get into place systems that would prevent terrorists from stowing bombs in baggage being loaded onto airplanes. That seems to make good sense.

We have equipment that has already been certified to be able to detect explosives that could destroy an airplane in flight. Just last week, Transportation Secretary Norm Mineta came before the Select Committee, and gave testimony that yes indeed, the TSA would meet the December 31, 2002 deadline to get that equipment installed. Again, everything seemed to be on track.

But now, all of a sudden, because the job is hard and it may be challenging to get the job done exactly on time, we are going to double the amount of time given to get the job done. We are going from one year to two years. At a time when we have been warned that terrorists may still be walking our land, and on a day that we are trying to make history by securing our nation, we are going to say, ''Don't worry about the deadline. Let's leave the window open to terrorists for another year.'' As a former lawyer in the Pan Am 103 air crash case, where I represented the family of a deceased flight attendant, I cannot take the chance that a suitcase bomb could explode on a passenger-full airplane. To change the deadline is a profoundly bad idea.

The argument for leaving the window open is that if we wait, we can maybe use better technology, or install the equipment more efficiently. The problem with that argument is that we are vulnerable now. The American people deserve protection now. It is like if you had cancer. There are always better drugs coming out each year. So if you get cancer, do you wait a year until the next generation of drugs comes out, or do you work with what you've got? Of course you work with what you've got. And that is the position we are in today. Terrorism is like a cancer that has the potential to destroy us. We have to take the medicine now.

But we don't even need to look beyond the aviation industry for such analogies. We have paid the price of ''waiting for the next best thing'' before. In the 1980s we had an opportunity to have collision avoidance equipment, called TCAS II, installed in all of our airplanes. TCAS II worked pretty well, but it only gave vertical directions for evasive actions to the plane. So, the FAA waited. While they waited for TCAS III, three tragic midair collisions occurred—three deadly crashes that could have been avoided if the FAA had moved when it had the chance. After the third crash, legislation was finally passed that required the installation of TCAS II even though it was not perfect and would eventually be replaced.

Let us not waste hundreds of lives again.

Keeping the TSA and our nation's airports on track to get a baggage screening system into place by the end of this year is not a rash action. If extenuating circumstances present at a few airports, the Aviation and Transportation Security Act already authorizes alternatives to keep those airports up to code. They can employ positive bag match, manual search, search by dogs, or any other technology approved by the TSA. Even if they do not, there are no established penalties or punishments for non-compliance. There is no reason to risk taking an extra year to complete this critical task.

Since September 11th we have been marching forward on the path toward homeland security. Let us not take a step backward today.

I encourage my colleagues to support the Oberstar/Menendez Amendment, and keep our nation in the spirit of progress, and our airports moving in the right direction.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Minnesota (Mr. OBERSTAR).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. OBERSTAR. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Minnesota (Mr. OBERSTAR) will be postponed.

The Committee will rise informally.

The Speaker pro tempore (Mr. SIMPSON) assumed the chair.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment concurrent resolutions of the House of the following titles:

H. Con. Res. 448. Concurrent resolution providing for a special meeting of the Congress in New York, New York, on Friday, September 6, 2002, in remembrance of the victims and heroes of September 11, 2001, in recognition of the courage and spirit of the City of New York, and for other purposes.

H. Con. Res. 449. Concurrent resolution providing for representation by Congress at a special meeting in New York, New York, on Friday, September 6, 2002.

The message also announced that the Senate has passed a bill and a concurrent resolution of the following titles in which the concurrence of the House is requested:

S. 2771. An act to amend the John F. Kennedy Center Act to authorize the Secretary of Transportation to carry out a project for construction of a plaza adjacent to the John F. Kennedy Center for the Performing Arts, and for other purposes.

S. Con. Res. 132. Concurrent resolution providing for a conditional adjournment or recess of the Senate and a conditional adjournment of the House of Representatives.

The message also announced that the Senate insist upon its amendment to the bill (H.R. 4546) ''An Act to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes,'' requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LEVIN, Mr. KENNEDY, Mr. BYRD, Mr. LIEBERMAN, Mr. CLELAND, Ms. LANDRIEU, Mr. REED, Mr. AKAKA, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mrs. CARNAHAN, Mr. DAYTON, Mr. BINGAMAN, Mr. WARNER, Mr. THURMOND, Mr. MCCAIN, Mr. SMITH of New Hampshire, Mr. INHOFE, Mr. SANTORUM, Mr. ROBERTS, Mr. ALLARD, Mr. HUTCHINSON, Mr. SESSIONS, Ms. COLLINS, and Mr. BUNNING, to be the conferees on the part of the Senate.

The message also announced that pursuant to Public Law 103–227, the Chair, on behalf of the President pro tempore, appoints the following individual to the National Skill Standards Board for a term of four years:

Upon the recommendation of the Republican Leader:

Betty W. DeVinney of Tennessee, Representative of Business.

The message also announced that pursuant to Public Law 107–171, the Chair, on behalf of the Republican Leader, announces the appointment of Mr. Robert H. Forney, of Indiana, to serve as a member of the Board of Trustees of the Congressional Hunger Fellows Program.

The SPEAKER pro tempore. The Committee will resume its sitting.

HOMELAND SECURITY ACT OF 2002

The Committee resumed its sitting.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 24 printed in House Report 107–615.

□ 1700

AMENDMENT NO. 24 OFFERED BY MS. SCHAKOWSKY

Ms. SCHAKOWSKY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 24 offered by Ms. SCHAKOWSKY

Strike subtitle C of title VII.

Strike section 762 and insert the following:

SEC. 762. REMEDIES FOR RETALIATION AGAINST WHISTLEBLOWERS.

Section 7211 of title 5, United States Code, is amended—

(1) by inserting ''(a)'' before ''The right''; and

(2) by adding at the end the following:

''(b) Any employee aggrieved by a violation of subsection (a) may bring a civil action in the appropriate United States district court, within 3 years after the date on which such violation occurs, against any agency, organization, or other person responsible for the violation, for lost wages and benefits, reinstatement, costs and attorney fees, compensatory damages, and equitable, injunctive, or any other relief that the court considers appropriate. Any such action shall, upon request of the party bringing the action, be tried by the court with a jury.

''(c) The same legal burdens of proof in proceedings under subsection (b) shall apply as under sections 1214(b)(4)(B) and 1221(e) in the case of an alleged prohibited personnel practice described in section 2302(b)(8).

''(d) For purposes of this section, the term 'employee' means an employee (as defined by section 2105) and any individual performing services under a personal services contract with the Government (including as an employee of an organization).''.

The CHAIRMAN pro tempore (Mr. SWEENEY). Pursuant to House Resolution 502, the gentlewoman from Illinois (Ms. SCHAKOWSKY) and a Member opposed each will control 15 minutes.

The Chair recognizes the gentlewoman from Illinois.

Ms. SCHAKOWSKY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, on behalf of the gentlewoman from Hawaii (Mrs. MINK) and the gentleman from Ohio (Mr. KUCINICH) I rise to offer an amendment that will prevent the Department of Homeland Security from becoming the ''department of homeland secrecy.'' I want to commend the gentleman from California (Mr. WAXMAN) and his staff, as well as the Select Committee, particularly its ranking member, the gentlewoman from California (Ms. PELOSI).

First, this amendment strikes subtitle C of section VII of the underlying bill, language that excludes from the Freedom of Information Act information submitted voluntarily from corporations regarding critical infrastructure information. It strikes language that preempts all State and local open records laws.

Second, this amendment strikes section 762, language that allows the Secretary to circumvent the Federal Advisory Committee Act, FACA, by putting all the deliberations of those advisory committees beyond public reach.

Third, this amendment provides real teeth to protections against retaliation for whistleblowers, the kind of individuals who have been the lifeblood of exposing failures at the FBI to heed warnings of terrorists within the country, and exposing corporate misconduct.

The Freedom of Information Act is a law carefully crafted to balance the ability of our citizens to access information and the interests of those who want to protect such information from public scrutiny. There are nine exemptions to FOIA, including national security information and business information. FOIA currently protects information that is a trade secret or information that is commercial and privileged or confidential. In addition, President Reagan issued Executive Order 12600 that gives businesses even more opportunities to oppose disclosure of information.

In fact, I and other Members of the Committee on Government Reform repeatedly have asked proponents of this exclusion, including the FBI and Department of Commerce, for even one single example of when a Federal agency has disclosed voluntarily submitted data against the express wishes of the industry that submitted that information. They could not name one case.

Instead, we are told that FOIA rules just are not conducive to disclosure, that corporations are not comfortable releasing data needed to protect our country, even if we are at war.

Is our new standard for deciding such fundamental questions of openness and accountability in our democracy how comfortable industry will be? Environmental groups, open government groups and press organizations support my amendment because the broad secrecy provisions of the new Department would hide information critical to protecting public safety, such as chemical spills, results of testing to determine levels of water and air pollution, compliance records, and maintenance and repair records. Corporations could dump information they want to hide into this department under the cover critical infrastructure information. Corporate lobbyists can meet with government officials in the name of critical infrastructure protection and hide their collusion behind this exclusion.

If we create the Department without my amendment, corporations will no longer need to bury their secrets in the footnotes, or even shred their documents. They can hide them in the FOIA exclusion at the Department of Homeland Security. No longer will industry officials have to hide their meetings with government officials. The exemption from FACA will offer them a safe haven within which to have those secret meetings. State and local authorities would also be barred from and subject to jail sentences for disclosing information that they require to make public, even if it is because it is withheld at the Federal level.

This amendment also protects the rights of whistleblowers. My colleagues will go into more detail. But most whistleblowers are not as high profile as Sharon Watkins of Enron or Coleen Rowley of the FBI, to whom we owe a great debt, and many of them suffer retaliation. They often lose their jobs or are demoted as punishment for speaking out.

It is clear that the protections currently available simply are not working. Since the Whistleblower Protection Act was amended in 1994, 74 of the 75 court decisions have gone against whistleblowers. So my amendment gives whistleblowers the right to go to court instead of going through the administrative process and requires the same burden of proof to be used in whistleblower cases as in all other cases involving personnel actions.

Mr. Chairman, I believe that we are in great danger today of tipping the delicate balance between security and basic, precious freedoms, those rights that uniquely define our American democracy. We can have both, and I urge my colleagues to restore the balance and support my amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. ARMEY. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from Texas is recognized for 15 minutes.

Mr. ARMEY. Mr. Chairman, I am happy to yield 2 minutes to the distinguished gentleman from Texas (Mr. THORNBERRY).

Mr. THORNBERRY. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I oppose this amendment because I believe that this amendment will significantly damage the ability of the Department of Homeland Security to be effective.

Now, let me make a couple of points clear from the beginning. Whistleblowers are protected in the legislation now. That is one of the specific protections we were talking about earlier in the various management flexibility amendments which were offered. Whistleblowers are protected now.

Now, under current law, various companies and industries have to disclose certain information. Nothing changes under this bill. They still have to disclose that information, and we add no loopholes. There are no new requirements, and they cannot hide. They still have to meet the current requirements. But our hope is that under the new law, the Department of Homeland Security will receive additional information voluntarily from industries. They will tell us their vulnerabilities. They will tell us what they are worried about in their computer networks. They will tell us what they are worried about in their infrastructure.

We want them to tell the Federal Government that information voluntarily, so that we can help protect that infrastructure. They will not disclose that information if you just turn right around and make it public. It could be trade secrets, it could be information that you are giving to the terrorists. You certainly do not want to help them.

So, to go as far as the amendment does in requiring this additional information, which is voluntarily disclosed to the government, to turn around and make all that public means that companies simply will not disclose it, we will not know their vulnerabilities, and this Department will not be able to do its job to protect infrastructure.

Mr. Chairman, I would suggest the better course would be to reject this amendment. There are essential protections already in the bill. We do not need more.

Ms. SCHAKOWSKY. Mr. Chairman, I yield 3 minutes to the gentlewoman from Hawaii (Mrs. MINK), a cosponsor of the amendment.

