

July 26, 2002

## Summary of Amendments Made in Order to H.R. 5005 - The Homeland Security Act

The following are summaries of the amendments made in order to today's Homeland Security Department bill. In plain text are the summaries as provided by the Rules Committee and reviewed by RSC staff. In **bold italics** are RSC additions to the summaries, based on review of amendment text. The numbers next to the amendment sponsors are the Rules Committee numbers assigned to the amendments when first submitted to the Committee. Debate time is indicated parenthetically after each summary.

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### RECORDED VOTES ON AMENDMENTS DEBATED ON THURSDAY, JULY 25<sup>th</sup>:

#### Oberstar/Costello/Roemer #56 **FAILED**

Retains FEMA as an independent agency outside of the Department of Homeland Security with responsibility for natural disaster preparedness, response, and recovery.

NOTE: With the adoption of the Young Amendment, FEMA is now a distinct entity within the Department. The Young Amendment also required that FEMA continue to carry out all of its statutory missions, not just those related to homeland security and continue their role as the lead agency for the Federal Response Plan established under Executive Order 12148 and 12656.

#### Cardin #27 **FAILED**

Preserves the existing Customs Service as a "distinct entity" within the DHS. The amendment does not affect the bill's provisions which protect certain revenue and trade act enforcement functions of the Customs Service.

#### Rogers (KY) #41 **AGREED TO**

Grants permissive authority to the DHS Secretary for the creation of a Joint Interagency Homeland Security Taskforce *for the purposes of anticipating terrorist threats against the United States and taking appropriate actions to prevent harm to the United States.*

## AMENDMENTS WITHDRAWN ON THURSDAY, JULY 25<sup>th</sup>:

### Rivers #16

Creates an Office of Inquiries *under the Under Secretary* of Science and Technology which would act as a point of entry for individuals or companies seeking guidance on how to pursue proposals to develop or deploy products that would contribute to homeland security.

## AMENDMENTS ADOPTED BY VOICE VOTE ON THURSDAY, JULY 25<sup>th</sup>:

### Young (AK) #64

Restores the Federal Emergency Management Agency as an entity. Ensures that FEMA carries out all of its statutory missions, not just those related to homeland security. Continues FEMA's role as the lead agency for the Federal Response Plan established under Executive Order 12148 and 12656.

### Cox #52

Provides specific, illustrative examples of the types of critical cybersecurity infrastructure which the Undersecretary for Information Analysis and Infrastructure Protection must develop a plan to protect *Such examples include power production, generation, and distribution systems, information technology and telecommunications systems (including satellites), electronic financial and property record storage and transmission systems, emergency preparedness communications systems, and the physical and technological assets that support such systems..*

### Israel #18

Creates a *20-member* Advisory Committee for the Undersecretary for Science and Technology. *The Advisory Committee would make recommendations with respect to the activities of the Under Secretary for Science and Technology, including identifying research areas of potential importance to the security of the Nation.*

### Woolsey #19

Adds a new section to the bill creating a Homeland Security Institute as a federally-funded research and development center (*administered by the Secretary as a separate entity and required to report its activities annually to Congress*).

*Duties of the Institute could include the following:*

- *Systems analysis, risk analysis, and simulation and modeling to determine the vulnerabilities of the nation's critical infrastructures and the effectiveness of the systems deployed to reduce those vulnerabilities;*
- *Economic and policy analysis to assess the distributed costs and benefits of alternative approaches to enhancing security;*
- *Evaluation of the effectiveness of measures deployed to enhance the security of institutions, facilities, and infrastructure that may be terrorist targets;*

- *Identification of instances when common standards and protocols could improve the interoperability and effective utilization of tools developed for field operators and first responders;*
- *Assistance for federal agencies and departments in establishing test-beds to evaluate the effectiveness of technologies under development and to assess the appropriateness of such technologies for deployment;*
- *Design of metrics and use of those metrics to evaluate the effectiveness of homeland security programs throughout the federal government, including all national laboratories;*
- *Design of and support for the conduct of homeland security-related exercises and simulations; and*
- *Creation of strategic technology development plans to reduce vulnerabilities in the nation's critical infrastructure and key resources.*

**Hunter #60**

Sense of Congress that completion of the San Diego Border Fence Project is a priority of DHS.

