

AMENDMENT NO. _____ Calendar No. _____

Purpose: To provide reorganizational authority for the Secretary, and for other purposes.

IN THE SENATE OF THE UNITED STATES—107th Cong., 2d Sess.

S. 2452

To establish the Department of National Homeland Security
and the National Office for Combating Terrorism.

Referred to the Committee on _____
and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. THOMPSON

Viz:

1 On page 118, strike lines 4 through 23, and insert
2 the following:

3 (a) REORGANIZATION AUTHORITY.—

4 (1) IN GENERAL.—Whenever the Secretary,
5 with the consent of the President, finds that changes
6 in the organization of the Department are necessary
7 to carry out any policy set forth in this Act, the Secretary shall prepare a reorganization plan specifying
8 the reorganizations the Secretary finds are necessary.
9 Any plan may provide for—
10

1 (A) the transfer of the whole or a part of
2 an agency, or of the whole or a part of the
3 functions thereof, to the jurisdiction and control
4 of the Department;

5 (B) the transfer of the whole or a part of
6 an agency, or of the whole or a part of the
7 functions thereof, from the Department;

8 (C) the abolition of all or a part of an
9 agency within the Department;

10 (D) the creation of a new agency or a new
11 part of an agency with the Department; or

12 (E) the consolidation or coordination of the
13 whole or a part of an agency within the Depart-
14 ment, or of the whole or a part of the functions
15 thereof, with the whole or a part of another
16 agency within the Department.

17 (2) TRANSMITTAL.—The President shall trans-
18 mit the plan to Congress together with the declara-
19 tion that, with respect to each organization included
20 in the plan, the President has found that the reorga-
21 nization is necessary to carry out any policy set
22 forth in this Act.

23 (3) CONTENT.—

24 (A) IN GENERAL.—The reorganization
25 plan shall be delivered to both Houses on the

1 same day and to each House while it is in ses-
2 sion, except that no more than 2 plans may be
3 pending before Congress at 1 time. The trans-
4 mittal message of the reorganization plan shall
5 specify with respect to each abolition of a func-
6 tion included in the plan the statutory authority
7 for the exercise of the function. The message
8 shall also estimate any reduction or increase in
9 expenditures (itemized so far as practicable),
10 and describe any improvements in management,
11 delivery of Federal services, execution of the
12 laws, and increases in efficiency of Government
13 operations, which it is expected will be realized
14 as a result of the reorganizations included in
15 the plan.

16 (B) IMPLEMENTATION.—In addition, the
17 transmittal message shall include an implemen-
18 tation section which shall—

19 (i) describe in detail—

20 (I) the actions necessary or
21 planned to complete the reorganiza-
22 tion;

23 (II) the anticipated nature and
24 substance of any orders, directives,
25 and other administrative and oper-

1 ations actions which are expected to
2 be required for completing or imple-
3 menting the reorganization; and

4 (III) any preliminary actions
5 which have been taken in the imple-
6 mentation process; and

7 (ii) contain a projected timetable for
8 completion of the implementation process.

9 (C) BACKGROUND INFORMATION.—The
10 President shall also submit such further back-
11 ground or other information as Congress may
12 require for its consideration of the plan.

13 (4) AMENDMENTS TO PLAN.—Any time during
14 the period of 60 calendar days of continuous session
15 of Congress after the date on which the plan is
16 transmitted to it, but before any resolution has been
17 ordered reported in either House, the President or
18 his designate may make amendments or modifica-
19 tions to the plan, which modifications or revisions
20 shall thereafter be treated as a part of the reorga-
21 nization plan originally transmitted and shall not af-
22 fect in any way the time limits otherwise provided
23 for in this section. The Secretary or his designate
24 may withdraw the plan any time prior to the conclu-
25 sion of 90 calendar days of continuous session of

1 Congress following the date on which the plan is
2 submitted to Congress.

3 (b) ADDITIONAL CONTENTS OF REORGANIZATION
4 PLAN.—A reorganization plan—

5 (1) may change the name of an agency affected
6 by a reorganization and the title of its head, and
7 shall designate the name of an agency resulting from
8 a reorganization and the title of its head;

9 (2) may provide for the appointment and pay of
10 the head and 1 or more officers of any agency (in-
11 cluding an agency resulting from a consolidation or
12 other type of reorganization) if the message trans-
13 mitting the plan declares, that by reason of a reor-
14 ganization made by the plan the provisions are nec-
15 essary;

16 (3) shall provide for the transfer or other dis-
17 position of the records, property, and personnel af-
18 fected by a reorganization;

19 (4) shall provide for the transfer of such unex-
20 pended balances of appropriations, and of other
21 funds, available for use in connection with a function
22 or agency affected by a reorganization, as necessary
23 by reason of the reorganization for use in connection
24 with the functions affected by the reorganization, or

1 for the use of the agency which shall have the func-
2 tions after the reorganization plan is effective; and
3 (5) shall provide for terminating the affairs of
4 an agency abolished.

