

Legislative Bulletin.....October 7, 2004

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H.R. 10—9/11 Recommendations Implementation Act

H.R. 10—9/11 Recommendations Implementation Act (Hastert)

Order of Business: The bill is scheduled to be considered on Thursday, October 7th, subject to a structured rule. The amendments made in order under the rule will be summarized in a separate RSC document.

Overall Summary (of amended text—the “Rules Committee Print”): H.R. 10 would reform the structure of the intelligence community, implement a variety of new measures for preventing terrorism, tighten border security, and otherwise improve homeland security efforts at home and abroad.

The bill is divided up into five titles:

TITLE I—REFORM OF THE INTELLIGENCE COMMUNITY
TITLE II—TERRORISM PREVENTION AND PROSECUTION
TITLE III—BORDER SECURITY AND TERRORIST TRAVEL
TITLE IV—INTERNATIONAL COOPERATION AND COORDINATION
TITLE V—GOVERNMENT RESTRUCTURING

The complete text of the Rules Committee Print, from which this Legislative Bulletin is derived, is temporarily available at this webpage:

<http://www.house.gov/rules/108hr10amndsub.pdf>

Highlights Summary by Title and Subtitle:

TITLE I—REFORM OF THE INTELLIGENCE COMMUNITY

Subtitle A—Establishment of National Intelligence Director

- Creates a National Intelligence Director outside the Executive Office of the President and creates three Deputy Intelligence Directors, four Associate Intelligence Directors, a National Intelligence Council, a General Counsel to the Director, and such other officials and offices that may be established by law or by the Director.

- Allows the CIA Director serving on the day before this bill's enactment to, at the discretion of the President, become the first National Intelligence Director.
- The Director would be subject to the authority, direction, and control of the President and would:
 - be the head of the intelligence community;
 - be the primary adviser to the President, the National Security Council, and the Homeland Security Council for intelligence matters; and
 - manage the National Intelligence Program through the heads of the departments containing intelligence elements.
- The Director could not also be the CIA Director or the head of any other intelligence element.
- The Director would have separate budget authority.
- Allows the Director to transfer funds or personnel (subject to limitations) within the National Intelligence Program.
- Instructs the Director to eliminate waste and unnecessary duplication within the intelligence community.
- The Deputy Directors would be as follows:
 - Deputy National Intelligence Director;
 - Deputy National Intelligence Director for Operations; and
 - Deputy National Intelligence Director for Community Management and Resources.
- The Associate Directors would be as follows:
 - Associate National Intelligence Director for Military Support;
 - Associate National Intelligence Director for Domestic Security;
 - Associate National Intelligence Director for Diplomatic Affairs; and
 - Associate National Intelligence Director for Science and Technology.
- The National Intelligence Council would be composed of senior analysts within the intelligence community and substantive experts from the public and private sector, who would be appointed by, report to, and serve at the pleasure of, the National Intelligence Director.
- Reauthorizes the CIA essentially in its current form, yet makes it subordinate to the National Intelligence Director.
- Instructs the National Intelligence Director to create information-sharing methods and systems—with particular emphasis on developing joint procedures between the Department of Defense and the CIA.

Subtitle B—National Counterterrorism Center and Civil Liberties Protections

- Establishes a National Counterterrorism Center within the Office of the National Intelligence Director.
- The Director of the Center would be appointed by the National Intelligence Director.
- The primary missions of the Center would be to:
 - Serve as the primary organization in the United States Government for analyzing and integrating all intelligence possessed or acquired by the United States Government pertaining to terrorism and counterterrorism, excepting intelligence pertaining exclusively to domestic terrorists and domestic counterterrorism;
 - Conduct strategic operational planning for counterterrorism activities, integrating all instruments of national power, including diplomatic, financial, military, intelligence, homeland security, and law enforcement activities within and among agencies;
 - Assign roles and missions responsibilities as part of the its strategic operational planning duties to lead Departments or agencies, as appropriate, for counterterrorism activities that are consistent with applicable law and that support counterterrorism strategic plans, but shall not direct the execution of any resulting operations;
 - Ensure that agencies, as appropriate, have access to and receive all-source intelligence support needed to execute their counterterrorism plans or perform independent, alternative analysis;
 - Ensure that such agencies have access to and receive intelligence needed to accomplish their assigned activities; and
 - Serve as the central and shared knowledge bank on known and suspected terrorists and international terror groups, as well as their goals, strategies, capabilities, and networks of contacts and support.
- The National Intelligence Director would resolve disputes between the Center and any other element of the intelligence community.
- Establishes within the National Intelligence Director's office a Civil Liberties Protection Officer (appointed by the Director) to ensure that the protection of civil liberties and privacy is appropriately incorporated in the policies and procedures developed for and implemented by the Office of the National Intelligence Director and the elements of the intelligence community within the National Intelligence Program.

