICE) and Customs and Border Protection should remain distinct entities. It would also evaluate whether the Directorate of Border and Transportation Security is a necessary layer in the DHS management structure. Section 402 tasks the Congress's Government Accountability Office with evaluating the effectiveness of the DHS organizational and management structure.

Sections 401 and 402 are initial steps toward an appropriate reorganization. The goal of such a reorganization should be to eliminate the bureaucratic layers, turf warfare, and lack of structure for strategic thinking and policymaking.

Amendment 147 addresses improved enforcement of immigration laws. Submitted by Chairman Cox, the amendment authorizes \$40 million to reimburse states and localities for training and certification of their law enforcement officers to enforce federal immigration laws. The amendment authorizes money for an existing voluntary ICE program, which operates under Section 287(g) of the Immigration and Nationality Act.

The Misses. While the authorization bill is overall a solid bill, a few provisions either do not pro-

mote homeland security or violate the principles of federalism, and they should therefore be removed from the legislation.

The "Buy America" provision should be dropped. An amendment by Representative Donald Manzullo (R-IL) imposes "Buy America" restrictions on the DHS by requiring it to purchase only products with at least 50 percent of their components mined, produced, or manufactured in the United States. This protectionist amendment would hurt rather than promote homeland security. In awarding contracts, the DHS should work to get the "biggest bang for the buck." Applying protectionist policies to homeland security would stifle innovation and increase costs. Where a company fulfills a contract—whether in Boston, Britain, or Bermuda—does not inherently benefit or hinder American security goals.

The immigration enforcement measure is well-intentioned but seriously flawed. Amendment 163, offered by Representative Charlie Norwood (R-GA), mandates that state and local law enforcement apprehend, remove, and transport illegal aliens during their routine tours of duty. While fostering greater cooperation on immigration enforcement is laudable, requiring state and local police to enforce federal immigration laws clearly violates the principles of federalism. Adequate tools and authorities already exist under the 287(g) program. The Norwood amendment is unnecessary and should be removed from the bill.

Time for Action. The House bill is a good start toward an effective DHS authorization bill. The Senate should take up the bill as soon as possible as part of its responsibility for overseeing the Department of Homeland Security.

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