

FLOOR FIGHT EXPECTED IN HOUSE ON COAST GUARD, FOIA

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H.R. 5005: Authorizing a new Cabinet-level Department of Homeland Security.

Floor action: Expected Wednesday or later in the week.

The House will consider legislation as early as Wednesday to create a Cabinet-level Department of Homeland Security. A considerable amount of debate is expected on the bill, H.R. 5005, though it is yet to be determined if the full chamber will take up the legislation with an open or closed rule.

Democratic leaders, as well as House Transportation and Infrastructure Committee Chairman Don Young (R-Alaska) have been lobbying for an all-out debate on the language with hopes of bringing up for vote a range of amendments.

To shape H.R. 5005 for the floor, the House Select Committee on Homeland Security considered the bill during an all-day mark-up session Friday that had not been completed at press time Friday evening. The early portions of the debate focused on a range of issues, many of which were organizational. A Democratic amendment to strip out the GOP-written Freedom of Information Act exemption fell on a party-line, 4-5 vote.

As written, H.R. 5005 establishes a FOIA exemption for any new critical infrastructure information provided -- written or orally -- by individuals and businesses to the Homeland Security Department. The FOIA language establishes strict penalties for illegal disclosure of the information while granting authority to use the submitted materials to issue federal warnings.

While House Majority Leader Richard Armey's (R-Texas) office has defended the language as protective of FOIA as it relates to other materials required under law to be disclosed, critics have contended that FOIA as it exists provides the necessary stopgaps for such critical infrastructure information.

House Assistant Minority Leader Rosa DeLauro (D-Conn.) sponsored the amendment, arguing that additional FOIA tinkering would create new loopholes, specifically referring to an industrial facility's risk management plan, which is required under Section 112 of the Clean Air Act.

DeLauro and other FOIA-user advocates, including Rep. Janice Schakowsky (D-Ill.), have vowed to bring the issue up again during floor debate.

Floor action can also be expected on the Coast Guard issue. Young, among others, has fought the GOP leadership and Bush administration on the provision shifting the Coast Guard into the Department of Homeland Security. Steve Hansen, a Young spokesman, said Friday that the Transportation and Infrastructure Committee would seek to garner a majority of lawmakers to strike the shift. If necessary, Hansen said the panel would also seek to kill a closed rule in order to debate the issue.

Testifying last week before the select committee, Young said he would back compromise language codifying Homeland Security Department appropriations to ensure funding went toward issues such as Coast Guard priorities as search and rescue, fisheries enforcement, oil spill response and recovery and environmental protection. Such language was included in Young's committee mark but was excluded from the final version of H.R. 5005 as passed by the select committee.

In other select committee action, the panel's five Republicans defeated the four Democrats on an amendment that would have created a new government-funded think tank charged with critical infrastructure analysis and research. Instead, by a party-line vote, the panel accepted language tying homeland security research into a to-be-determined set of national universities. Republicans also rejected an amendment from Minority Whip Nancy Pelosi (D-Calif.) that would have enshrined in law the White House Office of Homeland Security which Bush created in October through an executive order.