



Legislative Bulletin.....June 6, 2013

Contents:

Amendments to H.R. 2217 (Part V) —Department of Homeland Security Appropriations Act of 2014.

NOTE: *The following Legislative Bulletin contains information on the twelve amendments pre-printed in the Congressional Record on June 4, 2013, and other potential amendments not pre-printed that may be offered.*

*The RSC Staff will make every attempt to provide RSC Member offices with up-to-date amendment information. If your boss will definitely offer an amendment, please give the RSC a preview of the text so that we can accurately describe your amendment in a timely manner. **Due to the hurried nature of floor consideration, amendment analysis will be sent in multiple Legislative Bulletins, with analysis of amendments not pre-printed in the Congressional Record and offered just prior to a vote coming very close to the actual vote.***

Order of Business: The amendments to H.R. 2217, the Department of Homeland Security Appropriations Act of 2014, are scheduled to be considered beginning Wednesday, June 5, 2013, under an open rule. The rule ([H.Res.243](#)) waives all points of order against consideration of the bill and provisions in the bill. The rule also provides for the bill to be read for amendment by paragraph and under the five minute rule. The rule **provides priority for recognition to Members who have pre-printed their amendments in the Congressional Record** and provides for one motion to recommit with or without instructions.

Below are the amendment summaries for the three amendments in this last vote series:

1. **Lujan** This amendment increases funding for the Department of Homeland Security’s state grant program which provides funds to State and local governments for activities including disaster preparedness, (which includes natural disasters - tornados, earthquakes, etc.) in addition to terrorist acts. The amendment reduces the Office of the Chief Financial Officer by \$10 million.

2. **Blackburn** This amendment adds a new section at the end of the bill prohibiting any funds in the Act from being used by TSA for Security Officer duties outside airports. In effect, activity of TSA officers could only be funded in airports defined by **49 USC § 47102** as an area of land or water used or intended to be used for the landing or taking off of an aircraft and buildings and facilities located in these areas. According to Rep. Blackburn’s office, this amendment would address the concern held by some that the TSA allows Officers to engage in DHS VIPR operations outside of airports in other mass transit facilities and transportation mediums, although these officers have not been formally trained as federal law enforcement personnel and do not receive federal law enforcement benefits. Last year, a similar amendment, [H.AMDT.1268](#), failed by a roll

call vote of 204-210. Yesterday, Rep. Garrett (R-NJ) offered a similar amendment to H.R. 2217 which failed by a roll call vote of 180-247.

3. **King (R-IA).** This amendment prohibits funds from being used to follow specific memorandums authored by Secretary of Homeland Security Janet Napolitano that allow prosecutorial discretion, deferred action, and determines priorities regarding the removal and amnesty of illegal immigrants. Specifically, a June 15, 2012 memorandum instructs Immigration and Customs Enforcement officers to grant deferred action to certain illegal aliens, directs officers to refrain from placing these individuals in removal proceedings, and permits personnel to grant employment to certain beneficiaries of this directive. A similar June 17, 2011 memo permits the use of discretion when granting amnesty to illegal immigrants based on a set of vague criteria. [U.S. District Judge Reed O'Connor](#) has ruled “that DHS does not have discretion to refuse to initiate removal proceedings [when the law requires it].” This ruling was a result of ten ICE officers who [filed a lawsuit](#) on August 23, 2012, against Janet Napolitano and John Morton claiming that these directives placed them in a position to violate federal law in multiple ways. [Heritage Action](#) supports this amendment, and will be including it as a vote on their [scorecard](#). The same amendment passed last year by a vote of [238-175](#) in last in last year’s FY2013 Department of Homeland Security Appropriations Act (H.R. 5855).

Primary RSC Staff Contact: Joe Murray Joe.Murray@mail.house.gov, (202) 226-0678.

