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DRUG FREE BORDERS ACT OF 1998

OCTOBER 1 (legislative day, SEPTEMBER 29), 1998.—Ordered to be printed

Mr. ROTH, from the Committee on Finance, submitted the following

REPORT

[To accompany H.R. 3809]

[Including cost estimate of the Congressional Budget Office]

The Committee on Finance, to which was referred the bill (H.R. 3809) to authorize appropriations for the United States Customs Service for fiscal years 1999 and 2000, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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I. INTRODUCTION

A. Purpose and summary

H.R. 3809, as amended by the Committee, would authorize appropriations necessary to improve Customs' ability to interdict drugs and other contraband while improving the entry and processing of legitimate commerce at our nation's ports. The Committee amendment would also require a study of various Customs Service processes in order to provide the Committee on Finance with a benchmark against which to judge Customs' performance of its primary function of processing legitimate commerce, both inbound and outbound, and securing our borders against the importation of illegal narcotics and other contraband.

B. Background and need for legislation

The role of the Customs Service has expanded significantly since customs officers were first authorized to collect duties on goods in 1789. The U.S. Customs Service combines that role with the broad responsibility for enforcing a broad range of U.S. laws at the border. The Customs Service's enforcement responsibilities range from the interdiction of drugs and other contraband to the enforcement of U.S. food safety, consumer protection, environmental, child labor and intellectual property laws, among others.[1] Recent Customs Service appropriations have included specific direction to expand anti-terrorism programs, improve the reporting of trade statistics, enhance regulatory audit and laboratory services, open new ports of entry, and expand services at existing ports. According to testimony before the Committee, all told, Customs enforces over 400 laws for over 40 U.S. agencies.

In addition, Customs bears the primary responsibility as well for the enforcement of U.S. trade agreements at the border. Trade agreements like the North American Free Trade Agreement ("NAFTA") and those concluded as part of the Uruguay Round create new and more complex rules of the road for importers and exporters. The Customs Service must implement those rules that require border enforcement such as new country-of-origin and marking rules, as well as provide timely guidance to the trade and transport communities that depend on such guidance to complete their transactions.

Over the last ten years, new trade agreements, lower trade barriers, and the prolonged expansion of the U.S. economy have driven an expansion in United States trade unparalleled in the Nation's history. For example, according to testimony before the Committee,

[1] The breadth of Customs' enforcement responsibility is reflected in the diverse legislation for which the agency bears either primary or partial responsibility for enforcement. Beyond its role in the enforcement of the U.S. trade laws contained in Title 19 of the United States Code, the Customs Service is now responsible for enforcing provisions of, inter alia, the Controlled Substances Act, the Export Administration Act, the Endangered Species Act, the Poison Prevention Act of 1970, the Wool Products Labeling Act, as well as legislation implementing the NAFTA, the Uruguay Round Agreements Act, and other trade agreements.

United States-Canadian trade has doubled since the signing of the U.S.-Canada Free Trade Agreement a decade ago, from $194 billion in 1987 to $387 billion in 1997. Overall, the Customs Service expects that imports through U.S. ports will grow 50 percent over the next five years, from $761 billion to $1.1 trillion. Those figures imply a 10-percent annual increase in the number of commercial entries Customs will face at U.S. ports of entry.

While the volume of trade has grown, the threat from drugs and other contraband, including the importation of explosives or other weapons of terror, has not subsided. While drug use overall has declined from 10 years ago, recent statistics suggest that it is once again on the rise among the young and there has been no decline in the efforts of drug smugglers to bring their illegal wares to U.S. shores. Those efforts have, if anything, become more sophisticated. Customs has enhanced its drug interdiction efforts through comprehensive programs like Operation Brass Ring, which has focused on interdiction at all United States borders with successful follow-up investigations. Such efforts have led to a significant payoff in increased seizures and arrests.

