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REPORT
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CUSTOMS AUTHORIZATION ACT OF 1999

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

REPORT

[To accompany H.R. 1833]

[Including cost estimate of the Congressional Budget Office]

The Committee on Finance, to which was referred the bill (H.R. 1833) to authorize appropriations for the United States Customs Service for fiscal years 2000 and 2001, 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. 1833, 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 implement certain reforms in the internal management of the Customs Service, as well as require reports on certain personnel management reforms that are intended to provide the basis for future improvements in the allocation of Customs Service personnel and oversight of the agency's management by the Committee on Finance.

B. Background and Need for Legislation

Chairman Roth initiated a comprehensive review of the Customs Service's operations at the outset of the 106th Congress to assess Customs' implementation of the Customs Modernization and Informed Compliance Act of 1993 ("Mod Act"). The objective was to ensure that Customs is adequately prepared to address the challenges of rapidly expanding global commerce.

The review began with the identification by Committee staff of a number of areas for investigation. Committee staff identified those areas based on input from the Customs Service, the trade community, the General Accounting Office, representatives of Customs Service inspection personnel, law enforcement associations, and the Treasury Department, as well as the staff of the Committee on Appropriations regarding the funding of certain automated programs. In response to requests from Committee staff, the Customs Service arranged briefings on the various topics identified in the working draft of the Committee's outline, covering each of the areas proposed for investigation.

Those initial efforts led to a final outline of areas designated for further inquiry, together with specific questions for the Customs Service in each of those areas. The Chairman and the Ranking Member, Senator Moynihan, jointly forwarded the final outline to Commissioner Raymond Kelly for the Customs Service's response.

The outline focused on concerns raised with respect to the Customs Service's commercial operations, the agency's performance of its enforcement responsibilities, and the agency's internal management, particularly with respect to internal affairs.

That effort, and the Customs Service's initial responses, led to a series of three hearings. The hearings focused on the three basic areas identified for further inquiry—commercial operations, enforcement, and internal management.

CHANGING ROLE OF THE CUSTOMS SERVICE

Testimony before the Committee reflected the changing nature of the Customs Service's functions since customs officers were first authorized to collect duties on goods in 1789. While the collection of duties remains important, the Customs Service's role in facilitating legitimate commerce has grown with the increasing integration of the U.S. and world economies. In an era in which U.S. manufacturers depend on "just in time" delivery of component products to maintain their international competitiveness, the Customs Service must enhance its ability to move legitimate trade through the Nation's ports to the loading docks of U.S. manufacturers, service providers, and retailers simply to allow the American economy to keep pace with the changing international economic environment.

In addition, Customs bears the primary responsibility for implementing U.S. trade agreements at the border. While liberalizing trade in goods, services, and investment, 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, such as new country-of-origin and marking rules, new tariff rates, and changes in the classification and valuation of goods entering the U.S. market. The ability of the Customs Service to provide timely guidance to the trade and transport communities that depend on such guidance to complete their transactions has become at least as important as the agency's revenue collection functions. Indeed, that guidance is essential to ensure timely compliance by the trade community and the efficient collection of duties.

At the same time, testimony before the Committee also reflected the challenges facing Customs on the enforcement front. The Customs Service must balance its role in the facilitation of trade with its broad responsibility for enforcing the U.S. customs laws, the interdiction of drugs and other contraband, and the enforcement of U.S. food safety, consumer protection, environmental, child labor and intellectual property laws, among others.[1] In addition, Congress has recently directed the Customs Service to expand its 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 testi-

[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.

mony before the Committee, all told, Customs enforces over 400 laws for over 40 U.S. agencies.

CHALLENGES FACING THE CUSTOMS SERVICE

In brief, the Committee's hearings underscored the fact that Customs is facing these mounting challenges without the resources necessary to achieve the objectives set by Congress. The strongest evidence of that fact lies in statistics that reveal a dramatic increase in the volume of trade that Customs must move through the Nation's ports, while constrained by real decline in its resources.

Over the last 10 years, new trade agreements, lower trade barriers, and the prolonged expansion of the U.S. economy have resulted in the unparalleled expansion of U.S. trade, both inbound and outbound. Trade between the United States and Canada, for example, 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 5 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 in the United States has declined slightly in the past 10 years, the interdiction of illegal narcotics remains the single most difficult enforcement challenge facing the Customs Service. If anything, smuggling operations have become more sophisticated as Customs has enhanced its drug interdiction efforts through comprehensive programs like Operation Brass Ring, which has focused on interdiction at all U.S. borders with successful follow-up investigations. Such efforts have led to a significant payoff in increased seizures and arrests, but have also resulted in efforts by drug smugglers to find more sophisticated routes to bring their illegal wares to U.S. borders.

Despite the steady expansion of Customs' responsibilities, the growth in legitimate international trade, and the growing sophistication of smugglers, Customs' budget declined over $100 million dollars in real terms over the last 5 years. What that means, in practical terms, is that Customs, on a typical day, examines 1.3 million passengers, over 338,000 vehicles, 40,000 trucks or containers, 2,440 aircraft, and 547 vessels with approximately 10 percent fewer resources than it had 5 years ago. On that same day, Customs will have seized 3,654 pounds of narcotics, $1.2 million in illegally transported U.S. currency, $18,000 worth of arms and ammunition, $455,000 in vehicles and other commercial merchandise stolen or used in the commission of a violation of the customs laws. It will have made 64 arrests, 87 narcotics seizures, 12 currency seizures, and 139 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.

IMPLEMENTATION OF THE CUSTOMS MODERNIZATION ACT

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 major reorganization of the agency made effective in 1995 that removed layers of bureaucracy 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 on 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 understaffing is now reported to be the number one cause of congestion at the border. Despite significant investments in new infrastructure at land border crossings 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 agreed. 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.

