



Legislative Bulletin.....July 27, 2007

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H.R. 1—Implementing Recommendations of the 9/11 Commission Act—CONFERENCE REPORT

Summary of the Bills Under Consideration Today:

Total Number of New Government Programs: Numerous

Total Cost of Discretionary Authorizations: Unknown

Effect on Revenue: \$0

Total Change in Mandatory Spending: Unknown

Total New State & Local Government Mandates: Several

Total New Private Sector Mandates: Several

Number of Bills Without Committee Reports: 0

Number of Reported Bills that Don't Cite Specific Clauses of Constitutional Authority: 0

**H.R. 1—Implementing Recommendations of the 9/11 Commission Act—
CONFERENCE REPORT (*Thompson, D-MS*)**

Order of Business: The conference report is scheduled to be considered on the House floor on Friday, July 27th, subject to a closed rule ([H.Res. 567](#)). A motion to recommit is not in order. The Senate passed the conference report last night by a vote of 85-8.

Summary Highlights of Significant Differences: Below are some highlights of the significant differences between the House-passed version of H.R. 1 and the conference report. (This document is not intended to be exhaustive.)

To view the RSC Legislative Bulletin on H.R. 1, as it came to (and passed) the House in January 2007, visit this webpage:

http://www.house.gov/hensarling/rsc/doc/LB_010907_911100hour.doc.

To read the RSC Legislative Bulletins on H.R. 1401 (the Rail and Public Transportation Security Act), which has been attached to the H.R. 1 conference report, visit these webpages:

http://www.house.gov/hensarling/rsc/doc/LB_032707_RailPublicTranspo.doc and

http://www.house.gov/hensarling/rsc/doc/LB_032707_RailPublicTranspoAmdts.doc.

Collective Bargaining Rights. The House bill had given collective bargaining rights to all Transportation Security Administration (TSA) employees (including screeners). The conference report has no such provision.

Urban Area Security Initiative. The House bill provided that areas determined by the Homeland Security Secretary to be high-threat urban areas could apply for Urban Area Security Initiative (UASI) grants. The conference report provides for a two-stage process for designating eligible applicants. First, the Department of Homeland Security (DHS) would have to assess the risks, threats, and vulnerabilities from acts of terrorism faced by the 100 most populous metropolitan areas. These areas could submit information to the Secretary for the assessment. Then, DHS would designate eligible UASI applicants based on the assessment.

State Homeland Security Grant Program. The House bill provided that each state would receive at least 0.25% of all state homeland security grants (at least 0.45% for states with international boundaries or waters with international boundaries). Territories and tribes would each receive at least 0.08% of the funds. The conference report would change the state minimum to 0.375%, decreasing to 0.35% over five years. Tribes would *collectively* receive at least 0.1% of all funds.

Grants Directly to Tribes. The House bill allowed for state homeland security grants directly to tribes. The conference report still allows such direct grants but also allows tribes to receive pass-through homeland security funds from states *in addition to* the direct funds.

Terrorism Prevention. The conference report stipulates that at least 25% of the funding for the State Homeland Security Grant Program and the Urban Area Security Initiative go toward law enforcement terrorism prevention activities (as defined in the conference report). The House bill had no such provision.

Office for State and Local Law Enforcement. The conference report creates a new Office for State and Local Law Enforcement (within the DHS Policy Directorate) to help coordinate state and local activities and DHS' activities. The House bill had no such provision.

Multi-jurisdictional Coordination. The conference report requires that states and high-risk urban areas receiving federal homeland security grants establish multi-jurisdictional planning committees for better coordination across city, county, and state lines. The House bill had no such provision.

Emergency Management Performance Grants. The conference report reauthorizes the Emergency Management Performance Grants (EMPG) Program, which provides grants to states to assist state and local governments in preparing for, responding to, recovering from, and mitigating against all hazards. Each state would receive 0.75% of the total appropriation for the program, and then the remaining funds are distributed to states in proportion to their respective populations. The federal share of a funded activity's cost could not exceed 75%. The House bill had no such provision.

Border Interoperability Demonstration Project. The conference report would establish an international border demonstration project involving at least six pilot projects aimed at improving interoperability along the U.S.-Canada and U.S.-Mexico borders. The House bill had no such provision.