The Customs Service has faced the steady expansion of its responsibilities and the growth in both legitimate international trade and contraband with steadily declining resources. According to testimony before the Committee, Customs' budget declined over $100 million dollars in real terms over the last five years. What that means, in practical terms, is that Customs, on a typical day, examines 1.2 million passengers, over 320,000 vehicles, 27,000 trucks or containers, 2,200 aircraft, and 635 vessels with approximately 10 percent fewer resources than it had five years ago. On that same day, Customs will have seized 2,700 pounds of narcotics, $650,000 in illegally transported U.S. currency, $20,000 worth of arms and ammunition, $332,000 in vehicles stolen or used in the commission of a violation of the customs laws. It will have made 56 arrests, 72 narcotics seizures, 10 currency seizures, and 112 other enforcement seizures of conveyances, arms and ammunition, commercial merchandise, child pornography, and other contraband. Again, all that with 10 percent fewer resources than it had to perform its functions five years ago.

Customs has maintained a relatively high level of service to persons and cargo entering the United States despite the decline in its resources. That has been largely due to reforms introduced by the Customs Modernization Act (or "Mod Act"), as it is popularly known, which was passed together with legislation implementing the North American Free Trade Agreement, and due to reforms introduced by then-Commissioner of Customs George Weise. Those reforms led to a radical reorganization of the agency made effective in 1995 that removed layers of bureaucracy, flattened the management structure of the organization, and focused the agency on core processes that are its primary functions. The reorganization, first formulated in a path-breaking program known as People, Processes, and Partnerships, was designed to take advantage of the provisions of the Mod Act that imposed a greater burden for ensuring compliance onto the importing and exporting community. By shifting its focus toward account-based processing for major U.S. importers maintaining a strong internal compliance program, Customs could shift greater resources to front-line inspection and enforcement activities.

The philosophy behind the reorganization also reinforced the enforcement activities of the agency. According to testimony before the Committee, by expanding its work with the trade and transport community through such programs as the Business Anti-Smuggling Coalition, Customs was able to cut off contraband at its source in foreign ports and increase the efficiency of its own enforcement and interdiction efforts.

The expansion of Customs' responsibilities and the growing volume of trade, combined with the real decline in resources, however, has begun to erode seriously Customs' ability to handle the daily volume of entries at U.S. ports of entry and its enforcement responsibilities. Testimony before the Committee underscored the extent to which increased vigilance and inspection, together with the lack of available resources during peak hours, has significantly disrupted commerce and the livelihood of many along both our northern and southern borders. Customs and Immigration and Naturalization Service under-staffing is now reported to be the number one cause of congestion at the border. Despite significant investments in new infrastructure at land border crossing on both the northern and southern borders, the infrastructure goes unused for lack of personnel to open additional traffic lanes during peak hours.

On that point, both government and private sector witnesses before the Committee were in accord. Current resource constraints are forcing Customs to make choices between trade facilitation and enforcement activities on a daily basis. Lanes open for commercial traffic often must be closed when a seizure takes place in order to provide staff to handle the work related to the seizure.

According to the current Commissioner of Customs, Raymond Kelly, the key to meeting Customs' many responsibilities is to increase the efficiency of Customs resources through a significant investment in new technology and through innovative means of cooperation with other agencies and with the business community. Investments in technology may take two forms—investments in information technology that would facilitate the processing of commercial traffic while enhancing enforcement efforts, and the application of new non-intrusive methods of searching vehicles and cargo, principally through the use of x-ray technology. Testimony from both government and private sector witnesses emphasized the perilous state of the outdated Customs Service data processing systems and the need for implementation of a new system known as the Automated Commercial Environment or "ACE."

As testimony before the Committee bears out, however, investments in technology are unlikely to address all of Customs' problems or even to improve efficiency if they are not coupled with an adequately trained workforce capable of employing such technological improvements. Plainly, the acute problems experienced during peak hours at land entry points along the northern and southern borders also require either the reallocation or employment of additional personnel.

On that point, the testimony before the Committee bore out the need for expanded inspection personnel at ports of entry along both borders and along Florida and Gulf Coasts. At the same time, serious questions have been raised by recent General Accounting Office studies regarding Customs' ability to determine its baseline inspection personnel needs at any particular port of entry or throughout the Customs Service as a whole. While the need for further inspection personnel is clear, the issue of the Customs Service's personnel policies will require further scrutiny by the Committee in the future.

