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REPORT
116–217

PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 2203) TO INCREASE TRANSPARENCY, ACCOUNTABILITY, AND COMMUNITY ENGAGEMENT WITHIN THE DEPARTMENT OF HOMELAND SECURITY, PROVIDE INDEPENDENT OVERSIGHT OF BORDER SECURITY ACTIVITIES, IMPROVE TRAINING FOR AGENTS AND OFFICERS OF U.S. CUSTOMS AND BORDER PROTECTION AND U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, AND FOR OTHER PURPOSES; PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 3525) TO AMEND THE HOMELAND SECURITY ACT OF 2002 TO DIRECT THE COMMISSIONER OF U.S. CUSTOMS AND BORDER PROTECTION TO ESTABLISH UNIFORM PROCESSES FOR MEDICAL SCREENING OF INDIVIDUALS INTERDICTED BETWEEN PORTS OF ENTRY, AND FOR OTHER PURPOSES; PROVIDING FOR CONSIDERATION OF THE RESOLUTION (H. RES. 576) EXPRESSING THE SENSE OF THE HOUSE OF REPRESENTATIVES WITH RESPECT TO THE WHISTLEBLOWER COMPLAINT OF AUGUST 12, 2019, MADE TO THE INSPECTOR GENERAL OF THE INTELLIGENCE COMMUNITY; AND FOR OTHER PURPOSES

SEPTEMBER 24, 2019.—Referred to the House Calendar and ordered to be printed

Ms. SCANLON, from the Committee on Rules, submitted the following

REPORT

[To accompany H. Res. 577]

The Committee on Rules, having had under consideration House Resolution 577, by a record vote of 8 to 3, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 2203, the Homeland Security Improvement Act, under a closed rule. The resolution provides one hour of debate equally divided and controlled by the chair and ranking minority member of the Committee on Homeland Security. The resolution waives all points of order against consideration of the bill. The resolution provides that an amendment in the nature of a substitute consisting of the text of Rules Committee Print 116–27, modified by the amendment printed in this report, shall be considered as adopted and the bill, as amended, shall be considered as read. The resolution waives all points of order against provisions in the bill, as amended. The resolution provides one motion to recommit with or without instructions. The resolution provides for consideration of H.R. 3525, the U.S. Border

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Patrol Medical Screening Standards Act, under a closed rule. The resolution provides one hour of debate equally divided and controlled by the chair and ranking minority member of the Committee on Homeland Security. The resolution waives all points of order against consideration of the bill. The resolution provides that an amendment in the nature of a substitute consisting of the text of Rules Committee Print 116–33 shall be considered as adopted and the bill, as amended, shall be considered as read. The resolution waives all points of order against provisions in the bill, as amended. The resolution provides one motion to recommit with or without instructions. The resolution further provides for consideration of H. Res. 576, Expressing the sense of the House of Representatives with respect to the whistleblower complaint of August 12, 2019, made to the Inspector General of the Intelligence Community, under a closed rule. The resolution provides one hour of debate equally divided and controlled by the chair and ranking minority member of the Permanent Select Committee on Intelligence. The resolution provides that H. Res. 576 shall be considered as read. The resolution provides that it shall be in order at any time on the legislative day of September 26, 2019, for the Speaker to entertain motions that the House suspend the rules and that the Speaker or her designee shall consult with the Minority Leader or his designee on the designation of any matter for consideration pursuant to this section. Section 5 of the resolution provides that on any legislative day during the period from September 30, 2019, through October 14, 2019: the Journal of the proceedings of the previous day shall be considered as approved; and the Chair may at any time declare the House adjourned to meet at a date and time to be announced by the Chair in declaring the adjournment. The resolution provides that the Speaker may appoint Members to perform the duties of the Chair for the duration of the period addressed by section 5. The resolution provides that each day during the period addressed by section 5 shall not constitute a calendar day for the purposes of section 7 of the War Powers Resolution (50 U.S.C. 1546). The resolution provides that each day during the period addressed by section 5 shall not constitute a legislative day for purposes of clause 7 of rule XIII (resolutions of inquiry). Provides that each day during the period addressed by section 5 shall not constitute a calendar or legislative day for the purposes of clause 7(c)(1) of rule XXII (motions to instruct conferees). The resolution provides that each day during the period addressed by section 5 shall not constitute a legislative day for the purposes of clause 7 of rule XV (Consensus Calendar).