5 A reorganization plan containing provisions authorized by
6 paragraph (2) may provide that the head of an agency
7 be an individual or a commission or board with more than
8 1 member. In the case of an appointment of the head of
9 such an agency, the term of office may not be fixed at
10 more than 4 years, the pay may not be at a rate in excess
11 of that found to be applicable to comparable officers in
12 the executive branch, by and with the advice and consent
13 of the Senate. Any reorganization plan containing provi-
14 sions required by paragraph (4) shall provide for the
15 transfer of unexpended balances only if such balances are
16 used for the purposes for which the appropriation was
17 originally made.

18 (c) EFFECTIVE DATE AND PUBLICATION OF REOR-
19 GANIZATION PLANS.—

20 (1) EFFECTIVE DATE.—Except as provided
21 under paragraph (3), a reorganization plan shall be
22 effective upon approval by the President of a resolu-
23 tion (as defined in subsection (f)) with respect to
24 such plan, if such resolution is passed by the House
25 of Representatives and the Senate, within the first

1 period of 90 calendar days of continuous session of
2 Congress after the date on which the plan is trans-
3 mitted to Congress. Failure of either House to act
4 upon such resolution by the end of such period shall
5 be the same as disapproval of the resolution.

6 (2) SESSION OF CONGRESS.—For the purpose
7 of this chapter—

8 (A) continuity of session is broken only by
9 an adjournment of Congress sine die; and

10 (B) the days on which either House is not
11 in session because of an adjournment of more
12 than 3 days to a day certain are excluded in the
13 computation of any period of time in which
14 Congress is in continuous session.

15 (3) LATER EFFECTIVE DATE.—Under provi-
16 sions contained in a reorganization plan, any provi-
17 sion thereof may be effective at a time later than the
18 date on which the plan otherwise is effective.

19 (4) PUBLICATION OF PLAN.—A reorganization
20 plan which is effective shall be printed—

21 (A) in the Statutes at Large in the same
22 volume as the public laws; and

23 (B) in the Federal Register.

24 (d) EFFECT ON OTHER LAWS, PENDING LEGAL
25 PROCEEDINGS, AND UNEXPENDED APPROPRIATIONS.—

1 (1) EFFECT ON LAWS.—

2 (A) DEFINITION.—In this paragraph, the
3 term “regulation or other action” means a reg-
4 ulation, rule, order, policy, determination, direc-
5 tive, authorization, permit, privilege, require-
6 ment, designation, or other action.

7 (B) EFFECT.—A statute enacted, and a
8 regulation or other action made, prescribed,
9 issued, granted, or performed in respect of or
10 by an agency or function affected by a reorga-
11 nization under this section, before the effective
12 date of the reorganization, has, except to the
13 extent rescinded, modified, superseded, or made
14 inapplicable by or under authority of law or by
15 the abolition of a function, the same effect as
16 if the reorganization had not been made. How-
17 ever, if the statute, regulation, or other action
18 has vested the functions in the agency from
19 which it is removed under the reorganization
20 plan, the function, insofar as it is to be exer-
21 cised after the plan becomes effective, shall be
22 deemed as vested in the agency under which the
23 function is placed in the plan.

24 (2) PENDING LEGAL PROCEEDINGS.—A suit,
25 action, or other proceeding lawfully commenced by

1 or against the head of an agency or other officer of
2 the United States, in his official capacity or in rela-
3 tion to the discharge of his official duties, does not
4 abate by reason of the taking effect of a reorganiza-
5 tion plan under this section. On motion or supple-
6 mental petition filed at any time within 12 months
7 after the reorganization plan takes effect, showing a
8 necessity for a survival of the suit, action, or other
9 proceeding to obtain a settlement of the questions
10 involved, the court may allow the suit, action, or
11 other proceeding to be maintained by or against the
12 successor of the head or officer under the reorga-
13 nization effected by the plan or, if there is no suc-
14 cessor, against such agency or officer as the Presi-
15 dent designates.

16 (3) UNEXPENDED APPROPRIATIONS.—The ap-
17 propriations or portions of appropriations unex-
18 pended by reason of the operation of the section may
19 not be used for any purpose, but shall revert back
20 to Treasury.

21 (e) RULES OF SENATE AND HOUSE OF REPRESENTA-
22 TIVES ON REORGANIZATION PLANS.—Subsections (f)
23 through (i) are enacted by Congress—

24 (1) as an exercise of the rulemaking power of
25 the Senate and the House of Representatives, re-

1 spectively, and as such they are deemed a part of
2 the rules of each House, respectively, but applicable
3 only with respect to the procedure to be followed in
4 that House in the case of resolutions with respect to
5 any reorganization plans transmitted to Congress (in
6 accordance with subsection (a)(3) of this section);
7 and they supersede other rules only to the extent
8 that they are inconsistent therewith; and

9 (2) with the full recognition of the constitu-
10 tional right of either House to change the rules (so
11 far as relating to the procedure of that House) at
12 any time, in the same manner and to the same ex-
13 tent as in the case of any other rule of that House.