ADDRESSING THE CHALLENGES FACING THE CUSTOMS SERVICE

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." The witnesses underscored that the currently used Automated Commercial System (ACS) relies on technology almost two decades old and is now obsolete and seriously overburdened. In the past year alone, system failures have diminished Customs' ability to provide service to the trade on several occasions. Testimony before the Committee indicated that as the volume of transactions processed by ACS continues to increase, so too will the number of service brown-outs, potentially culminating in a catastrophic systems failure in the not so distant future. The testimony focused on the need to ensure that Customs was capable of meeting the needs of the importing and exporting community. Perhaps the most powerful testimony before the Committee underscored the extent to which U.S. industry relies on "just in time" delivery of parts and components, many of which are imported from abroad, as a means of reducing inventory costs and maintaining international competitiveness. Without improvements in Customs' ability to handle the increased volume of entries through improvements in its data processing abilities, Customs will increasingly become an impediment to the ability of U.S. companies to operate on a "just in time" basis and an obstacle to American competitiveness.

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.

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 Committee amendment, as discussed in further detail below, authorizes those funds necessary to ensure improvements in Customs' operations, as well as to initiate management reforms that will ensure that Customs is fully capable of addressing the challenges of global commerce. In the Committee's view, however, passage of the legislation would mark only the first step in an ongoing process of Finance Committee oversight of the Customs Service and its operations. The authorizing legislation suggests a number of areas where Congress should be willing to provide the resources Customs needs to perform its functions. The authorization of those resources is nonetheless conditioned on continuing improvement in Customs' delivery of its services and in its internal management.

C. Legislative History

H.R. 1833, as passed by the House of Representatives, authorized appropriations for the Customs Service, the U.S. Trade Representative, and the International Trade Commission. Insofar as H.R. 1833 addressed the needs of the Customs Service, it built upon legislation originally introduced in the Senate in the 105th Congress. The Committee on Ways and Means reported the legislation favorably with amendments on May 24, 1999. The House of Representatives passed the measure on May 25, 1999, and forwarded it to the Senate, where it was referred to the Committee on Finance on May 27, 1999.

FINANCE COMMITTEE ACTION

As part of the Chairman's comprehensive review of Customs Service operations, the Finance Committee held a series of three hearings on May 13, 18, and 25, 1999. Those hearings focused, respectively, on Customs' commercial operations, its enforcement responsibilities, and certain internal management issues, particularly needed improvements in the agency's handling of internal affairs.

At its initial May 13 hearing on Customs' commercial operations, the Committee heard from Raymond Kelly, the Commissioner of Customs, on the specific challenges facing the agency, the improvements in technology and personnel required to address those challenges, and management reforms undertaken by the Commissioner as part of his initial action plan, particularly in the area of internal affairs. The Committee also 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 heard as well from a panel of private sector panelists who reinforced the message that Customs needs additional resources for the acquisition of both technology and personnel to meet the challenge of global commerce. The panel's testimony underscored the importance of funding improvements in the Customs Service's data processing capabilities, and the need for rapid implementation of the Customs Service's proposed Automated Commercial Environment. Testimony from the General Accounting Office indicated that many of GAO's concerns, as reflected in prior GAO reports, had been addressed by the Customs Service, and that the agency's actions had improved the prospects for early implementation of the ACE proposal.

In addition, the Committee heard testimony from a variety of private sector witnesses who raised a number of concerns regarding the Customs Service's commercial operations, its implementation of 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.

On May 18, 1999, the Committee's hearing focused on the Customs Service's performance of its enforcement responsibilities. The Committee heard first from a protected witness who had previously been engaged in the smuggling of narcotics into the United States. The witness' testimony underscored the vulnerability of the Customs Service's enforcement efforts in the absence of congressional action to authorize additional investigative agents, increase the agency's intelligence gathering capabilities, and other cooperative actions designed to move the border offshore (i.e., working cooperatively with foreign governments and with importers to shield legitimate commerce from abuse by smugglers).

The second panel at the May 18 hearing addressed the difficult topic of how best to measure enforcement performance. The witnesses offered varying perspectives on that problem, which helpfully identified areas for further inquiry with the Customs Service, but each underscored the value of the approach Customs has recently adopted itself—a determined effort to raise the cost of illicit trafficking in narcotics and other contraband in order to eliminate its profitability and its attraction both to foreign exporters of such illegal products and their transportation network.

The Committee held its third day of hearings on May 25, 1999. The final hearing focused on Customs' internal management. The testimony identified some weaknesses in the agency's past management of its internal affairs functions. Testimony before the Committee reflected the extent to which Commissioner Kelly had already moved aggressively to address the problems identified in the hearings, particularly in the area of internal affairs. The area is nonetheless one that the Committee intends to follow closely in the future because the credibility of the Customs Service's improvements in all areas of its responsibilities, but particularly in the area of enforcement, depends ultimately on the integrity of the agency and its inspectors and agents.

The third day of hearings also focused on the elements of sound private sector internal compliance programs. The Committee heard testimony emphasizing the importance of a sound internal compliance programs to any organization's operations and identifying the building blocks of such program. The testimony reinforced the Committee's view that the Customs Service must reach beyond the basic enforcement mentality of its current internal affairs operations to a broader vision of internal compliance—one that ensures that the agency is performing at its optimal level of performance, not just the minimum necessary to ensure that the Customs Service and its employees adhere to the letter of the law. The Committee intends to follow closely the Customs Service's initial attempts to develop such an internal compliance program within its Office of Internal Affairs and expects to be kept abreast of any initiatives designed to foster improvements in Customs' performance that are introduced as a part of that effort.

Based on the record developed as part of the Chairman's comprehensive review, the Committee marked up an amendment to H.R. 1833 on June 16, 1999. As explained in greater detail below, the amendment passed and the Committee favorably reported H.R. 1833, as amended, to the full Senate with the recommendation that the measure pass.

PREVIOUS AUTHORIZATIONS AND APPROPRIATIONS

The statutory basis for the current authorization of appropriations for Customs is found in 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.

Total appropriations for Customs for fiscal year 1999 equaled $2.1 billion. Of that amount, Congress appropriated $1,642,565,000, and added emergency supplemental appropriations of $106,300,000 for salaries and expenses, for a total of $1,748,865,000 for salaries and expenses. Congress also appropriated $276,388,000 for operations and maintenance, including air and marine operations.