Subtitle C—Joint Intelligence Community Council

- Establishes a Joint Intelligence Community Council to provide advice to the National Intelligence Director.

- The Joint Intelligence Community Council would consist of the National Intelligence Director (who would chair the Council), the Secretary of State, the Secretary of the Treasury, the Secretary of Defense, the Attorney General, the Secretary of Energy, the Secretary of Homeland Security, and such other officials of the Executive Branch as the President may designate.

Subtitle D—Improvement of Human Intelligence (HUMINT)

- Within six months of enactment of this bill, the National Intelligence Director would have to report to Congress on the existing human intelligence (HUMINT) capacity, including a plan to implement changes to accelerate improvements to, and increase the capacity of, HUMINT across the intelligence community.

Subtitle E—Improvement of Education for the Intelligence Community

- Requires that each recipient of a scholarship or fellowship under the National Security Education Program work in a department or agency of the U.S. that would give the recipient experience and knowledge in the language and region that the recipient is studying.
- Increases to \$12 million a year (from \$10 million a year) the authorization for the National Flagship Language Initiative and directs the Secretary of Defense to take necessary steps to increase the number of educational institutions participating in the Initiative.
- Creates an English-language scholarship program within the National Security Education Program for U.S. citizens who are native speakers of critical foreign languages. Authorizes \$4 million a year for the program.
- Establishes a joint DoD-National Intelligence Director program to advance critical foreign language skills. Authorizes education partnerships (and related authorities) and provides for the assignment of intelligence community personnel as language students.
- Directs the National Intelligence Director to conduct a three-year pilot project (authorized at “such sums”) to establish a Civilian Linguist Reserve Corps comprised of U.S. citizens with advanced levels of proficiency in foreign languages who would be available upon a call of the President to perform such foreign language service in the federal government as the President may specify.
- Codifies the National Virtual Translation Center to provide translations of foreign intelligence for all elements of the intelligence community.
- Directs the Secretary of Defense to report to Congress on improving the recruitment and retention of qualified foreign language instructors at the Foreign Language Center of the Defense Language Institute.

Subtitle F—Additional Improvements of Intelligence Activities

- Permanently extends the CIA’s voluntary separation incentive program.
- Creates a National Security Agency Emerging Technologies Panel to study and assess, and periodically advise the National Intelligence Director on, the research, development, and application of existing and emerging science and technology advances, advances on encryption, and other topics.
- Orders the acceleration of translations of suspected terrorist communications.

Subtitle G—Conforming and Other Amendments

- Makes dozens of conforming changes in current law to replace references to the Director of Central Intelligence (CIA Director) with references to the National Intelligence Director and to include the National Intelligence Director as part of the intelligence community.
- Deems any reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director’s capacity as the head of the intelligence community in any law, regulation, document, paper, or other record of the United States to be a reference to the National Intelligence Director.

Subtitle H—Transfer, Termination, Transition and Other Provisions

- Transfers the CIA’s community management staff to the National Intelligence Director.
- Transfers the Terrorist Threat Integration Center to the National Counterterrorism Center.
- Terminates the following positions within the CIA:
 - The Assistant Director of Central Intelligence for Collection;
 - The Assistant Director of Central Intelligence for Analysis and Production; and
 - The Assistant Director of Central Intelligence for Administration.
- Directs the President to report to Congress on the implementation plan for these transfers and terminations.
- Expresses a sense of Congress that the permanent offices for the National Intelligence Director NOT be at the George Bush Center for Intelligence in Langley, Virginia.

Subtitle I—Other Matters

- Directs the Secretary of Defense to report to Congress on the promotion selection rates, and the selection rates for attendance at professional military education schools, of intelligence officers of the Armed Forces, particularly in comparison to the rates for other officers of the same Armed Force who are in the same grade and competitive category.

TITLE II—TERRORISM PREVENTION AND PROSECUTION

Subtitle A—Individual Terrorists as Agents of Foreign Powers

- Adds agents of foreign powers who engage in international terrorism or activities in preparation for terrorism to the list of non-U.S. persons subject to surveillance.

Subtitle B—Stop Terrorist and Military Hoaxes Act of 2004

- Makes explicit that terror-related and military-related hoaxes are illegal and subject to the fines and punishments (criminal and civil) listed in the bill.
- Requires that people convicted of such hoaxes would have to reimburse any state or local government or private organization that incurs expenses providing fire or rescue services.
- Enhances the penalty (from five years in prison to ten years in prison) for obstructing justice and providing false statements in terrorism cases.