SUMMARY OF AMENDMENTS PREPRINTED IN THE CONGRESSIONAL RECORD

June 4, 2013

1. **Cassidy (R-LA)/Grimm (R-NY)/Palazzo (R-MS).** *Passed by a vote of 281-141.* This amendment delays implementation of Section 207 of the Biggert-Waters Flood Insurance Report Act of 2012 for one year. Section 207 of the Biggert-Waters Flood Insurance Act of 2012 ends the grandfathered National Flood Insurance Program (NFIP) rates and allows the premium rates to rise up to 20 percent per year over a five year period. According to the sponsor, the Federal Emergency Management Agency (FEMA) does not fully understand the implications of implementing Section 207 and has not accounted for all factors when creating their flood zone maps. The one year delay is designed to give FEMA time to properly implement the risk premium formulas and create accurate flood zone maps. **Outside Groups in Support of the Amendment:** National Association of Home Builders, American Bankers Association, National Association of Realtors, American Bankers Insurance Association. **Outside Groups Opposing the Amendment:** Heritage Action for America ([key vote](#)), the Reinsurance Association of America, and the Property Casualty Association of America, and Taxpayers for Common Sense. **Conservative Concerns:** Some conservatives have expressed concern that the amendment weakens the financial viability of NFIP, a program already \$30 billion in debt. However, according to the CBO, the amendment has no net budgetary impact.

2. **Collins (R-GA)/Barletta (R-PA)/Griffin (R-AR). *Passed by voice.*** This amendment prohibits funding for the Immigrations and Customs Enforcement (ICE) of the U.S. Department of Homeland Security to process the release of, or to administer alternative forms of detention to, illegal immigrants who committed a crime which mandates their incarceration under current law. The base bill (page 13, lines 19-22) also requires that the Secretary of Homeland Security prioritize the identification and removal of aliens convicted of a crime by the severity of the crime.
3. **Price (R-GA). *Withdrawn.***
4. **Thompson (D-MS). *Failed by a vote of 147-279.*** This amendment prohibits any funds in the Act being used by the Transportation Security Administration (TSA) for the Behavior Detection Program. According to the [TSA](#), Behavior Detection Officers are trained to recognize psychological and involuntary physical reactions to help identify which individuals may be “high-risk”. Behavior Detection Officers are currently being used in conjunction with the TSA’s [PreCheck](#) program which offers expedited screen for certain eligible airline passengers. A similar amendment offered by Rep. Paul Broun (R-GA) *failed by voice* on June 7, 2012 in last year’s FY2013 Department of Homeland Security Appropriations Act (H.R. 5855).
5. **Mica (R-FL).** This amendment limits the amount that TSA can spend on the Screening Partnership Program (SPP) to the larger amount of either \$100,000 or one-percent of the total value of airport’s SPP contract. According to the [TSA](#), a pilot program was created in 2001 under the Aviation Transportation Security Act (ATSA) of 2001, where the federal government oversaw screening conducted by private contractors. In 2004, the TSA officially adopted Screening Partnership Program in 2004 where the government oversees screening conducted by private contractors. There are currently 16 airports that participate in the SPP.
6. **Mica (R-FL). *Withdrawn.*** This amendment reduces funding for civil aviation security and enforcement in the Transportation Security Administration Aviation Security account by \$23,334,000 and increases funding to the screening programs of the Office of Transportation Threat Assessment and Credentialing by \$23,334,000.
7. **Mica (R-FL).** This amendment reduces funding available for aviation security in the Transportation Security Administration Aviation Security account by \$17,383,000 and increases funding for screening in the TSA Transportation Threat Assessment and Credentialing account by \$17,383,000.
8. **Mica (R-FL). *Passed by voice.*** This amendment reduces funding for civil aviation and security in the Transportation Security Administration Aviation Security Account by \$31,810,000 and increases funding to the Screening Partnership Program within the same Aviation Security Account. According to the [TSA](#), a pilot program was created in 2001 under the Aviation Transportation Security Act (ATSA) of 2001, where the federal government oversaw screening conducted by private contractors. In 2004, the TSA officially adopted Screening Partnership Program in 2004 where the government oversees

screening conducted by private contractors. There are currently 16 airports that participate in the SPP.