The President's fiscal year 2000 budget request asked for total appropriations of $1.6 billion, or a 23 percent decrease from actual fiscal year 1999 appropriations, and $1 billion less than the amount requested by Customs. Of that amount, the President recommended that fully one-quarter of the Customs Service's operations be funded through new taxes in the form of user fees.

H.R. 1833, as passed by the House, would authorize a total of $1,154,359,000 for fiscal year 2000 for Customs' commercial operations, including a specific authorization of $150,000,000 for the development of the Automated Commercial Environment. For Customs' enforcement activities, H.R. 1833 would authorize a total of $999,563,000 for fiscal year 2000, including a specific increase of $227,100,000 or 18.4 percent for drug interdiction resources over the President's FY 2000 request. H.R. 1833 would, in addition, authorize $109,413,000 for air and marine interdiction, for a total FY 2000 appropriation of $2,263,335,000.

For fiscal year 2001, H.R. 1833 would authorize $1,194,534,000 for commercial operations, including an additional $150,000,000 for ACE funding; $996,464,000 for enforcement activities; and $113,789,000 for air and marine interdiction and other operations and maintenance. That represents a total FY 2001 authorization of $2,304,787,000.

II. EXPLANATION OF THE BILL

The Committee's amendment builds on the approach adopted in the 105th Congress by the Finance Committee in the Committee's amendment to H.R. 3809, the Drug Free Borders Act of 1998 and several bills introduced in the 106th Congress—S. 689, introduced by Senators Grassley and Graham, S. 685, introduced by Senator Gramm, and S. 219, introduced by the Ranking Member, Senator Moynihan. The core of the proposed amendment to H.R. 1833 authorizes appropriations to improve Customs' performance of its basic missions, the facilitation of trade and the enforcement of the customs laws. It also fulfills Congress' commitment to ensure the Customs Service's ability to better serve the trade community, as well as enhance its enforcement performance, by authorizing the appropriations needed to implement ACE.

The Committee's amendment would also make certain changes designed to institutionalize the positive internal changes under way within the agency. Those include the creation of a renewable fixed-term of 5 years for the Commissioner of Customs and the requirement that candidates for the position demonstrate significant management expertise. The amendment would, in addition, implement a new program of internal controls designed to improve Customs' ability to assess its own performance in such basic areas as the implementation of the Customs Modernization Act. The Committee supports the reforms that are under way within Customs aimed at improving Customs' internal controls. The Committee looks forward to reviewing the agency's progress.

As reflected in the section-by-section analysis below, the Committee's amendment is divided into three titles. The first would authorize the appropriation of additional resources for trade facilitation needed to implement fully Congress' intent under the Customs Modernization Act as well as authorize additional amounts for aggressive enforcement of U.S. customs laws. Title II would, by contrast, make certain changes with respect to the internal management of the agency that are designed to foster continuity in the leadership of the organization and improved internal compliance and performance assessment. Title III would introduce certain modifications to the provisions of Title 19 of the U.S. Code governing the enforcement of marking rules once goods have entered the U.S. stream of commerce.

With respect to the authorization of appropriations, the Committee's amendment applies to fiscal years 2000 and 2001, as does H.R. 1833. The amendment would authorize approximately $109 million more for commercial operations in fiscal year 2000 and $348 million in fiscal year 2001 than would the House-passed bill.

Virtually all of that increase relates to higher amounts authorized for ACE funding, consistent with the capital budget for the project estimated by Customs.

For non-commercial operations, the Committee's amendment would add approximately $20 million to the H.R. 1833 fiscal year 2000 authorization and $83 million less in fiscal year 2001. The amendment proposal would authorize $119 million and $63 million more for air and marine operations than H.R. 1833 in fiscal years 2000 and 2001, respectively.

A. Title I—Authorization of Appropriations for United States Customs Service for Enhanced Inspection, Trade Facilitation and Drug Interdiction

1. SECTION 101—AUTHORIZATION OF APPROPRIATIONS

Present law

As noted above, the most recent authorization of appropriations for Customs approved by Congress was in 1990. The final year of that authorization, for fiscal year 1992, provided $1,247,884,000 for salaries and expenses and $150,199,000 for operations and maintenance. Fiscal year 1998 appropriations totaled $1,522,165,000 for salaries and expenses and $92,758,000 for operations and maintenance.

Explanation of provision

Section 101 of the Committee's amendment would authorize 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(a) would amend section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 to authorize $1,029,608,384 and $1,111,450,668 for drug enforcement and other non-commercial operations in fiscal years 2000 and 2001 respectively.

Section 101(b)(1) would authorize $1,251,794,435 in fiscal year 2000 and $1,348,676,435 in fiscal year 2001 for Customs Service commercial operations.

Section 101(c) would, in addition, authorize appropriations of $229,001,000 and $176,967,000 for air and marine interdiction and other operations and maintenance in fiscal years 2000 and 2001 respectively.

Section 101(d) would require Customs to submit to the Finance and Ways and Means Committees the budget request submitted by Customs to the Secretary of the Treasury for fiscal year 2000 and each succeeding fiscal year.

Section 101(e)(1) would establish within the U.S. Customs Service an Automation Modernization Working Capital Fund, under which amounts appropriated for the maintenance of the current Automated Commercial System, the establishment of the Automated Commercial Environment, and other automation projects would remain available to Customs until expended and contracts could be authorized for multiple years. Section 101(e)(2) would authorize the appropriation of such additional amounts needed to implement fully the Customs Service's Automated Commercial Environment up to a maximum of $242,000,000 for fiscal year 2000 and $336,000,000 for fiscal year 2001, which is consistent with Customs' estimated capital budget for full implementation of ACE in each of those fiscal years.

Section 101(e)(3) would require the Commissioner to report, on a semiannual basis, to the Senate Finance Committee, the House Ways and Means Committee, and the Senate and House Appropriations Committees on the agency's progress in implementing the Automated Commercial Environment. The reporting requirement would focus, in particular, on Customs' progress in eliminating any deficiencies previously identified by the General Accounting Office ("GAO") in the implementation of Customs' automated systems modernization projects. The provision would also direct GAO to audit Customs reports and progress in implementing ACE and other automation projects.