Federal Response Capability Inventory. The conference report would establish a database of all federal personnel and resources credentialed and typed that are likely needed to respond to a natural disaster, act of terrorism, or other man-made disaster. The database would be integrated in to the Federal Response Capability Inventory established by the Post-Katrina Emergency Management Reform Act of 2006. The House bill had no such provision.

Rural Policing Institute. The conference report would create a Rural Policing Institute, administered by the Federal Law Enforcement Training Center, to train local and tribal law enforcement officers in rural areas (authorized at \$35 million over six years). The House bill had no such provision.

Interagency Threat Assessment and Coordination Group. The conference report would create an Interagency Threat Assessment and Coordination Group to produce federally coordinated information products for distribution to states and localities. The House bill had no such provision.

Public Availability of Certain Intelligence Funding Information. The conference report would require the Director of National Intelligence (DNI) to disclose to the public the aggregate amount of funds appropriated by Congress for the National Intelligence Program, beginning with FY2007, and subject to presidential national security waiver beginning in FY2009. The House bill had no such provision.

Visa Waiver Program. The conference report would make a variety of changes to the Visa Waiver Program (the program under which citizens from certain countries do not need a visa to travel to the United States), as follows:

- Allows for the program to be expanded to new countries;
- Requires the implementation of an electronic travel authorization system to collect biographical and other information from each prospective traveler under the program to determine travel eligibility (and whether a security risk exists);
- Requires that this electronic verification system be operational before new countries could be added to the program;

- Allows the Secretary to establish an overstay rate (how often its citizens overstay their visas) that could be used for determining a country's eligibility for admission into the program; and
- Requires the creation of an air exit system for program travelers to verify the departure of at least 97% of foreign nationals who exit by air.

The House bill had no such provisions.

Terrorist Travel. The conference report would direct DHS to establish the anti-terrorist-travel program required to be created under Section 7215 of Public Law 108-458. The House bill had no such provision.

Enhanced Driver's Licenses. The conference report would direct DHS to work with at least one state to pilot the use of enhanced driver's licenses that would be valid for a U.S. citizen's admission into the U.S. from Canada or Mexico. The House bill had no such provision.

Additional Customs Officers. The conference report would direct DHS to hire at least 200 additional Customs and Border Protection officers for deployment at the 20 busiest international airports in the U.S. The House bill had no such provision.

Levees. The conference report would express a sense of Congress that DHS should ensure that levees are included in one of the critical infrastructure and key resource sectors identified in the National Infrastructure Protection Plan. The House bill had no such provision.

National Biosurveillance Integration Center. The conference report would authorize the creation of a National Biosurveillance Integration Center to enhance the situational awareness of the federal government of natural and man-made biological incidents of national concern and to rapidly alert authorities at all levels of such incidents. Though the House bill had no such provision, the DHS Authorization Act for FY2008 (H.R. 1684), as passed by the House, did include such a provision.

Nuclear Detection. The conference report would direct the Secretaries of Homeland Security, State, Defense, and Energy, plus the DNI and the Attorney General to complete an annual interagency review of matters relating to global nuclear detection efforts. The House bill had no such provision.

National Domestic Preparedness Consortium. The conference report would officially authorize the existing National Domestic Preparedness Consortium, which has been responsible for identifying, developing, testing, and delivering training to state and local emergency response providers. The House bill had no such provision (though this was included in H.R. 1401, as passed by the House). SEE EARMARKS SECTION BELOW.

National Transportation Security Center of Excellence. The conference report would establish a new National Transportation Security Center of Excellence to conduct research and development and education activities, and to provide or develop training to transportation employees and professionals. The House bill had no such provision (though this was included in H.R. 1401, as passed by the House). SEE EARMARKS SECTION BELOW.

Civil Immunity for Reporting Suspicious Activity. *(Majority Leader Boehner sent a release praising the inclusion of this section as a significant victory for Republicans.)* The conference report would grant civil immunity (retroactive to October 1, 2006) to those individuals who, in good faith and based on objectively reasonable suspicion, report transportation-related suspicious activity to employees or authorities related to the involved transportation system or to federal, state, or local security or law enforcement officials. Civil immunity would also be granted to authorized officials who take reasonable actions to respond to suspicious activity. Those granted immunity under this section could recover reasonable costs and attorneys fees if named as a defendant in a civil lawsuit. Neither the House nor Senate bill had such a provision.