Mrs. MINK of Hawaii. Mr. Chairman, I thank the gentlewoman for yielding me time.

Mr. Chairman, I would like to directly respond to the prior speaker, who made a case for further extension of the exemptions for the Freedom of Information Act by arguing that it was necessary in order to protect private sources of information that might be necessary for this new Department.

I want to call the attention of the House to the current Freedom of Information Act, which already includes nine exemptions for all Federal agencies, including the Defense Department and all the other security-type organizations that now exist that fall under the Freedom of Information Act and have done so for the last 30 years, because they are protected under the exemptions that exist under current law.

The exemptions are all classified documents. The government has the power

to classify documents. So if there is something in their possession that is essential to the national security or homeland security, they could classify those documents. They have that power inherent in the FOIA legislation.

As far as private confidential trade secrets, there is an exemption specifically for business information. So there exists already the power of the government to classify as non-approachable by a Freedom of Information request information which is private, trade secrets, or something which is essential to the protection of business.

All of these rules exist. The exemptions exist. They were part of legislation which I helped to work out in the early 1970s, and they have stood the test of time.

It has created a broad range of protections for the people of the United States. The most important liberty, freedom, that we have is that we as individual citizens of this country have the right to information that the government possesses, and we do so by making a FOIA request.

I cannot conceive of enlarging the nine exemptions that already exist. What kind of a Department of Homeland Security are we creating? Why does it have to have all of the super protections of private information, when we already have nine exemptions that exist that can protect every single suggested item that has been discussed here on the floor?

So I hope that people will realize that under this climate, being concerned about terrorism and the protection of property and the protection of life and so forth, we cannot jeopardize those things that we have fought for so hard, so diligently, and which have, to a large measure, enabled the public of the United States to know what is going on. The nuclear tests out in the Midwest and the terrible things that happened from them would have continued to be the secrets of the government if we did not have FOIA. But because we had the Freedom of Information Act, we enabled the public to be better informed and we enabled the Congress to do a better job in legislating.

Mr. Chairman, I urge adoption of this amendment.

Mr. ARMEY. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. TOM DAVIS), the author of the original FOIA language, who has done such an excellent job.

(Mr. TOM DAVIS of Virginia asked and was given permission to revise and extend his remarks.)

Mr. TOM DAVIS of Virginia. Mr. Chairman, let me first of all say I think the problem with this amendment is it goes in the wrong direction. We are all strong supporters of FOIA legislation. I served in local government for 15 years, and the Freedom of Information Act applies to local government. Strangely enough, Congress is exempt from any of these exemptions.

This is a very narrowly tailored FOIA exemption that will allow companies out there that have innovative ideas in terms of how to protect our critical infrastructure, it will allow them to disclose it to the government without fear of it being discovered by competitors or terrorists.

We have to remind ourselves that we discovered when we went into the caves in Afghanistan that al Qaeda groups had copies of GAO reports and other government information obtained through the Freedom of Information Act. While we work to protect our Nation's assets in this war against terrorism, we also need to make sure we are not arming terrorists.

The previous speaker spoke about how they worked on this in the early 1970s. I would submit the world has changed. There was a challenge from the other side saying there were no instances where information was not shared. Just last year it was discovered that the widely used implementations of the simple network management protocol, a fundamental element of the Internet, contained vulnerabilities that could expose the Internet's infrastructure to attack. Many companies were reluctant to give the government information about these vulnerabilities, which were not yet mentioned in the general press, for fear that the vulnerability information would be forced to be disclosed once it was in the government's hands and this could create substantial risk to their customers and to the Internet and the U.S. economy.

I might also add the Department of Energy for years has asked that electric utility industries provide it with a list of critical facilities. They have consistently refused because they do not want to create a target list that could be released under the Freedom of Information Act. I suspect there are many, many others.

We need to remember that the critical infrastructure of the United States is largely owned and operated by the private sector, 90 percent operated by the private sector. Understanding the vulnerabilities, experiencing the vulnerabilities, finding, if you will, antidotes to these vulnerabilities, is something that the private sector has much more experience in than the public sector. We need that information at the Federal level if we are to protect our critical infrastructure.

This very narrowly tailored amendment, I might add, went through the Senate committee on a bipartisan unanimous vote. There were no concerns over there, because it is narrowly tailored. This is essential if we are going to get companies to be able to volunteer to the government solutions that can help us protect our critical infrastructure.

There is precedent for this. I heard arguments that this is unprecedented. If you take a look at the successful Y2K Act, Information Readiness Disclosure Act, it provided a limited FOIA exemption and civil litigation protection for shared information.

We narrowly tailor these so we do not take away what FOIA offers the general public, very important protections. But if we do not allow it in these narrow instances, I am afraid we are not going to have the tools to fight terrorism. This legislation, I think, helps the private sector, including the ISOs, to move forward without fear from the government. It is essential.

Mr. Chairman, I oppose this amendment.

Ms. SCHAKOWSKY. Mr. Chairman, I am proud to yield 2 minutes to the gentleman from California (Mr. WAXMAN), the ranking Democrat on the Committee on Government Reform and a leader in this House on both homeland security and good government.

Mr. WAXMAN. Mr. Chairman, I thank the gentlewoman for yielding me time.

Mr. Chairman, it is remarkable, the position of the Republican Party today. It really shows the bankruptcy of that party. The Republican party used to stand for the idea that there should be some distrust of government. The theory was it can get too big, too bureaucratic; the federal government could interfere in the lives of individuals and start dictating policies from Washington. So what does this bill do? It grows the bureaucracy. It wastes money. With these Freedom of Information and FACA changes, it allows the government to keep things secret.

You know who wrote the Freedom of Information Act? Barry Goldwater wrote it. Barry Goldwater wrote FOIA, because he said a government that has so much power can intrude in the lives of individuals, and he wanted the public to know what was going on.

This bill and the way it is drafted without the Schakowsky amendment would allow this administration to meet in secret with business executives and lobbyists, just like it did in the Energy Task Force Vice President Cheney chaired. The administration could keep it all quiet. It could, in the name of national security, reward all these big industry groups that it is now so beholden to, by meeting with executives from the airline industry when they come in for special favors. But the public will never know, because the Freedom of Information Act, which protected all of us, will now be wiped out.

Remember the days when the Republicans said Washington is not the place where all the wisdom is located? Well, what do they do? They preempt the States from having Freedom of Information laws that are more open to the public than what we are going to get in the bill passed today.

It is a very sad day to see this in the Republican Party. I did not used to agree with them, but I used to respect them, when they worried about a big intrusive government that wasted money, that grew bureaucracy and became inefficient. Now it is responsive just to special interest big money.

Mr. ARMEY. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from Indiana (Mr. BURTON), the

distinguished chairman of the Committee on Government Reform, the committee of jurisdiction.

Mr. BURTON of Indiana. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I would just like to say to my good friends, the gentleman from California (Mr. WAXMAN) and the gentlewoman from Illinois (Ms. SCHAKOWSKY), I have high regard for both of them. We have tried to work on this in a bipartisan manner, and I really hope this whole issue does not degenerate into a political name-calling session, because we all want the same thing. We want to make sure Americans are secure and free from the threat of terrorism.

Now, the President wants to encourage the private sector to give information to the Department of Homeland Security to enhance the safety of the American people. He is concerned that the people we are talking about will not volunteer information if they think whatever they turn over will be released to the public under the Freedom of Information Act. I think he is right. You would not want some terrorist getting some of this information that would be voluntarily given to Homeland Security.

Let me give you an example. If a business owner recognizes that some part of his business infrastructure might be vulnerable to a terrorist attack, we want him to be able to come to the government and tell us about what he thinks might be done and how to deal with it. We want him to go to the Department of Homeland Security and be very candid. We wanted to be proactive, not reactive.

This is the sort of information we must have to prevent tragedy to the American people. But if the businessman is worried and if his lawyers are worried that whatever he voluntarily discloses will go straight into the public domain and hence maybe to the terrorists, as we said earlier today, then he probably will not do it.

We are in a war. I hope my colleagues all remember that. We are in a war. We need to take steps to guarantee that those people will come to us with that information to protect the safety of the American people, and that is why I oppose this amendment.

I think the concerns raised by the sponsors of the bill, and I have high regard for all of them, are misplaced. The Freedom of Information Act will not be harmed. The legislation we will vote on today will not allow people to dodge the Freedom of Information Act. This bill does not change FOIA or the rules of FOIA for any other forms that businesses have to produce to any agency of the Federal Government. The only thing that will not be subject to FOIA information are the vulnerabilities to terrorist attacks.

The government needs the kind of information we are talking about, and we will not get it unless there is a voluntary decision by the business people and the private sector to disclose it to government. They are not going to do it if they feel like they are going to be threatened or they will expose something that might lead to a terrorist attack.

This is a commonsense, real world proposal, and we should not tie our hands behind our backs when it comes to fighting terrorism and protecting the American people.

I hate to say this, but I have high regard for the gentlewoman from Illinois (Ms. SCHAKOWSKY) and the gentleman from California (Mr. WAXMAN), but this amendment would do more harm than good.

□ 1715

We need to make sure we take every step possible to get the private sector working with the government to make sure we are free from terrorist attacks.

The CHAIRMAN pro tempore (Mr. SWEENEY). The Chair wishes to inform Members that the gentleman from Texas (Mr. ARMEY) has 7 minutes remaining and the gentlewoman from Illinois (Ms. SCHAKOWSKY) has 5½ minutes remaining.

Ms. SCHAKOWSKY. Mr. Chairman, I yield 3½ minutes to the gentleman from Ohio (Mr. KUCINICH) whose whistleblower amendment passed in the Committee on Government Reform, the language included in this bill.

Mr. KUCINICH. Mr. Chairman, it would be unfortunate, in our efforts to improve homeland security, if suddenly our government became less open, less transparent. It would appear if we do that, then the terrorists win, because their attack is on our basic premise of democracy, of a free and open society.

The current language in the bill fails to protect transferred homeland security, civil servants from whistleblower reprisals. Under the current Whistleblower Protection Act, the standard bureaucratic response has been to silence messengers blowing the whistle on national security breakdowns.

Now, the Schakowsky-Kucinich-Mink amendment is designed, and it is needed, to protect national security whistleblowers by allowing them to petition Congress directly and providing an effective remedy for any reprisal taken by the new agency.

Whistleblower rights are workers' rights and no worker should lose his or her job for exposing waste, cover-up, and lies of his or her superiors. It is ironic that in a bill which is designed to fight terrorism we have a provision designed to terrorize workers.

The passage of this amendment is vital to protect the security of the American people. The September 11 terrorist attacks highlight a longstanding necessity to strengthen free speech protections for national security whistleblowers, a number of whom have already made significant contributions to reducing U.S. terrorist vulnerability.

Now, Mr. Chairman, I just want to offer one example of a case that this House ought to be aware of, the case of Mark Graf.

Mark Graf was an alarm station supervisor and Authorized Derivative Classifier. He worked 17 years at the Department of Energy's Rocky Flats Environmental Technology Site. After the Wackenhut Services, a private security agency, took over this site with more than 21 tons of uranium and plutonium, Mark Graf witnessed the elimination of their bomb detecting unit, sloppy emergency drills, and negligence at taking inventory of the plutonium for months at a time. He and several other high-level officials raised serious concerns about a terrorist risk to the security of plutonium, as more than a ton of the material is unaccounted for at Rocky Flats. He took his concerns to management, which took no action.

In 1995, after blowing the whistle to a Member of Congress, Mr. Graf was immediately reassigned from the areas that raised concerns in the first place. In a classified memo to the site supervisors and later to the Defense Nuclear Facilities Safety Board, he outlined specific vulnerabilities which, if exploited, could result in catastrophic consequences.

With no corrective action being taken, he did an interview with CBS News. After the interview, he was subjected to a psychological evaluation and placed on administrative leave. As a condition of returning to work, he was gagged from speaking to Congress, the media, the agency, and also under the threat of job termination.