The need for further scrutiny applies with equal force to a number of other issues that bear on the efficiency of Customs' use of its available resources. Any relative neglect of certain basic trade processes, such as classification, valuation, and duty drawback, when considering the need for additional personnel, could further erode the agency's ability to achieve its goals. If the key to future efficiency gains rests as much with obtaining the cooperation of major importers and exporters under the concept of "informed compliance" required by the Mod Act, it is not in Customs' interest, either from the perspective of alleviating resource constraints or achieving high rates of compliance, to undercut the ability of business to comply with the law by failing to provide timely, accurate, and consistent advice regarding the basic conditions of importing into the country.

The evident problems at the border, coupled with the questions raised about the agency's allocation of existing resources, suggests a two-step approach. The first step consists of authorizing those additional investments in technology and personnel needed to eliminate the immediate problems Customs faces in performing its functions at the border in the near term. The second step will require a heightened level of oversight of the agency as it moves forward to implement many of the programs it already has under way to improve its performance, as well as an assessment of how effectively it may make use of additional resources authorized by the Committee and Congress to address Customs' short-term inspection and enforcement needs.

The Committee amendment, as discussed in further detail below, adopts that approach.

C. Legislative history

H.R. 3809, as passed by the House of Representatives, built upon legislation originally introduced in the Senate as S. 1787 by Senator Gramm of Texas. The House bill, which was reported favorably with amendment by the Committee on Ways and Means, was passed by the House on May 19, 1998, and received in the Senate and referred to the Committee on Finance on May 20, 1998.

The Committee held a hearing on the authorization of additional appropriations for the Customs Service on September 3, 1998. At that hearing, the Committee heard from the Under Secretary of Treasury for Enforcement, James Johnson, regarding the priority the Administration places on enhancing the Customs Service's ability to secure the Nation's borders while improving the agency's ability to process legitimate inbound and outbound trade. The Committee also heard from Raymond Kelly, the Commissioner of Customs, on the specific challenges facing the agency and what improvements in technology and personnel would be required to address those challenges.

A panel of private sector panelists, including former Commissioner of Customs, George Weise, reinforced the message that Customs needs additional resources, both technology and personnel, to perform its task adequately in the face of our rapidly expanding trade and the continuing war on drugs. At the same time, the private sector witnesses raised a number of concerns regarding the Customs Service's commercial operations, its implementation of what is popularly known as the Customs Modernization Act, and the agency's implementation of information technology plans in a manner consistent both with the agency's goals and the manner in which international business is actually conducted by industry.

By way of further background, the statutory basis for authorization of appropriations for Customs is section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)). The 1978 Act, as amended by section 8102 of the Omnibus Budget and Reconciliation Act of 1986, requires separate authorizations and appropriations for salaries and expenses related to commercial and non-commercial (i.e., enforcement) operations. For purposes of comparison, the figures listed below are total figures for salaries and expenses.

The most recent authorization of appropriations for Customs took place in 1990 as part of the Customs and Trade Act of 1990 (Pub. L. No. 101–382). That Act provided $1,247,000 for total salaries and expenses and $150,199,000 for air and marine interdiction and other operations and maintenance in fiscal year 1992. That authorization expired in 1992 and Customs has been without a new authorization for appropriations since that time.

Appropriations for Customs for fiscal year 1998 for salaries and expenses totaled $1,522,165,000 and $92,758,000 for air and marine interdiction and other operations and maintenance. Total Customs appropriations for fiscal year 1998 amounted to $1,675,571,000.

The President's fiscal year 1999 budget request asked for $1,638,065,000 for salaries and expenses and an additional $98,499,000 for marine and air interdiction and other operations and maintenance. Thus far, the House has passed legislation appropriating the requested figure. The Senate has acted on legislation appropriating a slightly lower amount—$1,630,273,000—for salaries and expenses and $98,488,000 for operations and maintenance, including air and marine interdiction, which was the amount requested by the President for those activities.

H.R. 3809, as passed by the House, would authorize a total of $1,935,425,584 for salaries and expenses and $98,488,000 for marine and air interdiction and other operations and maintenance in fiscal year in 1999. For fiscal year 2000, H.R. 3809 would authorize a total of $2,072,891,328 in salaries and expenses for fiscal year 2000 and $101,443,000 for air and marine interdiction and other operations and maintenance. That represents a total authorization of close to $2.2 billion, a substantial increase over the last authorization of appropriations in 1992 and an increase of close to $500 million over recent budget allocations.