Subtitle C—Material Support to Terrorism Prohibition Enhancement Act of 2004

- Makes it illegal to knowingly receive military-type training from or on behalf of a foreign terrorist organization.
- Expands what qualifies as an illegal provision of material support to terrorism and terrorist organizations.
- Expands what qualifies as an illegal financing of terrorism and terrorist organizations.

Subtitle D—Weapons of Mass Destruction Prohibition Improvement Act of 2004

- Expands what qualifies as an illegal transport of the materials for weapons of mass destruction.
- Enhances the prosecution of weapons of mass destruction offenses.
- Sets a maximum 20-year prison sentence for individuals who willfully participate in a weapons of mass destruction program of a foreign terrorist power.

Subtitle E—Money Laundering and Terrorist Financing

- Provides \$35.5 million in additional FY2005 authorizations for various upgrades and enhancements at the Financial Crimes Enforcement Network (FinCEN).
- Reauthorizes (at the current \$15 million level) through FY2005 the funds for combating terrorist-related financial crimes.
- Allows the Secretary of the Treasury to produce currency, postage stamps, and other security documents for foreign governments (at cost to the foreign governments). Extends certain counterfeiting laws to cover foreign security items produced by the Treasury Department.
- Requires that certain financial institutions report certain cross-border financial transactions (relevant to anti-money-laundering or anti-terrorism efforts) to FinCEN.
- Prohibits bank examiners in federal banking agencies or federal reserve banks from being employed for one year after federal employment by the banks they oversaw.

Subtitle F—Criminal History Background Checks

- Directs the Attorney General to initiate a 180-day pilot program to establish a system for providing criminal history information (that is already in the possession of the Attorney General) to employers who request it (under certain circumstances). Fingerprints or other biometric identifiers of the employee would have to be provided for processing in the FBI's Integrated Fingerprint Identification System.
- Extends from 18 months to 30 months the authorization for two pilot programs currently authorized: a state-by-state criminal background checks program and a child safety fingerprinting program.
- Permits employers to request from the FBI criminal background checks on private security officers or prospective officers (subject to user fees).
- Directs the Attorney General to create a taskforce to examine the establishment of a national clearinghouse to process such requests from private security guard companies.

Subtitle G—Protection of United States Aviation System From Terrorist Attacks

- Requires the use of biometric technology in airport access control systems and directs the Attorney General, the Department of Homeland Security, and other relevant entities to develop standards for such implementation.
- Directs the Attorney General to establish a law enforcement officer travel credential that incorporates biometrics, is uniform across all federal, state, and local government

law enforcement agencies, and can be used without unnecessarily revealing to the public that the individual is a law enforcement officer (and may be carrying a gun). Authorizes “such sums” to create the travel credential.

- Increases the FY2005 authorization for biometric technologies at airports from \$250 million to \$345 million.
- Directs the Secretary of Homeland Security to prepare and update several (as detailed in the bill) transportation security strategic plans.
- Not later than November 1, 2004, the Transportation Security Administration (TSA) would have to commence testing of a “next generation” passenger prescreening system that would allow the TSA to assume the performance of comparing passenger name records to the automatic selectee and no fly lists, utilizing all appropriate records in the consolidated and integrated terrorist watch-list maintained by the federal government.
- Instructs the TSA to give priority developing, testing, improving, and deploying technology at screening checkpoints at airports that will detect nonmetallic weapons and explosives on the person of individuals, in their clothing, or in their carry-on baggage or personal property.
- Directs the TSA to instigate a \$2 million pilot program to evaluate the use of blast-resistant cargo containers and baggage on passenger aircraft to minimize the potential effects of detonation of an explosive device.
- Requires the TSA to develop technology to better identify, track, and screen air cargo.
- Establishes within the Homeland Security Department a Checkpoint Screening Security Fund to collect fees from airports to help pay for explosives detection.
- Sets a maximum \$25,000 fine for failure for U.S. carriers to secure a cockpit door.
- Requires that federal law enforcement officers who fly while on duty receive in-flight counterterrorism and weapons handling training.
- Requires that federal air marshals, TSA screeners, and relevant federal agents and local law enforcers in border states receive training in identifying fake IDs (including fake or expired visas and passports).
- Directs the TSA to implement a pilot program to allow federal flight deck officers to transport their firearms on their persons.
- Instructs the TSA to study ways to enable a flight crew to discreetly notify the pilot of a security breach or safety issue in the cabin.

- Requires a report on airport perimeter security.
- Requires TSA to report to Congress on the costs and benefits of the use of back-up cockpit barriers.