In 1998, he filed and later won a whistleblower reprisal complaint currently being appealed by his employers. His disclosures contributed to legislation in the 1998 Defense Authorization Bill requiring an annual review of the safety and security program.

We have a nuclear industry in this country with over 100 nuclear reactors, many of which have been relicensed and have reactor vessels that have been embrittled. We have a hole in a reactor that is trying to be repaired in Toledo, Ohio. Nuclear reactors are part of the critical infrastructure. This bill would let a cover-up be, in effect, okay in the name of national security so that the public would never know about a hole in a nuclear reactor or anything that was done that compromises the security of people who lived in the area.

This amendment is necessary. This amendment is in the interests of our national security and our public health.

Mr. ARMEY. Mr. Chairman, it is my pleasure to yield 2 minutes to the distinguished gentleman from Ohio (Mr. PORTMAN).

Mr. PORTMAN. Mr. Chairman, I think the FOIA concerns over parts of this amendment have already been made by others, but I will say just to my friend from Ohio, that is clearly not the intent of the underlying bill nor is it the impact of the underlying bill. All of the FOIA requirements that

we would have, including right to know, would continue to be operative. This is a very narrow stipulation that, with regard to infrastructure information provided by the private sector, that we would get limited FOIA protection, which is absolutely necessary for national security, and that has been discussed.

This amendment would also create a plaintiff lawyers' dream as I see it, and that is the civil actions open to punitive damages for whistleblowers claiming to have suffered from reprisal. The mere threat of these punitive damages can cause defendants, including the government, to settle cases; and it does, to settle cases that have questionable merit just to reduce that risk of an extreme verdict.

The opportunity of punitive damages for a plaintiff, can make an otherwise meritless case look awfully tempting to pursue, just in case the jury does come in with a big verdict. It is excessive. Let us be clear. The committee bill does have traditional whistleblower protections in it. I am kind of tired of hearing it does not. Please turn to page 185 of the bill, because it is right there. These are the whistleblower protections that we have currently and they should be continued. They are important.

We should be promoting team spirit at this new Department, collaboration. The bill gives the Department the chance to give merit pay, performance bonuses in order to make this department work better as a team. That is the right incentive.

Let us not give incentives to start disputes in the off chance that a clever plaintiffs' lawyer might find something to win in a settlement. Let us stick with the strong whistleblower protections we have in the underlying legislation. Let us stick with the FOIA provisions which are appropriate to provide this narrow limitation with regard to infrastructure information that is important to protecting the national security of this country. Let us vote down this amendment and support the underlying bill.

Ms. SCHAKOWSKY. Mr. Chairman, could I inquire as to how much time we have remaining.

The CHAIRMAN pro tempore. The gentlewoman from Illinois (Ms. SCHAKOWSKY) has 2 minutes remaining.

Ms. SCHAKOWSKY. Mr. Chairman, I yield the balance of the time to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Chairman, how many times will this Congress need to relearn the very basic lesson that an unaccountable government is an irresponsible government? When we confront difficult problems, we can either work to try to solve them, or we can seek to hide them. Without the amendment that is being advanced at the moment, it is the latter choice that is being made.

Exempting so much of this new bureaucracy from the Freedom of Information Act and denying basic protections to whistleblowers is a true ticket to trouble for America. It is a ''kill-the-messenger'' and ''hide-the-body'' approach that tries to sweep all problems, including ones that endanger basic public health and safety, under the carpet by increasing the power of self-appointed censors and denying whistleblowers protection from retaliation.

The only lesson that some people have learned from Enron is the value of secrecy. After all, who exposed Enron's misconduct? A whistleblower named Sheeron Watkins. Certainly no one in this Congress exposed it. Indeed, some are still trying to ignore the causes of what happened at Enron.

Meanwhile, with this Administration, this is not the only place where secrecy is beloved. Just ask Vice President CHENEY about his ''Energy Policy Development Group''. We can ask, but he will not tell until a court makes him do it.

Congress should not shield unscrupulous employers who wield the powerful weapon of the pink slip to intimidate their workers into silence in order to conceal and perpetuate activities that endanger America.

□ 1730

These are citizen crime-fighters, who deserve the protection that we provide crime-fighters, not our scorn.

I have confidence in the power of courageous individuals to make lasting contributions to our Nation—to improve our private and public institutions. Congress should advance that interest by building in government accountability and by ensuring that our government is as open as possible, where employees are encouraged to fix security problems, not to hide them.

Vote in favor of the Schakowsky amendment.

Mr. ARMEY. Mr. Chairman, I am proud to yield 1 minute to the distinguished gentleman from Utah (Mr. CANNON).

(Mr. CANNON asked and was given permission to revise and extend his remarks.)

Mr. CANNON. Mr. Chairman, I was intrigued by the comments of the gentlewoman from Hawaii (Mrs. MINK) and also the gentleman from California. My first job as a lawyer was to work with Stuart Udall in the late 1970s when he was suing the Federal Government on the facts that came out about the fallout, which came out, in fact, in the context of FOIA requests.

Let me say that the information that came out was remarkable. I read every page of that information of the discussions that were held at very high levels in the military about how they should control the information about fallout and subject citizens of the United States knowingly to the unknown effects, known to be bad; but the scope of those effects were unknown at the time.

I agree that it was appropriate to have that information come out and be the subject of a lawsuit. The fact, though, is that that was government activity that was made available through the Freedom of Information Act.

The gentleman from California (Mr. WAXMAN) talked about the Republican Party. These are governmental activities. What we are dealing with in this exception is information that comes from private parties who own 90 percent of the infrastructure.

This amendment is ill advised, inappropriate; and I suggest that my colleagues vote against it.

Mr. ARMEY. Mr. Chairman, I am proud to yield 2 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Chairman, I really like and respect its author, but I have to urge my colleagues to vote against the Schakowsky amendment on the Freedom of Information Act.

This is a very narrow restriction on public disclosure of information about the private industry's critical infrastructure. We all rely on that privately owned infrastructure of this Nation: computer networks, phone and power lines, airplanes, et cetera. As the gentleman from Virginia (Mr. TOM DAVIS) said, 90 percent of our critical infrastructure is owned by the private sector.

In President Clinton's Directive 63, an effort was put into play to enable the owners of this infrastructure to communicate with each other and formulate effective response plans to terrorism, extortion, and hacking. However, PD–63, that Presidential directive, found that companies would not share information about threats to their infrastructure because of their lawyers' concerns about FOIA and antitrust. Sharing such information would put them in an even more vulnerable position with respect to their customers, their shareholders, and their competitors.

I have to say, some of the objections that this amendment addresses are misleading. It is not unprecedented. Congress passed Y2K legislation to exempt information-sharing about critical infrastructure vulnerabilities from use in lawsuits and disclosure to third parties. It is narrower than that Y2K legislation. It contains numerous definitions. It provides no immunity from liability, no limit on discovery or lawsuits, no free pass on criminal activity. All required disclosures under the Clean Air and Clean Water Act must continue.

If we do not include this limited FOIA restriction, we will not be able to say we did everything we could to prepare and defend our homeland. It is a narrowly crafted restriction on FOIA, and it can help win the war on terrorism; so I urge my colleagues to join me in voting against the Schakowsky amendment and for the Davis-Moran amendment, which comes up next.

Mr. ARMEY. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, the amendment of the gentlewoman from Illinois (Ms. SCHAKOWSKY) would do two things. It would set aside some very carefully crafted language that modifies FOIA out of consideration for private sector firms who are asked to share crucial information with the government. That would be a mistake to set that aside. We need these firms that own so much of our infrastructure to cooperate.

Let me just say, FOIA was designed for the American people to understand what is going on in this government; not designed, nor would I think many Americans would think it appropriate, to use FOIA to force private citizens or corporations to give their information up to people like trial lawyers, newspaper editors, or college professors, the three practical categories of people who access FOIA information.

The second part of the gentlewoman's amendment is predicated on the misrepresentation that we do not protect whistleblowers in this legislation. This myth has been running amok in public discourse since the President proposed this. It was always the President's intention, and I believe discerning people would have recognized the President's intention in everything he said and submitted. It certainly is our intention on page 185 of this bill to protect whistleblowers.

So, one, Mr. Chairman, the argument that this bill contains no protection for whistleblowers is just plain flat wrong. The perceptiveness of any eighth-grader who can read would reveal that to anyone.

Now, what the gentlewoman does, building on the myth that there is no protection, is to provide extra special protections in the form of compensatory damages. Also, and I like this one, lawyers across America must be licking their chops over this one: ''any other relief that the court considers appropriate not currently available to whistleblowers.''

Mr. Chairman, if Members want to win the lottery, they should buy a ticket. In the meantime, vote down this amendment and defend the rights of the American people that are legitimate and just.

The CHAIRMAN pro tempore (Mr. SWEENEY). All time has expired.

The question is on the amendment offered by the gentlewoman from Illinois (Ms. SCHAKOWSKY).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Ms. SCHAKOWSKY. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Illinois (Ms. SCHAKOWSKY) will be postponed.

It is now in order to consider amendment No. 25 printed in House Report 107–615.

AMENDMENT NO. 25 OFFERED BY MR. TOM DAVIS OF VIRGINIA

Mr. TOM DAVIS of Virginia. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 25 offered by Mr. TOM DAVIS of Virginia:

Strike paragraph (2) of section 722, and insert the following:

(2) COVERED FEDERAL AGENCY.—The term ''covered Federal agency'' means the Department of Homeland Security and any agency designated by the Department or with which the Department shares critical infrastructure information.

The CHAIRMAN pro tempore. Pursuant to House Resolution 502, the gentleman from Virginia (Mr. TOM DAVIS) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Virginia (Mr. TOM DAVIS).

Mr. TOM DAVIS of Virginia. Mr. Chairman, I ask unanimous consent that my time be equally divided between myself and the gentleman from Virginia (Mr. MORAN).

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield 2 minutes to the gentleman from Utah (Mr. CANNON).

(Mr. CANNON asked and was given permission to revise and extend his remarks.)

Mr. CANNON. Mr. Chairman, I want to express my support for the amendment offered by my good friend, the gentleman from Virginia (Mr. TOM DAVIS), the chairman of the Subcommittee on Technology and Procurement Policy. He has worked thoughtfully on this issue for many years now.

Although the underlying bill contains some of the necessary protections for private organizations to coordinate with each other and share information with the government, it does not go far enough. This amendment is a critical element to facilitate the type of public-private cooperation we want to see developed in protecting vital elements of our infrastructure.

That cooperation should not be artificially limited to the Department of Homeland Security exclusively when the President may want other existing Departments to be recipients of infrastructure vulnerability information.

A fact of life is that 90 percent of our critical infrastructure in this country, whether it is telecommunications facilities, pipelines, or electricity, the electricity grid, is held not by the government but by private companies and individuals. In order to induce these private entities to voluntarily share information about their vulnerabilities and security protections with each other and with the government, they need to be granted clear advance assurances that such collaboration and information-sharing will not hurt them.

Even more importantly, we need to ensure that such information is not used to our collective detriment. Openness is a great asset of our society, but there needs to be a balance. Already there is a great deal of publicly available information that can be used by those who wish us harm. But we should not release sensitive information not normally available in the public domain because a private entity has voluntarily cooperated with the Federal Government, the Federal or local government.

We have a successful model for this type of limited exemption from FOIA in the public and private efforts that were undertaken to prepare for the Y2K computer programming glitch, and that effort was an astounding success. I urge Members to support the Davis amendment.

The CHAIRMAN pro tempore. Does any Member rise in opposition?

Ms. DELAURO. Yes, Mr. Chairman, I do. I seek the time to control in opposition to this amendment.

The CHAIRMAN pro tempore. The gentlewoman from Connecticut is recognized for 10 minutes in opposition.