9. **Mica (R-FL).** The amendment instructs the Director of the Federal Law Enforcement Training Center to develop a plan to “further integrate and utilize modeling and simulation in the training of law enforcement and security personnel.”
10. **Mica (R-FL).** This amendment decreases \$12,500,000 of funding from the Transportation Security Administration Aviation Security Direction and Enforcement and increases funding for the Federal Flight Deck Officer Program under TSA by \$12,500,000. According to the [TSA](#), Federal Flight Deck Officers are able to carry firearms to protect against security risk. This program was originally signed into law by President George W. Bush in 2003.
11. **Mica (R-FL).** This amendment reduces funding for the Office of the Under Secretary of Management by \$15,676,000 and increases funding for surface transportation security activities under the TSA Surface Transportation Security account.
12. **Pierluisi (D-PR).** *Passed by voice.* According to the sponsor, federal law has provided that the collection of certain duties and taxes in Puerto Rico by the U.S. Customs Border Protection (CBP) or its predecessor agencies will be deposited in the Puerto Rico trust fund. Pursuant to the law and an implementing agreement between the Puerto Rico government and the federal government, a significant portion of that money is also used to fund certain federal operations, including the maritime operations of CBP's office of Air and Marine in Puerto Rico. Because of a shortfall in the Puerto Rico trust fund of about \$1.7 million due to reduced customs collections, CBP closed a boat unit in San Juan, Puerto Rico that, in 2010, seized over 7,000 pounds of illegal drugs. This is because CBP has interpreted current federal law to require that it use either the trust fund or general congressional appropriations to fund its operations, but not both. The sponsor states that the amendment would give CBP the authority to supplement any funding from the trust fund with general appropriations made in this bill, so that they will avoid a repeat of what happened in the case of the San Juan boat unit. The amendment does not require CBP to spend any additional money in Puerto Rico, or to prioritize Puerto Rico over other jurisdictions. The Congressional Budget Office (CBO) has indicated the amendment has no budgetary impact. A similar amendment (H.Amdt. 1269) was offered on June 7, 2012, to H.R. 5855 (the DHS Approps Act for FY 2013) and was agreed to by voice vote.

SUMMARY OF AMENDMENTS *NOT PRE-PRINTED* IN THE CONGRESSIONAL RECORD

4. **Moore (D-WI).** *Failed by a vote of 167-257.* Increases the Office of the Secretary of Homeland Security account by \$3.35 million (page 2, line 17) and reduces the Automation and Modernization account by \$4 million (page 9, line 17). The author’s

intent is to increase funding for the [Office of Civil Rights and Civil Liberties](#) for oversight of immigration enforcement.

5. ***Polis (D-CO). Failed by a vote of 180-245.*** Increases the Office of Secretary and Executive Management by \$4.36 million (page 2, line 17), which is intended for the office of [Civil Rights and Civil Liberties](#). It reduces the Immigration and Customs Enforcement Salaries and Expenses account by \$43.5 million (page 12, line 12), with \$5.4 million of this reduction being cut from the 287(g) program (page 12, line 23), which would eliminate funding for the 287(g) program. Numerous conservative organizations support keeping and expanding the 287(g) program, including the [Heritage Foundation](#). The Obama Administration and numerous House Democrat caucuses seek to eliminate the 287(g) program, including the Hispanic, Black, Asian-Pacific American, and Progressive caucuses.
6. ***Heck (R - NV). Failed by a vote of 156 to 268.*** This amendment reduces \$22 million of funding to the administrative accounts of the Office of Under Secretary for Management, Office of the Chief Financial Officer, Customs and Border Protection Salaries and Expenses, and the Federal Emergency Management Agency (FEMA) Salaries and Expenses and increases funding to the Urban Area Security Initiative (UASI) by the same amount. The base bill funds UASI at \$1.5 billion. According to the Amendment Sponsor, the UASI addresses planning, organization, equipment, training and exercise needs of high-threat, high-density urban areas and assists in building an sustainable capacity to prevent and recover from acts of terrorism. In FY2013, the number of urban areas eligible for UASI funding decreased. This amendment seeks to increase UASI to address the top 35 highest-threat, high-density urban areas. However, many [conservatives](#) believe that funds from the grant program have been wasteful or inefficiently used.
7. ***Garcia (D-FL) Failed by a vote of 186-236.*** This amendment increases the US Customs and Border Protection Salaries and Expenses by \$10,000,000, which would bring the total amount allocated in this category to 5,354,461,000 (found on Page 8, Line 6). Secondly, the amendment offsets these increases by reducing US Immigrations and Customs Enforcement Salaries and Expenses by a total of \$10,000,000, bringing the total allocated in this fund to \$5,334,461,000. Thirdly, this amendment reduces \$3,000,000 from section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357 (g)). The bill funds Section 287 Programs are at \$5,400,000. This amendment reduces its funding to \$2,400,000. Programs under Section 287 were created in 1996, but not implemented until 2002, when ICE allowed States and local law enforcement agencies to enter into agreements (Memorandums of Agreement) to “act in the stead of ICE agents by processing illegal aliens for removal.” The [Heritage Foundation](#) writes that “Section 287(g) has been a critical tool for enforcing America’s immigration laws, because it has become a force multiplier for under-resourced ICE.” Heritage Action opposes this amendment.
8. ***Deutch (D-FL)/Foster (D-IL). Failed by a vote of 190-232.*** The amendment strikes a requirement that funding for the U.S. Immigration and Customs Enforcement shall maintain a minimum of 34,000 detention beds for detained illegal aliens through FY2014.