EXPLANATION OF WAIVERS

The waiver of all points of order against consideration of H.R. 2203 includes waivers of the following:

Sec. 103(i) of H. Res. 6, which prohibits consideration of a reported bill unless the committee report designates a hearing used to develop or consider the bill. This waiver is technical in nature—while the report of the Committee on Homeland Security lists four related hearings, it does not specifically designate any as a hearing used to develop or consider the bill.

• Clause 12(a)(1) of rule XXI, which prohibits consideration of a bill unless there is a searchable electronic comparative print that shows how the bill proposes to change current law.

• Clause 12(b) of rule XXI, which prohibits consideration of a bill unless there is a searchable electronic comparative print that shows how the text of the bill as proposed to be considered differs from the text of the bill as reported.

Although the rule waives all points of order against provisions in H.R. 2203, as amended, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

The waiver of all points of order against consideration of H.R. 3525 includes waivers of the following:

• Clause 3(c)(5) of rule XIII, which requires committee reports on bills that establish or reauthorize Federal programs to indicate whether any such program is known to be duplicative of another such program.

• Clause 3(d) of rule XIII, which requires the inclusion of a committee cost estimate in the committee report.

Although the resolution waives all points of order against provisions in H.R. 3525, as amended, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against consideration of H. Res. 576, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee record vote No. 170

Motion by Mr. Woodall to report an open rule for H.R. 2203 and H.R. 3525. Defeated: 3–8

Majority Members	Vote	Minority Members	Vote
Mr. Hastings	Nay	Mr. Cole	
Mrs. Torres	Nay	Mr. Woodall	Yea
Mr. Perlmutter	Nay	Mr. Burgess	Yea
Mr. Raskin		Mrs. Lesko	Yea
Ms. Scanlon	Nay		
Mr. Morelle	Nay		
Ms. Shalala	Nay		
Mr. DeSaulnier	Nay		
Mr. McGovern, Chairman	Nay		

Rules Committee record vote No. 171

Motion by Mr. Woodall to strike section 3 of the rule relating to H. Res. 576. Defeated: 3–8

Majority Members	Vote	Minority Members	Vote
Mr. Hastings	Nay	Mr. Cole	
Mrs. Torres	Nay	Mr. Woodall	Yea
Mr. Perlmutter	Nay	Mr. Burgess	Yea
Mr. Raskin		Mrs. Lesko	Yea
Ms. Scanlon	Nay		
Mr. Morelle	Nay		
Ms. Shalala	Nay		

Majority Members	Vote	Minority Members	Vote
Mr. DeSaulnier	Nay		
Mr. McGovern, Chairman	Nay		

Rules Committee record vote No. 172

Motion by Mrs. Lesko to amend the rule to H.R. 2203 to make in order and provide the necessary waivers for amendment #19, offered by Rep. Lesko (AZ), which states the Act shall not take effect unless and until the Secretary of Health and Human Services certifies that the homeless population of large cities in the United States is at or below the national average. Defeated: 3–8

Majority Members	Vote	Minority Members	Vote
Mr. Hastings	Nay	Mr. Cole	
Mrs. Torres	Nay	Mr. Woodall	Yea
Mr. Perlmutter	Nay	Mr. Burgess	Yea
Mr. Raskin		Mrs. Lesko	Yea
Ms. Scanlon	Nay		
Mr. Morelle	Nay		
Ms. Shalala	Nay		
Mr. DeSaulnier	Nay		
Mr. McGovern, Chairman	Nay		

