

107TH CONGRESS
1ST SESSION

S. _____

IN THE SENATE OF THE UNITED STATES

Mr. LIEBERMAN (for himself and Mr. SPECTER) introduced the following bill;
which was read twice and referred to the Committee on _____

A BILL

To establish the Department of National Homeland Security.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Department of Na-
5 tional Homeland Security Act of 2001”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) DEPARTMENT.—The term “Department”
9 means the Department of National Homeland Secu-
10 rity established under this Act.

1 (2) SECRETARY.—The term “Secretary” means
2 the Secretary of National Homeland Security.

3 **SEC. 3. ESTABLISHMENT OF THE DEPARTMENT OF NA-**
4 **TIONAL HOMELAND SECURITY.**

5 (a) ESTABLISHMENT.—There is established the De-
6 partment of National Homeland Security.

7 (b) SECRETARY OF NATIONAL HOMELAND SECU-
8 RITY.—

9 (1) IN GENERAL.—The Secretary of National
10 Homeland Security shall be the head of the Depart-
11 ment. The Secretary shall be appointed by the Presi-
12 dent, by and with the advice and consent of the Sen-
13 ate.

14 (2) CABINET LEVEL POSITION.—Section 5312
15 of title 5, United States Code, is amended by adding
16 at the end the following:

17 “Secretary of National Homeland Security.”.

18 (3) MEMBERSHIP ON THE NATIONAL SECURITY
19 COUNCIL.—Section 101(a) of the National Security
20 Act of 1947 (50 U.S.C. 402(a)) is amended in the
21 fourth sentence by striking paragraphs (5), (6), and
22 (7) and inserting the following:

23 “(5) the Secretary of National Homeland Secu-
24 rity; and

1 “(6) each Secretary or Under Secretary of such
2 other executive department, or of a military depart-
3 ment, as the President shall designate.”.

4 (c) DUTIES.—The duties of the Secretary shall be the
5 following:

6 (1) To plan, coordinate, and integrate those
7 United States Government activities relating to
8 homeland security, including border security and
9 emergency preparedness, and to act as a focal point
10 regarding natural and manmade crises and emer-
11 gency planning.

12 (2) To work with State and local governments
13 and executive agencies in protecting United States
14 homeland security, and to support State officials
15 through the use of regional offices around the Na-
16 tion.

17 (3) To provide overall planning guidance to ex-
18 ecutive agencies regarding United States homeland
19 security.

20 (4) To conduct exercise and training programs
21 for employees of the Department and establish effec-
22 tive command and control procedures for the full
23 range of potential contingencies regarding United
24 States homeland security, including contingencies

1 that require the substantial support of military as-
2 sets.

3 (5) To annually develop a Federal response
4 plan for homeland security and emergency prepared-
5 ness.

6 **SEC. 4. TRANSFER OF AUTHORITIES, FUNCTIONS, PER-**
7 **SONNEL, AND ASSETS TO THE DEPARTMENT.**

8 The authorities, functions, personnel, and assets of
9 the following entities are transferred to the Department:

10 (1) The Federal Emergency Management Agen-
11 cy, the ten regional offices of which shall be main-
12 tained and strengthened by the Department.

13 (2) The United States Customs Service, which
14 shall be maintained as a distinct entity within the
15 Department.

16 (3) The Border Patrol of the Immigration and
17 Naturalization Service, which shall be maintained as
18 a distinct entity within the Department.

19 (4) The United States Coast Guard, which shall
20 be maintained as a distinct entity within the Depart-
21 ment.

22 (5) The Critical Infrastructure Assurance Of-
23 fice and the Institute of Information Infrastructure
24 Protection of the Department of Commerce.

1 (6) The National Infrastructure Protection
2 Center and the National Domestic Preparedness Of-
3 fice of the Federal Bureau of Investigation.

4 **SEC. 5. ESTABLISHMENT OF DIRECTORATES AND OFFICE.**

5 (a) ESTABLISHMENT OF DIRECTORATES.—The fol-
6 lowing staff directorates are established within the De-
7 partment:

8 (1) DIRECTORATE OF PREVENTION.—The Di-
9 rectorate of Prevention, which shall be responsible
10 for the following:

11 (A) Overseeing and coordinating all United
12 States border security activities.

13 (B) Developing border and maritime secu-
14 rity policy for the United States.

15 (C) Developing and implementing inter-
16 national standards for enhanced security in
17 transportation nodes.

18 (2) DIRECTORATE OF CRITICAL INFRASTRUC-
19 TURE PROTECTION.—The Directorate of Critical In-
20 frastructure Protection, which shall be responsible
21 for the following:

22 (A) Acting as the Critical Information
23 Technology, Assurance, and Security Officer of
24 the Department to coordinate efforts to address
25 the vulnerability of the United States to elec-

1 tronic or physical attacks on critical infrastruc-
2 ture of the United States, including utilities,
3 transportation nodes, and energy resources.