The Committee held a markup of a proposed substitute amendment tabled by the Chairman on September 10, 1998. The proposed substitute built on the foundation provided by Senator Gramm of Texas in S. 1787, the House-passed measure H.R. 3809, and proposals developed by Senators Grassley of Iowa and Graham of Florida. The Finance Committee amendment would both authorize the appropriations necessary to meet the Customs Service's immediate needs and demand greater accountability from Customs in the future with respect to the management of the resources contained in this and prior authorizing legislation.

In contrast to H.R. 3809 as passed by the House, the Committee amendment would apply to fiscal years 2000 and 2001, rather than 1999 and 2000. The Committee amendment would authorize roughly $52 million more for salaries and expenses in the first of the two fiscal years than would H.R. 3809, and $130 million more for marine and air interdiction and other operations and maintenance than would the House-passed legislation.

II. EXPLANATION OF THE BILL

Based on testimony before the Committee, it became clear that there are significant delays in the processing of passengers and cargo at the Nation's ports of entry and that those delays stem, in part, from the need to divert personnel from normal commercial operations as enforcement needs arise. Testimony before the Committee also suggested the need for increased oversight of the agency going forward to ensure full implementation of the Customs Modernization Act, strengthen partnerships formed between Customs and the trade and transport communities that have assisted Customs in both its trade facilitation and enforcement activities, and to ensure that Customs is adequately prepared to address the challenges it confronts in a world of rapidly expanding trade and broader enforcement responsibilities.

That suggested a two-step approach. The first step would consist of authorizing those additional investments in technology and personnel needed to eliminate the immediate problems Customs faces in performing its functions at the border in the near term. The second step would involve building a foundation for stronger Committee oversight in the future.

The Committee's amendment to H.R. 3809 adopts that approach. As reported by the Finance Committee, H.R. 3809 would consist of two titles. The first would authorize additional resources for enforcement and trade facilitation at the northern and southern borders, and along the Florida and Gulf Coasts and address certain other issues relating to Customs' Service current operations. The Committee seeks, as did Senator Gramm's original bill with respect to the United States land borders, to ensure that Customs has the resources needed both to ensure stronger enforcement and to alleviate congestion at all U.S. ports of entry—which can often last several hours or longer—to waiting times of no more than twenty minutes.

Title II would, by contrast, call on Customs to provide a report addressing a number of specific questions designed to assist the Committee in discharging its oversight responsibilities in the future. Those questions, as reflected in the section-by-section analysis, would build on the strategic planning process called for under the Government Performance and Results Act of 1993. Relying on the most recent Customs Service strategic plan, the report called for under Title II would call on Customs to identify standards it intends to apply to its own performance in achieving the goals specified in its own strategic plan, as well as require additional information on issues raised in testimony before the Committee, in recent General Accounting Office studies, and in industry comment on recent Customs initiatives.

A. Title I—Authorization of appropriations for enhanced inspection, trade facilitation, and drug interdiction

1. Section 101—Authorization of appropriations

The statutory basis for authorization of appropriations for Customs is section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)). The 1978 Act, as amended by section 8102 of the Omnibus Budget and Reconciliation Act of 1986, requires separate authorizations and appropriations for salaries and expenses related to commercial and non-commercial (i.e., enforcement) operations.

The most recent authorization of appropriations for Customs took place in 1990 as part of the Customs and Trade Act of 1990 (P.L. No. 101–382). That Act provided $1,247,000 for total salaries and expenses and $150,199,000 for air and marine interdiction in fiscal year 1992. That authorization expired in 1992 and Customs has been without a new authorization for appropriations since that time.

A House passed authorization in 1997, H.R. 1463 would have raised the authorization of appropriations for salaries to a total of $1,569,838,000 for fiscal year 1998 and $1,614,465,000 for fiscal year 1999. Appropriations for Customs for fiscal year 1998 for salaries and expenses totaled $1,522,165,000 and $92,758,000 for air and marine interdiction.

Section 101 would authorize additional appropriations for enforcement, commercial operations, and air and marine interdiction in fiscal years 2000 and 2001. It would also require Customs to provide out-year budget projections for fiscal years beyond 2001. Specifically, section 101 would amend section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 to authorize $997,300,584 and $1,100,818,328 for drug enforcement and other non-commercial operations in fiscal years 2000 and 2001 respectively. Section 101 would authorize $990,030,000 in fiscal year 2000 and $1,009,312,000 in fiscal year 2001 for Customs Service commercial operations. Section 101 would, in addition, authorize appropriations of $229,001,000 and $176,967,000 for air and marine interdiction in fiscal years 2000 and 2001 respectively.

