

EXPRESSING THE SENSE OF THE HOUSE OF REPRESENTATIVES THAT EFFECTIVE SHARING OF PASSENGER INFORMATION FROM INBOUND INTERNATIONAL FLIGHT MANIFESTS IS A CRUCIAL COMPONENT OF OUR NATIONAL SECURITY AND THAT THE DEPARTMENT OF HOMELAND SECURITY MUST MAINTAIN THE INFORMATION SHARING STANDARDS REQUIRED UNDER THE 2007 PASSENGER NAME RECORD AGREEMENT BETWEEN THE UNITED STATES AND THE EUROPEAN UNION

NOVEMBER 4, 2011.—Referred to the House Calendar and ordered to be printed

Mr. KING of New York, from the Committee on Homeland Security, submitted the following

R E P O R T

[To accompany H. Res. 255]

The Committee on Homeland Security, to whom was referred the resolution (H. Res. 255) expressing the sense of the House of Representatives that effective sharing of passenger information from inbound international flight manifests is a crucial component of our national security and that the Department of Homeland Security must maintain the information sharing standards required under the 2007 Passenger Name Record Agreement between the United States and the European Union, having considered the same, report favorably thereon without amendment and recommend that the resolution be agreed to.

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PURPOSE AND SUMMARY

The purpose of H. Res. 255 is to express the sense of the House of Representatives that effective sharing of passenger information from inbound international flight manifests is a crucial component of our national security and that the Department of Homeland Security must maintain the information sharing standards required under the 2007 Passenger Name Record Agreement between the United States and the European Union.

BACKGROUND AND NEED FOR LEGISLATION

In response to the terrorist attacks of September 11, 2001, Congress passed several laws to strengthen homeland security, including the Aviation and Transportation Security Act of 2001 (ATSA). In relevant part, ATSA required air carriers entering the United States to provide U.S. Customs and Border Protection (CBP) with electronic access to Passenger Name Record data (PNR) on persons traveling on flights to, from, or through the United States. PNR data includes information such as travel dates, contact details, means of payment, number of bags, and seat number.

Both the Bush and Obama Administrations concurred that PNR data is vital for national security. In 2008 and 2009, PNR helped the United States identify individuals with potential ties to terrorism in more than 3,000 cases, including the November 2008 Mumbai attack plotter, David Headley, and the perpetrator of the failed May 2010 Times Square bombing, Faisal Shazad. In FY2010, approximately one quarter of those individuals denied entry to the United States for having ties to terrorism were initially identified through PNR data.

Following the passage of ATSA, the Department of Homeland Security (DHS) began negotiating with the European Union (EU) to govern the processing of PNR data subject to EU law. After signing provisional agreements in 2002 and 2004, the U.S. and the EU reached terms on an agreement in 2007 (the EU-US PNR Agreement), which fully complied with EU and U.S. privacy law and was scheduled to expire in 2014. However, in 2009, the EU enacted the Treaty of Lisbon, which altered its political governance and granted new powers to the European Parliament. At that time, 24 of 27 nations had ratified the EU-US PNR Agreement. As a consequence, EU law now required the European Parliament to approve proposed security agreements, like the EU-US PNR Agreement. Thereafter, the European Parliament voted to reject the current EU-US PNR Agreement. Those negotiations remain ongoing.

The Committee supports the continuation of a PNR agreement with robust protections for U.S. citizens and non-citizens. Accordingly, on September 21, 2011, the House Homeland Security Committee approved a bipartisan resolution (H. Res. 255) affirming that the effective sharing of passenger information from inbound international flight manifests is crucial to our national security and urging DHS to oppose any effort by the EU to frustrate counterterrorism cooperation and information sharing as reflected in the 2007 EU-US PNR agreement. In May 2011, the Senate passed a companion resolution.

HEARINGS

No hearings were held on H. Res. 255 in the 112th Congress.

COMMITTEE CONSIDERATION

The Committee met on September 21, 2011, to consider H. Res. 255, and ordered the measure to be reported to the House with a favorable recommendation, without amendment, by voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto.

No recorded votes were requested during consideration of H. Res. 255.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee has held oversight hearings and made findings that are reflected in this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H. Res. 255, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, and Section 402 of the Congressional Budget Act of 1974 do not apply, as H. Res. 255 is not a bill or joint resolution.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H. Res. 255 contains no general performance goals, and objectives, including outcome related goals and objectives authorized.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with rule XXI of the Rules of the House of Representatives, this bill, as reported, contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of the rule XXI.

FEDERAL MANDATES STATEMENT

H. Res. 255 provides no Federal mandates.

PREEMPTION CLARIFICATION

In compliance with section 423 of the Congressional Budget Act of 1974, requiring the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or

joint resolution in intended to preempt State, local, or Tribal law, the Committee finds that H. Res. 255 does not preempt any State, local, or Tribal law.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

The Resolution expresses the sense of the House of Representatives that effective sharing of passenger information from inbound international flight manifests is a crucial component of our national security and that the Department of Homeland Security must maintain the information sharing standards required under the 2007 Passenger Name Record Agreement between the United States and the European Union.

The Resolution resolves that the House of Representatives acknowledge the threat posed by terrorists targeting the U.S. aviation system, urges the Department of Homeland Security to respond to any modification of the passenger name record data sharing agreement that degrades security capability with stronger security requirements, urges the Department not to enter into any agreement that would impose European oversight structures on the United States, and strongly urges the Department to oppose any effort by the European Union to frustrate counterterrorism and information sharing between the Department and non-European countries.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

H. Res. 255 makes no changes to existing law.