Rules Committee record vote No. 173

Motion by Ms. Scanlon to report the rule. Adopted: 8–3

Majority Members	Vote	Minority Members	Vote
Mr. Hastings	Yea	Mr. Cole	
Mrs. Torres	Yea	Mr. Woodall	Nay
Mr. Perlmutter	Yea	Mr. Burgess	Nay
Mr. Raskin		Mrs. Lesko	Nay
Ms. Scanlon	Yea		
Mr. Morelle	Yea		
Ms. Shalala	Yea		
Mr. DeSaulnier	Yea		
Mr. McGovern, Chairman	Yea		

SUMMARY OF THE AMENDMENT TO H.R. 2203 CONSIDERED AS ADOPTED

1. Thompson, Bennie (MS): Substitute amendment. Establishes an independent Ombudsman for border and immigration related concerns within DHS.

TEXT OF AMENDMENT TO H.R. 2203 CONSIDERED AS ADOPTED

Strike section 1 and all that follows and insert the following:

SECTION 1. ESTABLISHMENT OF THE OFFICE OF THE OMBUDSMAN FOR BORDER AND IMMIGRATION ENFORCEMENT RELATED CONCERNS.

(a) IN GENERAL.—Title VII of the Homeland Security Act of 2002 (6 U.S.C. 341 et seq.) is amended by adding at the end the following new section:

"SEC. 711. OMBUDSMAN FOR BORDER AND IMMIGRATION ENFORCEMENT RELATED CONCERNS.

"(a) IN GENERAL.—Within the Department there shall be a position of Ombudsman for Border and Immigration Enforcement Related Concerns (in this section referred to as the 'Ombudsman'), who shall—

"(1) be independent of Department agencies and officers;

"(2) report directly to the Secretary; and

"(3) have a background in immigration law, civil rights, and law enforcement.

"(b) FUNCTIONS.—It shall be the function of the Ombudsman to—

"(1) in coordination with the Inspector General of the Department, establish an independent, neutral, accessible, confidential, and standardized process to assist individuals (including aliens (as such term is defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101)) in resolving complaints with respect to U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement, a subcontractor, or a cooperating entity, which process shall include a publicly accessible website through which a complainant can check on the status of such a complaint;

"(2) identify and thereafter review, examine, and make recommendations to the Secretary to address chronic issues identified by the Ombudsman in carrying out the function described in paragraph (1);

"(3) establish a Border Oversight Panel in accordance with subsection (f); and

"(4) review compliance with departmental policies and standards of care for custody of aliens by U.S. Immigration and Customs Enforcement and U.S. Customs and Border Protection, including any violations of applicable policy or standards of care involving force-feeding.

"(c) CONFIDENTIALITY.—The existence of a complaint, including the identity of any Department employee implicated in a complaint, shall be kept confidential by the Ombudsman and, in the absence of the written consent of an individual who submits a complaint, the Ombudsman shall keep confidential the identity of and any identifying information relating to such individual. Such confidentiality requirement may not be considered as a factor of whether or not information under this subsection may be disclosed under section 552 of title 5, United Stated Code (commonly referred to as the Freedom of Information Act).

"(d) ANNUAL REPORTING.—Not later than June 30 of each year beginning in the year after the date of the enactment of this section, the Ombudsman shall submit to the Committee on Homeland Security and the Committee on the Judiciary of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on the Judiciary of the Senate a report that includes, for the previous year, the following:

"(1) The number and types of complaints received under this section and for each complaint—

"(A) the component or subcomponent, subcontractor, or cooperating entity identified;

"(B) the demographics of the complainant; and

"(C) a description of the resolution of the complaint or the status of the resolution process.

"(2) Any complaint pattern that could be prevented or reduced by policy training or practice changes.

"(3) A description of any pattern of violations of any applicable policy or standards.