2. Section 102—Cargo inspection and narcotics detection equipment for United States-Mexico border, United States-Canada border, and Florida and Gulf Coast seaports

Section 102 would earmark specific amounts out of the totals set out in section 101 to be used for the express purpose of narcotics detection at northern and southern land border entry points, as well as at Florida and Gulf Coast ports of entry. The total authorization for these purposes would be $100,036,000 distributed as follows. For the United States-Mexico Border, the Finance Committee amendment would earmark $6 million for 8 vehicle and container inspection systems; $11 million for 5 mobile truck x-rays; $12 million for upgrade of 8 fixed-site truck x-rays; $7.2 million for 8 pallet x-rays; $1 million for 200 portable contraband detectors; $600,000 for 50 contraband detection kits; $500,000 for 25 ultrasonic container inspections units; $2.45 million for 7 automated targeting systems; $360,000 for 30 rapid tire deflator systems; $480,000 for 20 portable Treasury Enforcement Communications Systems terminals; $1 million for 20 remote watch surveillance cameras; $1.254 million for 57 weigh-in-motion sensors; $180,000 for 36 AM band traffic information radio stations; $1.04 million for 260 inbound vehicle counters; $950,000 for 38 counter surveillance spotter cameras; $390,000 million for 60 inbound commercial truck transponders; $1.6 million for 40 narcotics vapor and particle detectors; $400,000 for license plate reader automatic targeting software; and $1 million for a demonstration site for a high-energy relocatable rail car inspection system at a shared Defense Department testing facility for a two-month period.

For the United States-Canada Border, the Finance Committee amendment would earmark $3 million for 4 vehicle and container inspections systems; $8.8 million for 4 mobile truck x-rays; $3.6 million for 4 pallet x-rays; $250,000 for 50 portable contraband detectors; $300,000 for 25 contraband detection kits; $240,000 for 10 portable Treasury Enforcement Communications Systems; $400,000 for 10 narcotics vapor and particle detectors; $600,000 for 30 fiber optic scopes; $250,000 for 50 portable contraband detectors (busters); $3 million for 10 x-ray vans with particle detectors; $40,000 for 8 AM loop radio systems; $400,000 for 100 vehicle counters; $1.2 million for 12 examination tool trucks; $2.4 million for 3 dedicated commuter lanes; $1.05 million for 3 automated targeting systems; $572,000 for 26 weigh-in motion sensors; and $480,000 for 20 portable Treasury Enforcement Communication Systems (TECS).

For the Florida and Gulf Coast Seaports, the Finance Committee amendment would provide $4.5 million for 6 vehicle and container inspection systems; $11.8 for 5 mobile truck x-rays; $7.2 million for 8 pallet x-rays; $250,000 for 50 portable contraband detectors; and $300,000 for 25 contraband detection kits.

Section 102 would authorize $9,923,500 for maintenance and support of the equipment identified above and for training of personnel to maintain and support such equipment. Section 102 would allow the Commissioner flexibility in spending the amounts specified in section 102 if he were to find technologically superior equipment designed for the same purpose was available. In addition, section 102 would allow some room for reallocation (not to exceed 10 percent) among the various enumerated items within any geographic areas identified above as needed.

3. Section 103—Peak hours and investigative resource enhancement for the United States-Mexico border, the United States-Canada border, Florida and Gulf Coast seaports, and the Bahamas