Ms. DELAURO. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I rise in strong opposition to this amendment which would take a bad idea and make it worse. We all understand the need to safeguard sensitive information relating to national security. The FOIA statute already contains exemptions for critical infrastructure information, confidential business information, for national security information. In effect, the tools are in place to protect this kind of information without curtailing the public's right to know.

This provision defines infrastructure information so broadly that it covers all kinds of lobbying requests, even lobbyists asking for liability protection. In essence and in effect, this provision is a lobbyists' protection act. An energy company could shield itself from liability from radioactive materials that leaked from its nuclear power plant, and lobbyists and industry officials would be allowed to communicate with Department staff charged with critical decisions without any public disclosure. We saw that already with the protracted fight with the administration, with the Energy Department, where they were forced to turn over documents that showed much of the White House energy plan was written by the energy lobbyists.

We have another example of the kind of information that could be kept from the public if this amendment passes. After a fatal Amtrak derailment in southern Iowa, investigation showed that a stretch of privately owned railroad track which suffered from over 1,500 defects was partly to blame. The FOIA exemptions in this bill would have kept this information, which is essential to prevent another disaster, from the public; and expanding those exemptions to other agencies would only keep more health and safety information from the public.

We should not be using this bill to curtail the public's right to know about critical health information, safety information. We should not use it, if

you will, as a way to give corporations a way to avoid accountability for their actions.

Mr. Chairman, I reserve the balance of my time.

Mr. MORAN of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today in support of the amendment offered by the gentleman from Virginia (Mr. TOM DAVIS). In fact, this amendment is actually an abbreviated version of a bill that he and I sponsored, H.R. 2435, the Cyber Security Information Act.

Some people thought our bill was too broad, so we worked together in a bipartisan manner with the administration and all the committees of jurisdiction, the interest groups, and the public to craft a very narrow restriction on public disclosure of information about the private industry's critical infrastructure.

The FOIA exemption at issue here is deliberately narrow, but it has addressed concerns that are legitimate. We all rely on the critical infrastructure of this Nation, and over 90 percent of that critical infrastructure is private. This is where our principal vulnerability lies. In Presidential Directive 63, which was issued by President Clinton, it enabled the owners of this private infrastructure to communicate with each other and formulate effective response plans to any acts of terrorism, extortion, or hacking; but that Presidential Directive 63 found that companies would not share information about threats to their infrastructure because of their concerns about FOIA antitrust and liability.

So today, as we continue to fight our war on terrorism, many companies want to help us by sharing what they have discovered; but they will not because they are legitimately concerned that in revealing actual or potential network risks and vulnerabilities, they may inadvertently heighten their own risks if all the information they provide the government has to be published under the Freedom of Information Act.

Without exemption from FOIA, businesses are likely to spend a lot of valuable time and resources scrubbing virtually all information supplied to the new Department of Homeland Security so that they do not inadvertently disclose market-sensitive information to their commercial rivals.

This narrowly crafted freedom of information exemption in this bill will alleviate this widespread industry concern and accomplish a fundamental goal of this legislation: collaborative and constructive business-government cooperation in the cause of homeland security.

We faced and solved a potential crisis like this before with our Y2K act. Everybody remembers when we woke up the morning of January 1, 2000, we wondered if the Y2K preparations were enough, or if we would face shutdowns of our critical infrastructure, banks, and other computer systems. But everything worked, and there were no Y2K disasters because of that legislation, which did very much the same thing that this legislation does.

The success of our approach to Y2K should be followed now. As with Y2K, we have to create an environment where private industry can discuss and share with the government information about threats, best practices, and defenses against terrorism.

□ 1745

And I have to say, I do not think the objections raised are based on an accurate description of the language in this bill. Contrary to what it's opponents are saying, our FOIA provisions are not a mechanism to hide corporate wrongdoing or environmental disasters. The FOIA provisions in this bill provide no immunity from liability. There is no limit on discovery of lawsuits, and no free pass on criminal activity. Moreover, all required disclosures under the environmental statutes such as the Clean Air Act or the Clean Water Act must continue.

Without this legislation, we will not be able to say that we did everything we could to prepare our people and prevent disasters and defend our homeland. This very limited restriction on FOIA can contribute to winning the war on terrorism. That is why we need to support it.

Mr. Chairman, I reserve the balance of my time.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I reserve the balance of my time.

Ms. DELAURO. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Chairman, I thank the gentlewoman very much for yielding me time.

The Freedom of Information Act provisions in this bill are a continuation of the current administration's onslaught on the public's right to know and they should be struck from the bill. Now we have the Davis amendment which dramatically expand them.

We know what this administration has done so far. It would not disclose what lobbyists and energy companies met with the Chaney energy task force. It issued an executive order limiting the release of presidential records. It repeatedly refused to release information requested by Congress, including even basic census information. Now it wants a huge statutory loophole inserted in the Freedom of Information Act. The majority says this is to protect information that may be necessary to protect homeland security.

Let me submit to the Members that what they really want to do is to protect lobbying groups, special interest groups, from having the fact that they have gone in and asked for special favors to be disclosed.

Under this amendment, a chemical company can go to the EPA and ask to relax the requirement that it report chemicals stored at its facility; it would make this request on the grounds that this information could be useful to terrorists. It could also be useful for the public to know. Under this amendment, they would say that has to be exempt from disclosure. A drug company could lobby the Department of Health and Human Services to relax human testing requirements for drugs that might have homeland security uses. And under this amendment, this information would be exempt from disclosure. A manufacturer can lobby the Department of Labor to relax worker safety regulations on the grounds that the regulations add unnecessary costs that limit its ability to implement securities measures, and under this amendment, this information would be exempt from disclosure.

Now in our committee I raised this point and the gentleman from Virginia (Mr. DAVIS) said absolutely not true. He said, this is not to protect lobbying and to assure the Members who were raising this point, he agreed, and everybody supported, an amendment I offered to the bill that said nothing in this subtitle shall apply to any information submitted in the course of lobbying any covered Federal agency.

So what happened? The bill went to the Select Committee on Homeland Security and it struck it out. What does that tell you? Why would the members of the Select Committee strike that out? Because they want to protect the lobbyists that come ask for special favors. This is just like they want to protect the groups that might be negligent in giving services or devices that they are going to sell to the government.

It is a giveaway. It is a giveaway to special interest groups that I am sure are major contributors to the Republican campaign committee. I believe it and I see evidence of it over and over again. There is no attempt to make this a bipartisan bill. They want it to be partisan and they want it for their special contributors.

The CHAIRMAN pro tempore (Mr. SWEENEY). The Chair wishes to advise Members that the gentlewoman from Connecticut (Ms. DELAURO) has 5 minutes remaining. The gentleman from Virginia (Mr. MORAN) has 1½ minutes remaining. The gentleman from Virginia (Mr. TOM DAVIS) has 3 minutes remaining.

Ms. DELAURO. Mr. Chairman, I yield 2 minutes to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Chairman, we are told over and over again as we create this Department of Homeland Security that we are at war, that these are very special times. And clearly we need to know about infrastructure vulnerabilities. There is no question about it. Such information is essential.

Well, I wonder if it occurred to the majority that one way to get that information might be to require it. For an issue as critical as national security, it is striking that the administration is apparently unwilling to require

companies to submit information on vulnerabilities, but instead willing only to rely on coaxing it from them voluntarily by relaxing the disclosure law that is a cornerstone of open government.

Now, the gentleman from Virginia (Mr. DAVIS) purported to give an example how information regarded as confidential by a company was released as an example of why we have to have this. But, instead, actually what he told us was how a company refused to give the information because they did not trust the government.

Again, over and over what we are told here is not that the Freedom of Information Act as currently written really does not have enough exemptions but that the lawyers for private corporations do not trust it. Do we not trust the new Secretary, whoever that may be, of the Department to say we will exempt those things that are a threat to national security, that are a threat to the confidential proprietary information of a company? We have put all kind of power in his hands. Certainly we can trust him to do that.

I think it was the gentleman from Virginia (Mr. DAVIS) also said that the Senate passed this language or the earlier language, the FOIA language, in their version of the bill, but that is not true. One important exception is the Senate bill does not preempt State and local Freedom of Information and other kinds of public information disclosure laws. It is important we should vote down this amendment. It is dangerous to our democracy.

The CHAIRMAN pro tempore. The Chair wishes to further inform Members that the order of closure will be the gentleman from Virginia (Mr. MORAN), who has 1½ minutes remaining, then the gentleman from Virginia (Mr. TOM DAVIS), who has 3 minutes remaining, and then the gentlewoman from Connecticut (Ms. DELAURO), who has 3 minutes remaining.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me put a couple of things to rest.

First of all, we are simply taking the base text of the bill as it is currently drafted as this House has approved, and we are extending the information that could be obtained by the Secretary of Homeland Security and are allowing in his discretion to share information that would not otherwise be attainable by the government, to share this information with other Federal agencies if it will help protect our critical infrastructure so that we can obtain the information that will keep our security systems, our cybersystems in the Department of Defense or in the FBI or the CIA, and the information that we receive through Homeland Security will protect those systems. We can share that information.

This is a very narrowly tailored amendment. This amendment, in fact, is more narrowly tailored than an exemption that was passed by this House and signed by the President on the Y2K Readiness Act. So we have done our best to make sure the Freedom of Information Act is protected.

This does not apply to lobbyists. I do not know why the language was taken out by the other committee. I certainly accepted antilobbying language at the committee level where we were before, but perhaps they took it out because such language is redundant.

The language here is very clear that only information that would otherwise not be attainable by government would now be able to be shared to protect our critical infrastructure and that it has to pertain to critical infrastructure information. If it pertains to anything else, it does not fit the exemption and it would be as it currently is, available under the current statute.

Now, this legislation has nothing to do with campaign contributions, and I think those kinds of statements belong in the political waste basket. I think we are people of good will here who are doing our best to make sure that in developing a Department of Homeland Security we are getting the best information available to combat terrorism.

We have to remember that in the caves of al Qaeda we found government documents obtained through the Freedom of Information Act that lay in terrorists' hands that they were using to destroy us. And just as the Romans built a system and a network that took them to all corners of the Earth, it was the same barbarians that used those roads to come in to destroy Rome.

What we want to do is as we build this infrastructure, we want to protect it from those barbarians, in this case, the terrorists.

Since the infrastructure is 90 percent owned by the private sector, we are soliciting comments, we are soliciting the experience from the private sector to share with the government in a way that will not be used to the private sector's detriment, so that the private sector's competitors, so that terrorists, so that lawyers cannot come in and get this information that would otherwise be attainable and use it against them. And without that protection, what we are finding out is companies, innovators, small innovators are reluctant to share that information with the government because it could bankrupt those companies.

This is narrowly crafted. The Senate agrees, at least, on the Federal portion of this. I concur with the previous speaker, it does not apply to State and local on the Senate side. We do because critical infrastructure also applies to State and local. I urge adoption of the amendment.

Ms. DELAURO. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Chairman, this amendment is the logical extension of a very bad idea of spreading secrecy throughout our government. It would enlarge a giant black hole. You pour taxpayer money in one side and out the other side, the only thing that comes out are the government-approved leaks.

For over 2 decades while the Soviet Union existed and the Berlin Wall divided Europe, the Freedom of Information Act maintained a careful balance between the public's right to know and our national security. Why today then have some leaders lost confidence in this landmark law?

Well, apparently, the answer is found in the language deleted from the bill that we are now told amazingly is ''redundant''. Language that clearly assumed that lobbying contacts would be revealed has been removed. And so the clear legislative history of this bill is that when lobbyists are seeking special treatment from this new bureaucracy, no one but them and their benefactors will know it occurred. Where our public safety is at stake, when we begin by burying secrets, we will end with burying bodies. This amendment ought to be rejected.

The CHAIRMAN pro tempore. Does the gentlewoman from Connecticut (Ms. DELAURO) wish to close?

Ms. DELAURO. Mr. Chairman, yes, I do. How much time do I have remaining?