**Ose #7**

Requires the Under Secretary of Management to develop a plan, within one year, to consolidate and co-locate regional and field offices in each of the cities with any existing regional or field office transferred to the DHS.

**Velazquez/Issa/Wilson #49**

Ensures that the Department of Homeland Security has procurement goals for small businesses that are no less than the statutory minimum (*related to women and socially and economically disadvantaged people*). Ensures that those employees responsible for this goal attainment have a corresponding criteria in their performance evaluations.

**Hastings (FL) #2**

Adds a new section to Title VII that directs the Secretary to comply with laws protecting equal employment opportunity and provides whistle blower protections. States that nothing in the Act shall be construed as exempting DHS from the requirements that are applicable to all other executive agencies.

**Kingston #87**

Ensures that if the Federal Law Enforcement Training Center is transferred to the Department of Justice, the Department of Justice will not alter the operations (*including the existing training agreements*) of the Center.

**Rush #25**

Establishes within the Office of the Secretary an office to oversee and coordinate developmental programs for and relationships with state and local governments.

**Shays/Watson #23**

Requires biennial reports to Congress on the status of homeland security preparedness,

including a report on each state. Requires a report to Congress, within one year of enactment, ensuring the maintenance of core functions transferred to the DHS and recommending statutory changes to facilitate implementation of the reorganization effort.

#### AMENDMENTS TO BE CONSIDERED ON FRIDAY, JULY 26<sup>th</sup>:

##### **Waxman #94 FAILED**

Codifies and strengthens the White House Office of Homeland Security which was established by executive order in October 2001. Defines the functions of the Office, *which mainly include strategy formulation and response coordination*. The head of the Office is appointed by the President with advice and consent of the Senate. *Authorizes the Director to disapprove budget requests submitted by agencies with homeland security functions*. Specifically subjects the Office and its Director to oversight by Congress. (40 minutes)

##### **Shays #85 AGREED TO**

Similar to the Morella amendment approved by the Government Reform Committee (*which would prevent the President from waiving civil service requirements*), except for an additional section stating that the provisions of the amendment would not apply where the President determines in writing that such application would have a substantial adverse impact on the Department's ability to protect homeland security. (20 minutes)

##### **Morella #40 FAILED**

Allows existing employees transferred into DHS, who have the same job responsibilities, to still belong to a union. If their responsibilities changed so they were directly involved in *intelligence, counterintelligence, or terrorism investigative work*, they could be exempted from being part of a union by the President. Those employees or units that did not have union representation before the transfer would not be granted any extra protections by this amendment. (20 minutes)

##### **Quinn #82 AGREED TO**

Clarifies worker rights in section 761 *to ensure that employees participate in the creation of any human resources management system in the new Department. Requires written notice to employees (or their representatives) 60 days in advance of any proposed and any actual change in human resources policies and allow employees to make recommendations in response. Directs the Secretary to establish regular procedures for collaboration with employees on human resources and other such policies. Directs the Secretary to ensure that employees who appeal decisions regarding their employment are afforded due process*. (20 minutes)

##### **Waxman/Frost #95 FAILED**

Deletes the entire human resources *management system section*. Provides that federal employees transferred to the new agency could not have their pay reduced. *Directs the Secretary to take steps to adjust inequitable pay rates among Department employees performing similar work in similar circumstances. Sunsets these provisions after five*

*years. Strengthens whistleblower protections **by increasing civil remedies for whistleblowers against whom retaliation is attempted.** (20 minutes)*

**Armev #69 En Bloc Manager's Amendment. **AGREED TO****

Technical amendments requested by Energy and Commerce Committee. Technical amendments requested by Science Committee. Technical correction regarding Oil Spill Liability Trust Fund requested by Transportation and Infrastructure Committee. Technical amendments relating to DHS privacy officer. Technical correction relating to biological agent registration function requested by Agriculture Committee.