4 (B) Overseeing the protection of such in-
5 frastructure and the physical assets and infor-
6 mation networks that make up such infrastruc-
7 ture.

8 (C) Ensuring the maintenance of a nucleus
9 of cyber security experts within the United
10 States Government.

11 (D) Enhancing sharing of information re-
12 garding cyber security and physical security of
13 the United States, tracking vulnerabilities and
14 proposing improved risk management policies,
15 and delineating the roles of various government
16 agencies in preventing, defending, and recov-
17 ering from attacks.

18 (E) Coordinating with the Federal Com-
19 munications Commission in helping to establish
20 cyber security policy, standards, and enforce-
21 ment mechanisms, and working closely with the
22 Federal Communications Commission on cyber
23 security issues with respect to international
24 bodies.

1 (F) Coordinating the activities of Informa-
2 tion Sharing and Analysis Centers to share in-
3 formation on threats, vulnerabilities, individual
4 incidents, and privacy issues regarding United
5 States homeland security.

6 (G) Assuming the responsibilities carried
7 out by the Critical Infrastructure Assurance Of-
8 fice before the date of the enactment of this
9 Act.

10 (H) Assuming the responsibilities carried
11 out by the National Infrastructure Protection
12 Center before the date of the enactment of this
13 Act.

14 (I) Supporting and overseeing the manage-
15 ment of the Institute for Information Infra-
16 structure Protection.

17 (3) DIRECTORATE FOR EMERGENCY PREPARED-
18 NESS AND RESPONSE.—The Directorate for Emer-
19 gency Preparedness and Response, which shall be re-
20 sponsible for the following:

21 (A) Carrying out all emergency prepared-
22 ness and response activities carried out by the
23 Federal Emergency Management Agency before
24 the date of the enactment of this Act.

1 (B) Assuming the responsibilities carried
2 out by the National Domestic Preparedness Of-
3 fice before the date of the enactment of this
4 Act.

5 (C) Organizing and training local entities
6 to respond to emergencies and providing State
7 and local authorities with equipment for detec-
8 tion, protection, and decontamination in an
9 emergency involving weapons of mass destruc-
10 tion.

11 (D) Overseeing Federal, State, and local
12 emergency preparedness training and exercise
13 programs in keeping with current intelligence
14 estimates and providing a single staff for Fed-
15 eral assistance for any emergency (including
16 emergencies caused by flood, earthquake, hurri-
17 cane, disease, or terrorist bomb).

18 (E) Creating a National Crisis Action Cen-
19 ter to act as the focal point for monitoring
20 emergencies and for coordinating Federal sup-
21 port for State and local governments and the
22 private sector in crises.

23 (F) Establishing training and equipment
24 standards, providing resource grants, and en-
25 couraging intelligence and information sharing

1 among the Department of Defense, the Federal
2 Bureau of Investigation, the Central Intel-
3 ligence Agency, State emergency management
4 officials, and local first responders.

5 (G) Coordinating and integrating activities
6 of the Department of Defense, the National
7 Guard, and other Federal agencies into a Fed-
8 eral response plan.

9 (H) Coordinating activities among private
10 sector entities, including entities within the
11 medical community, with respect to recovery,
12 consequence management, and planning for
13 continuity of services.

14 (I) Developing and managing a single re-
15 sponse system for national incidents in coordi-
16 nation with the Department of Justice, the
17 Federal Bureau of Investigation, the Depart-
18 ment of Health and Human Services, and the
19 Centers for Disease Control.

20 (J) Maintaining Federal asset databases
21 and supporting up-to-date State and local data-
22 bases.

23 (b) ESTABLISHMENT OF OFFICE OF SCIENCE AND
24 TECHNOLOGY.—

1 (1) IN GENERAL.—There is established in the
2 Department an Office of Science and Technology.

3 (2) PURPOSE.—The Office of Science and
4 Technology shall advise the Secretary regarding re-
5 search and development efforts and priorities for the
6 directorates established in subsection (a).

7 **SEC. 6. REPORTING REQUIREMENTS.**

8 (a) BIENNIAL REPORTS.—The Secretary shall submit
9 to Congress on a biennial basis—

10 (1) a report assessing the resources and re-
11 quirements of executive agencies relating to border
12 security and emergency preparedness issues; and

13 (2) a report certifying the preparedness of the
14 United States to prevent, protect against, and re-
15 spond to natural disasters, cyber attacks, and inci-
16 dents involving weapons of mass destruction.