The CHAIRMAN pro tempore. The gentlewoman from Connecticut (Ms. DELAURO) has 2 minutes remaining.

Ms. DELAURO. Mr. Chairman, I yield 1 minute to the gentlewoman from Hawaii (Mrs. MINK).

Mrs. MINK of Hawaii. Mr. Chairman, I thank the gentlewoman for yielding me time.

We all want to make sure the government has tools with which to operate efficiently, effectively, to safeguard the people and property of this country. The government is out there collecting information with its own resources, with tax dollars. All of that information is now available, accessible to the public under FOIA. Why is it we have to generate an exemption to the private sector for voluntary information?

If this information is necessary for homeland security, the government ought to be required to get that information; and then, if necessary, that information coming from a private source can be classified. It can be deemed to be business-related information that should be exempt.

I submit that all of the powers of the government that now allow these exemptions already exist in the nine categories that are in current law, that have been effective for the last 30 years to protect private interests, private business, trade secrets, everything else in the private sector; but we have not touched in any way the right of the public to know what it is that the government is doing, and there should be no secrets. Let the public have the absolute right to know.

Mr. MORAN of Virginia. Mr. Chairman, I yield myself such time as I may consume to close.

Mr. Chairman, the distinguished gentleman from California (Mr. WAXMAN) threw me for a loop a bit there when he said the language restricting lobbying had been taken out. But in looking through this, it is moot because this has nothing to do with lobbying.

The Congress just passed legislation to address corporate accountability. The President is going to sign it. There are a total of 11 sections in title 18 of the Civil Service Code. These are criminal law provisions. They govern the behavior of Federal employees and they restrict and prohibit acting as a lobbyist, being lobbied, revolving-door activities, financial conflicts of interest, making political contributions, lobbying with appropriated monies.

□ 1800

The information that we are talking about here has nothing to do with lobbying. It is critical infrastructure vulnerabilities to terrorism. Electric dam supervisors are not going to be having anything to do with lobbying. It has to be in good faith and no evasion of law is allowed. These are telecommunications managers, they are financial service people, they are people that have identified vulnerabilities, vulnerabilities that we need to be protected by. We have been told by the FBI, by the Office of Critical Infrastructure Protection.

They desperately need this kind of language. The Department of Homeland Security needs it. Otherwise we cannot act effectively. We are not going to be able to protect the people of this country if our private sector that runs 90 percent of critical infrastructure is not able to disclose all of the information that might be relevant to protecting the American people. That is the reason for this amendment. It has nothing to do with lobbying. And it has everything to do with protecting the security of the American people.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. SWEENEY). The gentlewoman from Connecticut is recognized for 1 minute.

Ms. DELAURO. Mr. Chairman, this is really rather incredulous. We have through the Freedom of Information Act been protecting national security, trade secrets, other provisions of business information for the last 36 years. What have we been doing since we initiated this piece of legislation? Why if already the exemptions are built in here that they have worked for our Defense Department, they work for the FBI, they work for the CIA, do all of a sudden we put together a new Department here and those safeguards of the public's right to know are inoperable, they are abrogated? What is the reason?

And the very reason is what my colleagues, some on this side of the aisle and my colleagues on the other side of the aisle, say is that this provision is about protecting lobbyists. That is what it is all about, and we ought to vote it down. We ought to do what is the right thing to do, protect the public's right to know. The exemptions are built unto the law. They have been working. Let us continue to let them work.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Virginia (Mr. TOM DAVIS).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Ms. DELAURO. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Virginia (Mr. TOM DAVIS) will be postponed.

Mr. ARMEY. Mr. Chairman, I ask unanimous consent that after debate concludes on all amendments made in order under the rule, it be in order to recognize both the gentlewoman from California (Ms. PELOSI) and myself for the purpose of offering a pro forma amendment to conclude debate.

The CHAIRMAN pro tempore. Is there objection to the request from the gentleman from Texas?

There was no objection.

Ms. PELOSI. Mr. Chairman, I ask unanimous consent to strike the last word.

The CHAIRMAN pro tempore. Is there objection to the request from the gentlewoman from California?

There was no objection.

Ms. PELOSI. Mr. Chairman, I sought that time in order to engage the majority leader in colloquy about section 770 of H.R. 5005.

Mr. ARMEY. Mr. Chairman, if the gentlewoman will yield, I would be happy to engage in colloquy with the gentlewoman from California.

Ms. PELOSI. Mr. Chairman, I thank the gentleman from Texas (Mr. ARMEY).

This section would prohibit the Government from putting in place the Bush administration's TIPS program, the Terrorist Information and Prevention System. Is it the majority leader's intent that section 770 ban both the program called ''TIPS'' and any other successor program that might be considered that would have the same or similar characteristics as TIPS? In other words, would section 770 bar the Government both from putting in place the same program under a different name or a program under a different name with similar characteristics to the proposed TIPS program?

Mr. ARMEY. Mr. Chairman, will the gentlewoman yield?

Ms. PELOSI. I yield to the leader.

Mr. ARMEY. Mr. Chairman, I thank the gentlewoman for yielding.

Yes. Section 770 is intended not only to prohibit the TIPS program, but also any and all activities to implement the proposed plan. This means that section 770 prohibits the TIPS program no matter what name it is given and any program with the same or similar characteristics. This is not to say that the Government would be barred from receiving information about potential terrorism from any member of the public. Of course, it could and it does under current law.

Rather, what is prohibited is the creation of a Government program that would have the effect or purpose of encouraging workers and others who have access to our homes and our neighborhoods to report to the Government information that they think is suspicious. This work is best left to State and local law enforcement officials. There are much better ways to involve our communities in securing our homeland. After all, we are here today to defend our freedoms.

Ms. PELOSI. Mr. Chairman, I thank the majority leader.

Further, I would like to engage the majority leader in a colloquy about Section 815 of H.R. 5005. This section makes it crystal clear that nothing in this legislation authorizes the development a national identification system or card. Since September 11 there have been several proposals to institute a national identification system or national I.D., and all have been met with a great deal of controversy. Direct passage of a national I.D. card, however, is only one possible path to such a system. There have also been proposals to establish a national I.D. through the back door of the State driver's license.

For example, in a recent report, the nonpartisan National Research Council called the American Association of Motor Vehicle Administrators' standardization proposal a ''nationwide identity system.'' Does the majority leader agree that recent proposals to standardize State driver's licenses would be a back door route to a national I.D. and therefore prohibited under this provision?

Mr. ARMEY. Mr. Chairman, will the gentlewoman yield?

Ms. PELOSI. I yield to the leader.

Mr. ARMEY. Mr. Chairman, the answer is yes on both counts. The Federal government does not have the authority to nationalize driver's licenses and other identification cards. And this legislation would not give them that authority. The authority to design and issue these cards shall remain with the States.

The use of uniform unique identifiers or Social Security numbers with driver's license or proposed ''smart cards'' is not consistent with a free society. This legislation rejects a national identification card in any form.

Ms. PELOSI. Mr. Chairman, I yield back the balance of my time.

Mr. HOLT. Mr. Chairman, I ask unanimous consent to strike the last word.

The CHAIRMAN pro tempore. Without objection, the gentleman from New Jersey is recognized for 5 minutes.

There was no objection.

Mr. HOLT. Mr. Chairman, I wish to engage in a colloquy with the gentleman from Texas, who is the majority leader, the gentleman from New

York and the gentleman from Delaware.

Mr. Chairman, I am troubled by reports indicating that due to financial pressures, Amtrak has been forced to make drastic reductions in the security personnel that patrol the Trenton Train Station, Penn Station in New York City, 30th Street Station in Philadelphia and others.

According to recent media accounts in Trenton, New Jersey, the staff reductions are so severe that they are now time when no officers are on patrol. This lack of security personnel not only compromises security but the safety of passengers. A strong railroad security is an essential part of a strong homeland security, and I hope that the gentleman from Texas will make certain that the commitment to rail security, particularly Amtrak police officers, is not reduced.

I am currently working with the gentleman from New York (Mr. CROWLEY) on a letter to the Committee on Appropriations to ask that they address this important issue in their transportation appropriations bill, and I hope that we can address it in this legislation as well.

Mr. CASTLE. Mr. Chairman, will the gentleman yield?

Mr. HOLT. I yield to the gentleman from Delaware.

Mr. CASTLE. Mr. Chairman, I thank the gentleman from New Jersey for yielding to me, and Mr. Chairman, I want to associate myself with the gentleman from New Jersey's comments because what he is talking about is indicative of a larger problem.

Unfortunately, last year Congress and the administration provided Amtrak only $5 million for rail security in comparison to $3.8 billion for the Transportation Security Agency to improve aviation security. In my opinion, this imbalance must be addressed.

I do not know how many Members are aware of this, but I would like to point out that Amtrak's tunnels run underneath the House and Senate office buildings and the Supreme Court. We literally cannot afford to ignore rail security any longer.

I would say to the gentleman from Texas (Mr. ARMEY) that I respectfully request that when the House and Senate meet to negotiate the final details of this bill, that adequate security funding will be provided for Amtrak.

Mr. HOLT. Mr. Chairman, I thank the gentleman for his comments.

Mr. QUINN. Mr. Chairman, will the gentleman yield?

Mr. HOLT. I yield to the gentleman from New York.

Mr. QUINN. Mr. Chairman, I share the sentiments expressed here by my two colleagues, and I thank the distinguished majority leader for engaging in this discussion this afternoon.

As the chairman of the Subcommittee on Railroads in our full Committee on Transportation and Infrastructure, I think it is important for us to remember that regardless of any Member's position on the future of Amtrak and passenger rail service here in our country, I think all of us can agree that security on that rail system is essential. Reducing rail security personnel while we continue to wage a war on terrorism is misguided and unacceptable.

I join my colleagues in asking the gentleman from Texas for his assurance, even during a period of uncertainty surrounding Amtrak, to reaffirm our commitment to the security of our national rail infrastructure, including police personnel.

Mr. HOLT. Mr. Chairman, I thank the gentleman for his remarks.

Mr. ARMEY. Mr. Chairman, will the gentleman yield?

Mr. HOLT. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Chairman, I thank the gentleman for yielding, and let me say to all three of my colleagues, I thank them for their interest in the issue, and let me assure my colleagues that I share their concern about the security of our Nation's rail system.

I would also like to assure them that we will work in conference committee to make certain that the commitment to rail security, particularly Amtrak and Amtrak police officers, is not reduced so that rail stations such as the Trenton Train Station may remain secure.

Mr. HOLT. Mr. Chairman, I thank the gentleman from Texas for his comments and my colleagues.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. It is now in order to consider Amendment No. 26 printed in House Report 107–615.

AMENDMENT NO. 26 OFFERED BY MR. CHAMBLISS

Mr. CHAMBLISS. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 26 offered by Mr. CHAMBLISS:

At the end of title VII add the following new subtitle:

Subtitle H—Information Sharing

SEC. 780. SHORT TITLE.

This subtitle may be cited as the ''Homeland Security Information Sharing Act''.

SEC. 781. FINDINGS AND SENSE OF CONGRESS.

(a) FINDINGS.—The Congress finds the following:

(1) The Federal Government is required by the Constitution to provide for the common defense, which includes terrorist attack.

(2) The Federal Government relies on State and local personnel to protect against terrorist attack.

(3) The Federal Government collects, creates, manages, and protects classified and sensitive but unclassified information to enhance homeland security.

(4) Some homeland security information is needed by the State and local personnel to prevent and prepare for terrorist attack.

(5) The needs of State and local personnel to have access to relevant homeland security information to combat terrorism must be reconciled with the need to preserve the protected status of such information and to protect the sources and methods used to acquire such information.

(6) Granting security clearances to certain State and local personnel is one way to facilitate the sharing of information regarding specific terrorist threats among Federal, State, and local levels of government.

(7) Methods exist to declassify, redact, or otherwise adapt classified information so it may be shared with State and local personnel without the need for granting additional security clearances.

