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## DEPARTMENT OF STATE CRISIS RESPONSE ACT OF 2007

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JUNE 27, 2007.—Ordered to be printed

Mr. BIDEN, from the Committee on Foreign Relations,  
submitted the following

### REPORT

[To accompany S. 966]

The Committee on Foreign Relations, having had under consideration the bill S. 966, to enable the Department of State to respond to a critical shortage of passport processing personnel, and for other purposes, reports favorably thereon and recommends that the bill do pass.

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#### I. PURPOSE

This legislation is designed to facilitate the hiring of Foreign Service retirees to assist in processing of passport and visa applications.

#### II. LEGISLATIVE HISTORY AND COMMITTEE ACTION

S. 966 was introduced by Senator Schumer on March 22, 2007. It is cosponsored by Senators Coleman, Hagel and Biden. On June 19, 2007, the Subcommittee on International Operations and Organizations, Democracy and Human Rights, chaired by Senator Nelson, conducted a hearing on the backlog of passport applications at the Department of State, and the Department's response to the Western Hemisphere Travel Initiative. On June 27, 2007, the committee ordered the bill reported favorably by voice vote, after approving a substitute amendment proposed by Senator Biden.

### III. DISCUSSION

In the Intelligence Reform and Terrorism Prevention Act of 2004 (Sec. 7209 of P.L. 108-458) (which implemented certain recommendations of the 9/11 Commission), Congress enacted what is known as the Western Hemisphere Travel Initiative (WHTI). That provision requires the Secretary of Homeland Security, in consultation with the Secretary of State, to develop and implement a plan to require a passport or other document for all travel into the United States by United States citizens. Prior to the enactment of the law, citizens returning from certain countries in the Western Hemisphere were, of course, required to prove citizenship, but they did not need to show a passport to do that.

The first phase of this passport requirement was implemented earlier this year. As of January 23, 2007, all citizens entering the United States by air from any part of the Western Hemisphere were required to have a passport. The second phase of this passport requirement—which will apply to the land and sea borders—could begin as early as January 2008, but must be implemented no later than June 1, 2009. Earlier this month, however, the House of Representatives and the Senate Committee on Appropriations both voted to delay implementation of the second phase; under that legislation, it would commence no sooner than June 1, 2009.

The law has spurred a record demand for passports. In the first seven months of Fiscal Year 2007, there was a 33 percent increase in applications over the same period in Fiscal Year 2006. In the first few months of this calendar year, there was a substantial enormous surge of passport applications, more than the Department of State was prepared to handle. The result has been a significant delay in processing hundreds of thousands of applications. Citizens are now waiting from 10 to 12 weeks to receive their passports, twice the normal processing time of four to six weeks. As a result, many U.S. citizens planning foreign travel have been greatly inconvenienced, and some have had to delay or forego their travel plans, at considerable cost. The committee believes this is an unacceptable situation. Regardless of when the second phase of the WHTI is implemented, the Department must improve its performance. The committee intends to monitor closely the Department's implementation of the WHTI requirements in the coming year.

S. 966 will provide an additional tool to the Department of State, enabling it to recruit and hire Foreign Service retirees in order to assist in the processing of passport applications, as well as with visa applications at overseas posts with a substantial backlog of such applications. Because many Foreign Service retirees are already trained for these functions, and have the requisite security clearances, they can be hired and assigned to duty in a short time period.

Indeed, many such retirees are already working for the Department. Under the Foreign Service Act of 1980, Foreign Service retirees may continue to receive their pension payments while employed for the federal government; but they may do so only for six months of the year, or until they reach a salary cap (which relates to a number of factors personal to the retiree). S. 966 will permit the Secretary of State to waive these limitations in order to permit For-

foreign Service retirees to work during the entire year without foregoing their pension payments, in two circumstances: (1) in order to provide assistance to consular posts with a substantial backlog of visa applications; or (2) to provide assistance to meet the passport and travel document demand resulting from the Western Hemisphere Travel Initiative.

This authority is granted until September 30, 2010. Providing this authority for three years will permit the Department the necessary flexibility in hiring for the continued demand for passports that is expected under the WHTI. The termination date coincides with the sunset of a passport fee surcharge authority—also enacted because of the WHTI—provided to the State Department in the Passport Services Enhancement Act of 2005 (P.L. 109–167). Congress will therefore have the opportunity to consider whether to renew both authorities simultaneously.

#### IV. COST ESTIMATE

At the time of the filing of this report, the cost estimate required by Rule XXVI, paragraph 11(a) of the Standing Rules of the Senate, had not yet been provided by the Congressional Budget Office. The committee will publish it in the Congressional Record when it is available.

#### V. EVALUATION OF REGULATORY IMPACT

Pursuant to Rule XXVI, paragraph 11(b) of the Standing Rules of the Senate, the committee has determined that there is no regulatory impact as a result of this legislation.

#### VI. CHANGES IN EXISTING LAW

In compliance with Rule XXVI, paragraph 12 of the Standing Rules of the Senate, changes in existing 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).

### **Foreign Service Act of 1980**

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#### TITLE I—THE FOREIGN SERVICE OF THE UNITED STATES

\* \* \* \* \*

#### CHAPTER 8—FOREIGN SERVICE RETIREMENT AND DISABILITY

\* \* \* \* \*

#### SEC. 824. REEMPLOYMENT.—(a) \* \* \*

\* \* \* \* \*

(g) **WAIVER.**—(1) The Secretary of State may waive the application of subsections (a) through (d) on a case-by-case basis for an annuitant reemployed on a temporary basis, or grant authority to the head of an Executive agency to waive the application of subsections

(a) through (d) on a case-by-case basis for an annuitant reemployed on a temporary basis—

(A) if, and for so long as, such waiver is necessary due to an emergency involving a direct threat to life or property or other unusual circumstances[; or] ;

(B) to facilitate the assignment of persons to Iraq and Afghanistan or to posts vacated by members of the Service assigned to Iraq and Afghanistan, if the annuitant is employed in a position for which there is exceptional difficulty in recruiting or retaining a qualified employee[.] ; or

(C)(i) to provide assistance to consular posts with a substantial backlog of visa applications; or

(ii) to provide assistance to meet the demand resulting from the passport and travel document requirements set forth in section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 8 U.S.C. 1185 note).

(2) The authority of the Secretary to waive the application of subsections (a) through (d) for an annuitant pursuant to subparagraph (B) of paragraph (1), or to grant authority to the head of an Executive agency to waive the application of such subsections to an annuitant under such subparagraph, shall terminate on October 1, 2008. An annuitant reemployed pursuant to such authority prior to such termination date may be employed for a period ending not later than one year after such date.

(3) *The authority of the Secretary to waive the application of subsections (a) through (d) for an annuitant pursuant to paragraph (1)(C) shall terminate on September 30, 2010.*

**[(3)]** (4) The Secretary should prescribe procedures for the exercise of any authority under paragraph (1)(B), including criteria for any exercise of authority and procedures for a delegation of authority.

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