

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF THE CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2845), to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The House amendment struck all of the Senate bill after the enacting clause and inserted a substitute text. The Senate recedes from its disagreement to the amendment of the House with an amendment that is a substitute for the Senate bill and the House amendment.

A summary of the substitute agreed to in conference is set forth below:

This legislation in part implements the recommendations of the National Commission on Terrorist Attacks Upon the United States (the “9/11 Commission”) but also responds to other studies and related commissions which focused on intelligence reform for protecting the United State against acts of terrorism. In July 2004, the 9/11 Commission released a comprehensive report chronicling the circumstances leading up to the terrorist attacks of September 11, 2001. The Commission made over forty recommendations to strengthen the United States’s ability to prevent future terrorist attacks. These recommendations included reorganization of the U.S. Intelligence Community by creating an empowered Director of National Intelligence (DNI) and a National Counterterrorism Center (NCTC). The recommendations also spanned a variety of other areas such as foreign policy and transportation security. This conference report makes a number of necessary changes in government structure, law enforcement, and security arrangements to protect the American people better.

Intelligence

DNI. A number of past studies have found that the current Director of Central Intelligence lacks sufficient authority to steward the Intelligence Community and transform it into an agile network to fight terrorist networks. In response, and as envisioned by the Senate bill and the House amendment, the conference report creates a DNI appointed by the President, confirmed by the Senate, and without the responsibility of directing the Central Intelligence Agency. Also as envisioned by the Senate bill and the House amendment, the DNI would head the Intelligence Community; serve as the principal intelligence adviser to the President; and

oversee and direct the implementation of the National Intelligence Program.

The conference report's formulation of the DNI's authorities is a composite of the authorities in the Senate bill and the House amendment. For example, relying on various House and Senate provisions, the conference report gives the DNI strong authority concerning the National Intelligence Program, such as unambiguous authority to task collection and analysis. The conference report does not expand authority under which information is classified, which is pursuant to Executive Order or other Presidential directive, but rather directs the DNI to establish and implement guidelines for the intelligence community for the purpose of such classification of information. In addition, the Conferees recognize the need to provide the DNI with enhanced personnel transfer flexibility in order to maximize the Intelligence Community's functionality. The Conferees encourage the DNI to consult with the Committees of the Congress enumerated by this provision to establish mutually agreeable procedures to fulfill the notice requirements in this provision.

NCTC. The NCTC is an innovation designed to achieve horizontal integration or "matrix management" for the Executive Branch—meaning seamless coordination across departmental lines against interdisciplinary problems epitomized by terrorism. Once again fusing perspectives from the Senate bill and the House amendment, the NCTC would be the primary Executive Branch organization for counterterrorism intelligence and strategic operational planning.

Security Clearances and FBI Restructuring. The conference report rationalizes the Executive Branch's security clearance process, which currently cannot satisfy the demand for clearances in government and the private sector. Merging visions articulated in the Senate bill and the House amendment, the conference report seeks to bring greater efficiency, speed, and interagency reciprocity to the security clearance process while maintaining the highest standards. Finally, the conference report contains a series of provisions, taken from the Senate bill and the House amendment, to restructure and buttress the FBI's intelligence capability.

Information Sharing. In order to help the government better "connect the dots," the conference report requires that the President establish an Information Sharing Environment to facilitate the sharing of terrorism information, through the use of policy guidelines and technologies.

Other issues

Intelligence reorganization, while critical, is only one part of the larger task of protecting the United States against terrorism and combating the root causes of terrorism. Indeed, the transnational threat of terrorism cuts across a disparate array of issues: e.g., diplomacy, economic development, immigration, and transportation. Thus the conference report focuses not only on intelligence reform but also on a spectrum of other reforms designed to protect Americans.

Foreign Relations. The conference report has a number of provisions concerning relations between the United States and key

Middle Eastern and South Asian countries as well as to improve the manner in which the United States conducts its foreign relations. For example, the conference report attempts to improve U.S. public diplomacy, educational and cultural exchange programs, and foreign media outreach in order to build good will and promote democracy and prosperity in the Middle East. The conference report also includes provisions designed to strengthen United States policy to develop and implement a strategy to eliminate terrorist sanctuaries.

Transportation Security. The conference report blends House and Senate language on similar concerns. The conference report requires a national transportation security strategy, improves the use of passenger watchlists, and otherwise enhances the safety of aviation and other forms of travel. Additionally, the conference report includes House provisions relating to the use of biometric technology to regulate access to secure areas of airports and Senate provisions relating to air cargo and general aviation security.

Terrorist Travel and Effective Screening. These sections include an array of measures to disrupt terrorist travel and intercept terrorists. For instance, the conference report would improve intelligence collection and analysis on terrorist travel. Also, it would tighten security standards for key identification documents including driver's licenses, birth certificates, and social security numbers.

Border Protection, Immigration, and Visa Matters. These provisions are designed to enhance security of U.S. borders and the enforcement of border and immigration laws. For example, the conference report blends House and Senate provisions that call for an increase in the number of full-time border patrol agents. The conference report also includes Senate provisions that permit the Secretary of Homeland Security to carry out a pilot program to test advanced technologies that will improve border security between ports of entry along the northern border of the United States. And it includes a House provision that increases detention bed space available for immigration detention and removal.

Terrorism Prevention. These sections include measures to provide additional enforcement tools against terrorist activity, e.g. money laundering and terrorist financing laws. The conference report adopts a House provision to amend the Foreign Intelligence Surveillance Act concerning "lone wolf" terrorists; a similar provision had previously passed the Senate.

Diplomacy, Foreign Aid, and the Military in the War on Terrorism. In these provisions, the conference report guides the Executive Branch concerning the use of all elements of national power—including diplomacy, military action, intelligence, law enforcement, economic policy, foreign aid, public diplomacy, and homeland defense—to win the war on terrorism. The conference report adopts Senate language on U.S.-Saudi relations and efforts to combat Islamist terrorism. In addition, it includes House language on terrorist sanctuaries and U.S. assistance to Afghanistan and Pakistan.

National Preparedness. The conference report consolidates several sections on the Incident Command System and interoperable communications from the Senate bill and the House amendment. It

includes a Senate provision authorizing mutual aid for first responders in the National Capital Region.

Civil liberties and privacy

The conference report creates a Privacy and Civil Liberties Oversight Board that is charged with ensuring that privacy and civil liberties concerns are appropriately considered in the implementation of laws, regulations, and policies of the government related to efforts to protect the Nation against terrorism. The conference report also expresses a sense of the Congress that a civil liberties and privacy officer should be designated for each department and agency that carries out law enforcement or anti-terrorism functions.

The task of protecting the United States against terrorism poses a daunting challenge. This conference report is a significant step in the right direction for America.

PETER HOEKSTRA,
DAVID DREIER,
HENRY HYDE,
DUNCAN HUNTER,
JANE HARMAN,
ROBERT MENENDEZ,
IKE SKELTON,

Managers on the Part of the House.

SUSAN M. COLLINS,
JOE LIEBERMAN,
TRENT LOTT,
RICHARD J. DURBIN,
MIKE DEWINE,
PAT ROBERTS,
JOHN D. ROCKEFELLER, IV,
GEORGE V. VOINOVICH,
JOHN E. SUNUNU,
BOB GRAHAM,
FRANK R. LAUTENBERG,
NORM COLEMAN,

Managers on the Part of the Senate.