(8) State and local personnel have capabilities and opportunities to gather information on suspicious activities and terrorist threats not possessed by Federal agencies.

(9) The Federal Government and State and local governments and agencies in other jurisdictions may benefit from such information.

(10) Federal, State, and local governments and intelligence, law enforcement, and other emergency preparation and response agencies must act in partnership to maximize the benefits of information gathering and analysis to prevent and respond to terrorist attacks.

(11) Information systems, including the National Law Enforcement Telecommunications System and the Terrorist Threat Warning System, have been established for rapid sharing of classified and sensitive but unclassified information among Federal, State, and local entities.

(12) Increased efforts to share homeland security information should avoid duplicating existing information systems.

(b) SENSE OF CONGRESS.—It is the sense of Congress that Federal, State, and local entities should share homeland security information to the maximum extent practicable, with special emphasis on hard-to-reach urban and rural communities.

SEC. 782. FACILITATING HOMELAND SECURITY INFORMATION SHARING PROCEDURES.

(a) PROCEDURES FOR DETERMINING EXTENT OF SHARING OF HOMELAND SECURITY INFORMATION.—

(1) The President shall prescribe and implement procedures under which relevant Federal agencies—

(A) share relevant and appropriate homeland security information with other Federal agencies, including the Department, and appropriate State and local personnel;

(B) identify and safeguard homeland security information that is sensitive but unclassified; and

(C) to the extent such information is in classified form, determine whether, how, and to what extent to remove classified information, as appropriate, and with which such personnel it may be shared after such information is removed.

(2) The President shall ensure that such procedures apply to all agencies of the Federal Government.

(3) Such procedures shall not change the substantive requirements for the classification and safeguarding of classified information.

(4) Such procedures shall not change the requirements and authorities to protect sources and methods.

(b) PROCEDURES FOR SHARING OF HOMELAND SECURITY INFORMATION.—

(1) Under procedures prescribed by the President, all appropriate agencies, including the intelligence community, shall, through information sharing systems, share homeland security information with Federal agencies and appropriate State and local personnel to the extent such information may be shared, as determined in accordance with subsection (a), together with assessments of the credibility of such information.

(2) Each information sharing system through which information is shared under paragraph (1) shall—

(A) have the capability to transmit unclassified or classified information, though the procedures and recipients for each capability may differ;

(B) have the capability to restrict delivery of information to specified subgroups by geographic location, type of organization, position of a recipient within an organization, or a recipient's need to know such information;

(C) be configured to allow the efficient and effective sharing of information; and

(D) be accessible to appropriate State and local personnel.

(3) The procedures prescribed under paragraph (1) shall establish conditions on the use of information shared under paragraph (1)—

(A) to limit the redissemination of such information to ensure that such information is not used for an unauthorized purpose;

(B) to ensure the security and confidentiality of such information;

(C) to protect the constitutional and statutory rights of any individuals who are subjects of such information; and

(D) to provide data integrity through the timely removal and destruction of obsolete or erroneous names and information.

(4) The procedures prescribed under paragraph (1) shall ensure, to the greatest extent practicable, that the information sharing system through which information is shared under such paragraph include existing information sharing systems, including, but not limited to, the National Law Enforcement Telecommunications System, the Regional Information Sharing System, and the Terrorist Threat Warning System of the Federal Bureau of Investigation.

(5) Each appropriate Federal agency, as determined by the President, shall have access to each information sharing system through which information is shared under paragraph (1), and shall therefore have access to all information, as appropriate, shared under such paragraph.

(6) The procedures prescribed under paragraph (1) shall ensure that appropriate State and local personnel are authorized to use such information sharing systems—

(A) to access information shared with such personnel; and

(B) to share, with others who have access to such information sharing systems, the homeland security information of their own jurisdictions, which shall be marked appropriately as pertaining to potential terrorist activity.

(7) Under procedures prescribed jointly by the Director of Central Intelligence and the Attorney General, each appropriate Federal agency, as determined by the President, shall review and assess the information shared under paragraph (6) and integrate such information with existing intelligence.

(c) SHARING OF CLASSIFIED INFORMATION AND SENSITIVE BUT UNCLASSIFIED INFORMATION WITH STATE AND LOCAL PERSONNEL.—

(1) The President shall prescribe procedures under which Federal agencies may, to the extent the President considers necessary, share with appropriate State and local personnel homeland security information that remains classified or otherwise protected after the determinations prescribed under the procedures set forth in subsection (a).

(2) It is the sense of Congress that such procedures may include one or more of the following means:

(A) Carrying out security clearance investigations with respect to appropriate State and local personnel.

(B) With respect to information that is sensitive but unclassified, entering into nondisclosure agreements with appropriate State and local personnel.

(C) Increased use of information-sharing partnerships that include appropriate State and local personnel, such as the Joint Terrorism Task Forces of the Federal Bureau of Investigation, the Anti-Terrorism Task Forces of the Department of Justice, and regional Terrorism Early Warning Groups.

(d) RESPONSIBLE OFFICIALS.—For each affected Federal agency, the head of such agency shall designate an official to administer this Act with respect to such agency.

(e) FEDERAL CONTROL OF INFORMATION.—Under procedures prescribed under this section, information obtained by a State or local government from a Federal agency under this section shall remain under the control of the Federal agency, and a State or local law authorizing or requiring such a government to disclose information shall not apply to such information.

(f) DEFINITIONS.—As used in this section:

(1) The term ''homeland security information'' means any information possessed by a Federal, State, or local agency that—

(A) relates to the threat of terrorist activity;

(B) relates to the ability to prevent, interdict, or disrupt terrorist activity;

(C) would improve the identification or investigation of a suspected terrorist or terrorist organization; or

(D) would improve the response to a terrorist act.

(2) The term ''intelligence community'' has the meaning given such term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(3) The term ''State and local personnel'' means any of the following persons involved in prevention, preparation, or response for terrorist attack:

(A) State Governors, mayors, and other locally elected officials.

(B) State and local law enforcement personnel and firefighters.

(C) Public health and medical professionals.

(D) Regional, State, and local emergency management agency personnel, including State adjutant generals.

(E) Other appropriate emergency response agency personnel.

(F) Employees of private-sector entities that affect critical infrastructure, cyber, economic, or public health security, as designated by the Federal government in procedures developed pursuant to this section.

(4) The term ''State'' includes the District of Columbia and any commonwealth, territory, or possession of the United States.

(g) CONSTRUCTION.—Nothing in this Act shall be construed as authorizing any department, bureau, agency, officer, or employee of the Federal Government to request, receive, or transmit to any other Government entity or personnel, or transmit to any State or local entity or personnel otherwise authorized by this Act to receive homeland security information, any information collected by the Federal Government solely for statistical purposes in violation of any other provision of law relating to the confidentiality of such information.

SEC. 783. REPORT.

(a) REPORT REQUIRED.—Not later than 12 months after the date of the enactment of this Act, the President shall submit to the congressional committees specified in subsection (b) a report on the implementation of section 782. The report shall include any recommendations for additional measures or appropriation requests, beyond the requirements of section 782, to increase the effectiveness of sharing of information between and among Federal, State, and local entities.

(b) SPECIFIED CONGRESSIONAL COMMITTEES.—The congressional committees referred to in subsection (a) are the following committees:

(1) The Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives.

(2) The Select Committee on Intelligence and the Committee on the Judiciary of the Senate.

SEC. 784. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out section 782.

SEC. 785. AUTHORITY TO SHARE GRAND JURY INFORMATION.

Rule 6(e) of the Federal Rules of Criminal Procedure is amended—

(1) in paragraph (2), by inserting '', or of guidelines jointly issued by the Attorney General and Director of Central Intelligence pursuant to Rule 6,'' after ''Rule 6''; and

(2) in paragraph (3)—

(A) in subparagraph (A)(ii), by inserting ''or of a foreign government'' after ''(including personnel of a state or subdivision of a state'';

(B) in subparagraph (C)(i)—

(i) in subclause (I), by inserting before the semicolon the following: ''or, upon a request by an attorney for the government, when sought by a foreign court or prosecutor for use in an official criminal investigation'';

(ii) in subclause (IV)—

(I) by inserting ''or foreign'' after ''may disclose a violation of State'';

(II) by inserting ''or of a foreign government'' after ''to an appropriate official of a State or subdivision of a State''; and

(III) by striking ''or'' at the end;

(iii) by striking the period at the end of subclause (V) and inserting ''; or''; and

(iv) by adding at the end the following:

''(VI) when matters involve a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, to any appropriate federal, state, local, or foreign government official for the purpose of preventing or responding to such a threat.''; and

(C) in subparagraph (C)(iii)—

(i) by striking ''Federal'';

(ii) by inserting ''or clause (i)(VI)'' after ''clause (i)(V)''; and

(iii) by adding at the end the following: ''Any state, local, or foreign official who receives information pursuant to clause (i)(VI) shall use that information only consistent with such guidelines as the Attorney General and Director of Central Intelligence shall jointly issue.''.

SEC. 786. AUTHORITY TO SHARE ELECTRONIC, WIRE, AND ORAL INTERCEPTION INFORMATION.

Section 2517 of title 18, United States Code, is amended by adding at the end the following:

''(7) Any investigative or law enforcement officer, or other Federal official in carrying out official duties as such Federal official, who by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents or derivative evidence to a foreign investigative or law enforcement officer to the extent that such disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure, and foreign investigative or law enforcement officers may use or

disclose such contents or derivative evidence to the extent such use or disclosure is appropriate to the proper performance of their official duties.

''(8) Any investigative or law enforcement officer, or other Federal official in carrying out official duties as such Federal official, who by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents or derivative evidence to any appropriate Federal, State, local, or foreign government official to the extent that such contents or derivative evidence reveals a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, for the purpose of preventing or responding to such a threat. Any official who receives information pursuant to this provision may use that information only as necessary in the conduct of that person's official duties subject to any limitations on the unauthorized disclosure of such information, and any State, local, or foreign official who receives information pursuant to this provision may use that information only consistent with such guidelines as the At-

The CHAIRMAN pro tempore. Pursuant to House Resolution 502, the gentleman from Georgia (Mr. CHAMBLISS) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Georgia (Mr. CHAMBLISS).

MODIFICATION TO AMENDMENT NO. 26 OFFERED BY MR. CHAMBLISS

Mr. CHAMBLISS. Mr. Chairman, I ask unanimous consent to modify the amendment with the modification that I have placed at the desk.

The CHAIRMAN pro tempore. The Clerk will report the modification.

The Clerk read as follows:

Modification to Amendment No. 26 offered by Mr. CHAMBLISS:

In lieu of amendment #26 printed in House Report 107–615,

At the end of title VII add the following new subtitle:

Subtitle H—Information Sharing

SEC. 780. SHORT TITLE.

This subtitle may be cited as the ''Homeland Security Information Sharing Act''.

SEC. 781. FINDINGS AND SENSE OF CONGRESS.

(a) FINDINGS.—The Congress finds the following:

(1) The Federal Government is required by the Constitution to provide for the common defense, which includes terrorist attack.

(2) The Federal Government relies on State and local personnel to protect against terrorist attack.

(3) The Federal Government collects, creates, manages, and protects classified and sensitive but unclassified information to enhance homeland security.

(4) Some homeland security information is needed by the State and local personnel to prevent and prepare for terrorist attack.

(5) The needs of State and local personnel to have access to relevant homeland security information to combat terrorism must be reconciled with the need to preserve the protected status of such information and to protect the sources and methods used to acquire such information.

(6) Granting security clearances to certain State and local personnel is one way to facilitate the sharing of information regarding specific terrorist threats among Federal, State, and local levels of government.

(7) Methods exist to declassify, redact, or otherwise adapt classified information so it may be shared with State and local personnel without the need for granting additional security clearances.

(8) State and local personnel have capabilities and opportunities to gather information on suspicious activities and terrorist threats not possessed by Federal agencies.