Subtitle H—Other Matters

- Modifies the Rules of Criminal Procedure to allow a government attorney to disclose any grand jury information regarding hostile acts by foreign powers, foreign agents, or international terrorists.
- Enhances the authority for accelerating the progress in implementing the Interoperable Law Enforcement and Intelligence Data System “Chimera” (an automated data exchange system for the intelligence community) and transfers such authority from the Homeland Security Department to the National Intelligence Director.
- Establishes a comprehensive intelligence program at the FBI under a new Intelligence Directorate. Puts special emphasis on information sharing with all levels of government and all relevant agencies at the federal level.
- Requires the creation of a National Security Workforce within the FBI.
- Makes “intelligence” a new subfunction in the FBI budget.
- Consolidates the COPS Program into a single grant program to hire, rehire, and train law enforcement officers across the nation, assist with security at schools, and pay for officers to perform intelligence, anti-terror, or homeland security duties exclusively.
- Authorizes matching funds for school security grants.
- Authorizes the COPS Program at \$1.008 billion for FY2005, \$1.027 billion for FY2006, and \$1.047 for FY2007.

Subtitle I—Police Badges

- Prohibits the interstate or foreign transfer of police badges for decorative or other recreational purposes.

TITLE III—BORDER SECURITY AND TERRORIST TRAVEL

Subtitle A—Immigration Reform in the National Interest

- Requires that U.S. citizens entering the U.S. from or leaving the U.S. to go to foreign contiguous territory must still show some sort of ID or combo of IDs (as prescribed by the Homeland Security Secretary) when entering or leaving.

- Requires secure IDs (as determined by the Homeland Security Secretary) for nationals of foreign contiguous territories and adjacent islands entering the U.S.
- Directs the Homeland Security Secretary to add 2,000 border patrol agents in each of fiscal years 2006 through 2010.
- Directs the Homeland Security Secretary to add 800 immigration and customs enforcement investigators in each of fiscal years 2006 through 2010.
- Establishes that, for purposes of establishing identity to any federal employee, an alien present in the United States would have to present any document issued by the Attorney General or the Secretary of Homeland Security, a domestically issued document that the Secretary of Homeland Security designates as reliable for this purpose and that cannot be issued to an alien unlawfully present in the United States, or an unexpired, lawfully issued foreign passport as determined by the Secretary of State. No other document could be presented for such purposes (subject to certain limited exceptions).
- Provides for expedited removal of illegal aliens arriving in the United States. Increases the burden of proof for the alien seeking asylum in such instances.
- Sets certain limits asking for judicial review of visa revocations.
- Makes it more difficult for terrorists and foreign criminals to win delays of their removal from the United States.
- Increases the criminal penalties for commercial smuggling of illegal aliens into the United States.

Subtitle B—Identity Management Security

- Sets minimum document and issuance standards for state driver's licenses or ID cards that could be accepted by a federal agency (beginning three years after enactment of this bill).
- The document standards would be the inclusion of:
 - The person's full legal name;
 - The person's date of birth;
 - The person's gender;
 - The person's driver license or identification card number;
 - A digital photograph of the person;
 - The person's address of principal residence;
 - The person's signature;
 - Physical security features designed to prevent tampering, counterfeiting, or duplication of the document for fraudulent purposes; and

--A common machine-readable technology (such as a barcode), with defined minimum data elements.

- The issuance standards would be the inclusion of:
 - A photo identity document, except that a non-photo identity document is acceptable if it includes both the person's full legal name and date of birth;
 - Documentation showing the person's date of birth;
 - Proof of the person's Social Security account number or verification that the person is not eligible for a Social Security account number; and
 - Documentation showing the person's name and address of principal residence.
- States would also have to verify that a person is in the United States legally before issuing a driver's license or ID card.
- States could only issue a temporary driver's license (clearly identified as such) to certain aliens who are in the U.S. temporarily.
- Makes it illegal to traffic in actual authentication features for identity documents (it's already illegal to traffic in fake authentication features).
- Authorizes "such sums" to states for fiscal years 2005 to 2009 to meet the minimum driver's license and ID standards detailed in the bill.
- Directs that any state minimum standards for birth certificates must apply to those issued by a local government in the state.
- Sets minimum document and issuance standards for birth certificates that could be accepted by a federal agency (beginning three years after enactment).
- The document standards for birth certificates would be the inclusion of safety paper, an issuing seal and other such anti-tampering, anti-counterfeiting features that the Homeland Security Secretary may determine.
- The Secretary could not require a single, national design for birth certificates.
- The issuance standards for birth certificates would be the verifying of the person's name, date, location of birth, mother's maiden name, and "substantial" proof of identity.
- Directs the Homeland Security Secretary, in consultation with the HHS Secretary and the Commissioner of Social Security to establish an electronic birth and death registration system.
- Authorizes "such sums" to states for fiscal years 2005 to 2009 to meet the minimum birth certificate standards detailed in the bill.