The American Civil Liberties Union (ACLU) and Lutheran Immigration and Refugee Service support the amendment..

9. **Grimm (R-NY)/Markey (D-MA)/Cook (R-CA)/Swalwell (D-CA)/Reed (R-NY)/Jackson Lee (D-TX).** *Passed by voice.* This amendment prevents any funds for TSA to be used to change the [list of sharp objects](#) prohibited from entering airplane cabins and through security checkpoints. In summary, it would prohibit knives on planes. **Outside Groups in Support of the Amendment:** Coalition of Flight Attendants Unions, Association of Professional Flight Attendants, Association of Flight Attendants-CWA, International Association of Machinists and Aerospace Workers, Transport Workers Union Local 556, International Brotherhood of Teamsters, Coalition of Airline Pilots Association, American Federation of Government Employees. **Note**—recent [reports](#) indicate that the TSA has decided not to go forward with this policy change.
10. **Gingrey (R-GA).** This amendment prohibits funds appropriated to the Department of Homeland Security from being used to counter act or diminish Memoranda of Agreements (MOAs) between Immigration and Customs Enforcement (ICE) and local law enforcement as authorized under section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)). These MOAs deputize local police so that they can “act in the stead of ICE agents by processing illegal aliens for removal” to apprehend, hold, and process illegal immigrants. MOAs have recently come under attack from the [Obama administration](#). This amendment is supported by Heritage Action for America, Numbers USA, and the Federation for American Immigration Reform (FAIR).
11. **King (R-IA).** This amendment prohibits funds from being used to follow specific memorandums authored by Secretary of Homeland Security Janet Napolitano that allow prosecutorial discretion, deferred action, and determines priorities regarding the removal and amnesty of illegal immigrants. Specifically, a June 15, 2012 memorandum instructs Immigration and Customs Enforcement officers to grant deferred action to certain illegal aliens, directs officers to refrain from placing these individuals in removal proceedings, and permits personnel to grant employment to certain beneficiaries of this directive. A similar June 17, 2011 memo permits the use of discretion when granting amnesty to illegal immigrants based on a set of vague criteria. [U.S. District Judge Reed O'Connor](#) has ruled “that DHS does not have discretion to refuse to initiate removal proceedings [when the law requires it].” This ruling was a result of ten ICE officers who [filed a lawsuit](#) on August 23, 2012, against Janet Napolitano and John Morton claiming that these directives placed them in a position to violate federal law in multiple ways. [Heritage Action](#) supports this amendment, and will be including it as a vote on their [scorecard](#). The same amendment passed last year by a vote of [238-175](#) in last in last year’s FY2013 Department of Homeland Security Appropriations Act (H.R. 5855).
12. **Salmon (R-AZ).** *Passed by voice.* This amendment prevents any funding to be used in contravention of section 642(a) of the Illegal Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373(a)). This law explains that states and localities may not limit their governmental entities or officers from maintaining records regarding a person's immigration status, or bar the exchange of such information with any federal, state, or