TSA Personnel Limits. Provides that the statutory ceiling on Transportation Security Administration (TSA) employees does not apply to employees carrying out certain public transportation security duties. The House bill had no such provision (though this was in House-passed H.R. 1401).

National Explosives Detection Canine Team Training Program. The conference report would authorize the increase of up to 200 canine explosives detection teams annually by the end of 2010. The House bill had no such provision (though H.R. 1401 had similar language).

Transportation Security Cards to Convicted Felons. The conference report would codify the existing regulations prohibiting the issuance of transportation security cards to convicted felons. The House bill had no such provision.

NOTE: Many of the public transportation and rail security provisions below were included in the House-passed version of H.R. 1401 (see link above). Some are highlighted here for emphasis.

Public Transportation Security Grants. The conference report would create a new, multi-billion-dollar grant program for eligible public transportation agencies to make security improvements. The House bill had no such provision.

Public Transportation Security Training Program. The conference report would create a new transit security training program aimed at improving worker security. The House bill had no such provision.

Public Transportation Threat Assessments. The conference report would direct DHS to complete a name-based security background check of public transportation “front-line” employees against the consolidated terrorist watch list, and an immigration status check within one year of this legislation’s enactment. Neither the House nor the Senate bill had such a provision.

Rail Security Public Awareness Campaign. The conference report would direct DHS to develop a national outreach plan to advise the general public, railroad passengers, and railroad employees what they can do to improve rail security. The House bill had no such provision.

Rail Security Assessment and Strategy. The conference report would direct DHS to establish a task force to complete a national rail security risk assessment and develop a national strategy for improving rail security. The House bill had no such provision.

Rail Security Grant Program. The conference report would create a new, \$300-million grant program for railroads that have completed a vulnerability assessment and security plan. The House bill had no such provision.

Amtrak Upgrades. The conference report would authorize grants to Amtrak for system-wide security upgrades. The House bill had no such provision.

Amtrak Fire and Life-Safety Improvements. The conference report would authorize \$475 million for Amtrak to make fire and life-safety improvements to tunnels in the Northeast Corridor. The House bill had no such provision.

Additional Rail Security Programs. The conference report contains numerous rail security provisions, many of which were included in the House-passed version of H.R. 1401 (see link above). The House version of H.R. 1 had no such provisions.

Over-the-Road Bus Security Programs. The conference report contains numerous over-the-road security provisions, many of which were included in the House-passed version of H.R. 1401 (see link above). The House version of H.R. 1 had no such provisions.

Cargo Screening on Passenger Aircraft. The House bill required that 35% of cargo carried on passenger aircraft be screened by the end of FY2007, 65% by the end of FY2008, and 100% by the end of FY2009. The conference report would require that 50% of such cargo be screened within 18 months of this legislation's enactment, and 100% within three years of this legislation's enactment.

In-Line Baggage System Deployment. The conference report would require the annual dedication (through FY2028) of \$250 million from the Aviation Security Capital Fund for the installation and operation of in-line electronic screening systems for enhanced screening of checked baggage.

Blast-Resistant Cargo Containers. The conference report would direct TSA to provide blast-resistant cargo containers to commercial passenger air carriers for use on a random or risk-assessed basis, as determined by TSA. The House bill had no such provision.

Protection of Passenger Planes from Explosives. The conference report would direct DHS to develop pilot grant projects that advance technology for protecting passenger planes from the threat of explosives. The House bill had no such provision.

TSA Screener Limit Lifted. The conference report would eliminate the 45,000-person cap on full-time-equivalent screeners at TSA. The House bill had no such provision.

Law Enforcement Biometric Credentialing. The conference report would require a biometric credentialing system to verify the identity of law enforcement officers seeking to carry a weapon on board an aircraft. The House bill had no such provision.

General Aviation Security. The conference report would require TSA to develop a standardized threat and vulnerability assessment program for general aviation airports and create a program to perform such assessment at general aviation airports on a risk-assessed basis. The House bill had no such provision.

Maritime Cargo Container Scanning. The House bill required that 100% of the maritime cargo containers destined for the United States be scanned by July 1, 2012. The conference report would allow two-year extensions of this deadline, if DHS certifies to Congress that certain conditions cannot be met.

