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Washington BTS Update

A WEEKLY REPORT ON BORDER AND TRANSPORTATION SECURITY
LEGISLATIVE & REGULATORY ISSUES

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This Week's BTS Agenda in Congress

HOUSE

The House has adjourned, but not sine die. It could return at the call of the Speaker.

SENATE

The Senate has adjourned, but not sine die. It could return at the call of the Majority Leader.

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Congress Fails to Finish Intelligence Reform

Congress on Saturday (November 20) completed its lame-duck session without finishing action on the intelligence reform legislation. A final compromise worked out among House and Senate and Republican and Democratic negotiators early Saturday ran into substantial opposition on the part of conservative House Republicans during a meeting of the House GOP conference later Saturday. With House GOP leaders not wanting to bring the agreement to the House Floor without majority Republican support and having to rely on Democratic votes to pass it, they decided to pull the bill and pass an adjournment resolution.

The leadership advised Members that the conferees will continue working towards an agreement on the intelligence legislation while the House is adjourned. It told Members and staff that the 108th Congress has not yet adjourned sine die and there remains a chance that the House could reconvene at some point again this year. That represents an effort by Speaker Dennis Hastert (R-IL) to keep the legislation alive and leave the door open for Congress to return this year if an agreement is reached. Others indicated, however, that the prospects in this regard are slim.

Negotiators Duncan Hunter (R-CA) and James Sensenbrenner (R-WI) led the opposition. Hunter said he opposed the agreement because the final compromise removed a White House-drafted section ensuring that tactical or battlefield intelligence agencies would still be primarily directed by the Secretary of Defense. His concern was, as it has been from the beginning, that too much of the intelligence authority was taken away from the Defense Department, thus undermining efforts on the battlefield. Sen. Susan Collins (R-ME), top Senate negotiator, countered that Hunter's argument was "utterly without merit," saying that the agreement would actually improve the real-time intelligence troops receive in combat.

Sensenbrenner's concerns were over the House-approved immigration provisions that were dropped in the final agreement. Many House Republicans believe that illegal immigration is out of control and that steps

need to be taken to make it easier to deport alien suspects and deny drivers licenses to undocumented immigrants, among other things, in order to address the problem. Collins said that the subject should be addressed in separate legislation next year.

Hastert Supports Making Homeland Security Committee Permanent

House Speaker Dennis Hastert (R-IL) last week (November 16), in a speech before the House Republican Conference accepting his nomination of him for a fourth term as Speaker, announced that he would be making permanent the House Select Committee on Homeland Security. Hastert said: "In the last Congress, we created a Select Committee on Homeland Security to help us coordinate our legislative response to the new Department of Homeland Security. This year, it is my intention that we make that Committee permanent." The Speaker has the power to take such action.

Without such action by the Speaker, the Select Committee would die with the end of the current 108th Congress. Select Committee Chairman Christopher Cox (R-CA) applauded the Speaker's action, saying: "I thank Speaker Hastert for his bold and timely action in recognizing the need for a permanent Homeland Security Committee to focus our legislation efforts with respect to the Department of Homeland Security and related matters. Just as the Executive Branch reconfigured itself to confront terrorism efficiently here at home, Congress must also adapt to fulfill

its role as a coequal partner in this vitally important effort."

Cox added: "A permanent Homeland Security Committee will help Congress do its part to safeguard the American people, territory, and way of life. To succeed, however, it is critical that the Committee have meaningful legislative and oversight jurisdiction over the Department of Homeland Security. Fragmented oversight and toothless jurisdiction will do nothing to improve the safety of our communities and the well-being of Americans."

The Speaker also announced at a meeting of the House GOP Steering Committee November 18 that he supports making the Committee a "standing" committee, which means a regular committee, as against its current "select" committee status. While there is little practical difference between the two types, except in the selection of members, a standing committee is considered to have a little more theoretical authority. Members of a standing committee are chosen by the GOP Steering Committee, while select committee members are designated by the Speaker

Additionally, GOP members cannot serve both as a member of the elected Republican leadership and as a standing committee chairman. That impacts Cox because he will not be able to serve both as Chairman of the Homeland Security Committee and of the House Republican Policy Committee, to which he was just re-elected, unless he receives a waiver. Cox said: "The question in the

Congress is over turf." He said he has no interest in serving on a committee that has no authority. He concluded: "I'll make my personal decision when I see the hand I've been dealt."

Conservative Groups Backing Rogers for Approps. Committee Chair

Rep. Hal Rogers (R-KY) is receiving lobbying support from a number of conservative interest groups in his race for Chairman of the House Appropriations Committee, according to recent reports. The Christian Coalition is one of the groups mentioned in this regard.

