

The Congress's work on homeland security should not stop here. As the transfer of offices begins, there will no doubt be changes necessary. Congressional oversight is more important now than ever. With this bill Congress has decided that the Executive Branch needs to take homeland security more seriously. But Congress needs to take it seriously, too. That means giving up our short-term political games in order to work together—Republican and Democrat, White House and Congress—to build a bipartisan, functioning agency that will deliver all Americans the security they deserve.

Mr. KERRY. Madam President, since September 11, 2001, many in Congress have been assiduously working to create a Department of Homeland Security, and I am pleased that today we are finally completing our work. After the terrorist attacks on New York and Washington it became clear that to thwart future attacks on the United States the Federal Government would have to do a better job gathering and coordinating intelligence. Since September 11 I, along with several colleagues, have believed that a reorganization of the Federal Government is critical to improving the security of this country. Though the President and many Congressional Republicans initially opposed this major reorganization, there is now consensus on the need to create a new department.

It is imperative that we move quickly and urgently to reorganize the Federal Government. Vulnerabilities exist in our homeland security infrastructure and we should not squander a single day addressing them. An independent task force, chaired by former Senators Gary Hart and Warren Rudman, recently advised that "America remains dangerously unprepared to prevent and respond to a catastrophic attack on U.S. soil." There is also new evidence that Osama bin Laden is alive and recently recorded an audio tape. We must act now to create this agency and to ensure that the United States Government is doing everything in its power to better protect its borders, coasts, cities, and towns.

The Transportation Security Agency continues to play a vital role in our domestic security policy under this legislation. At no time in our Nation's history has increased security for our transportation infrastructure been as critical, and I am confident that as part of this new department the TSA will perform up to task and help ease the fears many Americans have concerning the safety of our airports, trains, and ports.

The legislation also address the impending baggage screening deadline. Although the Congress mandated a December 31, 2002 deadline for screening all baggage at airports, deploying and installing the necessary devices for the over 400 airports has proved to be a monumental challenge and it is clear that many airports are unable to meet this requirement. I am pleased that

this legislation includes a common sense provision to extend the deadline for the major airports and strictly monitor their progress in screening baggage. The extension through December 31, 2003 will also give the TSA more time to properly train and deploy the 22,000 federal baggage screeners necessary to staff the devices and oversee the screening process. Rushing this process in anticipation of the deadline would have seriously compromised the effectiveness of the enhanced security measures.

Also included in this legislation is a provision that will allow financially strapped airlines to purchase "war risk" insurance from the Government at a reasonable cost, alleviating some of the costs the industry has incurred after September 11. This provision is critically important, as many airlines have been forced to spend upwards of \$100 million to insure their planes against war and the continued threat of terrorism. Tens of thousands of aviation workers have lost their jobs because of the financial crisis in the industry. It is my hope that Government issued insurance will help expedite the recovery of this important sector of our economy.

As Chairman of the Oceans, Atmosphere and Fisheries Subcommittee, which has jurisdiction over the Coast Guard, I want to make a few comments about the Coast Guard provisions in the legislation. The Coast Guard is comprised of approximately 36,000 military personnel, roughly the size of the New York City Police Department. Recently passed legislation will expand the Coast Guard to 45,500 military personnel by the end of this fiscal year. Expansion is important to homeland security when you consider that the Coast Guard must patrol and protect more than 1,000 harbor channels, and 25,000 miles of inland, intra coastal, and coastal waterways that serve more than 300 ports. The Coast Guard is also responsible for a number of non-homeland security missions such as search and rescue, maintaining aids to navigation, marine safety, marine environmental protection and fisheries law enforcement.

I am pleased that this legislation does not split up the Coast Guard. The Coast Guard is a multi-mission agency with personnel and assets that are capable of performing a variety of missions with little or no notice. The legislation preserves this flexibility by keeping the Coast Guard in tact. In addition the bill ensures that the Coast Guard receives the proper attention it deserves in the new Department by requiring the commandant of the Coast Guard to report directly to the new Secretary. The commandant has this authority within the Department of Transportation, clearly he should have the same authority in the Department of Homeland Security.

