

October 7, 2004

## Amendments Made in Order to the 9/11 Recommendations Implementation Act (H.R. 10)

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The following are amendments to H.R. 10 that are made in order under the structured rule (H.Res. 827). The rule provides for three hours and forty minutes of general debate. Debate time for all amendments is 10 minutes each (equally divided between proponent and opponent), except for the first amendment in the sequence, the Menendez Amendment in the Nature of a Substitute, which is debatable for 60 minutes (equally divided).

**Note** that the rule also provides that, upon passage of H.R. 10 and the Senate transmittal to the House of S. 2845, the House would be considered to have taken S. 2845 from the Speaker's table, stricken all after the enacting clause, and inserted the provisions of the House-passed H.R. 10. The House would then be considered to have passed the Senate bill as amended with the text of H.R. 10 and to have requested a conference on the differing versions of S. 2845. The rule provides that the Speaker could appoint conferees on S. 2845 at any time and that the motion to instruct conferees would only be in order at a time designated by the Speaker within two legislative days of the House's passage of H.R. 10.

All amendment summaries below were derived from the summaries provided by the Rules Committee but are adjusted, as appropriate, to reflect the actual text of each amendment.

Outcomes are indicated in **red bold** after each summary.

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**1) Menendez Amendment in the Nature of a Substitute.** Merges two bills endorsed by the 9/11 Commission: Collins/Lieberman (S. 2845) as reported from the Senate Government Affairs Committee, and McCain/Lieberman (S. 2774) as introduced on September 7. **Does NOT include the border security provisions in H.R. 10.** Establishes a National Intelligence Director and makes improvements in intelligence activities, modifies laws relating to intelligence community management, establishes diplomatic means and provides foreign aid to combat terrorism, provides an integrated screening system and improves counterterrorist travel intelligence, enhances transportation security, provides resources to improve national preparedness and assist local first responders, and establishes a Privacy and Civil Liberties Oversight Board. **FAILED 203-213**

- 2) **Simmons**. Expresses a sense of Congress that the new National Intelligence Director (NID) should establish an Open Source Intelligence (OSINT) Center. Directs the NID to report to Congress whether or not an OSINT Center will be established and to justify the reasons for or against its establishment. **AGREED TO BY VOICE VOTE**
- 3) **Souder**. Directs the Secretary of Homeland Security to ensure that all appropriate personnel engaged in security screening of individuals have access to law enforcement and intelligence information maintained by DHS. Provides Congress with an overview of all the agencies, databases, and other capabilities that exist within the Department involved in intelligence relating to terrorism, drug trafficking, illegal immigration, screening, investigations, and inspection of goods or individuals entering the United States. Requires the Secretary to submit a plan to Congress within 180 days on actions taken, and plans in place to improve, access and the flow of information. **AGREED TO 410-0**
- 4) **Kirk**. Requires the President to submit a report to the congressional intelligence committees detailing how the Drug Enforcement Administration can be integrated into the intelligence community. **AGREED TO 414-0**
- 5) **Sessions**. Establishes a zero-tolerance policy toward the unlawful importation, possession, or transfer of shoulder-fired guided missiles (MANPADs), atomic weapons, dirty bombs, and variola (smallpox) virus by making their unauthorized production, acquisition, possession, transfer, or use a federal crime carrying stiff mandatory penalties (including multimillion dollar fines, 30-year prison sentences, and the possibility of life imprisonment or the death penalty). **AGREED TO 385-30**
- 6) **Bonilla**. Directs the Secretary of Homeland Security to increase Detention and Removal Operations (DRO) bed space for FY2006 and FY2007 by at least 2,500 beds each year. **AGREED TO BY VOICE VOTE**
- 7) **Capito**. Revises, enhances and consolidates two federal criminal law statutes into one statute in order to deter, and more severely punish, terrorist acts against railroad carriers and mass transportation providers. Increases to 20 years the maximum prison sentence for terrorist attacks on or near trains and other mass transportation features (such as tunnels, bridges, etc.). **AGREED TO BY VOICE VOTE**
- 8) **Carter**. Amends the federal criminal code to apply the death penalty or life imprisonment for a terrorist offense that results in the death of a person. Makes such offenders permanently ineligible for federal benefits of any kind. Allows for the application of the federal death penalty in certain air piracy cases occurring before the enactment of the Federal Death Penalty Act of 1994 in certain limited cases. **AGREED TO 344-72**
- 9) **Castle**. Eliminates civil liability barriers to donating surplus firefighting equipment by raising the liability standard for donors (not including manufacturers and exempts negligence and intentional misconduct). **AGREED TO BY VOICE VOTE AS PART OF EN BLOC**

10) **Foley/ Ackerman**. Amends the Immigration and National Act to provide for the inadmissibility and deportability of aliens who have committed, ordered, assisted, incited, or otherwise participated in acts of torture, extrajudicial killings, severe violations of religious freedom, or other atrocities abroad. Creates an Office of Special Investigations in DoJ (authorized at “such sums”) to investigate and take legal action against such aliens.