An amendment to create a program to encourage and support innovative solutions to enhance homeland security (requested by Mr. Davis and Ms. Harman). An amendment to enhance non-federal cybersecurity activities of Under Secretary for Information Analysis and Infrastructure Protection (requested by Science Committee).

An amendment to establish "NET Guard" program to promote volunteer activities in support of information technology protection activities (requested by Science Committee). An amendment striking section 814 (relating to incidental transfers by the Director of OMB) requested by Appropriations Committee. A technical correction to section 761 to insert a proper reference.

An amendment inserting sense of Congress provision reaffirming the Posse Comitatus Act. An amendment clarifying that this Act preempts no state or local law, except that any preemption authority vested in agencies or officials transferred to DHS shall be transferred to DHS.

An amendment inserting text of "Federal Information Security Management Act of 2002" (recommended by Committee on Government Reform at request of Mr. Davis), which creates a new Title XI to address Federal information security. Transfers to the DHS the computer information security standards currently promulgated by the Secretary of Commerce and permanently reauthorizes the agency-wide risk management information security approach in the Government Information Security Reform Act of 2000 (GISRA) and eliminates GISRA's two-year sunset. Second, it would strengthen reforms initiated by the existing GISRA by clarifying terms, correcting mistakes, and streamlining requirements.

Requires the development, promulgation, and compliance with minimum mandatory management controls for securing information. Includes Amendments to subtitle F of title VII (relating to liability management) intended to clarify availability of liability protections afforded by this title. An amendment inserting a new section to reinstate liability cap for aviation screening companies. A clarification responsibilities of the DHS and the DHS Counternarcotics Officer with regard to narcotics interdiction. A clarification of the eligibility criteria for participation in certain extramural research programs of the Department. Includes technical amendment to section 766, regarding regulatory authority. New section expressing the sense of Congress regarding funding of trauma systems. (40 minutes)

**Turner #88 **FAILED****

Indemnifies companies who sell anti-terrorism technologies to the federal government, as well as, state and local governments, in a manner similar to the protection afforded under P.L. 85-804. (40 minutes)

**Oberstar/Menendez #55 **FAILED****

Strikes sec. 409 of the bill (*extending to December 31, 2003, the deadline for airports to install and operationalize explosive detection devices*). (45 minutes)

**Schakowsky/Kucinich/Mink #51 **FAILED****

Strikes subtitle C of section VII (*the Critical Infrastructure Protection Program involving information-sharing about critical infrastructure*). Strikes section 762 from the bill (*which would authorize the Secretary to establish advisory committees*) and replaces with language that provides remedies for retaliation against whistleblowers. (30 minutes)

**Davis, Tom #83 **FAILED****

Expands the existing FOIA exemption in the homeland security legislation to other federal agencies as the Secretary of Homeland Security determines as appropriate. (20 minutes)

**Chambliss/Harman/Shays/Menendez #9 **AGREED TO****

Directs that critical threat information be shared between federal law enforcement and intelligence agencies with state and local personnel, including granting security clearances to appropriate state and local personnel. *Authorizes such sums as may be necessary for* the President to develop procedures by which federal agencies will share homeland security information with state and local personnel and vice versa. Requires that any information that is shared must not be used for any unauthorized purpose and the procedures must ensure the security and confidentiality of the information as well as the removal or deletion of obsolete or erroneous information. Protects information collected by the census. Allows certain types of information to be shared with appropriate state and local offices consistent with guidelines issued by the Attorney General and Director of Central Intelligence. (20 minutes)

**Weldon (FL) #54 **FAILED****

Amends sections 402 and 403 of the bill to transfer the visa office from the Department of State to the DHS. Provides for a two-year transition period during which the Foreign Service Officers issuing visas would be detailed to the DHS while new DHS personnel are trained and deployed abroad. *During the transition period, the Secretary would have to study the role of foreign nationals in the review and processing of visa applications*. Preserves the Secretary of State's authority to deny a visa based in the national interest of the U.S. *Gives the Secretary the authority to review requests for passports by U.S. citizens living or traveling overseas*. Prohibits judicial review of consular decisions to refuse a visa. (20 minutes)

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