Since September 11, the Coast Guard has had to divert resources from its non-homeland security missions in

order to beef up homeland security. I asked the General Accounting Office to document the change in Coast Guard missions since September 11 and to make recommendations on how best for the Coast Guard to operate under the "new normalcy" post September 11. The GAO just released its report and they note that many of the Coast Guard's core missions, including enforcement of fisheries and other environmental laws, are still not back to pre-September 11 levels. The GAO recommends that the Coast Guard develop a long-range strategic plan for achieving all of their missions, as well as a means to easily monitor progress in achieving these goals.

Many of us are concerned, that the traditional non-homeland security missions of the Coast Guard will suffer once the agency is transferred. In response to these concerns this bill contains safeguards that will ensure that non-homeland security missions will get done. I look forward to working with the Coast Guard to ensure these missions are getting done. Search and rescue, oil spill response and fisheries law enforcement are important and we cannot afford to ignore or under fund these missions.

This bill also includes a study on accelerating the Integrated Deepwater System, a long overdue modernization of Coast Guard ships and aircraft that operate off-shore in the deepwater environment. The Coast Guard is operating World War II-era cutters in the deepwater environment to perform environmental protection, national defense, and law enforcement missions. Coast Guard aircraft, which are operated in a maintenance intensive salt water environment, are reaching the end of their useful lives as well. Besides high operating costs, these assets are technologically and operationally obsolete. The Integrated Deepwater System will not only reduce operational and maintenance costs, but will significantly improve upon current command and control capabilities in the deepwater environment. I support this study. I look forward to reviewing the results of this study next year and if acceleration makes sense, supporting that well.

While I support much of what this legislation does and while I believe we should quickly move forward to create the Department, I have serious concerns with particular provisions of the bill. First, I am extremely disappointed that this legislation provides the administration with the authority to rewrite civil service laws without guaranteeing that Federal workers will receive fair treatment without regard to political affiliation, equal pay for equal work, and protection for whistleblowers. The hallmark of civil service is protection from political influence through laws designed to ensure the independent hiring, promotion, and firing of employees based exclusively on merit. And by allowing the administration to rewrite the civil service laws

without guaranteeing these protections and without meaningful labor union participation, we are putting these important protections at risk.

I am also troubled by a provision in this legislation that gives the President essentially unfettered discretion to forbid Department of Homeland Security employees to belong to unions if he determines that is necessary not only for the interest of national security but also to protect the Department's ability to protect homeland security. I do not object to working to reform how government operates, to make it easier to manage and more effective. But what has been proposed in this legislation is not an improvement in the system, it just takes rights away from workers.

One of the most troubling provisions in this legislation deals with protecting critical infrastructure information that is voluntarily submitted to the Department, a worthy goal and one that I strongly support. After all, companies will be unwilling to turn over information about possible vulnerabilities if doing so would make them subject to public disclosure or regulatory actions. To encourage companies to provide this valuable information to the Department, the legislation would exempt the information from public disclosure under the Freedom of Information Act. The reason for my concern, is that the definition of information is so broad that it could include any information that a company turns over to Department of Homeland Security. What this means is that information that is currently available to the public would be barred from release if it is labeled by the company as critical infrastructure. One can easily imagine a company turning over incriminating documents to the Government so that it would not be accessible by anyone else. I am discouraged by inclusion of this provision, because earlier in this debate we developed a compromise that more narrowly defined what information could be exempt from FOIA, one that protected critical infrastructure information without opening up a loophole for companies to avoid Government regulation and public disclosure.

I am concerned by how the Immigration and Naturalization Service will be treated in the new Department under this legislation. For years the INS has been badly in need of reform and it seemed that creating the Department of Homeland Security would provide an opportunity to make improvements in enforcement and provide better visa and processing services. Under the Lieberman proposal to create the Department of Homeland Security, there was an Under Secretary for Immigration Affairs who would act as a central authority to ensure a uniform immigration policy and provide effective coordination between the service and enforcement functions. The Republican legislation unfortunately does not include an elevated immigration func-

tion headed by one under secretary, and instead buries the immigration enforcement function within the "Border and Transportation Security" division and places the immigration services function with the Deputy Secretary of Homeland Security.

