

December 3, 2004

The 9-11 Commission Bill:

Some Differences Between the House-Passed Bill and the Conference Agreement

Note: This document summarizes some differences between the version of the 9-11 Recommendations Implementation Act (H.R. 10/ S. 2845) as it passed the House on October 8, 2004, and the version that was reportedly agreed to by the Conference Committee in November. **This document is not intended to be exhaustive.**

Some provisions in the House-passed bill that are not found in the November Conference agreement

- Requiring that half of the new immigration investigators be focused on enforcing restrictions on illegal aliens in the workforce and requiring that each state receive at least three of the new immigration investigators.
- Providing for expedited removal of illegal aliens arriving in the United States and increasing the burden of proof for the alien seeking asylum in such instances.
- Setting certain limits on asking for judicial review of visa revocations.
- Making it more difficult for terrorists and foreign criminals to win delays of their removal from the United States.
- Allowing for the deportation of all aliens who have engaged in or been affiliated with terrorist activities.
- Requiring applicants for driver's licenses to show proof of legal status in the United States.
- Explicitly requiring applicants for driver's licenses to show proof of Social Security number, date of birth, etc., instead of just vaguely requiring proof of identification.
- Requiring the Homeland Security Department to certify that states have met the minimum driver's license issuance and document standards.

- Providing for the electronic confirmation by state motor vehicle departments of the validity of other states' driver's licenses and information.
- Including provisions that distribute Homeland Security grants to first responders (via a new task force) 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. The House bill 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. States would have to pass through 80% of funds to localities (subject to penalties for failure to do so).
- Making it illegal to traffic in actual authentication features for identity documents (it's already illegal to traffic in fake authentication features).
- Implementing criminal penalties for false claims to citizenship.
- Explicitly requiring verification of certain information (such as identity, mother's maiden name, etc.) for the issuance of birth certificates acceptable by a federal agency, instead of just vaguely requiring proof of identification. Also requiring that participating states adopt standardized practices for how they secure vital records offices.
- Consolidating the Community Oriented Policing Services (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. Authorizations for the COPS Program would be \$1.008 billion for FY2005, \$1.027 billion for FY2006, and \$1.047 for FY2007.
- Exempting certain tracts of land along the southern U.S. border from various environmental regulations to expedite the completion of security barriers.

**Some provisions found in the November Conference agreement that were
not in the House-passed bill**

- Allowing a state to waive some of the federal driver's license issuance and document standards if they "infringe on a State's power to set criteria concerning what categories of individuals are eligible to obtain a drivers license or personal identification card from that State."
- Limiting the Homeland Security Department's power to create the regulations regarding the driver's license standards by requiring negotiated rulemaking amongst

DHS, the Department of Transportation, state drivers license departments, state elected officials, and other “interested parties.”

- Instructing the Director of National Intelligence to ensure that the National Intelligence Program budgets for the elements of the intelligence community within the Department of Defense are adequate to satisfy DoD’s national intelligence needs, as well as the needs of the Chairman of the Joint Chiefs of Staff and the commanders of the unified and specified commands.
- Establishing a National Counter Proliferation Center to prevent and halt the proliferation of weapons of mass destruction, their delivery systems, related materials and technologies.
- Establishing within the Executive Office of the President a Privacy and Civil Liberties Oversight Board.
- Providing for the establishment of a competitive center of excellence that will develop and expedite the federal government’s use of biometric identifiers.
- Requiring DHS to compare passenger lists on cruise ships to terrorist watch-lists.
- Authorizing the Secretary of Homeland Security to carry out a pilot program to test various advanced technologies that will improve border security between ports of entry along the northern border of the United States.
- Directing the Secretary of Homeland Security to submit to the President and Congress a comprehensive plan for the systematic surveillance of the southwest border of the United States by remotely piloted aircraft.
- Directing the Secretary of State to require every alien applying for a nonimmigrant visa who is at least 14 years of age and not more than 79 years of age to submit to an in-person interview with a consular officer (subject to waiver).
- Authorizing the Secretary of State to establish through an existing international organization, such as the United Nations Educational, Science and Cultural Organization (UNESCO) or other similar body, an International Youth Opportunity Fund to provide financial assistance for the improvement of public education in the Middle East and other countries of strategic interest with predominantly Muslim populations.
- Authorizing the President to establish an international counterterrorism policy contact group with the leaders of governments providing leadership in global counterterrorism efforts and governments of countries with sizable Muslim populations, to be used as a ready and flexible international means for discussing and coordinating the development of important counterterrorism policies.

- Codifying the Human Smuggling and Trafficking Center to become the focal point for interagency efforts to use intelligence information to address terrorist travel and facilitation, migrant smuggling, and trafficking of persons.
- Directing the Secretary of Homeland Security to propose minimum standards, subject to congressional approval, for identification documents required of domestic commercial airline passengers for boarding an aircraft. Any proposed standards submitted to Congress would take effect when a non-amendable, privileged joint approval resolution is passed by the House and the Senate (under the detailed, House-Rules-related procedures described in the Conference Agreement) and signed into law.
- Instructing the National Intelligence Director to establish a formal relationship, including information sharing, between the elements of the intelligence community and the National Infrastructure Simulation and Analysis Center.
- Establishes the Office of Geospatial Management within the Homeland Security Department's Office of the Chief Information Officer.

Other differences and adjustments

- The House bill increases the number of detention beds for immigration violators by 5,000 (over two years). The Conference Agreement's increase is 40,000 (over five years).
- The House bill 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). The Conference Agreement would limit this provision to establishing identity to any federal employee while boarding an aircraft.
- Both the House bill and the Conference Agreement create a reserve corps for the re-employment of retired FBI employees during emergencies. The Conference Agreement would expand this corps to all elements of the intelligence community.
- The Conference Agreement expands on the House bill's requirements for national transportation security planning. The House bill assigns such planning to the Department of Homeland Security. The Conference Agreement requires that DHS work with the Department of Transportation on the planning.
- The House bill requires the Social Security Administration (SSA) to verify the birth records of applicants for a Social Security number. The Conference Agreement allows SSA to waive this requirement.

- The House bill establishes a Visa and Passport Security Office within the State Department. The Conference Agreement creates a Visa and Passport Security Program, with much the same functions and requirements to formulate a strategic plan for combating visa and passport fraud.
- The Conference Agreement sets out specifics for mutual aid agreements in the National Capital Region (for shared training for and responses to regional emergencies). The House bill allows mutual aid agreements nationwide but does not have a specific section for the National Capital Region.

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