local entity. Essentially, the amendment prevents any funding for sanctuary cities. [“Sanctuary cities”](#) are the object of great legal and political controversy. The term is not defined in federal law, but is used often to refer to localities, which as a result of state or local policies or constraints, place limits on their assistance to federal immigration authorities. The issue elicits the continuous debate over the balance between the federal government’s immigration enforcement responsibility and state and local roles and responsibilities. According to the amendment Sponsor, the Department of Homeland Security “has long viewed state and local governments as valuable partners that can serve a helpful role in assisting DHS in fulfilling its responsibilities with respect to immigration enforcement” and it “continues to welcome that participation.” A similar amendment offered by Rep. Lou Barletta (R-PA) *passed by voice* on June 7, 2012 in last year’s FY2013 Department of Homeland Security Appropriations Act.

13. **Bishop (D-NY)**. This amendment reduces \$404 million (page 54, line 9) for construction of the [National Bio- and Agro-defense Facility](#) in Manhattan, Kansas, and transfers this amount to the Spending Reduction Account for deficit reduction purposes. The Manhattan, Kansas site was awarded the NBAF project in January 2009 by a select panel of more than 25 scientists and experts from the Department of Homeland Security and Department of Agriculture to replace an aging USDA facility at Plum Island, N.Y., that, according to the Department of Homeland Security, needs to be replaced in order to meet U.S. research requirements. According to the amendment Sponsor, constructing a laboratory to study harmful animal diseases in cattle country and a tornado area is risky when safety questions have been posed by two risk evaluations conducted by the National Academy of Sciences’ research arm, the National Research Council. Reports indicate that construction for the project is under way, the state of Kansas has committed over \$300 million for its completion, and that the following Agriculture groups support the Manhattan, Kansas project: the American Farm Bureau; National Beef Cattleman Association; National Pork Producers; Animal Health Corridor; Association of American Veterinary Medical Colleges; American Veterinary Medical Association; National Association for the Advancement of Animal Sciences; National Assembly of State Animal Health Officials, Agriculture Secretary Tom Vilsack. A similar amendment to the FY2013 Department of Homeland Security Appropriations Act on June 6, 2012 failed by a vote of [166-245](#).

14. **Perry (R-PA)**. This amendment would prevent federal agencies from *requiring or prohibiting* contractors whom they hire to sign organized labor agreements, and further stipulates that non-unionized organizations will not be discriminated against in the selection process. The amendment does not prevent organized labor organizations from being selected. This prevention of union requirements as a condition of receiving a federal contract would make the contracts less expensive and more efficient, [according to the Heritage Foundation](#). Further, the amendment clarifies that its provisions would not apply retroactively to contracts already made. This amendment is substantively similar to an amendment offered by Mr. Bartlett (R-MD) last Congress to H.R. 4310 which passed by a [roll call vote of 211-209](#). Outside Groups: The Associated Builders and Contractors strongly supports this amendment and will be favorably scoring a vote in favor of the

amendment. The National Taxpayer Union and other conservative organizations have supported similar amendments in the past