14 (f) TERMS OF RESOLUTION.—For the purposes of
15 subsections (e) through (i), “resolution” means only a
16 joint resolution of Congress, the matter after the resolving
17 clause of which is as follows: “That Congress approves the
18 reorganization plan transmitted to Congress by the Presi-
19 dent on _____, 20____.”, and includes such modi-
20 fications and revisions as are submitted by the President
21 under subsection (a)(4). The blank spaces therein are to
22 be filled appropriately. The term does not include a resolu-
23 tion which specifies more than 1 reorganization plan.

24 (g) INTRODUCTION AND REFERENCE OF RESOLU-
25 TION.—

1 (1) INTRODUCTION.—No later than the first
2 day of session following the day on which a reorga-
3 nization plan is transmitted to the House of Rep-
4 resentatives and the Senate under subsection (a), a
5 resolution, as defined in subsection (f), shall be—

6 (A) introduced (by request) in the House
7 by the chairman of the Government Reform
8 Committee of the House, or by a Member or
9 Members of the House designated by such
10 chairman; and

11 (B) introduced (by request) in the Senate
12 by the chairman of the Governmental Affairs
13 Committee of the Senate, or by a Member or
14 Members of the Senate designated by such
15 chairman.

16 (2) REFERRAL.—A resolution with respect to a
17 reorganization plan shall be referred to the Com-
18 mittee on Governmental Affairs of the Senate and
19 the Committee on Government Reform of the House
20 (and all resolutions with respect to the same plan
21 shall be referred to the same committee) by the
22 President of the Senate or the Speaker of the House
23 of Representatives, as the case may be. The com-
24 mittee shall make its recommendations to the House
25 of Representatives or the Senate, respectively, within

1 75 calendar days of continuous session of Congress
2 following the date of such resolution's introduction.

3 (h) DISCHARGE OF COMMITTEE CONSIDERING RESO-
4 LUTION.—If the committee to which is referred a resolu-
5 tion introduced pursuant to subsection (g)(1) has not re-
6 ported such a resolution or identical resolution at the end
7 of 75 calendar days of continuous session of Congress
8 after its introduction, such committee shall be deemed to
9 be discharged from further consideration of such resolu-
10 tion and such resolution shall be placed on the appropriate
11 calendar of the House involved.

12 (i) PROCEDURE AFTER REPORT OR DISCHARGE OF
13 COMMITTEES; DEBATE; VOTE ON FINAL PASSAGE.—

14 (1) PROCEDURE.—When the committee has re-
15 ported, or has been deemed to be discharged (under
16 subsection (h)) from further consideration of, a reso-
17 lution with respect to a reorganization plan, it is at
18 any time thereafter in order (even though a previous
19 motion to the same effect has been disagreed to) for
20 any Member of the respective House to move to pro-
21 ceed to the consideration of the resolution. The mo-
22 tion is highly privileged and is not debatable. The
23 motion shall not be subject to amendment, or to any
24 motion to postpone, or a motion to proceed to the
25 consideration of other business. A motion to recon-

1 sider the vote by which the motion is agreed to or
2 disagreed to shall not be in order. If a motion to
3 proceed to the consideration of the resolution is
4 agreed to, the resolution shall remain the unfinished
5 business of the respective House until disposed of.

6 (2) DEBATE.—Debate on the resolution, and on
7 all debatable motions and appeals in connection
8 therewith, shall be limited to not more than 10
9 hours, which shall be divided equally between indi-
10 viduals favoring and individuals opposing the resolu-
11 tion. A motion further to limit debate is in order and
12 not debatable. An amendment to, or a motion to re-
13 commit the resolution is not in order. A motion to
14 reconsider the vote by which the resolution is passed
15 or rejected shall not be in order.

16 (3) VOTE ON FINAL PASSAGE.—Immediately
17 following the conclusion of the debate on the resolu-
18 tion with respect to a reorganization plan, and a sin-
19 gle quorum call at the conclusion of the debate if re-
20 quested in accordance with the rules of the appro-
21 priate House, the vote on final passage of the resolu-
22 tion shall occur.

23 (4) APPEALS.—Appeals from the decisions of
24 the Chair relating to the application of the rules of
25 the Senate or the House of Representatives, as the

1 case may be, to the procedure relating to a resolu-
2 tion with respect to a reorganization plan shall be
3 decided without debate.

4 (5) PRIOR PASSAGE.—If, prior to the passage
5 by 1 House of a resolution of that House, that
6 House receives a resolution with respect to the same
7 reorganization plan from the other House, then—

8 (A) the procedure in that House shall be
9 the same as if no resolution had been received
10 from the other House; but

11 (B) the vote on final passage shall be on
12 the resolution of the other House.