



Legislative Bulletin.....May 22, 2006

Contents:

H.R. 4681—Palestinian Anti-Terrorism Act (REVISED)

Summary of the Bills Under Consideration Today:

Total Number of New Government Programs: 0

Total Cost of Discretionary Authorizations: \$0

Effect on Revenue: \$0

Total Change in Mandatory Spending: \$0

Total New State & Local Government Mandates: 0

Total New Private Sector Mandates: 0

Number of Bills Without Committee Reports: 0

Number of Reported Bills that Don't Cite Specific Clauses of Constitutional Authority: 1

**H.R. 4681—Palestinian Anti-Terrorism Act—*as amended for floor consideration*
(Ros-Lehtinen, R-FL)**

Order of Business: The bill is scheduled to be considered after votes on Monday, May 22nd, under a motion to suspend the rules and pass the bill. The recorded vote, if requested, will be rolled to tomorrow, Tuesday, May 23rd.

Summary (as amended thus far for floor consideration—major changes from reported version in **red-bold below):**

Highlights of the bill are as follows:

- Declares that it is the policy of the United States to:
 - “support a peaceful, two-state solution to end the conflict between Israel and the Palestinians in accordance with the Performance-Based Roadmap to a Permanent Two-State Solution to the Israeli-Palestinian Conflict (commonly referred to as the ‘Roadmap’);
 - “oppose those organizations, individuals, and countries that support terrorism and violence;
 - “urge members of the international community to avoid contact with and refrain from financially supporting the terrorist organization Hamas or a Hamas-controlled Palestinian Authority until Hamas agrees to recognize Israel, renounce violence, disarm, and accept prior agreements, including the Roadmap;
 - “promote the emergence of a democratic Palestinian governing authority that--
 - (A) denounces and combats terrorism;
 - (B) has agreed to and is taking action to disarm and dismantle any terrorist agency, network, or facility;
 - (C) has agreed to work to eliminate anti-Israel and anti-Semitic incitement and the commemoration of terrorists in Palestinian society;
 - (D) has agreed to respect the sovereignty of its neighbors;
 - (E) acknowledges, respects, and upholds the human rights of all people;
 - (F) implements the rule of law, good governance, and democratic practices, including conducting free, fair, and transparent elections in compliance with international standards;
 - (G) ensures institutional and financial transparency and accountability; and
 - (H) has agreed to recognize the State of Israel as an independent, sovereign, Jewish, democratic state; and
 - “continue to support assistance to the Palestinian people.”
- Conditions future U.S. assistance to the Palestinian Authority on the U.S. President certifying that:
 - “no ministry, agency, or instrumentality of the Palestinian Authority is controlled by a foreign terrorist organization and no member of a foreign terrorist organization serves in a senior policy making position in a ministry, agency, or instrumentality of the Palestinian Authority;
 - “the Palestinian Authority has
 - (A) publicly acknowledged Israel’s right to exist as a Jewish state; and
 - (B) recommitted itself and is adhering to all previous agreements and understandings by the Palestine Liberation Organization and the Palestinian Authority with the Government of the United States, the Government of Israel, and the international community, including agreements and understandings pursuant to the Performance-Based Roadmap to a Permanent Two-State Solution to the Israeli-Palestinian Conflict (commonly referred to as the ‘Roadmap’); and
 - “the Palestinian Authority has taken effective steps and made demonstrable progress toward

- (A) completing the process of purging from its security services individuals with ties to terrorism;
- (B) dismantling all terrorist infrastructure, confiscating unauthorized weapons, arresting and bringing terrorists to justice, destroying unauthorized arms factories, thwarting and preempting terrorist attacks, and fully cooperating with Israel's security services;
- (C) halting all anti-Israel incitement in Palestinian Authority-controlled electronic and print media and in schools, mosques, and other institutions it controls, and replacing these materials, including textbooks, with materials that promote tolerance, peace, and coexistence with Israel;
- (D) ensuring democracy, the rule of law, and an independent judiciary, and adopting other reforms such as ensuring transparent and accountable governance; and
- (E) ensuring the financial transparency and accountability of all government ministries and operations."

- Requires (every six months) presidential recertifications that these conditions are being met.
- Provides the following exceptions to the Palestinian Authority funding limitations:
 - assistance to independent election commissions (subject to presidential certification that each such commission has no terrorist ties); and
 - assistance for the security detail of the Palestinian president, and non-security expenses, to support the Israeli-Palestinian peace negotiations (subject to presidential certification that the funds are essential for negotiations, will not be transferred to terrorist individuals, and that the Palestinian president is not himself affiliated with terrorists).
- The exceptions would have to be made with advance congressional consultation and only if such assistance is "important to the national security interests of the United States."
- Defines the Palestinian Authority to include "the interim Palestinian administrative organization that governs part of the West Bank and all of the Gaza Strip (or any successor Palestinian governing entity), including the Palestinian Legislative Council."
- Directs the U.S. Comptroller General to report to Congress on how U.S. assistance to Palestinian Authority will be audited by the State Department, the U.S. Agency for International Development (USAID), and all other relevant departments and agencies of the U.S. Government.
- Conditions future U.S. assistance to nongovernmental organizations (NGOs) serving the West Bank and Gaza Strip upon the presidential certification detailed above.
- Provides the following exceptions to the NGO funding limitations:

--the provision of food, water, medicine, sanitation services, or other assistance to directly meet basic human health needs; and
--“other types of assistance,” subject to presidential certification that such assistance “will further the national security interests of the United States” and advance consultation with Congress.

