



Legislative Bulletin.....December 6, 2001

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H.R. 3129—Customs Border Security Act (Crane)

Order of Business: The bill is scheduled to be considered on Thursday, December 6th, under a motion to suspend the rules and pass the bill.

Summary, as amended: H.R. 3129 would authorize more than **\$2.9 billion** in appropriations for FY2002 and FY2003 for the U.S. Customs Service, the Office of the U.S. Trade Representative, and the International Trade Commission. Because an appropriation for FY2002 for the Customs Service has already been enacted, most of the authorizations in this bill would be for FY2003. The bill would increase current-law authorizations of appropriations for FY2002 by a total of \$107 million. The major provisions of the bill are as follows:

Authorizations of Appropriations

U.S. Customs Service

- Noncommercial operations
FY2002 revised: \$899.1 million
FY2003: \$922.4 million
- Commercial operations
FY2002 revised: \$1.61 billion
FY2003: \$1.65 billion
- Air and marine interdiction
FY2002 revised: \$181.9 million
FY2003: \$186.6 million
- Program for the prevention of child pornography and child sexual exploitation
FY2002: \$10.0 million
- Reestablishment of Customs Service operations in Manhattan (including textile enforcement operations and operations related to the Special Agent-in-Charge for New York, the Port Director of New York City, and the New York Customs Management Center)
FY2002: “such sums as may be necessary”

- Transshipment enforcement operations (see definition in the “studies and reports” section below)
FY2002: \$9.5 million

Office of the U.S. Trade Representative

- General appropriations
FY2002 revised: \$30.0 million
FY2003: \$31.0 million
- Hiring of two additional congressional affairs specialists
FY2002: “such sums as may be necessary”

U.S. International Trade Commission

- General appropriations
FY2002 revised: \$51.4 million
FY2003: \$53.4 million

Earmarks

- Earmarks \$90.2 million in FY2002 funds for the procurement of antiterrorist and illegal drugs detection equipment for the U.S.-Mexico border, the U.S.-Canada border, and Florida and Gulf-Coast seaports. (Specific earmarks within each category are detailed in the bill.) Earmarks \$9.0 million in FY2003 for the maintenance and support of such equipment.
- Caps aggregate annual overtime pay for customs officers at \$30,000, subject to certain exceptions. Clarifies what constitutes overtime and premium pay.
- Earmarks \$28.3 million to hire 285 additional Customs Service officers for the U.S.-Canada border
- Earmarks 3.75% of the authorization for the Customs Service’s child pornography prevention program for the National Center for Missing and Exploited Children’s cyber tip-line
- Earmarks funds for various components of authorization for transshipment enforcement (including the hiring of permanent trade officers positioned in certain countries)
- Earmarks \$1.3 million of the Customs Service’s commercial operations authorization for technical assistance for sub-Saharan countries to develop and implement visa and anti-transshipment systems (as required by Public Law 106-200, the African Growth and Opportunity Act)

Key Legislative Language

- Increases (90 days after this bill’s enactment) the aggregate value of articles exempted from duty that are acquired abroad by U.S. residents from \$400 to \$800
- Mandates advance electronic transmission (by the operator of every land, air, or vessel seeking entry to the U.S., subject to certain exceptions) of *all* cargo information (including detailed identification information for every person departing through or arriving into a Customs facility)

- Authorizes a Customs officer to “stop and search at the border, without a search warrant,” domestic mail addressed for export and foreign mail transiting the U.S. addressed for import or export, subject to certain provisions
- Grants immunity from civil liability to “any officer or employee of the United States” who conducts a search of a passenger in good faith. Within 30 days of this bill’s enactment, at all Customs facilities a summary of the policy and procedures for searching passengers (including a statement relating to the prohibition of profiling based on “gender, race, color, religion, or ethnic background”) would have to be posted.
- Authorizes the Secretary of the Treasury to take (and notify Congress of) emergency actions related to Customs offices, points of entry, or staffing during national emergencies
- Requires the Commissioner of Customs to establish and implement (not later than the end of FY2003) a cost accounting system for expenses incurred in commercial and noncommercial operations of the Customs Service
- Requires that the Commissioner of Customs, the U.S. Trade Representative, and the U.S. International Trade Commission submit to Congress (not later than the date on which the President submits the federal budget for a fiscal year) the projected amount of funds that the Customs Service, the Office of the U.S. Trade Representative, and the U.S. International Trade Commission, respectively, will need for the subsequent fiscal year

Studies and Reports

- Directs the Commissioner of Customs to study and report within 120 days on the personnel practices of the Customs Service (including a review of performance standards, collective bargaining practices, and duty-rotation policies)
- Directs the Commissioner of Customs to study and report within 6 months on the accounting and auditing procedures of the Customs Service
- Directs the GAO to study and report on (within one year) the extent to which the Customs Service has taken steps to decrease the amount of time to issue prospective rulings (i.e. rulings regarding classification, valuation, or marking of goods that an importer wants to bring into the U.S.)
- Directs the GAO to study and report on (within 120 days) the extent to which customs fees are commensurate with the related customs services for which the fees are assessed
- Directs the GAO to audit and report on (within 9 months) the Customs Service’s system for monitoring textile transshipment (i.e. claiming preferential trade treatment based on false information about a product’s country of origin, manufacture, processing, or assembly).