"(4) A description of each complaint received under this section with respect to which U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement, a subcontractor, or a cooperating entity, as applicable, has taken action to resolve, and the time between receipt and resolution of each such complaint.

"(5) A description of complaints received under this section for which action has not been taken after one year, and the period during which each complaint has been open.

"(6) Recommendations the Ombudsman has made under subsection (b)(2).

"(7) Other information, as determined appropriate by the Ombudsman .

"(e) APPOINTMENT OF BORDER COMMUNITIES LIAISON.—

"(1) IN GENERAL.—The Ombudsman, in conjunction with the Office for Civil Rights and Civil Liberties of the Department, shall appoint a Border Community Liaison (in this subsection referred to as the 'Liaison') in each U.S. Border Patrol sector on the northern and southern borders. Each Liaison shall report to the Ombudsman.

"(2) PURPOSES.—Each Liaison appointed under this subsection shall—

"(A) foster cooperation between U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement, and border communities;

"(B) consult with border communities on the development of policies, directives, and programs of U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement;

"(C) receive feedback from border communities on the performance of U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement; and

"(D) submit to the Ombudsman an annual report detailing their findings, feedback received from border communities, and recommendations to increase cooperation between U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement, and border communities.

"(f) BORDER OVERSIGHT PANEL.—

"(1) ESTABLISHMENT.—The Ombudsman shall establish a Border Oversight Panel (in this subsection referred to as the 'Panel').

"(2) COMPOSITION.—

"(A) IN GENERAL.—The Panel shall be composed of 30 members selected by the Ombudsman.

"(B) CHAIRPERSON.—The Ombudsman shall be the chair of the Panel.

"(C) EXPERTISE.—Members of the Panel shall have expertise in immigration, local crime indices, civil and human rights, community relations, cross-border trade and commerce, quality of life indicators, or other experience the Ombudsman determines is appropriate, and shall include individuals who reside in or near border counties.

"(3) DUTIES.—The Panel shall evaluate and make recommendations regarding the border enforcement policies,

strategies, and programs of the Department operating along the northern and southern borders of the United States to—

"(A) take into consideration the impact of such policies, strategies, and programs on border communities, including protecting due process, civil and human rights of border residents and visitors, and private property rights of land owners;

"(B) uphold domestic and international legal obligations;

"(C) reduce the number of migrant deaths; and

"(D) improve the safety of agents and officers of U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement.

"(g) STAFFING.—The Secretary shall take appropriate action to ensure the Ombudsman's office is sufficiently staffed and resourced to carry out its duties effectively and efficiently.

"(h) TRAINING.—

"(1) IN GENERAL.—The Ombudsman shall conduct a yearly evaluation of all training given to agents and officers of U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement.

"(2) CONTENTS.—Each evaluation under paragraph (1) shall include whether the training referred to in such paragraph adequately addresses the following:

"(A) Best practices in community policing, cultural awareness, and carrying out enforcement actions near sensitive locations, such as places of worship or religious ceremony, school or education-related places or events, courthouses or other civic buildings providing services accessible to the public, hospitals, medical treatment or health care facilities, public demonstrations, and attorney's offices (including a public defender or legal aid offices).

"(B) Policies for operating in locations where there are limitations on cooperation by local law enforcement.

"(C) Interaction with vulnerable populations, including instruction on screening, identifying, and responding to vulnerable populations, such as children, victims of human trafficking, and the acutely ill.

"(D) Standards of professional and ethical conduct, including the following:

"(i) Lawful use of force, de-escalation tactics, and alternatives to the use of force.

"(ii) Complying with chain of command and lawful orders.

"(iii) Conduct and ethical behavior toward the public in a civil and professional manner.

"(iv) Civil rights and legal protections for nationals of the United States and aliens.

"(v) Non-biased questioning.