(9) The Federal Government and State and local governments and agencies in other jurisdictions may benefit from such information.

(10) Federal, State, and local governments and intelligence, law enforcement, and other emergency preparation and response agencies must act in partnership to maximize the benefits of information gathering and analysis to prevent and respond to terrorist attacks.

(11) Information systems, including the National Law Enforcement Telecommunications System and the Terrorist Threat Warning System, have been established for rapid sharing of classified and sensitive but unclassified information among Federal, State, and local entities.

(12) Increased efforts to share homeland security information should avoid duplicating existing information systems.

(b) SENSE OF CONGRESS.—It is the sense of Congress that Federal, State, and local entities should share homeland security information to the maximum extent practicable, with special emphasis on hard-to-reach urban and rural communities.

SEC. 782. FACILITATING HOMELAND SECURITY INFORMATION SHARING PROCEDURES.

(a) PROCEDURES FOR DETERMINING EXTENT OF SHARING OF HOMELAND SECURITY INFORMATION.—

(1) The President shall prescribe and implement procedures under which relevant Federal agencies—

(A) share relevant and appropriate homeland security information with other Federal agencies, including the Department, and appropriate State and local personnel;

(B) identify and safeguard homeland security information that is sensitive but unclassified; and

(C) to the extent such information is in classified form, determine whether, how, and to what extent to remove classified information, as appropriate, and with which such personnel it may be shared after such information is removed.

(2) The President shall ensure that such procedures apply to all agencies of the Federal Government.

(3) Such procedures shall not change the substantive requirements for the classification and safeguarding of classified information.

(4) Such procedures shall not change the requirements and authorities to protect sources and methods.

(b) PROCEDURES FOR SHARING OF HOMELAND SECURITY INFORMATION.—

(1) Under procedures prescribed by the President, all appropriate agencies, including the intelligence community, shall, through information sharing systems, share homeland security information with Federal agencies and appropriate State and local personnel to the extent such information may be shared, as determined in accordance with subsection (a), together with assessments of the credibility of such information.

(2) Each information sharing system through which information is shared under paragraph (1) shall—

(A) have the capability to transmit unclassified or classified information, though the procedures and recipients for each capability may differ;

(B) have the capability to restrict delivery of information to specified subgroups by geographic location, type of organization, position of a recipient within an organization, or a recipient's need to know such information;

(C) be configured to allow the efficient and effective sharing of information; and

(D) be accessible to appropriate State and local personnel.

(3) The procedures prescribed under paragraph (1) shall establish conditions on the use of information shared under paragraph (1)—

(A) to limit the redissemination of such information to ensure that such information is not used for an unauthorized purpose;

(B) to ensure the security and confidentiality of such information;

(C) to protect the constitutional and statutory rights of any individuals who are subjects of such information; and

(D) to provide data integrity through the timely removal and destruction of obsolete or erroneous names and information.

(4) The procedures prescribed under paragraph (1) shall ensure, to the greatest extent practicable, that the information sharing system through which information is shared under such paragraph include existing information sharing systems, including, but not limited to, the National Law Enforcement Telecommunications System, the Regional Information Sharing System, and the Terrorist Threat Warning System of the Federal Bureau of Investigation.

(5) Each appropriate Federal agency, as determined by the President, shall have access to each information sharing system through which information is shared under paragraph (1), and shall therefore have access to all information, as appropriate, shared under such paragraph.

(6) The procedures prescribed under paragraph (1) shall ensure that appropriate State and local personnel are authorized to use such information sharing systems—

(A) to access information shared with such personnel; and

(B) to share, with others who have access to such information sharing systems, the homeland security information of their own jurisdictions, which shall be marked appropriately as pertaining to potential terrorist activity.

(7) Under procedures prescribed jointly by the Director of Central Intelligence and the Attorney General, each appropriate Federal agency, as determined by the President, shall review and assess the information shared under paragraph (6) and integrate such information with existing intelligence.

(c) SHARING OF CLASSIFIED INFORMATION AND SENSITIVE BUT UNCLASSIFIED INFORMATION WITH STATE AND LOCAL PERSONNEL.—

(1) The President shall prescribe procedures under which Federal agencies may, to the extent the President considers necessary, share with appropriate State and local personnel homeland security information that remains classified or otherwise protected after the determinations prescribed under the procedures set forth in subsection (a).

(2) It is the sense of Congress that such procedures may include one or more of the following means:

(A) Carrying out security clearance investigations with respect to appropriate State and local personnel.

(B) With respect to information that is sensitive but unclassified, entering into nondisclosure agreements with appropriate State and local personnel.

(C) Increased use of information-sharing partnerships that include appropriate State

and local personnel, such as the Joint Terrorism Task Forces of the Federal Bureau of Investigation, the Anti-Terrorism Task Forces of the Department of Justice, and regional Terrorism Early Warning Groups.

(d) RESPONSIBLE OFFICIALS.—For each affected Federal agency, the head of such agency shall designate an official to administer this Act with respect to such agency.

(e) FEDERAL CONTROL OF INFORMATION.—Under procedures prescribed under this section, information obtained by a State or local government from a Federal agency under this section shall remain under the control of the Federal agency, and a State or local law authorizing or requiring such a government to disclose information shall not apply to such information.

(f) DEFINITIONS.—As used in this section:

(1) The term ''homeland security information'' means any information possessed by a Federal, State, or local agency that—

(A) relates to the threat of terrorist activity;

(B) relates to the ability to prevent, interdict, or disrupt terrorist activity;

(C) would improve the identification or investigation of a suspected terrorist or terrorist organization; or

(D) would improve the response to a terrorist act.

(2) The term ''intelligence community'' has the meaning given such term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(3) The term ''State and local personnel'' means any of the following persons involved in prevention, preparation, or response for terrorist attack:

(A) State Governors, mayors, and other locally elected officials.

(B) State and local law enforcement personnel and firefighters.

(C) Public health and medical professionals.

(D) Regional, State, and local emergency management agency personnel, including State adjutant generals.

(E) Other appropriate emergency response agency personnel.

(F) Employees of private-sector entities that affect critical infrastructure, cyber, economic, or public health security, as designated by the Federal government in procedures developed pursuant to this section.

(4) The term ''State'' includes the District of Columbia and any commonwealth, territory, or possession of the United States.

(g) CONSTRUCTION.—Nothing in this Act shall be construed as authorizing any department, bureau, agency, officer, or employee of the Federal Government to request, receive, or transmit to any other Government entity or personnel, or transmit to any State or local entity or personnel otherwise authorized by this Act to receive homeland security information, any information collected by the Federal Government solely for statistical purposes in violation of any other provision of law relating to the confidentiality of such information.

SEC. 783. REPORT.

(a) REPORT REQUIRED.—Not later than 12 months after the date of the enactment of this Act, the President shall submit to the congressional committees specified in subsection (b) a report on the implementation of section 782. The report shall include any recommendations for additional measures or appropriation requests, beyond the requirements of section 782, to increase the effectiveness of sharing of information between and among Federal, State, and local entities.

(b) SPECIFIED CONGRESSIONAL COMMITTEES.—The congressional committees referred to in subsection (a) are the following committees:

(1) The Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives.

(2) The Select Committee on Intelligence and the Committee on the Judiciary of the Senate.

SEC. 784. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out section 782.

SEC. 785. AUTHORITY TO SHARE GRAND JURY INFORMATION.

Rule 6(e) of the Federal Rules of Criminal Procedure is amended—

(1) in paragraph (2), by inserting '', or of guidelines jointly issued by the Attorney General and Director of Central Intelligence pursuant to Rule 6,'' after ''Rule 6''; and

(2) in paragraph (3)—

(A) in subparagraph (A)(ii), by inserting ''or of a foreign government'' after ''(including personnel of a state or subdivision of a state'';

(B) in subparagraph (C)(i)—

(i) in subclause (I), by inserting before the semicolon the following: ''or, upon a request by an attorney for the government, when sought by a foreign court or prosecutor for use in an official criminal investigation'';

(ii) in subclause (IV)—

(I) by inserting ''or foreign'' after ''may disclose a violation of State'';

(II) by inserting ''or of a foreign government'' after ''to an appropriate official of a State or subdivision of a State''; and

(III) by striking ''or'' at the end;

(iii) by striking the period at the end of subclause (V) and inserting ''; or''; and

(iv) by adding at the end the following:

''(VI) when matters involve a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, to any appropriate federal, state, local, or foreign government official for the purpose of preventing or responding to such a threat.''; and

(C) in subparagraph (C)(iii)—

(i) by striking ''Federal'';

(ii) by inserting ''or clause (i)(VI)'' after ''clause (i)(V)''; and

(iii) by adding at the end the following: ''Any state, local, or foreign official who receives information pursuant to clause (i)(VI) shall use that information only consistent with such guidelines as the Attorney General and Director of Central Intelligence shall jointly issue.''.

SEC. 786. AUTHORITY TO SHARE ELECTRONIC, WIRE, AND ORAL INTERCEPTION INFORMATION.

Section 2517 of title 18, United States Code, is amended by adding at the end the following:

''(7) Any investigative or law enforcement officer, or other Federal official in carrying out official duties as such Federal official, who by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents or derivative evidence to a foreign investigative or law enforcement officer to the extent that such disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure, and foreign investigative or law enforcement officers may use or disclose such contents or derivative evidence to the extent such use or disclosure is appropriate to the proper performance of their official duties.

''(8) Any investigative or law enforcement officer, or other Federal official in carrying out official duties as such Federal official, who by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents or derivative evidence to any appropriate Federal, State, local, or foreign government official to the extent that such contents or derivative evidence reveals a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, for the purpose of preventing or responding to such a threat. Any official who receives information pursuant to this provision may use that information only as necessary in the conduct of that person's official duties subject to any limitations on the unauthorized disclosure of such information, and any State, local, or foreign official who receives information pursuant to this provision may use that information only consistent with such guidelines as the Attorney General and Director of Central Intelligence shall jointly issue.''.

SEC. 787. FOREIGN INTELLIGENCE INFORMATION.

(a) DISSEMINATION AUTHORIZED.—Section 203(d)(1) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT ACT) of 2001 (Public Law 107–56; 50 U.S.C. 403–5d) is amended by adding at the end the following: ''Consistent with the responsibility of the Director of Central Intelligence to protect intelligence sources and methods, and the responsibility of the Attorney General to protect sensitive law enforcement information, it shall be lawful for information revealing a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, obtained as part of a criminal investigation to be disclosed to any appropriate Federal, State, local, or foreign government official for the purpose of preventing or responding to such a threat. Any official who receives information pursuant to this provision may use that information only as necessary in the conduct of that person's official duties subject to any limitations on the unauthorized disclosure of such information, and any State, local, or foreign official who receives information pursuant to this provision may use that information only consistent with such guidelines as the Attorney General and Director of Central Intelligence shall jointly issue.''.

(b) CONFORMING AMENDMENTS.—Section 203(c) of that Act is amended—

(1) by striking ''section 2517(6)'' and inserting ''paragraphs (6) and (8) of section 2517 of title 18, United States Code,''; and

(2) by inserting ''and (VI)'' after ''Rule 6(e)(3)(C)(i)(V)''.

SEC. 788. INFORMATION ACQUIRED FROM AN ELECTRONIC SURVEILLANCE.

Section 106(k)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1806) is amended by inserting after ''law enforcement officers'' the following: ''or law enforcement personnel of a State or political subdivision of a State (including the chief executive officer of that State or political

subdivision who has the authority to appoint or direct the chief law enforcement officer of that State or political subdivision)''.

SEC. 789. INFORMATION ACQUIRED FROM A PHYSICAL SEARCH.

Section 305(k)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1825) is amended by inserting after ''law enforcement officers'' the following: ''or law enforcement personnel of a State or political subdivision of a State (including the chief executive officer of that State or political subdivision who has the authority to appoint or direct the chief law enforcement officer of that State or political subdivision)''.