**AGREED TO BY VOICE VOTE**

11) **Goodlatte**. Creates a rebuttable presumption that no amount of bail or other conditions would assure the appearance in court of a defendant when he is charged with a terrorist offense and there is probable cause that the defendant committed certain terrorist attacks. Helps to prevent further terrorist acts by giving judges the discretion to impose up-to-lifetime supervision of terrorists who have been convicted of terrorist offenses. **AGREED TO 333-84**

12) **Green (WI)/Hostettler**. Strengthens immigration law in regard to the inadmissibility and deportability of alien terrorists and their supporters. Provides that all terrorist-related grounds of inadmissibility would also be grounds of deportability. Makes attending a terrorist training camp an offense rendering the offender inadmissible to and deportable from the U.S. Strengthens the grounds of inadmissibility and deportability regarding the provision of money or other material support to a terrorist organization. **AGREED TO 283-132**

13) **Hostettler**. Gives the Secretary of Homeland Security the authority to detain an alien, pending removal, who has been present in the U.S. for less than five years. Gives the Secretary the authority to detain an alien present in the U.S. for five years or more for 90 days beyond the termination of the removal order, and to continue to detain the alien until removed if the Secretary, in consultation with the Attorney General, certifies that the alien poses a danger to the community or is a flight risk. **AGREED TO BY VOICE VOTE**

14) **Smith (NJ)**. Strikes section 3006 of the underlying bill, which would require the expedited removal of aliens that have been deemed inadmissible to the U.S. and have not been in the U.S. continuously for five years. **FAILED 203-210 (SEPARATE VOTE AFTER FIRST BEING AGREED TO 212-203)**

15) **Smith (NJ)**. Strikes section 3007 of the underlying bill, which would increase the burden of proof for an alien to claim asylum. **FAILED 197-219**

16) **Barton**. Expresses a sense of Congress that the only way to make additional broadcast spectrum available promptly for critical public safety needs is to eliminate the 85% penetration test and make December 31, 2006 the date certain for return of the spectrum. **AGREED TO BY VOICE VOTE AS PART OF EN BLOC**

17) **Ose/Hunter/Cunningham/McKeon**. Expedites construction of two gaps in the 14-mile barrier at the San Diego border. **AGREED TO 256-160**

18) **Fosella/Stupak**. Authorizes the Secretary of Homeland Security to issue three-year letters of intent to commit future funding (up to \$150 million a year), as it becomes available from existing grant programs, for purposes of enhancing public safety interoperable

communications, pursuant to a five-year interoperable communications plan. **AGREED TO BY VOICE VOTE AS PART OF EN BLOC**

**19) Weldon (PA)/Andrews.** Requires the Secretary of Homeland Security to establish a program that identifies and catalogs existing mutual aid agreements, disseminates examples of best practices in the development of such agreements, and inventories federal response capabilities that state and local officials may utilize during a terrorist attack or other emergency. **AGREED TO 415-0**

**20) Mica.** Requires Immigration and Custom Enforcement (ICE) and Customs and Border Protection (CBP) to check international passenger names against the watch-list prior to the flight taking off. Provides for appeals for passengers who are incorrectly placed on the no-fly-list and terrorist watch-lists and orders the maintaining of a list of misidentified passengers. Authorizes the Secretary of Homeland Security to take such action as may be necessary to expedite the installation and use of advanced in-line baggage-screening equipment at commercial airports. **AGREED TO BY VOICE VOTE AS PART OF EN BLOC**

**21) Bartlett.** Directs the Secretary of Homeland Security to establish an independent panel to assess the homeland security needs of the National Capital Region. Requires the panel to: (1) determine whether the definition of National Capital Region used by the Department of Homeland Security should be modified to include additional nearby areas; (2) determine whether those jurisdictions should be taking actions (including the construction of necessary facilities) to prepare for a terrorist attack in the Region; and (3) make recommendations for appropriate funding, if necessary. **AGREED TO BY VOICE VOTE**

**22) Shadegg.** Requires the Secretary of Homeland Security, in consultation with the Attorney General, the heads of other appropriate federal agencies, the National Association of State Chief Information Officers, and other stakeholders with respect to public warning systems, to conduct a pilot study under which the Secretary would issue public warnings regarding threats to homeland security using a warning system similar to the AMBER Alert communications network, and to report back within nine months on findings and recommendations. **AGREED TO BY VOICE VOTE AS PART OF EN BLOC**

**23) Porter.** Promotes the Special Assistant to the Secretary for the Private Sector to an Undersecretary of Homeland Security for the Private Sector and Tourism. Directs the Undersecretary for the Private Sector and Tourism to work with the Commerce Department on ways to increase tourism to the United States. Requires the Office of State and Local Government in the Department of Homeland Security to keep the Undersecretary advised of any activities that impact the private sector. **AGREED TO BY VOICE VOTE**

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