"(vi) Sensitivity towards lesbian, gay, bisexual, transgender, and queer individuals.

"(vii) Permissible and impermissible social media activity.

"(viii) Sexual and other harassment and assault, including an assessment of whether adequate policies exist to resolve complaints.

"(E) Protecting the civil, constitutional, human, and privacy rights of individuals, with special emphasis on the scope of enforcement authority, including chain of evidence practices and document seizure, and use of force policies available to agents and officers.

"(F) Maintaining and updated understanding of Federal legal rulings, court decisions, and Department policies and procedures.

"(G) The scope of agents' and officers' authority to conduct immigration enforcement activities, including interviews, interrogations, stops, searches, arrests, and detentions, in addition to identifying and detecting fraudulent documents.

"(3) RECOMMENDATIONS.—Not later than 90 days after conducting each evaluation under paragraph (1), the Ombudsman shall develop, and submit to the Secretary, recommendations regarding any additional training.

"(4) FEEDBACK.—Not later than 180 days after receiving recommendations transmitted by the Ombudsman, the Secretary shall respond publicly and in writing with feedback on each of the recommendations, an action plan to implement any of such recommendations with which the Secretary concurs, and a justification for why any of such recommendations have been rejected.

"(i) ELECTRONIC TRACKING.—

"(1) IN GENERAL.—The Ombudsman, in coordination with the Commissioner of U.S. Customs and Border Protection, the Director of U.S. Immigration and Customs Enforcement, and the Office of Refugee Resettlement of the Department of Health and Human Services, shall develop recommendations for the establishment of an electronic tracking number system on a single interface, which shall be used to track the location of a child who has been separated from a parent, legal guardian, or other relative of such child, and which shall be accessible to agents and officers of U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement, and the Office of Refugee Resettlement.

"(2) TRACKING NUMBER.—The recommendations developed under this subsection shall consider how a tracking number can be assigned to a child who has been separated from a parent, legal guardian, or other relative of such child that—

"(A) is transferrable;

"(B) may be shared easily on the electronic tracking system described in this subsection by agents and officers of—

"(i) U.S. Customs and Border Protection;

"(ii) U.S. Immigration and Customs Enforcement; and

"(iii) the Office of Refugee Resettlement of the Department of Health and Human Services; and

"(C) is interoperable with the electronic location records of a parent, legal guardian, or other relative of such child.

"(j) BODY-WORN CAMERAS.—

"(1) REQUIREMENT.—Not later than 120 days after the date of the enactment of this section, the Ombudsman, in coordination with the Commissioner of U.S. Customs and Border Pro-

tection, the Director of U.S. Immigration and Customs Enforcement, and labor organizations representing agents and officers of U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement, shall submit to the Committee on Homeland Security and the Committee on the Judiciary of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on the Judiciary of the Senate a plan for requiring, not later than one year after such date of enactment, the use of body-worn cameras by U.S. Border Patrol agents and U.S. Immigration and Customs Enforcement officers whenever such agents and officers are engaged in border security or immigration enforcement activities.

"(2) ELEMENTS.—The plan required under paragraph (1) shall include the following:

"(A) Benchmarks for implementation of the use of body-worn cameras within U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement.

"(B) Policies, procedures, and training modules for the use of body-worn cameras by agents and officers of U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement, including training modules relating to the appropriate use of such cameras and adverse action for non-compliance.

"(C) Mechanisms to ensure compliance with body-worn camera policies and procedures.

"(3) CONSIDERATIONS.—The plan required under paragraph (1) shall be informed by—

"(A) existing State and local policies requiring the use of body-worn cameras; and

"(B) principles regarding body-worn cameras published by major civil and human rights organizations.".

(b) CLERICAL AMENDMENT.—The table of contents of the Homeland Security Act of 2002 is amended by adding after the item relating to section 710 the following new item:

"Sec. 711. Ombudsman for Border and Immigration Enforcement Related Concerns.".

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