Thus, section 101 would provide a total authorization of $2,523,402,819 for salaries and expenses in fiscal year 2000, which includes the estimated fiscal year 2000 capital budget for ACE funding, and $229,001,000 for air and marine interdiction and other operations and maintenance. For fiscal year 2001, section 101 would authorize a total of $2,796,127,103 in salary and expenses, also including the estimated fiscal year capital budget for ACE funding, and $176,967,000 for air and marine interdiction and other operations and maintenance.

Reasons for change

Section 101 recognizes the efforts that Customs has made, in response to the Customs Modernization Act of 1993, to reform its own operations and to manage itself on an increasingly efficient basis. It also recognizes the significant new challenges Customs faces due to expanding statutory responsibilities, significant increases in the level of international trade, both inbound and outbound, passing through U.S. ports, and the rising level of sophistication of smugglers of drugs and other contraband that will require a greater investment in resources on Customs part to combat.

In particular, section 101 underscores the importance of the full implementation of the ACE program to support Customs' commercial operations and its enforcement activities. Section 101 would establish a working capital account into which funds could be appropriated for the implementation of the ACE program, but would allow for greater certainty in Customs' financial planning for the project and provide the authority to let contracts that might extend beyond the current fiscal year in which the funds were appropriated.

2. SECTION 102—CARGO INSPECTION AND NARCOTICS DETECTION EQUIPMENT FOR THE UNITED STATES-MEXICO BORDER, UNITED STATES-CANADA BORDER, AND FLORIDA AND GULF SEAPORTS; INTERNAL MANAGEMENT IMPROVEMENTS

Present law

No provision.

Explanation of provision

Out of the total funds authorized by section 101, section 102(a) would earmark specific amounts for certain express purposes. Those purposes would include specific amounts for commercial operations and enforcement activities at northern and southern land border entry points, as well as at Florida and Gulf Coast ports of entry. They would also include additional amounts to improve Customs' management performance, particularly the agency's internal management information systems, as well as additional amounts to address the problem of preventing the circumvention of certain rules on textile imports. The designated amounts would be distributed as follows.

For the United States-Mexico border: $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; $0.6 million for 50 contraband detection kits; $.5 million for 25 ultrasonic container inspections units; $2.45 million for 7 automated targeting systems; $0.36 million for 30 rapid tire deflator systems; $0.48 million 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; $0.180 for 36 AM band traffic information radio stations; $1.04 million for 260 inbound vehicle counters; $0.95 million for 38 counter surveillance spotter cameras; $0.39 million for 60 inbound commercial truck transponders; $1.6 million for 40 narcotics vapor and particle detectors; $0.4 million 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: $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; $0.25 million for 50 portable contraband detectors; $0.3 million for 25 contraband detection kits; $0.24 million for 10 portable Treasury Enforcement Communications Systems; $0.4 million for 10 narcotics vapor and particle detectors; $0.6 million for 30 fibre optic scopes; $0.25 million for 50 portable contraband detectors (busters); $3 million for 10 portable X-ray vans with particle detectors; $0.04 million for 8 AM loop radio systems; $0.4 million 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; $0.572 million for 26 weigh-in motion sensors; and $0.48 million for 20 portable Treasury Enforcement Communication Systems.

For Florida and Gulf coast seaports: $4.5 million for 6 vehicle and container inspection systems; $11.8 million for 5 mobile truck X-rays; $7.2 million for 8 pallet X-rays; $0.25 million for 50 portable contraband detectors; and $0.3 million for 25 contraband detection kits.

For internal management: $2.5 million for an internal affairs automated systems; $0.7 million for enhanced internal affairs file management systems; $2.7 million for enhanced financial asset management systems; $6.1 million for an enhanced human resources information system to improve personnel management;

$2.7 million for new data management systems for improved performance analysis, internal and external reporting, and data analysis; and $1.7 million for automation of the collection of key export data as part of the implementation of the Automated Export System and to improve Customs' ability to enforce the U.S. export control laws.

Section 102(b) would authorize $3,364,435 for each of fiscal years 2000 and 2001 for textile transshipment.

Section 102(c) 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(d) would allow the Commissioner flexibility in spending the amounts specified in section 102(a) if he were to find that technologically superior equipment designed for the same purpose was available. In addition, section 102(d) would allow some room for reallocation (not to exceed 25 percent) among the various enumerated items within any geographic area identified above as needed.

Reasons for change

The provision reinforces the focus of the authorization on the specific needs of the Customs Service to meet the rising challenges of both increasing levels of legitimate commerce and the need for stronger vigilance and enforcement. The provision also reinforces the Customs Service's ability to ensure proper data management in order to effectively and efficiently manage the agency, particularly its internal affairs function.

3. SECTION 103—PEAK HOURS AND INVESTIGATIVE RESOURCE ENHANCEMENT

Present law

No provision.

Explanation of provision

Section 103(a) 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 as follows:

Net increase of 535 inspectors, 120 special agents, and 10 intelligence analysts for the United States-Mexico border and 375 inspectors for the United States-Canada border in order to open all primary lanes on such border during peak hours;

Net increase of 285 inspectors and canine enforcement officers on the United States-Mexico border and a net increase of 125 inspectors on the United States-Canada border to be distributed at large cargo facilities in order to reduce commercial waiting times;

Net increase of 40 special agents and 10 intelligence analysts to facilitate the activities of the additional inspectors;

Net increase of 40 inspectors at sea ports in southeast Florida to process and screen cargo;

Net increase of 70 special agents, 23 intelligence agents, nine support staff, and the necessary equipment to enhance investigation efforts targeted at internal conspiracies at the nation's sea ports;

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;

Net increase of two special agents to staff a Customs attache office in Nassau, Bahamas;

Net increase of 62 special agents and eight intelligence analysts for maritime smuggling investigations and interdiction operations;

Net increase of 50 positions and additional resources to staff adequately the Office of Internal Affairs to enhance investigation of anticorruption efforts; and

Funds necessary to cover the cost incurred as a result of the increase in personnel hired pursuant to that provision of the authorizing legislation.

Section 103(b) would permit the Commissioner flexibility in personnel allocation, particularly in light of the Commissioner's ongoing testing of a personnel allocation model called for by the General Accounting Office, by permitting the reallocation of not more than 25 percent of the amounts noted above from one function to another.