Section 103 would authorize a net increase in personnel to enhance Customs' ability to address peak loads at various points of entry and to increase investigative personnel dedicated to the interdiction of drugs and other contraband. Appropriations under that authority would be earmarked as follows: a net increase of 535 inspectors, 120 special agents, and 10 intelligence analysts for the United States-Mexican border and 375 inspectors for the United States-Canada border in order to open all primary lanes on such border during peak hours; a net increase of 285 inspectors and canine enforcement officers to be distributed at large cargo facilities in order to reduce commercial waiting times on the United States-Mexico border; a net increase of 125 inspectors to be distributed at large cargo facilities as needed to process and screen cargo (including rail cargo) and reduce commercial waiting times on the United States-Canada border; a net increase of 40 inspectors at sea ports in southeast Florida to process and screen cargo; a net increase of 70 special agents, 23 intelligence agents, 9 support staff, and the necessary equipment to enhance investigation efforts targeted at internal conspiracies at the Nation's sea ports; a net increase of 360 special agents, 30 intelligence analysts, and additional resources for use in ports that have jurisdiction over major metropolitan drug or narcotics distribution and/or transportation centers; a net increase of 2 special agents to staff a Customs attache office in Nassau, Bahamas; a net increase of 62 special agents and 8 intelligence analysts for maritime smuggling investigations and interdiction operations; and a net increase of 50 positions and additional resources to staff adequately the Office of Internal Affairs to enhance investigation of anti-corruption efforts.

With respect to the addition of 125 inspectors for the United States-Canada border, the Committee considered the question of whether increasing the number of inspectors created a corresponding need for additional investigative personnel to respond to the expected resulting increase in investigative work from increased inspections. The Committee concluded that additional investigative resources would be needed and, for purposes of considering such requirements in future authorizations, asked the Customs Service to provide an estimate of the number of special agents and intelligence analysts that would be needed to complement the increase in investigative personnel on the northern border that are authorized by the Committee amendment.

Section 103 would also authorize the additional funds necessary to cover the cost incurred as a result of the increase in personnel hired pursuant to that provision of the authorizing legislation.

4. Section 104—Air and marine operation and maintenance funding

Section 104 would earmark additional amounts out of the totals set out in section 101 to improve the Customs Service's air and marine interdiction efforts as follows. For fiscal year 2000, the Finance Committee amendment would authorize $96.5 million for restoration or replacement of aging aircraft, $15 million for increased air interdiction and investigative support activities, and $19.013 million for marine vessel replacement and related equipment. For fiscal year 2001, the Finance Committee amendment would authorize $36.5 million for aircraft restoration and replacement, $15 million for increased air interdiction and investigative support activities, and $24.024 million for marine vessel replacement and related equipment.

5. Section 105—Compliance with performance plan requirements

Section 105 would require Customs to establish specific performance goals, performance indicators, and other standards for the additional activities enumerated in sections 102–104 as a part of developing its annual performance plan in order to allow both Customs and the Committee to assess the value added to Customs efforts by these authorizations.

6. Section 106—Commissioner of Customs salary

Section 106 would authorize an increase in the Customs Commissioner's pay to a rate commensurate with other U.S. government officials of similar rank and responsibility. Section 106 would apply to fiscal year 1999 and those that follow.

7. Section 107—Passenger preclearance services

Section 107 would direct Customs to continue to provide passenger pre-clearance at air transport facilities in Canada which it has provided in the past. Section 107 would authorize the appropriation of additional funds necessary to cover the costs of such pre-clearance services that are not covered by funds provided by the customs user fees under section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985.

B. Title II—Customs performance report

Title II would require Customs to report to the Committees on Finance of the Senate and Ways and Means of the House within 120 days of enactment of the legislation on the topics enumerated below. The goal of the report is to build on the strategic planning process called for under the Government Performance and Results Act of 1993 and the annual performance reports called for under section 105 of this legislation and set a baseline for Committee oversight of the Customs Service's performance in the future. Topics on which Customs would be required to report would include—

A. Identifying Objectives and Setting Priorities—Customs would be obliged to outline means for identifying enforcement priorities and trade facilitation objectives, provide reasons for choosing the objectives identified in the Customs Service's most recent strategic plan, and define performance standards against which the Committee might assess Customs' efforts to reach the goals outlined in its strategic plan.

B. Implementation of the Customs Modernization Act—Customs would be required to provide an overview of its implementation to date of title VI of the North American Free Trade Agreement Implementation Act, commonly known as the Customs Modernization

Act or "Mod Act," together with an explanation for any elements that remain incomplete, a review of the effectiveness of the informed compliance strategy in obtaining higher levels of effective compliance among the trade community, particularly in priority industries that have been the focus of Customs' most intense efforts at ensuring compliance under the Mod Act, and a summary of the results of the initial compliance assessments conducted by Customs as part of the agency's informed compliance initiative.