Science and Technology International Cooperative Programs. The conference report would establish the Science and Technology Homeland Security International Cooperative Programs Office to facilitate the planning, development, and implementation of joint research projects, exchange of scientists and engineers, training of personnel, and conferences. The House bill had no such provision (though similar language was passed as part of H.R. 884).

International Broadcasting Transcription. The conference report would require that the Broadcasting Board of Governors initiative a pilot program to transcribe—into English—random samplings of news and information programming broadcast by Radio Farad, Radio Saw, the Persia Service of the Voice of America, and Alhurra. Such transcriptions would have to be made available to Congress and the public. The House bill had no such provision.

Democracy Liaison Officers. The conference report would create Democracy Liaison Officers at the State Department to enhance the promotion of democracy worldwide. The House bill had no such provision.

UN Democracy Fund. The conference report would authorize \$28 million over two years for U.S. contributions to the UN Democracy Fund. The House bill had no such provision.

Other Democracy-Promoting Provisions. The House bill contained a variety of provisions aimed at promoting democracy worldwide, and especially in the Middle East, and most such provisions are retained in the conference report. The Senate-passed bill also contained a variety of democracy-promotion provisions, from senses of Congress to training programs to translation projects, which also are retained in the conference report.

Security Management Systems. The conference report would establish a demonstration project to conduct demonstrations of security management systems. The House bill had no such provision.

Additional Background: H.R. 1 passed the House on January 9, 2007, by a vote of [299-128](#). The Senate's version of H.R. 1 passed by unanimous consent on July 9, 2007.

To access the website of the 9-11 Commission, visit this website: <http://www.9-11commission.gov/>.

RSC Bonus Fact: The chairman of the 9-11 Commission, [Thomas Kean](#), was the Republican Governor of New Jersey from 1982 to 1990 and went on to become the president of Drew University in Madison, New Jersey.

Committee Action: On January 5, 2007, the bill was referred to eight House committees, none of which took official public action.

Possible Conservative Concerns: Conservatives might be concerned by the creation of a variety of new offices and programs in a department that many observers already claim is bloated. Further, some conservatives may be concerned that the conference report does not address one of the 9-11 Commission's most significant suggested reforms—the restructuring of how Congress legislates on national intelligence activities (the Commission recommended creating a single, bicameral committee). Some conservatives may also be concerned at the lifting of the TSA screener cap and the seemingly unrealistic cargo screening requirements.

Additionally, some conservatives have expressed concerns about the expansion of the Visa Waiver Program (see details above).

Administration Position: The Administration indicated that it would not produce a Statement of Administration Policy (SAP) for the conference report.

Cost to Taxpayers: A CBO cost estimate of the billions of dollars of authorizations in this legislation is unavailable.

Does the Bill Expand the Size and Scope of the Federal Government?: Yes, the bill would create a variety of new programs, offices, and authorities.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: A CBO analysis of the mandates in this legislation is unavailable. There are a variety of mandates, mostly involving cargo and container inspections.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The Joint Explanatory Statement accompanying the conference report includes a list of eight earmarks, as follows:

For the National Domestic Preparedness Consortium:

- National Disaster Preparedness Training Center, University of Hawaii (*Sen. Inouye, D-HI*); and
- Transportation Technology Center, Inc. (*Sen. Wayne Allard, R-CO; Sen. Ken Salazar, D-CO; Rep. John Salazar, D-CO; Rep. Ed Perlmutter, D-CO*).

For the National Transportation Security Center of Excellence:

- Connecticut Transportation Institute, University of Connecticut (*Sen. Christopher Dodd, D-CT; Sen. Joe Lieberman, I-CT*);
- National Transit Institute, Rutgers University (*Sen. Bob Menendez D-NJ; Sen. Frank Lautenberg, D-NJ*);
- Mack-Blackwell National Rural Transportation Study Center, University of Arkansas (*Sen. Mark Pryor, D-AR*);
- Homeland Security Management Institute, Long Island University (*Sen. Chuck Schumer, D-NY; Rep. Peter King, R-NY*);
- Texas Southern University, Houston, TX (*Rep. Al Green, D-TX*); and
- Tougaloo College, MS (*Rep. Bennie Thompson, D-MS*).

Constitutional Authority: Although a committee report citing constitutional authority is unavailable, Article I, Section 8, Clause 1 grants Congress the power to provide for the common defense and general welfare of the United States.

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