

Congress of the United States
House of Representatives
Washington, DC 20515-0907

January 11, 2007

Dear Colleague,

During this week's consideration of the Democrats' H.R. 1, the "Implementing the 9/11 Commission Recommendation Act of 2007", Members were asked to hastily vote on the legislation without full consideration of its implications relating to aviation security, emergency management and port security.

In particular, H.R. 1 failed to address critically important pending aviation security issues, while including potentially damaging provisions that were not recommended in the 9/11 Commission's Report. Because of the potential for diverting scarce aviation security resources, I strongly opposed the bill and appreciate you joining me in your opposition.

In a disappointing failure of the promised legislative process, the Democratic Leadership has turned the historically bipartisan issue of National Security into a unilateral effort. The legislation we were forced to hastily consider had a number of serious problems. Beginning on the next page, you will find my Floor statement from the debate in which I described a number of concerns regarding aviation security, emergency preparedness and port security provisions contained in H.R. 1, the "Implementing the 9/11 Commission Recommendation Act of 2007". Also included are talking points concerning the aviation provisions. I am providing these materials for your use and in further substantiation of your vote.

I appreciate your thoughtful opposition in this matter so critical to our National Security.

Sincerely,



John L. Mica
Ranking Member

H.R. 1 - Implementing the 9/11 Commission Recommendations Act - Statement of Transportation and Infrastructure Ranking Member John Mica

“Mr. Speaker, I rise today to bring to Members’ attention a number of concerns I have with the aviation security, emergency preparedness, and port security provisions contained in H.R. 1, the “Implementing the 9/11 Commission Recommendations Act of 2007.”

AVIATION SECURITY PROVISIONS:

“Almost all of the aviation security provisions in H.R. 1 address requirements previously authorized or mandated by the Republicans in the years since September 11th.

“H.R. 1 sets up an unrealistic Cargo Inspection Program that will be impossible to implement without bringing commerce to a halt and diverts limited funding and attention from higher security threats. Even more, Congress already addressed this recommendation in the Intelligence Reform and Terrorist Prevention Act of 2004; provided \$200M each year 2005-2007 to improve cargo security and \$100M each year 2005-2007 for research and development.

“H.R. 1 will require inspection or a physical search of each piece of cargo and will therefore bring commerce to a grinding halt.

“H.R. 1 ignores risk assessments to date that cargo is not a high threat area. Rather, passenger and baggage screening has been and should continue to be the first priority. Yet, passenger security checkpoints are still using 1950’s technology with little explosive detection capability. Currently, only 28 out of 441 commercial airports have full or partial in-line EDS. Of the largest 29 airports that handle 75% of all passengers, only 9 have full in-line EDS systems.

“Additionally, even though it is NOT a 9/11 Commission Recommendation, H.R. 1 gives TSA employees collective bargaining which will keep in place a flawed system and negatively impact the introduction of much needed screening technology.

“The only thing worse than government bureaucracy is entrenched government bureaucracy. Yet that is exactly what H.R. 1 is seeking to create. In fact, H.R. 1 ignores and reverses Congressional direction in the Aviation and Transportation Security Act that a flexible personnel management system is essential to TSA’s critical national security role. H.R. 1 also ignores and reverses TSA’s January 2003 determination that, “...individuals carrying out the security screening function ..., in light of their critical national security responsibilities, shall not, ... be entitled to engage in collective bargaining...”

“H.R. 1 will be costly and will keep in place a flawed, security system and deny the opportunity to put in place much needed screening technology. Europeans learned

the hard way and moved from a government-run airport security system to a private system with government oversight. It looks like we are not learning from their efforts.

“Finally, H.R. 1 does not address many important aviation security issues such as:

- Ensuring biometrics operations in identification and access control;
- Deploying high technology solutions;
- Improving pilots’ licenses;
- Setting a term for TSA Deputy Secretary position. We have had 4 different people in charge in the 5 years since the agency was created (Magaw, Loy, Stone and Hawley) – not counting when the post was unfilled. For instance, in 2001, the Democrat-lead Senate adjourned for the year without taking action to fill this post – the President had to make a recess appointment on January 7th, 2002.

EMERGENCY MANAGEMENT PROVISIONS:

“The Post Katrina Emergency Management Reform Act and past appropriations bills already address most of the 9/11 Commission’s first responder recommendations. Republicans already implemented comprehensive emergency management reform. Normal procedure and a committee markup would have allowed Congress to address the few inconsistencies with the Post Katrina Emergency Management Reform Act enacted by the last Congress.

“H.R. 1 makes only minor emergency management reforms. Republicans enacted comprehensive emergency management reform last year in the Post Katrina Emergency Management Reform Act addressing interoperable communications, emergency preparedness standards and FEMA reform. H.R. 1 authorizes another grant program for communications equipment, providing for “such sums as necessary.” This is just an authorization, not real money. In contrast, the Republicans passed a law that will allocate a portion of the digital spectrum sale to interoperable communications grants. This is real money, and will be a billion dollars.