Rogers currently serves as Chairman of the Homeland Security Appropriations Subcommittee, where he plays a key role in funding for the various homeland security programs. Republican term limit rules which limit members from serving as chairman of a specific committee for more than six years have forced current Appropriations Committee Chairman Bill Young (R-FL) to step down in the upcoming 109th Congress. Besides Rogers, Reps. Jerry Lewis (R-CA) and Ralph Regula (R-OH) are running to succeed Young as Chairman. Both of the latter members have slightly more seniority on the Committee than Rogers.

Ridge Calls for International Cargo and Biometrics Standards

In remarks to the Asia-Pacific Homeland Security Summit in Honolulu last week (November 15), Homeland Security Secretary Tom Ridge complemented steps taken thus far by nations in the Asia-Pacific region in the war on terrorism. He particularly cited the implementation of international standards and programs that protect our ports, cargo, borders and other vital infrastructure, such as the International Ship and Port Facility Security Code.

He said: "For the first time ever, we have one global standard for ship and port security, and we are moving forward rapidly to implement that standard. This effort will increase our ability – and that of our allies – to prevent terrorists from attacking our ports or using ships as weapons." But, he added, we must "take additional steps to secure cargo – and along with it, the foundation for global commerce."

Ridge said: "A good place to start – this is similar to what we did with port security – is to forge a commitment to standards. Such cooperation could include the development of common standards for cargo and consistent procedures that would allow countries to build upon existing protections to make shipping containers – and the ports they reach – more secure than ever before." He stressed the need "to harness the power of technology and take advantage of innovative tools already available.

Technologies such as electronic seals and container-tracking devices offer additional protections against container tampering – thus further securing our ports and ships from possible attack."

Biometrics was particularly cited by Ridge as a "valuable and useful security tool," and mentioned the US-VISIT program where it is being widely used. But, he said that to apply the use of biometrics globally, "we must develop a set of international standards for capturing, analyzing, storing, reading and protecting biometric data in order to ensure maximum interoperability between systems, and maximum privacy for individuals."

On a separate front, the European Union announced November 15 that it has adopted a framework that contains measures strengthening maritime container security. The E.U. Commission Delegation in Washington said that the measures include "an information exchange network, the agreement on minimum requirements applicable for all European ports willing to participate in the US Container Security Initiative (CSI) and identification of best practices concerning security controls of international trade."

Several TSA Screening Programs to Be Consolidated in One Office

The Transportation Security Administration has announced that several transportation screening programs will be

consolidated in one office, likely to be named the Office of Transportation Vetting and Credentialing. A TSA spokesman was quoted as saying: "This is a common-sense measure that will help us streamline the agency."

The programs will include Secure Flight, Registered Traveler, programs monitoring transportation workers, and the program that clears foreigners who want to take flying lessons in the United States. The new office will be headed by Justin Oberman.

Ridge Urges Governors To Streamline Grant Process

Homeland Security Secretary Tom Ridge, in a speech before the Republican Governors Association Friday (November 19), urged that they take the lead in streamlining the state and local grant process, a process which has thus far resulted in bottlenecks and delays in getting homeland security grant funds out to the local level, including to first responders.

Ridge cited a provision in this year's Homeland Security Appropriations Bill that would enable states to spend state homeland security funds and then seek federal reimbursement as being a step that should help the process. He said: "This one year exemption is an opportunity for you and local leaders across the nation to build a grants process that will work faster and smarter in the long-run"

He referred to recommendations of a Secretary's Task Force on State and Local Grant Funding which he had established, stating: "This group found that many of the hold-ups in moving money occurred at the state or local level, and so they made several recommendations to fix these problems. Among the most important actions recommended is to streamline state and local procurement rules and regulations as well as legislative oversight procedures. And so I urge you to personally take a leadership role as you work to implement these measures to streamline the grant process in your states, cities and towns."

Ridge added: "The Task Force also found that the reimbursement requirement under the ODP grant programs presented a problem for many cash-strapped state and local governments. This year, at our request, Congress has allowed for an exemption from the Cash Management Act – so communities in your states won't have to spend their own money upfront to purchase new equipment. This one year exemption is an opportunity for you and local leaders across the nation to build a grants process that will work faster and smarter in the long-run." He said that this year, some \$4 billion in grants will be available to state and local governments.

Long Beach Port Tests Worker Credentials

The Transportation Security Administration announced last week (November 17) that the Port of Long Beach in California has been chosen as the first site to

test a government-issued security pass for its workers. The pass, entitled the Transportation Worker Identity Credential (TWIC), is designed to verify worker identities. The pass, or card, contains a digital photo intended to eliminate the possibility that terrorists could use false credentials to access secure areas in seaports, airports, or cargo-handling facilities.

