

Legislative Bulletin.....May 18, 2005

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H.R. 1817—Amendments to the Department of Homeland Security Authorization Act for Fiscal Year 2006

H.R. 1817, the Department of Homeland Security Authorization Act for Fiscal Year 2006 (sponsored by Rep. Chris Cox), is scheduled to be considered on the House floor on Wednesday, May 18th, subject to a structured rule (H.Res. 283). Below are the summaries of the 24 amendments made in order under the rule. All amendments are debatable for 10 minutes, except where noted otherwise.

Note: summaries are based on RSC staff's review of actual amendment text. For a summary of the underlying bill, see a separate RSC document released last night.

1. Meek (D-FL) #67: FAILED 184-244. Reserves \$200 million from the overall homeland security funding level in the underlying bill for DHS' Office of Inspector General. The underlying bill has no specific carve-out for the DHS Inspector General.

2. Cox/Sensenbrenner (R-CA/R-WI) #44: AGREED TO BY VOICE VOTE. Carves out \$40 million from the overall homeland security funding level in the underlying bill for reimbursing states and localities for the costs associated with having state and local law enforcement trained and certified by DHS. (20 minutes)

3. Kennedy (D-RI) #46: AGREED TO BY VOICE VOTE. Ensures that, in replacing the color-coded terror alert system, DHS consult with the Homeland Security Center of Excellence for Behavioral and Social Research on Terrorism and Counterterrorism and other such academic research centers regarding how to best communicate risk to the public.

4. Barton/Dingell (R-TX/D-MI) #65: AGREED TO BY VOICE VOTE. Requires the Department of Homeland Security to coordinate its activities regarding protection of critical infrastructure with "other relevant Federal agencies."

5. Johnson, E.B. (D-TX) #74: WITHDRAWN. Authorizes an additional \$5 million for FY2006 in grants for the National Medical Preparedness Consortium to standardize training, national health care policies, and standards of care for emergency medical professionals to prepare for mass casualties resulting from a terrorist event involving weapons of mass destruction.

6. Ehlers (R-MI) #11: AGREED TO BY VOICE VOTE. Reduces from 30 to 15 minutes the time that passengers are required to remain seated after take-off from and before landing into Washington Reagan National Airport (DCA). The amendment permits the Secretary of DHS to decrease the time *even further*. Also prohibits the pilot from diverting a flight from DCA for a violation of the seating rule unless he or she determines the actions to be a threat to the security of passengers or the aircraft.

7. DeFazio/Mica (D-OR/R-FL) #19: AGREED TO BY VOICE VOTE. Directs the Secretary of Homeland Security to conduct a study of the feasibility of conducting federal flight deck officer initial training at facilities enacted throughout the U.S., including an analysis of any associated programmatic impacts to the federal flight deck officer program. Makes changes to the Federal Flight Deck Officers (FFDO) Program, including increasing travel changes and date flexibility on initial and recurrent training for FFDO's, by establishing qualification standards, exploring the possibility of alternate sites for training, and ensuring that the training be provided at *no cost* to the pilot.

Also requires the Secretary to establish a secure means for TSA personnel to communicate with FFDO's in support of their mission, issue badges to FFDO's within 180 days, set up a process by which pilots can appeal a TSA decision to revoke a FFDO's status, establish a pilot program to allow FFDO's to carry their weapon, and encourage the President to pursue international agreements that will allow the use of FFDO's on international flights. Directs the President (or his designee) to submit to a Congress a report on the status of the President's efforts to allow maximum deployment of federal flight deck officers on international flights.

8. Cardin (D-MD) #41: AGREED TO BY VOICE VOTE. Adds the Information Assurance Directorate of the National Security Agency (NSA) to the list of federal agencies that the DHS Under Secretary for Science and Technology must coordinate with on cybersecurity research and development activities.

