

Five Problems with the Republican 2012 DHS Authorization

H.R. 3116: the Department of Homeland Security Authorization Act for Fiscal Year 2012

1. H.R. 3116 is Missing a Top-Line Funding Level for DHS

By leaving out a top-line funding level for DHS, the bill chooses to ignore that it costs money to keep the nation secure and to carry out the scores of new programs, pilots, and mandates required under the bill. Worse yet, because consideration of this bill comes five months after the Republican Leadership pushed through the Homeland Security Appropriations Act for Fiscal Year 2012 (H.R. 2017), this bill's silence on the question of funding renders it little more than a rubberstamp of a bill that cut DHS funding by nearly 3 percent below FY 2011's funding level and 17 percent below what Chairman Peter King sought for fiscal year 2011 (H.R. 5590 – 111th Congress).

2. H.R. 3116 Fails to Authorize Critical DHS Programs

National Protection and Programs Directorate (NPPD): Since 2007, this directorate has housed the Federal Protective Service (FPS), the Office of Cybersecurity and Communications, the Office of Infrastructure Protection, and US-VISIT. H.R. 3116 does not authorize this directorate, even as the issues of infrastructure protection and cybersecurity have emerged as critical concerns.

Counterterrorism Coordinator: Established in response to the attempted bombing of a Northwest Flight on Christmas Day 2009, the Counterterrorism Coordinator is at the center of DHS' counterterrorism efforts, including efforts to better integrate, streamline and focus DHS's counterterrorism operations, yet H.R. 3116 provides no authorization.

3. H.R. 3116 Authorizes a Special Coordinator for "Violent Islamist Radicalization"

Section 102 requires the DHS Secretary to designate a coordinator of Department efforts to "counter homegrown violent Islamist extremism, including the violent ideology of Al Qaeda and its affiliated groups, in the United States." In addition to connoting the belief that terrorism is linked to Islamic teaching, this provision reflects a failure of imagination by refusing to acknowledge the full range of violent radicalization threats—from violent militias and neo-Nazis to terrorist and anti-government groups.

4. H.R. 3116 Reopens the 9/11 Commission Investigation

Title IV would establish a new “National Commission to Review the National Response Since the Terrorist Attacks of September 11, 2001” to “investigate whether there exists evidence that was not considered by the 9/11 Commission of any conduct, relationships, or other factors which served in any manner to contribute to, facilitate, support, or assist the hijackers who carried out the terrorist attacks of September 11, 2011.” The provision essentially reopens the 9/11 Commission’s investigation and call into question the findings of its seminal report—*ten years after the attacks*—when the range of homeland security threats is incredibly diverse.

5. H.R. 3116 Unnecessarily Expands Civil Immunity for Reports of Suspected Terrorist Activity or Suspicious Behavior

Based on the “See Something, Say Something Act of 2011” (H.R. 495), this provision grants civil immunity to any person who, “in good faith and based on objectively reasonable suspicion” reports suspicious behavior or activity “indicating that an individual may be engaging, or preparing to engage, in violation of law relating to an act of terrorism.” It is an unnecessary expansion of limited protections that exist for individuals who report threats to transportation. This broad provision is a solution looking for a problem.

Key Democratic Amendments Offered

- An amendment authorizing DHS operations at \$43.22 billion for FY 2012 (the President’s request).
- Buy American amendments on DHS purchasing of textiles and uniforms as well as Information Technology and cybersecurity technology and services.
- An amendment to allocate the D-Block spectrum to first responders for emergency communications.
- Amendments to critical homeland security grant programs. They includes amendments to authorize the FIRE grants program, reauthorize the Port Security Grant Program, and establish a \$20 million competitive grant program for at-risk communities that have been removed from the UASI program because of sudden resource reductions in FY 2011.
- An amendment to add 1,000 Border Patrol Agents by the end of Fiscal Year 2013.