- Provides for U.S. Comptroller General oversight of such NGO funding and directs the Secretary of State to take “all appropriate steps” to ensure that such NGO assistance is not provided to or through any individual or entity that the Secretary knows, or has reason to believe, advocates, plans, sponsors, engages in, or has engaged in, terrorist activity.
- Prohibits the NGO funds from being used for recognizing or otherwise honoring individuals or the families of individuals who commit, or have committed, acts of terrorism.
- Directs USAID to provide for independent audits of all funds to NGOs serving the West Bank and Gaza.
- Requires the President to report to Congress on the Israeli-Palestinian balance inherent in the following United Nations (UN) entities:
 - The United Nations Division for Palestinian Rights;
 - The Committee on the Exercise of the Inalienable Rights of the Palestinian People;
 - The United Nations Special Coordinator for the Middle East Peace Process and Personal Representative to the Palestine Liberation Organization and the Palestinian Authority;
 - The NGO Network on the Question of Palestine;
 - The Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories;
 - and
 - Any other entity the Secretary of State determines results in duplicative efforts or funding or fails to ensure balance in the approach to Israeli-Palestinian issues.
- Instructs the United States Permanent Representative to the UN to use the “voice, vote, and influence” of the U.S. to seek the implementation at the UN of the recommendations contained in this report above, and authorizes the Secretary of State to withhold from U.S. contributions to the regular assessed UN biennial budget amounts proportional to the portion of such budget that is geared toward the above pro-Palestinian entities.
- Also **directs [was “authorizes”]** the Secretary of State to withhold from U.S. contributions to the regular assessed UN biennial budget amounts **and any U.S. contributions to the voluntary UN budget that are proportional (for regular assessments) or equal to (for voluntary contributions)** to the portion of such budget

that are expended for any UN-affiliated or specialized agency that provides assistance directly to the Palestinian Authority (during any period when the presidential certification above is not in effect **and subject to certain exceptions**).

- Denies visas for officials of the Palestinian Authority (or any representative thereof) during any period when the presidential certification above is not in effect (subject to presidential waiver in individual cases that are “important to the national security interests of the United States” **or in connection with U.S. obligations under the United National Headquarters Agreement Act**).
- Directs the President to restrict the travel of officials and representatives of the Palestinian Authority and of the Palestine Liberation Organization who are stationed at the UN in New York City to a 25-mile radius of the UN headquarters building during any period when the presidential certification above is not in effect.
- Makes it illegal to establish or maintain an office, headquarters, premises, or other facilities or establishments within the jurisdiction of the United States at the behest or direction of, or with funds provided by, the Palestinian Authority or the Palestine Liberation Organization during any period when the presidential certification above is not in effect (enforced by the Justice Department and subject to a presidential “vital” national security waiver).
- States that it shall be U.S. policy that the U.S. Executive Director at each international financial institution should use the “voice, vote, and influence” of the United States to prohibit assistance to the Palestinian Authority during any period when the presidential certification above is not in effect.
- Expresses the policy of the United States that no officer or employee of the U.S. Government shall negotiate or have substantive contacts with members or official representatives of Hamas, Palestinian Islamic Jihad, the Popular Front for the Liberation of Palestine, al-Aqsa Martyrs Brigade, or any other Palestinian terrorist organization, unless and until such organization:
 - recognizes Israel’s right to exist;
 - renounces the use of terrorism;
 - dismantles the infrastructure necessary to carry out terrorist acts, including the disarming of militias and the elimination of all instruments of terror; and
 - recognizes and accepts all previous agreements and understandings between the State of Israel and the Palestine Liberation Organization and the Palestinian Authority.

Additional Background: The United States has provided hundreds of millions of dollars in assistance to the Palestinian over the last 13 years or so, most of which was indirect aid. In just the last two years, the U.S. gave no less than \$425 million in assistance to the Palestinian government, Palestinian nongovernmental organizations, and non-Palestinian-based contractors or grantees of USAID.

Hamas has long been known as a terrorist organization that proudly takes credit for the murders of innocent Israelis, Americans, and non-combatants of dozens of other nations. In January 2006, Hamas won a significant majority of seats in the Palestinian legislature.

In February 2006, Congress passed S.Con.Res. 79 (by unanimous consent in the Senate and by 418-1 in the House: <http://clerk.house.gov/evs/2006/roll010.xml>), expressing a sense of Congress that no United States assistance should be provided directly to the Palestinian Authority if any representative political party holding a majority of parliamentary seats within it maintains a position calling for the destruction of Israel.

Hamas, the Arabic acronym for the “Islamic Resistance Movement,” has openly and repeatedly called for the destruction of Israel and the creation of “Palestine” as an Islamic state.

Committee Action: On February 1, 2006, H.R. 4681 was referred to the International Relations Committee, the Judiciary Committee, and the Financial Services Committee. On April 6, 2006, the International Relations Committee marked up and ordered the bill reported to the full House by a vote of 36-2. On May 10, 2006, the Judiciary Committee marked up and ordered the bill reported to the full House by voice vote. The Financial Services Committee took no official action on the bill.

Administration Position: Reports indicate that the Administration believes this bill to be too restrictive on the Executive Branch’s role in foreign policy.

Cost to Taxpayers: CBO confirms that this bill would not directly impact the federal budget (though it could result in decreased spending subject to appropriation in future years).

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Constitutional Authority: The International Relations Committee and the Judiciary Committee, in House Report 109-462 (Parts I and II), each cite constitutional authority in Article I, Section 8, but fail to cite a specific clause. House Rule XIII, Section 3(d)(1), requires that all committee reports contain “a statement citing the *specific powers* granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution.”
[emphasis added]

Outside Organizations: The Republican Jewish Coalition and the American Israel Public Affairs Committee are strongly supporting the legislation. Americans for Peace Now, the U.S. Conference of Catholic Bishops, and Churches for Middle East Peace are opposing the legislation (because of the bill’s restrictions on U.S. assistance to and through NGOs).

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