9. Slaughter (D-NY) #54: AGREED TO BY VOICE VOTE. Authorizes the creation of at least four U.S. enrollment centers for operation of the Free and Secure Trade (FAST) program, the Secure Electronic Network for Travelers Rapid Inspection (SENTRI) program, and the NEXUS program. Creates a customer service telephone number, and merges the requirements of the NEXUS air and land cards into one uniform card that will work for land and air crossings. Provides no new funds for these provisions.

10. Souder (R-IN) #3: WITHDRAWN. Makes the Customs and Border Protection's Office of Air and Marine Operations the lead DHS agency to conduct airspace security around the nation's capital and for special events of national significance. Also calls for a DHS report within 90 days that identifies the facility, asset, and personnel requirements to fulfill the airspace security mission.

11. Wamp (R-TN) #14: AGREED TO BY VOICE VOTE. Permits a university or consortium of universities to team up with Department of Energy laboratories when competing to become a DHS Center for Excellence.

12. Menendez (D-NJ) #58: WITHDRAWN. Requires the Secretary of DHS to report to Congress on how to coordinate and protect the various infrastructure in the area between Port Elizabeth and Newark International Airport, New Jersey.

13. Hooley (D-OR) #20: AGREED TO 363-65. Prohibits any of the money in the DHS authorization bill to come from an increase in airline ticket taxes.

14. Cardin (D-MD) #39: AGREED TO BY VOICE VOTE. Requires DHS to conduct a study of the feasibility and desirability of expanding the “National Capitol Region” (NCR) area beyond its existing boundaries, which were set in 1952. DHS would have to study whether an expanded NCR would promote coordination between state, regional, and local governments and the ability of such governments to prevent and respond to a terrorist attack within the NCR.

15. Slaughter (D-NY) #55: AGREED TO BY VOICE VOTE. Requires the Secretary of DHS to report to Congress within six months of this bill’s enactment on its efforts to (1) reduce the imitation of badges, identification, uniforms, or other insignia used by any officer of DHS; (2) improve the design of the various forms of DHS identification to prevent illegal replication; (3) increase public awareness of imitation forms of DHS identification; (4) teach the public to identify authentic DHS identification; (5) assess the effectiveness of their efforts; and (6) recommend any legislation or administrative actions necessary to achieve their objectives.

16. Kennedy (D-MN) #61: AGREED TO BY VOICE VOTE. Requires the Secretary to carry out an Advanced Technology Northern Border Security Pilot Program authorized in the National Intelligence Reform Act of 2004. Also requires the Secretary to report to Congress and the President on border surveillance of the northern border of the United States by remotely piloted vehicles.

17. Jackson-Lee/Conyers (D-TX/D-MI) #82: AGREED TO BY VOICE VOTE. Instructs GAO to conduct a study examining the impact of an increase in Temporary Protected Status (TPS) application fees on the nationals of countries for which TPS is available and the differential in cost between the current statutory fee and the cost-based fee proposed by Customs and Immigration Services. Also instructs GAO to conduct a study on the premium processing fee system and its possible application to individuals and their families.

18. Norwood (R-GA) #59: AGREED TO 242-185. States that law enforcement personnel are “fully authorized to apprehend, detain, or remove aliens in the United States...for the purposes of assisting in the enforcement of the immigration laws of the United States in the course of carrying out routine duties.” Emphasizes that, “this State authority has never been displaced or preempted by the Congress.” Requires DHS to establish a training manual and pocket guide with information for law enforcement personnel and to make training available for these personnel (subject to certain conditions and restrictions—and paid for by the federal government). (20 minutes)

19. Baca (D-CA) #89: NEVER OFFERED. Requires the Secretary of DHS to fulfill his obligations under Section 461 of the Homeland Security Act of 2002, regarding the Technology Advisory Committee and the feasibility of establishing an online filing and processing system for immigration applications. Section 461 is pasted here in its entirety:

SEC. 461. APPLICATION OF INTERNET-BASED TECHNOLOGIES.

(a) ESTABLISHMENT OF TRACKING SYSTEM- The Secretary, not later than 1 year after the effective date of this Act, in consultation with the Technology Advisory Committee established under subsection (c), shall establish an Internet-based system, that will permit a person, employer, immigrant, or nonimmigrant who has filings with the Secretary for any benefit under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), access to online information about the processing status of the filing involved.