C. Improving Commercial Operations—The Committee amendment would call on Customs to identify standards to be applied in assessing the performance and efficiency of core trade commercial operations, including entry and inspection procedures, classification, valuation, country-of-origin determinations, and duty drawback determinations, to develop proposals for improving Customs performance in these areas in order to eliminate lengthy delays in obtaining rulings in those core areas, and to outline alternative strategies designed to ensure that United States importers and exporters, customs brokers, carriers and other members of the international trade community have the information necessary to carry out their compliance responsibilities under the Customs Modernization Act and plan their business operations accordingly.

D. Review of Enforcement Responsibilities—The Committee amendment would require Customs to provide an overview of Customs Service enforcement responsibilities, an assessment of the degree to which the current functions of Customs overlap with other agencies, and a review of the ways in which the Customs Service could avoid duplication of effort in those areas and free resources to focus on Customs' primary commercial operations and enforcement responsibilities. The assessment should incorporate specific ways in which Customs can tailor its efforts to promote greater efficiency in the allocation of its resources and enhance interagency cooperation. The Committee amendment also calls on Customs to provide a description of the methods used to ensure against any misuse of the personal search authority with respect to persons entering the United States at authorized ports of entry. The Committee's intent is to assess the adequacy of those safeguards in order to ensure against the abuse of the personal search authority in the context of what may otherwise be the legitimate identification of high risk persons or cargo entering the United States.

E. Comprehensive Drug Interdiction Strategy—The Committee amendment would oblige Customs to outline a comprehensive strategy for Customs' role in U.S. drug interdiction efforts, clarify the respective roles of the Customs Service and other cooperating agencies, including the Drug Enforcement Administration, Federal Bureau of Investigation, Coast Guard, and intelligence community, identify Customs functions that belong within the unique competence of the agency and those functions that could be better performed by other agencies, and indicate how Customs expects to allocate the additional drug interdiction resources authorized by this legislation in the regions identified.

F. Enhancing Cooperation with the Trade Community—The Committee amendment would ask Customs to identify ways to expand cooperation with United States importers and customs brokers, United States and foreign carriers, and other members of the international trade and transport communities to improve detection of contraband at its source in the foreign port, enhance information flow between Customs and industry in order to achieve greater awareness of potential compliance threats, improve the design and efficiency of Customs commercial operations, foster account-based management of customs compliance, eliminate unnecessary regulatory burdens, and establish standards for industry best practices in customs compliance.

G. Allocation of Resources—The Committee amendment asks Customs to outline the basis for Customs current allocation of inspection and investigative personnel and identify steps taken to ensure that Customs can detect any misallocation of such resources among various ports and has the means for reallocating resources within the agency to meet particular enforcement demands or commercial operation needs.

H. Automation and Information Technology—The Committee amendment would ask Customs to identify its current and future automation needs, particularly the current state of the Automated Commercial System and the status of implementation of the proposed replacement, the Automated Commercial Environment, to outline a comprehensive strategy for reaching Customs information technology goals, provide an explanation of the replacement system's architecture and how that architecture best serves Customs core functions, identify comparable public and private sector automation projects that might be used as a benchmark against which Customs progress toward its information technology goals might be judged, to estimate total projected costs for each automation project currently under way and to provide a timetable for implementation, and to summarize options for financing each such automation project;

I. Personnel Policies—The Committee amendment would require Customs to provide an overview of current personnel practices, including performance standards, criteria used for promotion and termination, processes for investigating complaints of bias or sexual harassment, criteria used for conducting internal investigations, summaries of the number of and reasons for internal investigations, existence of any protection for whistle blowers within the Customs Service, and programs designed for discovering and eliminating corruption within the agency. The amendment would also require Customs to identify workforce needs for the future and training needed to ensure Customs personnel stay abreast of developments in international business operations and international trade that affect Customs operations, as well as to identify any instances in which current personnel policies or practices may impede achievement of Customs' goals with respect to both its primary responsibilities of ensuring the facilitation of trade moving through the nation's ports and the enforcement of the U.S. customs laws.

III. VOTE OF THE COMMITTEE

In compliance with section 133 of the Legislative Reorganization Act of 1946, the Committee states that H.R. 3809, as amended, was ordered reported favorably on the basis of a unanimous voice vote on September 10, 1998.