“H.R. 1 is a first step toward the Federal Government placing unfunded mandates for preparedness on private businesses. It is important for individuals and businesses to be prepared for disasters, but H.R. 1 includes a provision that is a first step toward the federal government placing unfunded mandates for preparedness on private businesses. It goes well beyond any Congressionally-mandated role and inserts the Federal Government into state and local affairs.

PORT SECURITY PROVISIONS:

“Well before the 9/11 Commission’s report in 2004, Congress recognized the potential for a maritime-based terrorist attack. In 2002, Congress adopted the Maritime Transportation Security Act which established a framework of comprehensive port and

vessel security. Congress expanded the Act in 2004 and adopted the SAFE Port Act last year. The SAFE Port Act established a cargo scanning pilot program. That program will start scanning containers bound for the United States in at least 5 foreign ports later this year.

“So, I am surprised to see the proposal to mandate 100 percent screening on the floor today. That is **NOT** the recommendation of the 9/11 Commission. The Commission recommends that the government “identify and evaluate the transportation assets that need to be protected, set risk-based priorities for defending them, select the most practical and cost-effective ways of doing so, and then develop a plan, budget, and funding to implement the effort.” **That isn’t what this provision does.**

“While the proposal before us today would allow the existing pilot program to continue, it would also require each and every cargo container to be screened in each and every foreign port not later than 5 years, and as soon as 3 years from enactment. This requirement would come into effect regardless of the results of the pilot program and, perhaps, regardless of the availability of any sufficient screening system.

“When this proposal was first made last year, it was opposed by the Administration, the maritime transportation industries, and such voices as the Washington Post’s editorial page. Instead of enacting any blanket requirements on the maritime transportation sector without any technologies capable of achieving the standards, Congress rightly required the Department of Homeland Security to test the capabilities of available scanning technologies.

“My friends on the other side of the aisle are justifying their proposal by saying that 100 percent scanning systems are in place at two ports overseas. **It is not.** In these ports, some – but not all – containers are scanned, and none of the scans are analyzed to determine that the container is or is not a risk.

“No system currently in place in any port worldwide is capable of scanning and reviewing 100 percent of containers that are bound for the United States. What will we do in 3 years if there are no scanning technologies available without creating massive backups and delays in international maritime commerce? Let’s complete the pilot program so we don’t establish mandatory requirements that we will not be able to meet.

“Congress has acted to make America’s maritime commerce safer than before 9/11. It is unfortunate that this bill has been brought to the House Floor with the intention of convincing the American people that until now Congress has simply let the 9/11 Commission recommendations languish. Nothing could be further from the truth.”

Aviation Provisions Talking Points

Almost all of the aviation security provisions in H.R. 1 address requirements previously authorized or mandated by the Republicans in the years since September 11th.

H.R. 1 sets up an unrealistic Cargo Inspection Program that will be impossible to implement without bringing commerce to a halt and diverting limited funding and attention from higher security threats.

- Congress already addressed this recommendation in the 9/11 Intel Act; provided \$200M each year 2005-2007 to improve cargo security and \$100M each year 2005-2007 for research and development.
- H.R. 1 will require inspection or a physical search of each piece of cargo and will therefore bring commerce to a grinding halt.
- H.R. 1 ignores risk assessments to date that cargo is not a high threat area.
- Passenger security checkpoints are still using 1950's technology with little explosives detection capability.
- Currently, only 28 out of 441 commercial airports have full or partial in-line EDS.
- Of the largest 29 airports that handle 75% of all passengers, only 9 have full in-line EDS systems.

Even though it is NOT a 9/11 Commission Recommendation, H.R. 1 gives TSA employees collective bargaining which will keep in place a flawed system and negatively impact the introduction of much needed screening technology.

- *“The only thing worse than government bureaucracy is entrenched government bureaucracy.”*
- H.R. 1 ignores and reverses Congressional direction in the Aviation and Transportation Security Act that a flexible personnel management system is essential to TSA's critical national security role.
- H.R. 1 ignores and reverses TSA's determination that, *“...individuals carrying out the security screening function ..., in light of their critical national security*

responsibilities, shall not... be entitled to engage in collective bargaining....”
(issued 01/08/03)

- H.R. 1 will be costly, will keep in place a flawed, security system and will deny the opportunity to put in place much needed screening technology.
- Twenty years ago the Europeans learned the hard way and moved from a government-run airport security system to a private system with government oversight.

Important aviation security issues not addressed in H.R. 1:

- Ensuring biometrics operations in identification and access control.
- Deploying high technology solutions.
- Improving pilots' licenses.
- Setting a term for TSA Deputy Secretary position. We have had 4 different people in charge in the 5 years since the agency was created (Magaw, Loy, Stone and Hawley) – not counting when the post was unfilled. For instance, in 2001, the Democrat-lead Senate adjourned for the year without taking action to fill this post – the President had to make a recess appointment on January 7th, 2002.