- Prohibits the display of a person's Social Security number on a state driver's license.
- Applications for Social Security numbers would have to be accompanied by independent verification of any birth record presented to the Commissioner.
- Directs the Commissioner to take steps to minimize fraudulent enumeration at birth (such as the current practice of assigning Social Security numbers to unnamed children).
- Instructs the Commissioner to restrict the issuance of multiple replacement Social Security cards to three per year and ten per lifetime (subject to exception).

Subtitle C—Targeting Terrorist Travel

- Significantly expands the preinspection efforts at foreign airports. Authorizes \$24 million for FY2005, \$48 million for FY2006, and \$97 million for FY2007.
- Expands the Immigration Security Initiative to include no fewer than 50 airports. Authorizes \$25 million for FY2005, \$40 million for FY2006, and \$40 million for FY2007.
- Authorizes the Secretary of State to increase by 150 the number of consular officers in each of fiscal years 2006 through 2009.
- Ensures that all nonimmigrant visas are reviewed by U.S. citizens who have received training in detecting fraudulent documents.
- Instructs the Homeland Security Secretary and the Secretary of State to survey each post at which visas are issued to assess the extent to which fake documents are presented to consular officers.
- Increases penalties for presenting false documents to get a U.S. visa and for falsely claiming U.S. citizenship.
- Directs the President to support the drafting, adoption, implementation, and expansion of international agreements aimed at tracking and stopping international travel by terrorists and other criminals through the use of lost, stolen, or fake documents.
- Encourages the President to seek international agreements to improve the translation of names into the Roman alphabet on travel documents and on watch-lists.
- Requires the Homeland Security Secretary to develop a plan to accelerate the full implementation of an automated biometric entry and exit data system required by various laws. This system would have to be integrated within two years into current systems that process or contain information on aliens.

- Directs the Homeland Security Secretary to implement a plan to expedite the processing of registered travelers who enter and exit the U.S. through a single registered travelers program. Authorizes “such sums” for FY2005-FY2009.
- Instructs the Coordinator for Counterterrorism to analyze methods used by terrorists to travel internationally, develop policies to curtail such travel, and coordinate such policies with the appropriate U.S. and foreign agencies.
- Establishes an Office of Visa and Passport Security within the Department of State to counter the production and use of fake U.S. visas and passports. This new Office would analyze terrorist methods in this area, identify individuals and documents typically involved in such activities, identify foreign countries who may need assistance in preventing fraud, and randomly inspect applications for visas and passports for accuracy.

Subtitle D—Terrorist Travel

- Instructs the Secretary of Homeland Security to establish a mechanism to ensure the coordination and dissemination of terrorist travel intelligence and operational information among the Bureau of Customs and Border Protection, the Bureau of Immigration and Customs Enforcement, the Bureau of Citizenship and Immigration Services, the Transportation Security Administration, the Coast Guard, and other agencies as directed by the Secretary.
- Directs the Homeland Security Secretary and the Director of the National Counterterrorism Center to establish a program to analyze terrorist travel intelligence and disseminate such information to the relevant “front line” personnel at ports, immigration benefits offices, etc.
- Calls on the Homeland Security Secretary to review and upgrade the training for border, immigration, and consular officers regarding detection and disruption of terrorist travel.
- Requires that the Homeland Security Secretary and the Secretary of State create a technology acquisition and dissemination plan for detecting and disrupting terrorist travel.

Subtitle E—Maritime Security Requirements

- Speeds up the deadlines for implementing certain maritime security requirements in current law.

**TITLE IV—INTERNATIONAL COOPERATION AND
COORDINATION**

Subtitle A—Attack Terrorists and Their Organizations

- Requires the President to submit to Congress a report on the strategy for eliminating terrorist sanctuaries.
- Calls for a review of existing U.S. policies regarding the proliferation of weapons of mass destruction and the control of strategic weapons.
- Calls on the increased inclusion of provisions in certain international agreements regarding the addressing and interdiction of international terrorism.
- Expresses a sense of Congress that the President should pursue, by all appropriate diplomatic means with countries that are participating in the Coalition to fight terrorism, the development of an effective approach toward the detention and humane treatment of captured terrorists.