(b) FEASIBILITY STUDY FOR ONLINE FILING AND IMPROVED PROCESSING-

(1) ONLINE FILING- The Secretary, in consultation with the Technology Advisory Committee established under subsection (c), shall conduct a feasibility study on the online filing of the filings described in subsection (a). The study shall include a review of computerization and technology of the Immigration and Naturalization Service relating to the immigration services and processing of filings related to immigrant services. The study shall also include an estimate of the timeframe and cost and shall consider other factors in implementing such a filing system, including the feasibility of fee payment online.

(2) REPORT- A report on the study under this subsection shall be submitted to the Committees on the Judiciary of the House of Representatives and the Senate not later than 1 year after the effective date of this Act.

(c) TECHNOLOGY ADVISORY COMMITTEE-

(1) ESTABLISHMENT- The Secretary shall establish, not later than 60 days after the effective date of this Act, an advisory committee (in this section referred to as the 'Technology Advisory Committee') to assist the Secretary in--

(A) establishing the tracking system under subsection (a); and

(B) conducting the study under subsection (b).

The Technology Advisory Committee shall be established after consultation with the Committees on the Judiciary of the House of Representatives and the Senate.

(2) COMPOSITION- The Technology Advisory Committee shall be composed of representatives from high technology companies capable of establishing and implementing the system in an expeditious manner, and representatives of persons who may use the tracking system described in subsection (a) and the online filing system described in subsection (b)(1).

20. Jackson-Lee (D-TX) #75: FAILED 182-245. Calls for the Secretary of Homeland Security to submit a report to Congress on: the number and types of border violence activities that have occurred in the last five years; the types of activities involved; a description of the categories of victims; the risk of future activities; and a description of the steps that DHS is taking and any plan that the Department has formulated to prevent such activities.

“Border violence activity” is defined in the amendment as means any activity that:

- “involves the unlawful use of, or the threat unlawfully to use, physical force with the intent to harm a person or property;
- “occurs in the United States, not further than 25 miles from a United States border with Mexico or Canada; and
- “occurs as part of an attempt to deter, retaliate against, or enable the entry of any person into the United States.

21. Manzullo (R-IL) #21: AGREED TO BY VOICE VOTE. Clarifies the "Buy American Act" by emphasizing that more than 50% of the components in end-products purchased by DHS have to be mined, produced, or manufactured inside the United States.

22. Putnam (R-FL) #90: AGREED TO BY VOICE VOTE. Allows FEMA reimbursements for funeral expenses—only if the death was determined by a medical examiner to be caused by a natural disaster. [This amendment stems from reports that FEMA paid for the post-hurricane funerals of non-hurricane victims.]

23. Souder (R-IN) #16: AGREED TO BY VOICE VOTE. Extends the current authorization of appropriations for the Office of Counternarcotics Enforcement at DHS to fiscal year 2006 (level-funded at \$6 million a year).

24. Thompson (D-MS) #50: FAILED 196-230. 221-page Democrat amendment in the nature of a substitute. Authorizes \$41,036,180,000.00 in overall homeland security funding, which is about \$6.88 billion more than what is authorized in the base text of H.R. 1817 (and thus **\$6.88 billion in violation of the House-passed Budget Resolution**). Requires the President to report to Congress on the rationale for each “homeland security funding shortfall” in his FY2006 budget request.

Includes a variety of titles on such issues as: border surveillance technology (much of which is addressed in the REAL ID Act, Public Law 109-13), chemical plant security, baggage and cargo screening, rail security, critical infrastructure, biological attacks, cybersecurity, communications interoperability, DHS personnel management, tribal security, and port security. Some of the amendment’s provisions, in such areas as cybersecurity and agriculture security, are identical or similar to the underlying bill text. Prohibits the increasing of aviation security service fees, yet establishes a Checkpoint Screening Security Fund that appears to be funded in part by a fee increase. *(40 minutes)*

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