Reasons for change

The provision recognizes the need to provide for a stronger commitment to enforcement, intelligence gathering, and the maintenance of the high standards of integrity within the Customs Service that are fundamental to a stronger enforcement effort, as well as to the improvement of commercial operations.

4. SECTION 104—AGENT ROTATIONS; ELIMINATION OF BACKLOG OF BACKGROUND INVESTIGATIONS

Present law

No provision.

Explanation of provision

Section 104 would, out of the amounts authorized under section 101, provide additional funding to clear the backlog of existing background investigations as part of an effort to accelerate the recruitment and training of new inspectors and agents. The provision would also provide specific authorization for the interoffice transfer of up to 100 special agents, including the cost of relocation, between the Office of Investigations and the Office of Internal Affairs at the direction of the Commissioner in an effort to reinforce the capabilities of the internal affairs efforts at Customs.

Reasons for change

The amounts authorized in section 101 for additional inspection and enforcement personnel will require Customs to begin recruitment to fill the ranks of both inspectors and special agents. Section 104 would authorize certain amounts out of the totals authorized in section 101 to assist in accelerating the hiring of new inspectors and agents by clearing the existing backlog of background investigations.

Section 104 responds to the testimony provided to the Committee by the General Accounting Office and others, as well as the report on Customs' internal affairs operations completed by the Treasury Department's Office of Professional Responsibility, concerning the relative weakness of the internal affairs effort at Customs. The provision would reinforce the steps taken by current management to improve the performance of a function that is critical to the integrity and the public's perception of the agency. It would authorize additional amounts out of the totals set out in section 101 to provide for the regular rotation of agents into the Office of Internal Affairs from the field.

5. SECTION 105—AIR AND MARINE OPERATIONS AND MAINTENANCE FUNDING

Present law

No provision.

Explanation of provision

Section 105 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, 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; and

For fiscal year 2001, $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.

Reasons for change

The provision would provide a specific focus to Customs' improvement of its marine and air interdiction efforts, as well as ensure the investment of any appropriated funds in new aircraft that will enhance Customs' interdiction capabilities.

6. SECTION 106—COMPLIANCE WITH PERFORMANCE PLAN REQUIREMENTS

Present law

No provision.

Explanation of provision

Section 106(a) would require Customs to establish specific performance goals and standards for evaluating the benefits of the additional activities enumerated in sections 102–105 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.

Section 106(b) would authorize the Customs Service to contract with outside experts to assess, on a periodic basis, the agency's performance measures for enforcement activity that it is required to establish under the Government Performance and Results Act of 1993. The provision would also direct the Commissioner of Customs to make those assessments available to the Senate Finance and House Ways and Means Committees upon their completion.

Reasons for change

The provision is designed to ensure that Customs provides Congress with regular explanations as to how it intends to further the goals of the agency and those amounts set out as part of this authorizing legislation.

7. SECTION 107—TRANSFER OF AEROSTATS

Present law

No provision.

Explanation of provision

Section 107 would direct the President to submit a budget request for the Customs Service, beginning with fiscal year 2001, that would allow the Customs Service to assume responsibility for the operation of certain tethered aerostat radar systems ("TARS") currently operated by the United States Air Force, which the Air Force intends to replace with new systems for its own use. Section 107 would also authorize the appropriations necessary to the operation and maintenance of such systems.

Reasons for change

Customs previously operated its own TARS system covering the source zone of illegal contraband and the transit zones leading to the United States as part of its overall enforcement efforts, particularly with respect to drug interdiction. The Department of Defense, specifically the Air Force, assumed responsibility for the operation of Customs' TARS system. The Air Force now intends to replace the current TARS system with new systems designed and operated for its particular defense-related needs. That prospect would leave Customs without the ability it previously had to use the TARS system for radar coverage of the source zone of contraband and the transit zones leading to the United States.

8. SECTION 108—REPORT ON INTELLIGENCE REQUIREMENTS

Present law

No provision.

Explanation of provision

Section 108 would direct the Commissioner of Customs, within one year, to report to the Senate Finance and House Ways and Means Committees regarding the intelligence and information requirements of the agency necessary to improve its capability to enforce the U.S. customs laws and reinforce the agency's ability to interdict illegal imports of narcotics.

Reasons for change

Testimony before the Finance Committee in the course of its Customs oversight hearings underscored the importance of improved intelligence to the agency's enforcement efforts. Improved intelligence and information gathering capabilities, including increased cooperation with other U.S. agencies and Customs' counterparts abroad, would enhance the Customs Service's ability to enforce the customs laws of the United States, including, for example, the interdiction of drugs, violations of U.S. intellectual property laws, attempts to circumvent the trade laws of the United States, and the investigation of instances of forced and indentured child labor.

9. SECTION 109—AUTHORIZATION OF APPROPRIATIONS FOR PROGRAM TO PREVENT CHILD PORNOGRAPHY/CHILD SEXUAL EXPLOITATION

Present law

No provision.

Explanation of provision

Section 109(a) would authorize the appropriation of $10,000,000 for fiscal year 2000 to carry out the program to prevent child pornography and child sexual exploitation established by the Child Cyber-Smuggling Center of the Customs Service. Section 109(b) would direct the Customs Service to provide 3.75 percent of the amount authorized to the National Center for Missing and Exploited Children for the operation of a child pornography cyber tipline established by the Center to increase public awareness of the tipline.

Reasons for change

As reflected in the testimony of the Customs Commissioner before the Finance Committee, child pornography distributed over the Internet has become a growing public problem. The Customs Service has established a Child Cyber-Smuggling Center to interdict the illegal distribution of such illegal contraband within the United States. The funds authorized would reinforce Customs' ability to address the growing problem.

B. TITLE II—CUSTOMS MANAGEMENT

Title II makes certain changes in the existing management structure of the Customs Service designed to enhance the continuity of leadership at the agency and to improve the current system of internal controls. The changes made to improve the internal controls of the agency focus on improving accountability not only for the enforcement of the letter of the law in cases investigated by the Office of Internal Affairs, but also the agency's performance of its basic missions and its implementation of directives from Congress, particularly the Customs Modernization Act.

