

Congressional Closeup by Carl Osgood

Homeland Security Bill Marked Up in House

President George Bush got most of what he wanted from House Majority Leader Dick Armey (R-Tex.), when Armey rammed through the bill to create the Department of Homeland Security through the Select Committee on Homeland Security, on a straight 5 to 4 party-line vote. Along the way, the committee rejected most of the recommendations from the standing committees as well as most of the concerns of Democrats.

The bill provides most of the changes President Bush sought, but also makes some changes of its own. It moves the Coast Guard into the new department, but directs the Coast Guard commandant to report directly to the Secretary of Homeland Security. It moves the Customs Service into Homeland Security, but breaks the Immigration and Naturalization Service into two parts. The INS enforcement function moves to the new department, but the immigration services function remains within the Justice Department. It also moves the Federal Emergency Management Agency and the Secret Service into the new department.

Fights are still expected over several provisions in the bill. The most contentious is the civil service provisions. The bill practically creates a separate civil service system for Homeland Security. The committee's report argues that the secretary "must have the flexibility to establish a labor-management system that respects the right of workers to organize and engage in collective bargaining without threatening the important mission of the Department." Many Democrats and organized labor see this as a threat to the civil service system. "The way you breathe life into this lump of clay," said Minority Whip Nancy Pelosi (D-

Calif.), "is to protect the people who work there." The committee defeated attempts by Democrats to strengthen civil service protections and instead accepted an amendment by Rob Portman (R-Ohio) that provides flexibility but adds protections for whistleblowers, collective bargaining, equal opportunity, and merit hiring.

What happens when the bill goes to the House floor remains to be seen. Armey has promised an open amendment process, but that could result in a free-for-all that might result in a very different bill. During the markup, Martin Frost (D-Tex.), a member of the select committee, said, "I believe this product is still flawed and will need substantial improvement on the floor of the House." While Majority Whip Tom DeLay (R-Tex.) declared that he was "very disappointed" with Frost, it could be that many GOP committee chairmen will agree with him.

Supplemental Bill Clears House, Senate

On July 23, the House passed, by a vote of 397 to 32, the FY 2002 supplemental appropriations bill. The Senate followed suit the next day by a vote of 92 to 7. The \$28.9 billion package was the result of House and Senate negotiators finally bowing to the demands of White House budget chief Mitch Daniels, that the bill not exceed the House-passed version. The Senate version had reached \$31.5 billion, and Daniels had recommended a veto if the bill approached anywhere near that amount. Negotiators were further pressured by warnings from the Pentagon and the Transportation Department that essential operations would have to be curtailed, if the money was not provided by the end of July.

The bill includes \$14.5 billion for

the Defense Department, and \$6.7 billion for homeland security, including \$3.85 billion for the Transportation Security Administration, which is about \$550 million less than the original request. The bill also includes \$5.5 billion for assistance to New York for disaster recovery from the Sept. 11, 2001 attacks. The bill provides \$2.12 billion for foreign assistance programs, including an extra \$200 million for Israel, which was added by Congressional appropriators.

The bill includes non-emergency items, such as \$1 billion for the Pell Grant education program, and \$400 million for election reform. Also added was the language of the American Service Members Protection Act, which prohibits U.S. involvement in the International Criminal Court. President George Bush is given authority to place all the funds exceeding the original request into a contingency fund to be spent, or not, as he sees fit.

Compromise Reached on Corporate Accountability

After a week in which it appeared that the corporate accountability bill might disappear into oblivion, Congressional negotiators emerged from meetings on July 24 to report that an agreement had been achieved. Anger between the House and Senate had reached a high point on July 17, when House Ways and Means Committee Chairman Bill Thomas (R-Calif.) indicated that he would object to House consideration of the bill for Constitutional reasons. Thomas said that the fee arrangement for funding the oversight panel in the bill violated the House's prerogative for originating revenue bills. Democrats replied that that argument was bogus, because the

fee was not a tax and was a minor technical issue that could easily be solved. They did admit, however, that had Thomas pushed the issue, it would have effectively killed the bill.