Subtitle B—Prevent the Continued Growth of Terrorism

- Requires the State Department to report to Congress annually on the impact of public diplomacy efforts on target audiences in each region of the world and prepare a strategy for achieving public diplomacy goals in the subsequent year.
- Calls on the Foreign Service to take public diplomacy skills and proficiency in languages spoken in Muslim countries into greater account when hiring.
- Urges more people-to-people exchanges with people “of all levels of society” in Muslim countries (with a particular focus on youth and those who influence youth).
- Calls on the President to establish democracy caucuses at international organizations that do not currently have one (such as the UN Conference on Disarmament).
- Directs the President to seek to take actions that would exclude countries from UN bodies and other international organizations that violate the principles of the specific organization.
- Increases training of Foreign Service officers on the conduct of diplomacy at international organizations.
- Creates an Office on Multilateral Negotiations in the State Department to assist in the organization of and preparation for U.S. participation in multilateral negotiations.
- Authorizes “such sums” through FY2007 for a pilot grant program in the State Department to all American-sponsored elementary and secondary schools in predominantly Muslim countries to provide merit-based scholarships to lower- and middle-income students there.

- Provides new funds (“such sums” through FY2007) for the National Endowment for Democracy to fund a private sector group to create an independent international media network for the promotion of a free press worldwide.
- States that it would be U.S. policy to regard foreign governments as knowingly engaged in unfriendly acts toward the U.S. if such governments instruct their state-owned or -influenced media to include anti-American content.
- Instructs the State Department to monitor and, where possible, combat biased or false media coverage about the U.S. worldwide, with particular emphasis on countries where such media coverage is most prevalent and where it is critical to foster public opposition to terrorism.
- Requires a report on the U.S. strategy to expand its outreach to foreign Muslim audiences through the broadcast media.
- Directs the Secretary of State to consolidate within the Harry S. Truman Building all State Department offices that are responsible for the conduct of public diplomacy.

Subtitle C—Reform of Designation of Foreign Terrorist Organizations

- Eliminates the automatic two-year sunset of the designation of foreign terrorist organizations and increases the hurdles over which an organization must jump to seek and achieve a removal of such designation.
- Requires that the annual State Department country reports on terrorism include information on terrorist groups that are seeking weapons of mass destruction and that have been officially designated as foreign terrorist organizations.

Subtitle D—Afghanistan Freedom Support Act Amendments of 2004

- Assigns a coordinator for U.S. assistance to Afghanistan to ensure that such assistance is implemented in a “coherent, consistent, and efficient” way to prevent duplication and waste.
- Instructs the President to transmit to Congress within 180 days of enactment a detailed report on the five-year strategy for Afghanistan—including quantifiable goals and timetables and any obstacles to them.
- Calls for increased international peacekeeping and solidier reintegration efforts in Afghanistan.
- Authorizes the President to take the necessary steps to assist in the eradication of poppy cultivation and the disruption of heroin production in Afghanistan.

Subtitle E—Provisions Relating to Saudi Arabia and Pakistan

- Directs the President to report to Congress on a new strategy for collaboration with the people and Government of Saudi Arabia—with particular emphasis on how to reverse “extremism” and promote religious and cultural tolerance in Saudi Arabia and other Muslim countries.
- Directs the President to report to Congress on a new strategy for the future, long-term engagement with Pakistan. Expresses a sense of Congress that the U.S should help to ensure a “promising, stable, secure” future for Pakistan.
- Extends the waivers of foreign assistance restrictions for Pakistan through FY2006.

Subtitle F—Oversight Provisions

- Requires public availability (via the Internet) of treaties or international agreements signed by the U.S.

Subtitle G—Additional Protections of United States Aviation System for Terrorist Attacks

- Urges the President to pursue aggressively international agreements with foreign governments to allow the maximum deployment of federal air marshals and federal flight deck officers on international flights.
- Authorizes the Federal Air Marshal Service to provide air marshal training to law enforcement personnel of foreign countries (at cost to the foreign countries), after consultation with the Secretary of State and other security steps.
- Encourages the President to urgently pursue efforts to limit the proliferation and ensure the destruction of Man-Portable Air Defense Systems (MANPADs).
- Calls for the accelerated deployment of anti-MANPADs technology.

Subtitle H—Improving International Standards and Cooperation to Fight Terrorist Financing

- Praises the ongoing, and encourages the expanding of, efforts to combat terrorist financing through international cooperation.

TITLE V—GOVERNMENT RESTRUCTURING

Subtitle A—Faster and Smarter Funding for First Responders

- Includes provisions that distribute Homeland Security grants to first responders based more on the vulnerability of and threats against different areas, rather than on a

geographic equity model. The grant distribution would also be based on the consequences to the nation if such an area or target were attacked.