17 (b) ADDITIONAL REPORT.—Not later than 1 year
18 after the date of the enactment of this Act, the Secretary
19 shall submit to Congress a report—

20 (1) assessing the progress of the Department
21 in—

22 (A) implementing the provisions of this
23 Act; and

1 (B) ensuring the core functions of each en-
2 tity transferred to the Department are main-
3 tained and strengthened; and

4 (2) recommending any conforming changes in
5 law necessary as a result of the enactment and im-
6 plementation of this Act.

7 **SEC. 7. COORDINATION WITH OTHER ORGANIZATIONS.**

8 The Secretary shall establish and maintain strong
9 mechanisms for the sharing of information and intel-
10 ligence with United States and international intelligence
11 entities.

12 **SEC. 8. PLANNING, PROGRAMMING, AND BUDGETING PROC-**
13 **ESS.**

14 The Secretary shall establish procedures to ensure
15 that the planning, programming, budgeting, and financial
16 activities of the Department comport with sound financial
17 and fiscal management principles. At a minimum, those
18 procedures shall provide for the planning, programming,
19 and budgeting of activities of the Department using funds
20 that are available for obligation for a limited number of
21 years.

22 **SEC. 9. ENVIRONMENTAL PROTECTION, SAFETY, AND**
23 **HEALTH REQUIREMENTS.**

24 The Secretary shall—

1 (1) ensure that the Department complies with
2 all applicable environmental, safety, and health stat-
3 utes and substantive requirements; and

4 (2) develop procedures for meeting such re-
5 quirements.

6 **SEC. 10. SAVINGS PROVISIONS.**

7 (a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—

8 All orders, determinations, rules, regulations, permits,
9 agreements, grants, contracts, certificates, licenses, reg-
10 istrations, privileges, and other administrative actions—

11 (1) which have been issued, made, granted, or
12 allowed to become effective by the President, any
13 Federal agency or official thereof, or by a court of
14 competent jurisdiction, in the performance of func-
15 tions which are transferred under this Act, and

16 (2) which are in effect at the time this Act
17 takes effect, or were final before the effective date
18 of this Act and are to become effective on or after
19 the effective date of this Act,

20 shall continue in effect according to their terms until
21 modified, terminated, superseded, set aside, or revoked in
22 accordance with law by the President, the Secretary of Na-
23 tional Homeland Security or other authorized official, a
24 court of competent jurisdiction, or by operation of law.

1 (b) PROCEEDINGS NOT AFFECTED.—The provisions
2 of this Act shall not affect any proceedings, including no-
3 tices of proposed rulemaking, or any application for any
4 license, permit, certificate, or financial assistance pending
5 before an agency at the time this Act takes effect, with
6 respect to functions transferred by this Act but such pro-
7 ceedings and applications shall continue. Orders shall be
8 issued in such proceedings, appeals shall be taken there-
9 from, and payments shall be made pursuant to such or-
10 ders, as if this Act had not been enacted, and orders
11 issued in any such proceedings shall continue in effect
12 until modified, terminated, superseded, or revoked by a
13 duly authorized official, by a court of competent jurisdic-
14 tion, or by operation of law. Nothing in this subsection
15 shall be deemed to prohibit the discontinuance or modi-
16 fication of any such proceeding under the same terms and
17 conditions and to the same extent that such proceeding
18 could have been discontinued or modified if this Act had
19 not been enacted.

20 (c) SUITS NOT AFFECTED.—The provisions of this
21 Act shall not affect suits commenced before the effective
22 date of this Act, and in all such suits, proceedings shall
23 be had, appeals taken, and judgments rendered in the
24 same manner and with the same effect as if this Act had
25 not been enacted.

1 (d) NONABATEMENT OF ACTIONS.—No suit, action,
2 or other proceeding commenced by or against an agency,
3 or by or against any individual in the official capacity of
4 such individual as an officer of an agency, shall abate by
5 reason of the enactment of this Act.

6 (e) ADMINISTRATIVE ACTIONS RELATING TO PRO-
7 MULGATION OF REGULATIONS.—Any administrative ac-
8 tion relating to the preparation or promulgation of a regu-
9 lation by an agency relating to a function transferred
10 under this Act may be continued by the National Home-
11 land Security with the same effect as if this Act had not
12 been enacted.

13 (f) REFERENCES.—Any reference in any other Fed-
14 eral law, Executive order, rule, regulation, or delegation
15 of authority, or any document of or pertaining to a depart-
16 ment, agency, or office from which a function is trans-
17 ferred by this Act—

18 (1) to the head of such department, agency, or
19 office is deemed to refer to the Secretary of National
20 Homeland Security; or

21 (2) to such department, agency, or office is
22 deemed to refer to the Department of National
23 Homeland Security.

1 **SEC. 11. EFFECTIVE DATE.**

2 This Act shall take effect 6 months after the date
3 of enactment of this Act.