

THE CASE FOR THE HOMELAND SECURITY DEPARTMENT
ENDORSED BY BIPARTISAN VOTE OF SENATE GOVERNMENTAL AFFAIRS COMMITTEE

Seizing a historic opportunity to reform our government to combat terrorism against the American homeland, the legislation will coordinate and consolidate more than two dozen disparate federal agencies, offices, and programs into a focused and accountable Department of Homeland Security. Federal homeland security efforts today are dispersed, disorganized, and dysfunctional when they need to become coherent, consolidated, and coordinated to rise to the complex challenge of defeating domestic terrorism.

This legislation is based in large measure on recommendations from a bipartisan panel chaired by former Senators Hart and Rudman. Between 1999 and 2001, the Commission on National Security in the 21st Century conducted an extensive study of the new threats to our nation and concluded—long before September 11th—that a department of homeland security was critical to help America close its vulnerabilities. Since September 11th, the Senate Governmental Affairs Committee has held 18 different hearings on homeland security and learned from dozens of related hearings by other Committees, providing even more evidence of ongoing gaps and vulnerabilities that are exacerbated by the way government is currently organized to defend our homeland. This legislation will help address those vulnerabilities by creating a Department to prevent, deter, protect against, prepare for, and respond to terrorism and other threats to homeland security.

SIX CORE MISSIONS

The legislation endorsed by a bipartisan vote of the Senate Governmental Affairs Committee is the result of those hearings, and of more than 10 months of collaboration, refinement, and negotiation. The Department of Homeland Security it seeks to create will be led by a Presidentially-appointed Secretary and divided into six major divisions or directorates. Each directorate expresses a core mission of the department:

Shoring up our Borders and Transportation System. To intercept terrorists and the weapons they seek to smuggle in, and close what are now unacceptable risks posed by porous ports, airports, and borders, the legislation will bring together into a single directorate on border and transportation security our Customs Service, the border quarantine inspectors of the Animal Plant Health Inspection Service of the U.S. Department of Agriculture, the recently created Transportation Security Administration, and the Federal Law Enforcement Training Center. The Coast Guard will also be in the new department, reporting directly to the Secretary of Homeland Security—and will work very closely with all other authorities on our waterways, in our ports, and at our borders.

Preparing for and Responding to Emergencies. After September 11, we all have an obligation to think about—and prepare ourselves for—the unthinkable, including attacks with chemical, biological, radiological, and nuclear weapons. The legislation creates an emergency preparedness and response directorate, with the Federal Emergency Management Agency at its core, that combines and integrates the strengths of agencies and offices responsible for coordinating the federal response to disasters and terrorist attacks, conducting exercises, and providing equipment and training for local and state officials to prepare for and respond to catastrophes. The legislation also provides much-needed federal homeland security assistance to local communities nationwide.

Protecting our Infrastructure. Our infrastructure—85 percent of which is owned and operated by the private sector—is the nervous system and circulatory system of our society, including our water and agriculture supplies, energy grids, information technology networks, and more. To identify vulnerabilities in these systems and close them systematically in cooperation with the business community, the legislation's directorate on critical infrastructure will include offices currently located in five different federal agencies.

Connecting the Dots. Because of its role at ports and points of entry, the new department will be one of the largest collectors of information in the government relevant to counterterrorism. This data needs to be organized, analyzed, and systematically integrated with data from other parts of the government. The legislation establishes an independent intelligence directorate to fuse in a single place and analyze law enforcement and other information—including foreign intelligence analysis from the Director of Central Intelligence's Counterterrorism Center—from agencies of the United States Government, State and local agencies, and private sector entities. Unless the President directs otherwise, this directorate will have ongoing access to information, including unevaluated intelligence (while protecting sources and methods and sensitive law enforcement information) to provide the best opportunity of

preventing a recurrence of the disastrous pre-September 11th FBI and CIA disconnects. The directorate will provide analyses that are crucial to the work of every other directorate in the new department, State and local governments, and the intelligence and law enforcement communities. The President's plan, by contrast, would limit access to unevaluated intelligence, and imbed the intelligence office within another specific directorate (for critical infrastructure protection), thereby building internal barriers to applying intelligence analysis swiftly and effectively to every aspect of the fight against terrorism.

Improving Immigration Security. Post-September 11th, America must look with new and urgent scrutiny at illegal immigration, as well as at how to better screen the more than 200 million people traveling to this country each year. To give immigration issues the focus and attention they deserve, the legislation brings all the functions of the Immigration and Naturalization Services, whose problems are legion, into their own directorate in the new department. At the same time, to undo internal conflicts in the agency, it will implement long-overdue reforms by splitting that new directorate into two distinct bureaus, as recommended by the bipartisan Kennedy-Brownback INS restructuring plan: a bureau of immigration services and a bureau of enforcement and border affairs. This common-sense reorganization will enable both aggressive pursuit of those who threaten America and effective immigration services, while enabling strong administrative connections between the two bureaus.