- 15. Moran (D-VA). *Failed by a vote of 165-261.*** This amendment changes the date for which section 533 is valid from the original June 24, 2009, to December 31, 2005. Section 533 prohibits funds to be used to transfer, release, or assist in the transfer or release to or within the United States, its territories or possessions, Khalid Sheik Mohamed or any other detainee who-(1) is not a United States citizen or a member of the Armed Forces of the United States; and (2) is or was held on or after June 24, 2009, at the United States Naval Station, Guantanamo Bay, Cuba, by the Department of Defense.
- 16. Garrett (R-NJ). *Failed by a vote of 180-247.*** This amendment prohibits any funds in the Act from being used by a Visible Intermodal Protection and Response (VIPR) team or by the Transportation Security Administration to conduct security screening outside of an airport. According to the TSA, the VIPR program was developed by TSA after the Madrid train bombing in 2005. VIPR teams are fully mobile and can be deployed at “random locations and times” and are applicable to “all modes of transportation”. This amendment directs that screening will only be conducted following the provisions of Section 44901 of title 49. Section 44901 of title 49 applies to screening at airports only. A similar [amendment](#) offered by Rep. Marsha Blackburn (R-TN) to last year’s FY2013 Department of Homeland Security Appropriations Act (H.R. 5855) on June 6, 2012 failed by a vote of [204-210](#).
- 17. Ryan (D-OH). *Failed by a vote of 50-373.*** This [amendment](#) prohibits any funds from being used to pay the salary of any Department of Homeland Security (DHS) officer or employee who approves citizen-sponsored visa petitions, employee-sponsored visa petition, and/or fiancé-sponsored immigrant petitions subject to U.S. Citizenship and Immigration Services (USCIS) review for Brazilian citizens. This amendment was offered in light of the removal, through a sustained point of order, of [Section 563 of the reported bill](#) by Rep. Bob Goodlatte (R-VA). The point of order successfully challenged the language on the grounds that it would change existing law, which is a violation of House rules for considering appropriations bills. Representative Tim Ryan (D-OH) offered a similar [amendment](#) to last year’s H.R. [5855](#), the FY2013 Department of Homeland Security Appropriations Act, which was similarly ruled out of order. Unlike this Congress, no language was included in the base text of the bill. Both the original language in Section 563 and the new language offered in this amendment aim to pressure the Government of Brazil to extradite criminals wanted in the U.S. Brazil’s present policy refuses extradition of Brazilian nationals who commit crimes in the United States.
- 18. Meadows (R-NC). *Passed by a vote of 234-192.*** This amendment creates a new section prohibiting funds to be used for any new government contract which purchases ammunition before the Secretary of Homeland Security submits a comprehensive report to Congress detailing the purchase and usage of ammunition by the Department of Homeland Security. This report, already included in Section 567(a) of the Act, is required to be submitted by the date the President submits his budget proposal for FY 2014. The President’s budget, and thus the Secretary’s report, must be submitted “on or after the

first Monday in January but not later than the first Monday in February of each year,” according to 31 USC § 1105. The intention of Meadows’ amendment is to complement the reporting requirements by ensuring that no new ammunition is purchased before the report is submitted to Congress.

- 19. Runyan (R-NY).** *Failed by a vote of 148-278.* This amendment exempts New York and New Jersey from implementation of Section 207 of the Biggert-Waters Flood Insurance Report Act of 2012, for one year. Section 207 of the Biggert-Waters Flood Insurance Act of 2012 ends the grandfathered National Flood Insurance Program (NFIP) rates and allows the premium rates to rise up to 20 percent per year over a five year period. According to the sponsors, the one year delay is designed to allow the States of New York and New Jersey more time to recover from the effects of Hurricane Sandy. **Conservative Concerns:** Some conservatives have expressed concern that the amendment weakens the financial viability of NFIP, a program already \$30 billion in debt. A similar amendment offered by Reps. Cassidy (R-LA), Grimm (R-NY), and Palazzo (R-MS) is opposed by Heritage Action for America, the Reinsurance Association of America, and the Property Casualty Association of America, and Taxpayers for Common Sense. Unlike the Cassidy amendment, which has a zero score, a score for the Runyan amendment was not available at the time of this release.
- 20. Lujan** This amendment increases funding for the Department of Homeland Security’s state grant program which provides funds to State and local governments for activities including disaster preparedness, (which includes natural disasters - tornados, earthquakes, etc.) in addition to terrorist acts. The amendment reduces the Office of the Chief Financial Officer by \$10 million.
- 21. Blackburn** This amendment adds a new section at the end of the bill prohibiting any funds in the Act from being used by TSA for Security Officer duties outside airports. In effect, activity of TSA officers could only be funded in airports defined by **49 USC § 47102** as an area of land or water used or intended to be used for the landing or taking off of an aircraft and buildings and facilities located in these areas. According to Rep. Blackburn’s office, this amendment would address the concern held by some that the TSA allows Officers to engage in DHS VIPR operations outside of airports in other mass transit facilities and transportation mediums, although these officers have not been formally trained as federal law enforcement personnel and do not receive federal law enforcement benefits. Last year, a similar amendment, [H.AMDT.1268](#), failed by a roll call vote of 204-210. Yesterday, Rep. Garrett (R-NJ) offered a similar amendment to H.R. 2217 which failed by a roll call vote of 180-247.

***NOTE:** RSC Legislative Bulletins are for informational purposes only and should not be taken as statements of support or opposition from the Republican Study Committee.*