IV. BUDGET EFFECTS OF THE BILL

In compliance with sections 308 and 403 of the Congressional Budget Act of 1974, and paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the following letter has been received from the Congressional Budget Office on the budgetary impact of the legislation:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 1, 1998.

Hon. WILLIAM V. ROTH, Jr.,
Chairman, Committee on Finance,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3809, the Drug Free Borders Act of 1998.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz.

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 3809—Drug Free Borders Act of 1998

Summary: H.R. 3809 would authorize appropriations for 2000 and 2001 for the U.S. Customs Service, including funds for salaries and expenses, acquisitions, and the interdiction program. In addition, the act would make several changes to the laws that govern the operation of the Customs Service, including provisions regarding customs inspection services.

Assuming appropriation of the authorized amounts, CBO estimates that implementing H.R. 3809 would cost about $4.5 billion over the 1999–2003 period. CBO estimates that H.R. 3809 would increase direct spending by about $2 million annually, so pay-as-you-go procedures would apply. The legislation contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would have no impact on the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 3809 is shown in the following table. For the purposes of this estimate, CBO assumes that the amounts authorized by the act will be appropriated by the start of each fiscal year and that outlays generally will follow the historical spending rates for the authorized activities. We expect that some funds will be spent more slowly than the historical rates because the act would provide substantial increases in authorizations relative to current funding levels. The costs of this legislation fall within budget function 750 (administration of justice).

[By fiscal year, in millions of dollars]

	1998	1999	2000	2001	2002	2003
SPENDING SUBJECT TO APPROPRIATION						
Spending under current law:						
Estimated budget authority [1]	1,715	1,734	0	0	0	0
Estimated outlays	1,712	1,730	194	0	0	0
Proposed changes:						
Authorization level	0	0	2,216	2,287	0	0
Estimated outlays	0	0	1,782	2,310	412	0
Spending under H.R. 3809:						
Authorization level [1]	1,715	1,734	2,216	2,287	0	0
Estimated outlays	1,712	1,730	1,976	2,310	412	0
CHANGES IN DIRECT SPENDING						
Estimated budget authority	0	2	2	2	2	2
Estimated outlays	0	2	2	2	2	2

[1] The 1998 level is the amount appropriated for that year for the Customs Service's salaries and expenses and air interdiction accounts. The 1999 level is the total for those accounts that would be provided by the Senate in S. 2312, the Treasury and General Government Appropriations Act. A conference agreement for that appropriation act is pending.

H.R. 3809 would direct the Customs Service to increase the level of inspection services provided to commercial aircraft passengers arriving in the United States from Canada. The Customs Service expects that these costs would be paid out of a direct spending account (that is, from funds not subject to annual appropriation). Based on information from the Customs Service, CBO estimates that this provision would increase direct spending by about $2 million annually.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. CBO estimates that enacting H.R. 3809 would increase direct spending by about $2 million annually, beginning in fiscal year 1999. The act would not affect governmental receipts.

Intergovernmental and private-sector impact: H.R. 3809 contains no intergovernmental or private-sector mandates as defined in UMRA and would have no impact on the budgets of state, local, or tribal governments.

Previous CBO estimate: On May 18, 1998, CBO prepared a cost estimate for H.R. 3809, as ordered reported by the House Committee on Ways and Means on May 14, 1998. That legislation authorized total appropriations of about $4.2 billion for the fiscal years 1999 and 2000. CBO estimated that the House version of H.R. 3809 would increase direct spending by less than $500,000 annually. The House version would not require the Customs Service to increase inspection services for aircraft arrivals from Canada (as would be required under the Senate version).

Estimate prepared by: Mark Grabowicz.

Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

V. REGULATORY IMPACT AND OTHER MATTERS

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee states that the legislation will not significantly regulate any individuals or businesses, will not impact personal privacy of individuals, and will not result in any significant additional paperwork.

VI. CHANGES TO EXISTING LAW

In the opinion of the Committee, it is necessary, in order to expedite the business of the Senate, to dispense with the requirements of paragraph 12 of rule XXVI of the Standing Rules of the Senate (relating to the showing of changes in existing law made by the bill as reported by the Committee).

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