1. SECTION 201—TERM AND SALARY OF THE COMMISSIONER OF CUSTOMS

Present law

Under current law, the Customs Commissioner serves under appointment by the President without a fixed term. The Commissioner is currently paid at Executive Schedule—Level IV or a rate of $118,400 per year.

Explanation of provision

Section 201(a) would provide a fixed, renewable term of five years for the Commissioner of Customs beginning with the incumbent's current tenure. It would add to the criteria used for appointing the Commissioner the need to show demonstrated management ability.

Section 201(b) would authorize an increase in the Customs Commissioner's pay to that of Executive Schedule—Level III or a rate of $125,900 per year. Section 201(b) would apply to fiscal year 2000 and those that follow.

Reasons for change

The changes embodied in section 201 are designed to foster continuity within the leadership of the agency and to reinforce the management changes already under way within Customs under its current leadership. The provision would also ensure that the Commissioner of Customs is paid at a rate commensurate with other U.S. government officials of similar rank and responsibility.

2. SECTION 202—INTERNAL COMPLIANCE

Present law

No provision.

Explanation of provision

Section 202(a) would direct the Commissioner of Customs to establish, within the Office of Internal Affairs, a program of internal compliance designed to enhance Customs' performance of its basic missions, as well as ensure compliance with all applicable laws with a particular focus on the agency's implementation of the Custom Modernization Act. Section 202(a) would require, as part of the compliance program, that the Commissioner institute a program of ongoing self-assessment and conduct a review of Customs' performance in all core functions on an annual basis. Under section 202(a), the self-assessment program and the annual performance review would be designed to identify where performance deficiencies exist in Customs' commercial operations, enforcement efforts, and internal management and propose specific corrective measures to address such concerns. Section 202(a) would also require the Commissioner to report on his or her annual assessment to the Senate Finance and House Ways and Means Committees.

Section 202(b) would direct the Commissioner, as part of the development of an improved system of internal compliance, to initiate a review of current best practices in internal compliance programs among government agencies and private sector organizations, and report to the Senate Finance and Governmental Affairs Committees and House Ways and Means and Government Reform and Oversight Committees on the results of that review and the implementation of the program mandated by section 202(a). Section 202(c) would require the periodic review and audit of the Customs Service's internal compliance program by the Treasury Inspector General and require the Inspector General to report his findings to the Senate Finance and House Ways and Means Committees.

Reasons for change

The ultimate objective of section 202 is to develop a basis on which the Customs Service's authorizing committees, the Senate Finance and House Ways and Means Committees, can provide continuing effective oversight of the agency's operations. Of particular concern are the still unfulfilled objectives of the Customs Modernization Act, including the publication of all implementing regulations and the development of the automated systems necessary to interface electronically with the trade community's daily business operations.

The proposal would institutionalize the management changes begun by the Government Performance and Results Act of 1993, which requires all government agencies to establish performance measures and assess their performance on an annual basis. The internal compliance model, with its higher emphasis on encouraging compliance through training, self-assessment, the identification of specific management objectives for the succeeding review period, and the measurement of agency performance against those benchmarks, draws on best practices currently available within government and the private sector to encourage management by objective throughout the agency, and thereby contribute to the improvement in Customs' performance of its mission responsibilities.

3. SECTION 203—REPORT ON PERSONNEL FLEXIBILITY

Present law

No provision.

Explanation of provision

Section 203 would require the Commissioner of Customs to provide to the Senate Committees on Finance and Governmental Affairs and the House Committees on Ways and Means and Government Reform and Oversight a report detailing his recommendations for modifications in existing personnel rules that would permit the more effective management of Customs' resources, as well as improve the agency's ability to perform its basic missions of trade facilitation and enforcement. Section 203 would require the Commissioner to include in the report his justification for seeking such changes, including a statement of reasons why the flexibility provided in the current civil service system governing Customs' personnel management is insufficient to meet the agency's personnel needs.

Reasons for change

In testimony before the Finance Committee, the current Commissioner of Customs identified certain areas in which he wanted to see greater flexibility in current personnel rules to reinforce other management changes under way within the agency. Among the Commissioner's suggestions were changes to rules regarding preemployment screening, the duration of probationary periods for newly hired employees, and similar modifications to current civil service rules that would make Customs' hiring practices consistent with other law enforcement agencies. The Committee believes that additional background on and justification for these proposals is needed.

4. SECTION 204—REPORT ON PERSONNEL ALLOCATION

Present law

No provision.

Explanation of provision

Section 204 would require the Commissioner, within six months, to report to the Senate Finance and House Ways and Means Committees on the implementation of the personnel allocation model currently under development within the agency. Section 204 would require the Commissioner, in his report, to provide a comparison of the results obtained by using the personnel allocation model and the allocations provided for in section 103, together with his recommendations for any reconciliation necessary in future authorizations.

Reasons for change

Testimony before the Finance Committee, as well as previous reports by the General Accounting Office, identified the need to strengthen Customs' ability to assess its own personnel needs and to ensure the proper allocation of the personnel within Customs to ensure that the agency is fully capable of meeting its mission goals. The Customs Service's current management has responded to those concerns by working closely with outside service providers to develop an improved system of personnel management. What remains is the implementation of that improved approach. Section 204 would require the Commissioner to report to the Senate Finance and House Ways and Means Committees within six months on the progress toward implementation of that improved system.

5. SECTION 205—REPORT ON DETECTION AND MONITORING REQUIREMENTS ALONG THE SOUTHERN TIER AND NORTHERN BORDER

Present law

No provision.

Explanation of provision

Section 205 would require the Commissioner of Customs to conduct a review of its counterdrug detection and monitoring requirements for coverage of the arrival zone along both the northern border and southern tier and to provide a report to the Senate Finance and House Ways and Means Committees no later than 90 days after the date of enactment of this Act. Section 205 would direct the Commissioner to assess (1) the performance of existing detection and monitoring assets, (2) any gaps in current radar coverage, and (3) any limitations imposed on Customs' enforcement activities due to reliance on Defense Department detection and monitoring assets.