Cost to Taxpayers: CBO estimates that enactment of H.R. 3129 would authorize appropriations of **\$107 million** in FY2002 (\$2.767 billion already authorized for FY2002 under current law) and **\$2.825 billion** in FY2003 and reduce duty revenues by \$4 million per year (by increasing the personal-duty exemption from \$400 to \$800 for people entering the U.S.). The Ways & Means Committee (in House Report 107-320) believes that the reduction in duty revenues would be \$6 million per year. CBO estimates that the net effect of H.R. 3129 on direct spending for overtime and premium pay for Customs officers would be less

than \$500,000 per year.

Does the Bill Create New Federal Programs or Rules? Essentially, the bill would authorize appropriations for offices and programs in current law and otherwise modify current law. However, certain earmarks would authorize new staffing, and the bill would mandate many new reports (though most of these reports are related to financial and procedural oversight).

Constitutional Authority: The Ways & Means Committee (in House Report 107-320) cites constitutional authority in Article I, Section 8, Clause 1 (the power to lay and collect taxes, duties, imposts and excises...)

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H.R. 3008- To reauthorize the trade adjustment assistance program under the Trade Act of 1974 (Johnson, Nancy)

Order of Business: The bill is scheduled to be considered on Thursday, December 6th, under a motion to suspend the rules and pass the bill. The new text of H.R. 3008 that will be considered can be found on the House Rules website:
http://www.house.gov/rules/h3008_sus.pdf

Summary: H.R. 3008 will reauthorize for an additional 2 fiscal years and make modification to the Trade Adjustment Assistance (TAA) and the North American Free Trade Agreement Transitional Adjustment Assistance Program (NAFTA-TAAP).

Trade Adjustment Assistance offers extended unemployment benefits and job training to workers left jobless related to an influx of imported goods. The NAFTA-TAAP not only aids trade-affected workers but also aids those who lose jobs because their companies relocate to Canada or Mexico.

The bill also creates a new Labor Department program to provide adjustment assistance for workers unemployed from the terrorist attacks of Sept. 11. H.R. 3008 will establish a procedure for “a group of workers,” including “workers in any agricultural firm” or their “union” to petition inclusion in the Sept. 11 program. **The Secretary will certify their petition** 1) if a significant number of the workers have become totally or partially separated or threatened to become separated; 2) if sales or production of the firm or subdivision has decreased absolutely; and 3) **if Sept. 11 “contributed importantly” to the separation and decline in sales or production (Note: “contributed importantly” is defined as “a cause which is important but not necessarily more important than any other cause.”**

This bill increases (retroactively to January 1, 2001) from 104 weeks to 130-weeks the duration of job training, if the worker requires a program of remedial education.

The bill also allows payments for trade readjustment benefits for up to 52 additional weeks instead of the previous 26 weeks. This provision brings in line the time limit for eligibility of benefits with the time limits for training.

The bill changes the Secretary's time-period for determining eligibility for workers from the previous 60 days from date of their petition filed to 40 days.

The bill reiterates that under the Trade Adjustment Assistance program workers “are eligible for transportation, childcare, and healthcare assistance, as well as other related assistance under programs administered by the Department of Labor.” And it also states the sense of Congress that the Secretary of Labor should do more to advertise these services to workers “who are applying for, or are certified to receive, assistance under that program, **including information on all other Federal assistance available to such workers.**”

Cost to Taxpayers: There is no updated CBO estimate of H.R. 3008. The bill authorizes appropriations of \$2 billion for FY02 and FY03 (NOTE: It appears that the Sept. 11th program is discretionary rather than mandatory like other TAA programs).

The portions of H.R. 3008 that extends and expands the TAA programs for workers and for firms through FY03, are expected to cost approximately \$507 million a year in mandatory spending. However, simply extending (and not expanding) current programs would cost about \$400 million a year, for a net increase to the baseline of approximately \$107 million a year.

Further Background: CRS has prepared a report on the TAA that can be found at <http://www.congress.gov/erp/rs/pdf/RS21078.pdf>. (Title: “Trade Adjustment Assistance for workers: legislation in the 107th Congress RS21078.”)

Does the Bill Create New Federal Programs or Rules?: Yes, the bill creates a new Labor Department program to provide adjustment assistance for workers unemployed from the terrorist attacks of Sept. 11. It also extends for an additional 2 fiscal years the TAA and the NAFTA-TAAP, programs dealing with unemployment benefits, job training and grants to workers affected by international trade.

Constitutional Authority: The Committee on Ways and Means (in House Rpt. 107-244) finds its authority in Article I of the Constitution, Section 8 (Powers of Congress) but does not cite a specific clause.

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