To assure a strategic and coordinated approach to our borders, the legislation requires the Secretary to establish a **Border Security Working Group**—comprised of the Under Secretary for Border and Transportation Security and the Under Secretary for Immigration Affairs.

Under the legislation, the Secretary of Homeland Security will also have authority to issue regulations on visas processed by the State Department's consular officers overseas. And the DHS Secretary will have the authority to assign employees of the Department to diplomatic and consular posts abroad to advise consular officers on specific security threats.

Spurring Development of New Tools, Technologies, and Medicines. To leverage America's innovation advantage, the legislation will create a division to conduct long-term homeland security research and spearhead rapid technology development and deployment. It will bring together scientific capabilities now spread throughout the federal government—and, to harness the talent of the public and private sector, will create a homeland security version of the Defense Advanced Research Projects Agency, which has sparked the development of revolutionary war fighting tools for our military—not to mention technologies like the Internet.

These six directorates make up the core of the new department. In addition, the legislation will establish within the new department an **Office of State and Local Coordination** to make sure federal efforts support and complement the work of first responders and other community-level homeland security efforts. And a **Civil Rights Officer** and **Privacy Officer** will help the secretary craft effective policies that do not compromise individual liberties.

The fight against terrorism is by definition much larger than this new department—involving our military, intelligence communities, diplomatic services, law enforcement agencies, and others. Consequently, the legislation will create another very important entity, **the National Office for Combating Terrorism** within the White House, to be headed by a Senate-confirmed director. The Director of this Office will work with the Homeland Security Secretary to develop the National Strategy for Combating Terrorism and Homeland Security Response, the key organizing document in this effort. He or she will be the President's policy architect overseeing the overall fight against terrorism, making sure that all the budgets and components of our anti-terrorism strategy fit together smoothly and effectively.

OTHER GUIDING PRINCIPLES

The Department of Homeland Security proposed in the legislation is designed to safeguard America by focusing the federal government's domestic defenses. At the same time, the department is committed by law to **preserving the critical non-homeland security work** currently being done by the agencies and offices that will be consolidated into it. For example, the Coast Guard must continue its ongoing missions, such as protecting fisheries, performing search and rescue operations, and interdicting drugs; FEMA must still respond swiftly to natural disasters—in fact, its work in helping communities prepare for and recover from disasters will only be enhanced within the new department; and what today is called the Immigration and Naturalization Service will still help guide immigrants through the citizenship process.

The legislation **incorporates bipartisan, consensus civil service reforms, and gives the 43,000 employees currently represented by unions who will be transferred to the Department of Homeland Security a reasonable reassurance that those rights will not be summarily removed** unless their job responsibilities change. If such an employee's job responsibilities in the new department change to consist of intelligence, counterintelligence, or investigative duties directly related to the investigation of terrorism, and it is determined that collective bargaining will adversely affect national security, that individual's rights to be part of a union can be removed.

The legislation **gives the President and Secretary of Homeland Security significant new authority and flexibility to manage the new department.** Under current law, the President and Secretary can reward excellence, remove poorly performing employees, offer recruitment bonuses, and use many other management tools. In an effort to give the Department and other agencies additional flexibility in the management personnel, the Committee-endorsed legislation adopts significant, government-wide civil service reforms, contained in an amendment proposed by Senators Voinovich and Akaka. It also provided the Secretary of Homeland Security exceptional additional authority in procuring scientific and other personal services. Taken together, this package will give the Secretary the ability to: procure temporary services outside the civil service system when there is a critical need; speed up staffing of new employees; recruit and retain top science and technology talent; reshape the aging workforce; reform old competitive-hiring practices; provide more effective bonuses for exemplary performance; and make other valuable changes to help the new Department attract, maintain and motivate the best talent. These reforms represent a meaningful modernization of the way federal agencies are managed.

CONCLUSION

In 1789, the first Congress created the first three executive branch departments: State, War, and Treasury. The Navy was next to be added, in 1798. Interior was created in 1849, Agriculture in 1862, Justice in 1871, and Transportation in 1966. The last executive branch department, Veterans Affairs, was created 14 years ago, in 1988. Each of these Departments and all the others were formed when the changing world forced our government to adapt. To tackle this new challenge—on which our very survival depends—our government must reshape itself again. This is a grave responsibility, one not to be taken lightly. And it is a great opportunity, one we dare not let pass.