Reasons for change

The Customs Service must currently depend on Defense Department detection and monitoring assets for radar coverage of the arrival zone along both the northern border and southern tier of the United States. Section 205 would provide an assessment of Customs' needs and the ability of the Defense Department's assets, as currently configured, to meet those needs.

C. TITLE III—MARKING VIOLATIONS

1. SECTION 301—CIVIL PENALTIES FOR MARKING VIOLATIONS

Present law

Section 304 of the Tariff Act of 1930 (19 U.S.C. 1304) requires that all imported goods of foreign origin (with certain statutory exceptions[2]) be marked as legibly, indelibly and permanently as the nature of the goods will permit to indicate the country of origin to the ultimate purchaser. In general, the Customs Service, which is charged with enforcing U.S. marking laws, allows any reasonable method of marking (including string tags or gummed labels) that will stay on the product until it reaches the ultimate purchaser. Section 304(l) of the Tariff Act of 1930 (19 U.S.C. 1304(l)) provides for criminal sanctions of up to $100,000 per violation ($250,000 for subsequent violations), or imprisonment of up to one year, or both, against importers or other parties who intentionally tamper with country-of-origin markings on imported goods.

Explanation of provision

Section 301 would amend section 304(l) of the Tariff Act of 1930 (19 U.S.C. 1304(l)) to provide the Customs Service with additional civil enforcement authority for violations of country-of-origin marking requirements by importers or parties (other than the ultimate purchaser) who subsequently obtain the imported merchandise. Specifically, the changes made by section 301 to the marking laws would permit the imposition of civil penalties on persons who deface, destroy, remove, alter, cover, obscure, or obliterate required country-of-origin markings prior or subsequent to the importation of the merchandise in question. When imposed, such civil penalties would be in addition to any duties that may be owed pursuant to section 304(l) of the Tariff Act of 1930 (19 U.S.C. 1304(l)) for failure to mark imported articles. In response to certain recent Federal court decisions, this provision also clarifies Customs' ability to impose and collect marking duties and penalties independent of sec-

[2] Among the exceptions to the marking requirement are: articles that are incapable of being marked and articles that cannot be marked prior to shipment without injury.

tion 1592 (relating to false marking representations). The provision would take effect 60 days from the date of enactment.

Reason for change

Despite the requirements of U.S. marking law, it is not uncommon for marking provisions to be negligently or intentionally disregarded. For example, the U.S. jewelry industry continues to report that tags and labels on imported foreign jewelry that are in place upon entry into the United States often disappear or are removed prior to the jewelry's display or sale. When country-of-origin markings do not appear on imported jewelry or other items offered to the consumer, it constitutes a violation of federal marking law and prevents purchasers from being informed about the origin of such products.

Such removal, alteration, or concealment of country of origin markings post-importation presents a difficult enforcement problem for the Customs Service. While U.S. marking law provides criminal enforcement authority, few criminal cases are actually pursued (in part because the elements necessary for a criminal prosecution are difficult to prove and in part because there are other criminal prosecution priorities). As a result, Customs is left without specific civil authority to penalize those who violate the U.S. marking laws subsequent to importation, and instead must rely on Customs' general fraud statute (19 U.S.C. 1592) to pursue actions against violators of U.S. marking requirements.

This provision will add a strengthened civil counterpart to the criminal authority and, thus, provide the Customs Service with enhanced ability to address violations of the marking laws. The Committee expects that this provision will enable the Customs Service to enforce more fully Federal marking requirements for the benefit of American consumers.

III. VOTE OF THE COMMITTEE

In compliance with section 133 of the Legislative Reorganization Act of 1946, the Committee states that H.R. 1833, as amended, was ordered reported favorably by voice vote on June 16, 1999.

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, July 26, 1999.

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. 1833, the Customs Authorization Act of 1999.

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

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 1833—Customs Authorization Act of 1999

Summary: H.R. 1833 would authorize appropriations for 2000 and 2001 for the U.S. Customs Service including funds for salaries and expenses, acquisitions, air and marine interdiction, the Automated Commercial Environment (ACE) computer system, and a program to prevent child pornography. In addition, the act would transfer the Tethered Aerostat Radar System (TARS) from the Air Force to the Customs Service and provide funding for operation and maintenance of this system. Finally, this legislation would direct the Customs Service to prepare reports on various personnel and management issues and would establish a new civil penalty relating to improper marking of imported articles.

CBO estimates that appropriation of the authorized amounts would result in additional discretionary spending of about $5.9 billion over the 2000–2004 period. H.R. 1833 could affect receipts; therefore, pay-as-you-go procedures would apply. However, we estimate that any increase in receipts would be less than $500,000 a year. The act contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would have no affect on the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: For the purposes of this estimate, CBO assumes that the authorized amounts will be appropriated by the start of each fiscal year and that outlays generally will follow historical spending rates for the authorized activities or for similar programs. We expect that funds for Customs Service salaries and expenses would be spent more slowly than the historical rates because the act would provide substantial increases in authorizations relative to the funding levels for 1999. The act would authorize such sums as may be necessary for operation and maintenance of TARS. CBO estimated authorization levels for this program by assuming continued funding at the 1999 level (about $31 million), adjusted for anticipated inflation.

The estimated budgetary impact of H.R. 1833 is shown in the following table. The costs of this legislation fall within budget function 750 (administration of justice). Without an adjustment for inflation for TARS, projected costs would be $12 million less over the 2000–2004 period than shown in the table.

	By fiscal year, in millions of dollars—					
	1999	2000	2001	2002	2003	2004
SPENDING SUBJECT TO APPROPRIATION						
Spending under current law:						
Budget authority [1]	2,217	0	0	0	0	0
Estimated outlays	2,073	297	1	0	0	0

	By fiscal year, in millions of dollars—					
	1999	2000	2001	2002	2003	2004
Proposed changes:						
Estimated authorization level	0	2,794	3006	34	35	36
Estimated outlays	0	2,249	2,881	571	157	35
Spending under H.R. 1833:						
Estimated authorization level [1]	2,217	2,794	3006	34	35	36
Estimated outlays	2,073	2,546	2,882	571	157	35

[1] The 1999 level is the amount appropriated for that year for the salaries and expenses account and interdiction program of the U.S. Customs Service and for operation and maintenance of TARS.