According to news reports, the deal closely tracks the provisions of the Senate bill, passed unanimously on July 16. That bill, sponsored by Banking Committee Chairman Paul Sarbanes (D-Md.), was widely seen as much stronger than the House bill, and, indeed, some Republicans complained that the criminal penalties in it were far too severe. GOP leverage on the bill appears to have been compromised by WorldCom's announcement that it had wrongly accounted for \$3.8 billion in expenses and the dramatic fall in the stock markets that followed. The GOP got at least one provision that it wanted: an amendment to set up a new Federal account for defrauded investors, in which civil fines and other penalties from corporate wrongdoers would be deposited.

Prescription Drugs Debate Begins in Senate

On July 15, the Senate began debate on a bill, co-sponsored by John McCain (R-Ariz.) and Charles Schumer (D-N.Y.), intended to reduce anti-competitive actions by drug companies that maintain high prices for prescription drugs. The bill passed the Health, Education, Labor, and Pensions Committee by a 16 to 5 vote on July 11.

The debate was not really about reducing prescription drug prices, but rather about adding a prescription drug benefit to Medicare. The McCain-Schumer bill served as a vehicle for the real debate intended by Majority Leader Tom Daschle (D-S.D.), leading Republicans to charge that

Daschle was deliberately bypassing the Finance Committee, which has jurisdiction over Medicare, to ensure that alternative legislation would not get a hearing.

While there are a number of prescription drug proposals, two bills were primarily at issue: one, co-sponsored by Edward M. Kennedy (D-Mass.) and Bob Graham (D-Fla.), and the GOP alternative, which had support from John Breaux (D-La.) and James Jeffords (I-Vt.). Republicans predicted that neither bill would get the 60 votes required to pass. (The 60-vote requirement was necessitated by the fact that both bills exceeded the \$300 billion cap for a Medicare drug prescription benefit set in the FY 2002 budget resolution and that neither bill was considered by the Finance Committee.)

On July 23, both bills failed to get over the procedural hurdle. The vote on the Democratic bill was 52 to 47, and on the so-called "tripartisan bill" it was 48 to 51. After the votes, Majority Leader Tom Daschle (D-S.D.) said, "We will negotiate in earnest and attempt to find some way to come up with a compromise vehicle that will allow us 60 votes to move forward." Minority Leader Trent Lott (R-Miss.) was far more pessimistic. "As it now stands," he said, "I don't see how we get a result."

Mineta Blames Congress for Aviation Security Problems

Frustration with delays in implementing the Aviation Security Act, signed into law by President George Bush in November, exploded into public view on July 23, just days after the resignation of Transportation Security Administration (TSA) chief John Magaw. Secretary of Transportation

Norman Mineta was subjected to a barrage of criticism by members of the House Aviation Subcommittee. Subcommittee Chairman John Mica (R-Fla.) said that the new department is leading to an oversize Federal bureaucracy, whereas Democrats, such as James Oberstar (Minn.), said that the security act was going the way of earlier attempts to improve airport security.

Mineta placed the entire blame on Congress, including the agreement on the FY 2002 supplemental appropriations bill. He said that the supplemental reduces TSA funding by \$1 billion, to \$1.5 billion. It also places a cap on TSA employees of 45,000, about 20,000 less than the Bush Administration says is needed, and that the language in the bill restricts TSA's ability to manage expenses in a "cost-effective manner." "You have not changed TSA's mission," Mineta said. "Yet the budget to do the job is apparently on the way to being radically diminished while new restrictions and mandates are being imposed." He warned, "The amount of money Congress is about to approve simply will not support the mandates and the timetables for aviation security that Congress set last fall for TSA."

Peter Defazio (D-Ore.) called Mineta's performance partisan, and while admitting that there are problems on Capitol Hill, he said that "there are a hell of a lot of problems downtown!" Defazio singled out Office of Management and Budget Director Mitch Daniels, "the right hand of the administration," as one of the problems, as it was Daniels who approved a \$219 million cut in the TSA budget. "When the President's own director of OMB recommends a quarter of a billion dollar cut, it's hard to say the administration was there 100% and pushing," Defazio said.