There is no easy split between border enforcement and services. For example, countering schemes for wrongful entry is not just a border challenge, it requires close coordination among all units within immigration responsibilities. Both functions rely on shared information and intelligence. I am afraid, that with two people interpreting immigration law and policy there are likely to be conflicting interpretations, a situation that could exacerbate the current coordination and communications problems that exist within INS.

I am extremely concerned that this legislation includes liability protections inserted by the House for manufacturers of anti-terrorism technology and childhood vaccines. The new provisions allow the Secretary to designate equipment and technology used by the Department as official "anti-terrorism technology." In the event of a terrorist attack this designation will prevent injured parties from seeking compensation against manufacturers of such technology, even if a manufacturer exercised gross negligence in marketing its product. The same is true for manufacturers of childhood vaccines who will be exempt from liability if a child dies or sustains injury as a result of negligence stemming from the inclusion of a "component or ingredient" in any vaccine listed under the Vaccine Injury Table. This provision is absolutely unconscionable. We should not give manufacturers an incentive to experiment with questionable formulas or risky ingredients for vaccines which are intended to immunize children from disease. Likewise, we should not give manufacturers of anti-terrorism technologies any incentive to sell a product they know to be below par.

Another provision added by the House would remove Senate-approved legislation to bar Government contracts with corporations that have moved their headquarters offshore to avoid U.S. taxes. The Republicans say that this provision will unnecessarily interfere with our national security. Well, I believe that it also affects our national security when corporate use of tax havens and loopholes is at an all-time high. Various estimates show that this sort of tax evasion is costing the government tens of billions of dollars a year which means that tax burdens must be higher on law-abiding citizens and small businesses that pay by the rules. To remove this sound provision at the last minute is not only bad policy, it also insults the memory of Senator Wellstone, who worked so hard to ensure that this provision was passed.

Despite my concerns with particular provisions in this legislation, I do support the creation of the Department of

Homeland Security and believe it is an important element in our efforts to protect the American people from terrorism.

Mr. CRAPO. Madam President, providing for homeland security and securing our Nation against the threat of terrorism must continue to be our foremost challenge. However, many of my Senate colleagues and I recognize the budgetary strains caused by the mounting expenditures of our limited resources—and the potential future costs—of responding to the multiple and varied threats of terrorism. Our State, county, and local agencies are struggling to fund the prevention and mitigation of every imaginable attack on our citizens and our critical infrastructure. Further, providing multimillion dollar allocations at the Federal level to prevent or mitigate all perceived threats to homeland security, or to respond to each terrorism incident, could in itself bankrupt our national economy.

The best management decisions at all levels of Government and industry on allocating scarce resources to the war on terrorism need an effective analytical approach to help understand the risks and to help improve the strategic and operational decisions to address those risks. Most current approaches to analyzing the "terrorist threat" are limited to addressing the vulnerability of—or what will happen to—critical infrastructure if it is attacked. These "vulnerability analyses" generally produce long lists of security-related deficiencies and equally long checklists of expensive things to do to correct the deficiencies, but they do not help communities appropriately allocate scarce resources, people, time, and money, in the context of an organization's strategic-level goals and objectives. A more robust approach is needed to support decision-making, one that can enable Government officials and private company executives to characterize the risks of rare, high-consequence events; to identify those that pose the greatest threats; and to best evaluate mitigation alternatives.

Mr. GRAHAM. Would Senator CRAPO yield a minute of his time?

Mr. CRAPO. Yes.

Mr. GRAHAM. Recognizing the need for better decision support, the leaders of Miami-Dade County established late last year a team comprised of representatives from the departments of police, fire, emergency management, general services, computer and communications services, seaport, aviation, and administration. They were tasked to work in concert with a consultant and a national laboratory to develop a process for defining, identifying, and evaluating physical and cyberterrorism threats and vulnerabilities; developing a consistent basis for making meaningful comparisons among risks to county assets so that the most important risks can be addressed first; using the structure of the process to develop strategies and associated tactics for mitigating threats and vulnerabilities; and