- Identifies “critical infrastructure sectors,” including (but not limited to) banking, chemical industries, emergency services, energy, food, water, telecommunications, and transportation.
- Includes suicide bombers among the list of types of threats to counter.
- Establishes a Task Force on Essential Capabilities for First Responders to advise the Homeland Security Secretary and Congress on the appropriate allocation of first responder funds.
- Requires that states submit acceptable homeland security plans as a condition of receiving federal first responder grant funds. States could apply together as a region.
- Creates a First Responder Grants Board (consisting of the Homeland Security Secretary, four Under Secretaries in the Department, and the Director of the Office for Domestic Preparedness) to evaluate grant applications.
- Sets the minimum funding level for each state that submits an approved homeland security plan (other than the territories) at 0.25% of the total funds available for these grants in any fiscal year (0.45% for states that have an international border).
- Sets the minimum funding level for each U.S. territory and Indian tribe that submits an approved homeland security plan at 0.08% of the total funds available for these grants in any fiscal year.
- Specifies in detail what the first responder grant funds could be used for and prohibits funds from being used to supplant state or local funds (including any cost-sharing requirements), construct buildings or other physical facilities, acquire land.
- Requires states to pass through 80% of funds to localities (subject to penalties for failure to do so).
- Sets at 75% the federal cost share of activities supported by these grants beginning in two years (100% before then).
- Requires grant recipients to annually report to the Homeland Security Secretary on the use of funds and requires the Secretary to annually report to Congress on the use of funds.
- Directs the Homeland Security Secretary, in consultation with appropriate authorities, to develop national voluntary consensus standards for the performance, use, and validation of first responder equipment (including items such as chemical detection equipment, personal protective equipment, and decontamination equipment).

- Directs the Homeland Security Secretary, in consultation with appropriate authorities, to develop national voluntary consensus standards for the training of first responders.
- Clarifies that this legislation supersedes the grant program for state and local domestic preparedness support in the USA PATRIOT Act (Public Law 107-56).
- Instructs the Secretary of Homeland Security, in consultation with the heads of other appropriate federal agencies and representatives of providers and participants in the telecommunications industry, to conduct a study to determine whether it is cost-effective, efficient, and feasible to establish and implement an emergency telephonic alert notification system that would:
 - alert persons in the United States of imminent or current hazardous events caused by acts of terrorism; and
 - provide information to individuals regarding appropriate measures that may be undertaken to alleviate or minimize threats to their safety and welfare posed by such events.
- Requires that the Homeland Security Department, in efforts to prevent, prepare for, and respond to acts of terrorism and other major emergencies, coordinate its efforts among its various departments.

Subtitle B—Government Reorganization Authority

- Expands the list of organizational units within the intelligence community (including the Office of the National Intelligence Director and others) that are authorized to submit reorganization plans.

Subtitle C—Restructuring Relating to the Department of Homeland Security and Congressional Oversight

- Restructures the Office of Counternarcotics Enforcement in the Department of Homeland Security and increases congressional oversight of such Office (by requiring an annual report, etc.).
- Expresses a sense of the House of Representatives that the Committee on Rules should act upon the recommendations provided by the Select Committee on Homeland Security, and other committees of existing jurisdiction, regarding the jurisdiction over proposed legislation, messages, petitions, memorials and other matters relating to homeland security prior to or at the start of the 109th Congress.
- Adds an Assistant Secretary for Cybersecurity at the Homeland Security Department for overseeing the nation's communications system.

Subtitle D—Improvements to Information Security

- Makes several clarifying adjustments.

Subtitle E—Personnel Management Improvements

- Allows the President to appoint people to certain national security positions without the advice and consent of the Senate. In other cases where Senate confirmation is required, such requirement would be eliminated if the Senate did not hold a confirmation vote within 30 legislative days.
- Requires extensive public financial disclosure for certain employees in the intelligence community. Sets civil penalties for failure to comply.
- Increases the mandatory separation age at the FBI from 60 to 65 (with no exemptions granted after the end of 2009) and authorizes retention bonuses at the FBI.
- Authorizes the creation of an FBI Reserve Service for the temporary reemployment of no more than 500 retired FBI specialists during any single emergency. The reemployment could not be for more than 180 days (subject to exception), and these re-employees would not count toward the FBI personnel ceiling.
- Requires a report from the President to Congress evaluating the hiring policies of the federal government with respect to its foreign language needs and the war on terrorism.

Subtitle F—Security Clearance Modernization

- Places the day-to-day and longer-term oversight of investigation and adjudications for personnel security clearances and highly sensitive programs throughout the federal government under the newly created Deputy National Intelligence Director for Community Management and Resources.
- Requires that all security clearance investigations and determinations conducted by an authorized investigative agency be accepted by all such agencies. Prohibits duplicate investigations for security clearance.
- Establishes a national database (authorized indefinitely at “such sums”) for information related to the granting, denial, and revocation of security clearances.
- Requires the ongoing verification of personnel with security clearances.
- Within two years of enactment of this bill, security clearances would have to be granted or denied within 120 days of applying. Within five years of enactment, this time period would shrink to 60 days.