H.R. 1833 would establish a civil penalty for violations of laws relating to the marking of imported articles. This provision could result in the collection of additional receipts, but we estimate that any such amounts would be less than $500,000 a year.

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. Enacting H.R. 1833 could affect receipts, but CBO estimates that any such effects would be less than $500,000 a year.

Intergovernmental and private-sector impact: H.R. 1833 contains no intergovernmental or private-sector mandates as defined in UMRA and would have no effect on the budgets of state, local, or tribal governments.

Previous CBO estimate: On May 24, 1999, CBO transmitted a cost estimate for H.R. 1833, the Trade Agency Authorizations, Drug Free Borders, and Prevention of On-Line Child Pornography Act of 1999, as ordered reported by the House Committee on Ways and Means on May 20, 1999. In addition to authorizing appropriations for the Customs Service for 2000 and 2001 (without funding for the ACE computer system), that legislation would fund the Office of the United States Trade Representative and the International Trade Commission—but not TARS—and would make changes to the current laws relating to overtime and premium pay for Customs officers. CBO estimated that enacting the House version of H.R. 1833 would increase discretionary spending by about $4.7 billion over the 2000–2004 period, and that it would increase direct spending by less than $500,000 annually.

Estimate prepared by: Mark Grabowicz. Estimate approved by: Robert A. Sunshine, Deputy 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 compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in exiting law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

CUSTOMS PROCEDURAL REFORM AND SIMPLIFICATION ACT OF 1978

* * * * * * *

SEC. 301. APPROPRIATIONS AUTHORIZATION.

(a) IN GENERAL.—

* * * * * * *

(3) By no later than the date on which the President submits to Congress the budget of the United States Government for a fiscal year, the Commissioner of Customs shall submit to the Committee on Appropriations and the Committee on Ways and Means of the House of Representatives and the Committee on Appropriations and the Committee on Finance of the Senate the budget request submitted to the Secretary of the Treasury estimating the amount of funds for that fiscal year that will be necessary for the operations of the Customs Service as provided for in subsection (b).

* * * * * * *

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) FOR NONCOMMERCIAL OPERATIONS.—There are authorized to be appropriated for the salaries and expenses of the Customs Service that are incurred in noncommercial operations not to exceed the following:

【(A) $516,217,000 for fiscal year 1991.

【(B) $542,091,000 for fiscal year 1992.】

(A) $1,029,608,384 for fiscal year 2000.

(B) $1,111,450,668 for fiscal year 2001.

(2) FOR COMMERCIAL OPERATIONS.—

(A) There are authorized to be appropriated for the salaries and expenses of the Customs Service that are incurred in commercial operations not less than the following:

【(i) $672,021,000 for fiscal year 1991.

【(ii) $705,793,000 for fiscal year 1992.】

(i) $1,251,794,435 for fiscal year 2000.

(ii) $1,348,676,435 for fiscal year 2001.

(B) The monies authorized to be appropriated under subparagraph (A) for any fiscal year, except for such sums as may be necessary for the salaries and expenses of the Customs Service that are incurred in connection with the processing of merchandise that is exempt from the fees imposed under section 58c(a) (9) and (10) of this title, shall be appropriated from Customs User Fee Account.

(3) FOR AIR INTERDICTION.—There are authorized to be appropriated for the operation (including salaries and expenses) and maintenance of the air interdiction program of the Customs Service not to exceed the following:

【(A) $143,047,000 for fiscal year 1991.

【(B) $150,199,000 for fiscal year 1992.】

(A) $229,001,000 for fiscal year 2000.

(B) $176,967,000 for fiscal year 2001.

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TARIFF ACT OF 1930

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SEC. 304. MARKING OF IMPORTED ARTICLES AND CONTAINERS.

* * * * * * *

(l) PENALTIES.—[Any person]

(1) IN GENERAL.—Any person who, with intent to conceal the information given thereby or contained therein, defaces, destroys, removes, alters, covers, obscures, or obliterates any mark required under the provisions of this chapter shall—

[(1)] *(A)* upon conviction for the first violation of this subsection, be fined not more than $100,000, or imprisoned for not more than 1 year, or both; and

[(2)] *(B)* upon conviction for the second or any subsequent violent of this subsection, be fined not more than $250,000, or imprisoned for not more than 1 year or both.

(2) CIVIL PENALTIES.—Any person who defaces, destroys, removes, alters, covers, obscures, or obliterates any mark required under this section shall be liable for a civil penalty of not more than $10,000 for each violation. The civil penalty imposed under this subsection shall be in addition to any marking duties owed under subsection (i).

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UNITED STATES CODE

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SEC. 2071. ESTABLISHMENT OF SERVICE; COMMISSIONER; APPOINTMENT.

[There shall be] *(a) IN GENERAL.—There shall be* in the Department of the Treasury a service to be known as the United States Customs Service, and a Commissioner of Customs. The Commissioner of Customs, who shall be appointed by the President by and with the advice and consent of the Senate *for a term of 5 years,* shall

(1) be at the head of the United States Customs Service;

(2) carry out the duties and powers prescribed by the Secretary of the Treasury; [and]

(3) report to the Secretary of the Treasury through such other officials as may be designated by the Secretary[.]*; and*

(4) have demonstrated ability in management.

(b) VACANCY.—Any individual appointed to fill a vacancy in the position of Commissioner occurring before the expiration of the term for which the individual's predecessor was appointed shall be appointed only for the remainder of that term.

(c) REMOVAL.—The Commissioner may be removed at the will of the President.

(d) REAPPOINTMENT.—The Commissioner may be appointed to more than one 5-year term.

* * * * * * *

SEC. 5314. POSITIONS AT LEVEL III.

Level III of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

* * * * * * *

Administrator, Research and Special Programs Administration.

Commissioner of Customs, Department of the Treasury.

SEC. 5315. POSITIONS AT LEVEL IV.

Level IV of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

* * * * * * *

Liaison for Community and Junior Colleges, Department of Education.

[Commissioner of Customs, Department of the Treasury.]

Director of the Office of Educational Technology.

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