The Long Beach test represents the beginning of a seven-month pilot program that will be expanded to cover 34 maritime, rail, ground, and aviation facilities in six states. Undersecretary of Homeland Security for Border and Transportation Security Asa Hutchinson said: "TWIC is a significant enhancement that will prevent terrorists and other unauthorized persons from gaining access to sensitive areas of the nation's transportation system." The pilot results will be used by TSA to develop rules that will require workers in various modes of transportation to possess a TWIC. It is currently working with the Coast Guard to draft such rules for maritime workers. The next three sites to participate in the pilot program are the Ports of Pensacola and Canaveral in Florida and the Philadelphia Maritime Exchange.

CRS Says Private Security Guards Lack Pay and Training

The Congressional Research Service, a research arm of Congress, recently issued a report (November 12) on a

study it undertook in which it found that security guards hired to protect critical infrastructure are being trained insufficiently and paid too little to be a reliable force against a terrorist attack. It said that since 85 percent of all critical infrastructure is privately owned, the security workforce would also for the most part be private.

The report said that the average pay for the 1 million security guards employed in 2003 was \$19,400, less than half the pay of police officers. From training standpoint, it said that few states offer security guards counterterror training, less than half require basic training, and 16 states have no rules for conducting background checks of security guards.

The report concluded: "It is an open question whether private operators of critical infrastructure have hired, trained, and otherwise supported security guards to the degree warranted by the social value of the facilities they protect. As Congress continues its oversight of homeland security, funding for private guards may emerge as a security consideration where public benefits and private resources may not align."

Anticipating al-Qaeda: DHS science and technology czar says new software for ports could have also countered Castro

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The Department of Homeland Security efforts to improve maritime domain awareness include technological breakthroughs that, had they been available 40 years ago, might have let U.S. policymakers better anticipate, and thus counter, moves by Cuban dictator Fidel Castro. Dr. Charles E. McQueary, DHS undersecretary for science and technology, said last week.

McQueary also said that a maritime security policy coordinating committee—whose members include representatives from the U.S. Coast Guard as well as the departments of Homeland Security, Defense, State, Commerce and Justice—is reviewing all current U.S. government maritime policy initiatives and attempting to “ensure inter-agency integration and alignment.”

McQueary made his comments in a speech, “Identifying Needs and Coordinating Transportation Security Research,” given Nov. 17th at the 7th Marine Transportation System Research and Technology Coordination Conference held at the National Academy of Sciences in Washington, D.C.

The former president of General

Dynamics Advanced Technology Systems said that a software program developed at the National Visualization Center—a joint venture between DHS’ science and technology (S&T) directorate and the Pacific Northwest National Lab in Richland, Washington—shows “great promise” in anti-terror efforts as security officials sift through massive amounts of information relating to the country’s seaports, looking for patterns.

The promise for fighting current security threats, McQueary added, was shown when researchers “put 40 years of Castro’s speeches in this thing and, indeed, found that had this capability existed back in the ‘60s, when Cuba was going through its upheaval, you could have predicted, based upon the speeches that were being given, that Cuba was well on its way to nationalizing the oil industry within the state.”

By sifting through the speeches, McQueary said, “What came out of it was Castro has this way of talking more and more freely about what’s about to happen, and so if you play close attention you will get a predictive mode.”

Maritime domain awareness, he explained, is critical “to be able to distinguish between activity that is normal in the maritime environment from that which is not, so that we are positioned to best assess potential risks.”

“Right now, with limited sensors and intelligence capabilities, our decisionmakers have difficulty considering all the information

that is presented to them,” McQueary said.

“Intelligence agents, such as software programs that can detect anomalies in the midst of an abundance of data, are a primary means for improving situational awareness,” he added.

McQueary explained that his directorate, the smallest within DHS, “mobilizes the intellectual capital of the engineering and scientific communities to develop fresh and effective approaches to homeland protection.”

S&T’s mission, he added, “is to apply the nation’s research and development, testing and evaluation capabilities to develop the technologies and solutions needed to defend against the methods and tactics of the terrorists.”

McQueary also told the group that the Bush Administration is preparing to release a joint national security/homeland security presidential directive explicitly directed at port security later this month.

The directive, which he said was nearing a final review stage, “will integrate maritime security programs and initiatives on federal, state and local government levels into a comprehensive and cohesive national effort.” (See PSN’s Nov. 17 story, “Breaking News: Presidential directive on maritime security to be issued later this month.”)

A senior steering group within the maritime security policy

coordinating committee, McQueary added, is chaired by Homeland Security Deputy Secretary James M. Loy and Assistant Secretary of Defense for Homeland Defense Paul McHale, to “develop a coordinated approach for all maritime domain awareness related activities” and prepare a “national plan” to improve such awareness.

Kirk Evans, the director of the science and technology directorate’s mission support office within the Homeland Security Advanced Research Projects Agency (HSARPA) is to chair the technology working group within the steering group, McQueary added.

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