- Provides for expedited completion of background checks for prospective high-level national security employees and certain transition team members soon after a presidential election.

Subtitle G—Emergency Financial Preparedness

- Extends the emergency order authority of the Securities and Exchange Commission.
- Gives analogous emergency authority to the Treasury Department with respect to government securities.
- Encourages private sector disaster and emergency preparedness.
- Requires a status update from the Secretary of the Treasury on the formation of public-private partnerships to protect critical financial infrastructure.

Subtitle H—Other Matters

- Requires that agencies proposing or finalizing regulatory changes involving the internal revenue laws of the U.S. include an assessment of the impacts on individual privacy of the proposed or final rule changes.
- Directs all federal agencies to periodically evaluate its rules' impact on individual privacy.
- Establishes within each federal agency with law enforcement or anti-terrorism functions a chief privacy officer.
- Authorizes localities, states, and the federal government to enter into mutual aid agreements to provide emergency services across jurisdictional boundaries upon request in the event of an emergency. Clarifies liability and other legal-responsibility matters.
- Authorizes states and localities to enter into litigation management agreements so that claims against emergency response providers from more than one state (responding to a single act of terrorism) could be handled in federal court (as detailed in the bill).
- Directs the Secretary of Homeland Security, in consultation with the Secretary of Commerce and the FCC Chairman, to establish a program to enhance public safety interoperable communications at all levels of government—with particular emphasis on jurisdictions at consistently high risk of terrorist attack. The Secretary could establish an Office for Interoperability and Compatibility to carry out this program.

Additional Background: The National Commission on Terrorist Attacks Upon the United States (also known as the 9-11 Commission), an independent, bipartisan commission created

by Congress and the signature of President George W. Bush in late 2002, was chartered to prepare a full and complete account of the circumstances surrounding the September 11, 2001 terrorist attacks, including preparedness for and the immediate response to the attacks. The Commission was also directed to provide recommendations designed to guard against future attacks.

On July 22, 2004 the Commission released its public report, available at this website (along with a list of Commission members and staff):

<http://www.9-11commission.gov/report/index.htm>

The Commission closed on August 21, 2004.

Committee Action: On September 24, 2004, H.R. 10 was referred to the Permanent Select Committee on Intelligence, the Committees on Armed Services, Education and the Workforce, Energy and Commerce, Financial Services, Government Reform, International Relations, the Judiciary, Rules, Science, Transportation and Infrastructure, Ways and Means, and the Select Committee on Homeland Security. The Intelligence, Armed Services, Financial Services, Government Reform, and Judiciary Committees held mark-up sessions on the bill and reported the bill to the full House.

On October 4, 2004, the Rules Committee released a “Rules Committee Print,” which compiled all of the elements from the various committee reports into a single version that will come to the House floor on Thursday, October 7th.

Administration Position: The Administration has signaled its support of 9/11 Commission implementation legislation generally, yet has made no official statement on H.R. 10.

Cost to Taxpayers: Although a formal CBO cost estimate for the version of the bill that will come to the House floor is unavailable, an informal estimate reports that the bill would authorize appropriations of about **\$2.1 billion in FY2005** and about **\$20.5 billion over the FY2005-FY2009 period**. Additionally, the bill would reduce mandatory spending by about \$25.0 million in FY2005 and about \$4.0 million over the FY2005-FY2009 period.

Some of the largest authorizations over five years, according to the informal cost estimate, include:

- The extension of first-responder grants through FY2009 (about \$6.7 billion)—they are currently authorized through FY2007
- The increased funds for aviation security (about \$5.2 billion)
- The increase for the Community-Oriented Policing Services (COPS) Program (about \$3.1 billion)
- The increase in the number of border patrol and immigration agents (about \$3.1 billion)

Does the Bill Expand the Size and Scope of the Federal Government?: Most certainly. Several new offices, new programs, and new authorities are created as detailed above.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates? Yes, as detailed throughout this Legislative Bulletin.

Constitutional Authority: Of the four committees that reported the bill, only the Financial Services Committee included a complete constitutional authority statement. That is, the Financial Services Committee, in House Report 108-724, Part 3, cites constitutional authority in Article 1, Section 8, Clause 1 (relating to the general welfare of the United States), Clause 3 (relating to the power to regulate interstate commerce), and Clause 5 (relating to the power to coin money).

House Rule XIII, Section d(1), requires that all committee reports contain “a statement citing the *specific* powers granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution.” *[emphasis added]*

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