Mr. CHAMBLISS (during the reading). Mr. Chairman, I ask unanimous consent that the modification be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The CHAIRMAN pro tempore. Is there objection to the modification offered by the gentleman from Georgia?

There was no objection.

Mr. CHAMBLISS. Mr. Chairman, I ask unanimous consent, that unless we have someone rising in opposition, that the gentlewoman from California (Ms. HARMAN) be entitled to the 10 minutes that normally would be claimed by the opposition.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. CHAMBLISS. Mr. Chairman, I yield myself such time as I might consume.

Mr. Chairman, information sharing is the key to cooperation and coordination in homeland security, and better information sharing among government agencies and with State and local agencies needs to be a higher priority.

The idea for this amendment was developed during a series of public hearings which my Subcommittee on Terrorism and Homeland Security held last fall. Witnesses ranging from former New York City Mayor Rudy Guiliani to Oklahoma Governor Frank Keating stressed the importance of increasing the level of information sharing between Federal intelligence and law enforcement agencies and local and State law enforcement personnel.

□ 1815

We must make certain that relevant intelligence and sensitive information relating to our national security be in the hands of the right person at the right time to prevent future terrorist attacks.

The gentlewoman from California (Ms. HARMAN) and I introduced the Homeland Security Information Sharing Act, which overwhelmingly passed this House in June. Our bill has strong support from groups such as the National Association of Police Organizations as well as the American Ambulance Association and the National Sheriffs Association.

Our amendment is virtually the same as H.R. 4598. We believe that it is critical that we increase the level of cooperation between State, local, and Federal law enforcement officials. Only by communicating on a more regular basis and sharing more information can we effectively prepare for and defend against future attacks.

In talking to community leaders and emergency responders all across Georgia, I am convinced that we must get this legislation signed into law. We know that gaps in information-sharing opened the door to the tragic events of September 11. Our amendment will go a long way toward filling those gaps and helping our law enforcement officials protect us by giving them the tools they need to do their jobs better.

I appreciate the improvements to the amendment that were made by the gentleman from Connecticut (Mr. SHAYS), the gentleman from New Jersey (Mr. MENENDEZ), and others. I urge my colleagues to join me in supporting this very important amendment.

Mr. Chairman, I submit for the RECORD letters of support from the groups I previously mentioned:

AMERICAN AMBULANCE ASSOCIATION,
McLean, VA, June 26, 2002.

Hon. SAXBY CHAMBLISS,
House of Representatives,
Washington, DC.

DEAR SAXBY: It is with great honor that I send this letter of support to you for your introduction of the Homeland Security Information Sharing Act (H.R. 4598).

As you and I have discussed, the American Ambulance Association (AAA) represents ambulance services across the United States that participate in serving more than 95% of the urban U.S. population with emergency and non-emergency care and medical transportation services. The AAA is composed of individual ambulance operations which serve patients in every state. Our membership is comprised of all types of ambulance service providers including for and not for profit, municipal and fire department and hospital based.

Our members greatly appreciate the commonsense approach that you and the Subcommittee you chair used in drafting this legislation. Visiting with local ambulance providers about their real needs, and then formulating federal law that is consistent with these needs, is indeed refreshing to us out there on the frontline of providing health care to our communities. As you have identified in your bill, first responders at the state and local level need access to specific, credible threats in order to help prevent and better respond to a terrorist incident. H.R. 4598 would greatly improve the flow of this information and enhance the emergency response system. The focus on local providers and their needs will give first responders and medics the tools and capabilities to better ensure the safety of the American public.

Again, thank you for your tireless efforts and tremendous work in drafting this piece of legislation. You are truly a representative of the people of this great nation. The AAA stands ready to help assist you in anyway to ensure passage of H.R. 4598.

Sincerely,

BEN HINSON,
President.

NATIONAL ASSOCIATION OF POLICE ORGANIZATIONS, INC.,
Washington, DC, July 3, 2002.

Hon. SAXBY CHAMBLISS,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE CHAMBLISS: On behalf of the National Association of Police Organizations (NAPO) representing 220,000 rank-and-file police officers from across the United States, I would like to bring to your attention our wholehearted support for H.R. 4598, the ''Homeland Security Information Sharing Act of 2002.''

If enacted, this bill will significantly improve the ability of state and local law enforcement to access important information regarding federal investigations and possible terrorist threats. As the 2001 Anti-Terror legislation expanded information sharing between government agencies, H.R. 4598 will improve on this by setting up positive guidelines and facilitating successful information dissemination.

In the past, legal hurdles, coupled with an overarching federal culture that limited federal external communication, have blocked potentially useful information from being fully utilized. As our nation combats the threat of terrorism, state and local law enforcement will be on the front lines protecting the public and keeping the peace. In this role, necessary information about terrorist threats or investigation leads should not be kept out of reach due to procedural concerns.

As H.R. 4598 now moves to the Senate for consideration, NAPO looks forward to working with you and your staff to insure the bill's passage.

Sincerely,

WILLIAM J. JOHNSON,
Executive Director.

Mr. Chairman, I reserve the balance of my time.

Ms. HARMAN. Mr. Chairman, I yield myself such time as I may consume.

Sadly, Mr. Chairman, today we have had a few votes that were more partisan than I believe they needed to be. This amendment is not one of those, and I would hope that the managers of this bill might accept it. I certainly would hope that the House, if we vote on it, would vote on it by the margin it received last time, the small margin of 422 to 2.

As I stand here today, I know that the gentleman from Connecticut (Mr. SHAYS), the gentleman from New Jersey (Mr. MENENDEZ), and others, on a bipartisan basis, also plan to speak for this amendment. We have all worked together on this amendment. It is improved because of some language that they suggested, and I would like to thank the gentleman from Connecticut (Mr. SHAYS) for his action in his committee to include it in the draft of this bill as it was reported by his committee.

As my partner, the gentleman from Georgia (Mr. CHAMBLISS), has said, this amendment is nearly identical to H.R. 4598, which, as I said, passed overwhelmingly. The reason for offering this amendment today as part of this bill is to get in place as soon as possible procedures to share terrorist threat information across the Federal Government, which certainly includes the CIA, the FBI, and other intelligence agencies, and on down to first responders.

As our Subcommittee on Terrorism and Homeland Security Report found last week, information-sharing is the most critical need in our intelligence community and the best way to arm our first responders and average Americans to stop terrorist attacks. What we hear in the field, and all of us go home each weekend, from police, fire, emergency responders, and average people is they are receiving all this general information, but they do not know what to do about it.

The sooner we can get more specific threat warning information, stripped of sources and methods so that those without security clearances can get it, the sooner we can reduce panic, empower Americans, and make certain that, to the maximum extent, we prevent attacks, shore up our infrastructure, and respond effectively should they come our way.

So this amendment, I think, is our first tool in the homeland security arsenal we are considering today. It received the overwhelming support of this body, and it is supported by the White House and by the office of Governor Ridge. It is vital for our hometowns. And as Governor Ridge often says, we cannot have homeland security without hometown security. I urge support of this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. CHAMBLISS. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from Connecticut (Mr. SHAYS), the chairman of the Subcommittee on National Security, Veterans' Affairs and International Relations of the Committee on Government Reform, a gentleman who has been very actively involved in the issue of terrorism for a number of months, even before September 11.

Mr. SHAYS. Mr. Chairman, I am very pleased to join the gentleman from Georgia (Mr. CHAMBLISS), the gentlewoman from California (Ms. HARMAN), and the gentleman from New Jersey (Mr. MENENDEZ) in offering this amendment.

Protecting the safety and security of the Nation against terrorist attacks requires absolute unprecedented cooperation between Federal, State, and local agencies. Timely information-sharing is an indispensable element of the Nation's ability to detect, preempt, disrupt or respond to any terrorist threat.

The Committee on Government Reform's Subcommittee on National Security, Veterans' Affairs and International Relations has heard repeatedly from State and local officials about the stubborn procedural and cultural barriers blocking access to sensitive information. In particular, elected officials and law enforcement officers have said they need the ability to obtain security clearances in order to get meaningful access to data on terrorist threats.

Whether it is intelligence about terrorist activity at the international level, or criminal history information shared between local jurisdictions, the electronic exchange of information is one of the most powerful tools available to protect our communities. This amendment calls for new procedures to maximize the potential of modern technologies, reduce bureaucratic barriers to information-sharing, and make sure essential homeland security data flows where it is needed most.

Mr. Chairman, the day is late; we started last evening, and so I would like to just use this time to thank my colleagues, the gentleman from Georgia (Mr. CHAMBLISS) and the gentlewoman from California (Ms. HARMAN) for the incredible job they have done. I also wish to thank the gentlewoman from California (Ms. PELOSI) and the majority leader for the work they have done. I also would like to thank the gentlewoman from California (Ms. HARMAN) and the gentleman from Texas (Mr. THORNBERRY) for the work they did with the gentleman from Florida (Mr. GIBBONS) and the gentlewoman from California (Mrs. TAUSCHER) on homeland security legislation before it was in vogue.

I am in awe to have had the opportunity to work with these colleagues. I believe that they have answered the call of the Nation in responding to the terrorist threat. I know we have a lot of work ahead of us. I am a little troubled by some of the partisan debate that has happened in the past few hours. I was hoping there might be an amendment or two our side of the aisle could have accepted during the debates today. But that notwithstanding, this is excellent legislation drafted by people of good will on both sides of the aisle.

I think the President can be proud of what the House will do today. I am certainly proud to have worked with such wonderful men and women on both sides of the aisle.

Ms. HARMAN. Mr. Chairman, I thank my colleague for his lovely and generous comments, and would inquire of the Chair as to how much time remains.

The CHAIRMAN pro tempore (Mr. SWEENEY). The gentlewoman from California (Ms. HARMAN) has 7½ minutes remaining, and the gentleman from Georgia (Mr. CHAMBLISS) has 4½ minutes remaining.

Ms. HARMAN. Mr. Chairman, I yield 1½ minutes to the gentleman from Texas (Mr. REYES), a member of the Permanent Select Committee on Intelligence.

Mr. REYES. Mr. Chairman, I thank the gentlewoman for yielding me this time.

Mr. Chairman, I rise in strong support of this amendment, because since September 11 we have been in the process of learning several important lessons. One of the most crucial was the lack of effective intelligence dissemination and analysis.

For a while the buzzword was that we did not have the ability to connect all the dots. Machiavelli once said, ''There is nothing more difficult to take in hand, more perilous to conduct, or more uncertain in its success, than to take the lead in the introduction of a new order of things.'' This amendment directs the administration to develop procedures for Federal agencies to share homeland security information with appropriate State and local authorities, both classified and declassified information.

After spending some 26½ years in Federal law enforcement, I know how important it is for the first responder to have access to tactical intelligence. Between 600,000 and 800,000 police officers protect our homeland every day, and have been on the job since the inception and the birth of this country. This amendment will build those bridges, those interagency bridges, that will get the information to the folks that need it. Those brave law enforcement men and women, who are literally our boots on the ground with respect to fighting domestic terrorism, need and deserve this capability.

So, Mr. Chairman, I rise in strong support of this amendment, and, in closing, I want to note the great job that both my colleagues, the gentleman from Georgia (Mr. CHAMBLISS) and the gentlewoman from California (Ms. HARMAN) have done, both on this amendment and also on the great work in working with the antiterrorism task force.

Mr. CHAMBLISS. Mr. Chairman, I thank the gentleman for his kind comments.

Mr. Chairman, I yield 3 minutes to the gentleman from Nevada (Mr. GIBBONS), the vice chairman of my Subcommittee on Terrorism and Homeland Security, and also the chairman of the Subcommittee on Human Intelligence, Analysis and Counterintelligence within the House Permanent Select Committee on Intelligence.

(Mr. GIBBONS asked and was given permission to revise and extend his remarks.)

Mr. GIBBONS. Mr. Chairman, I thank the gentleman from Georgia for yielding me this time, and I do support this amendment.

Mr. Chairman, over the last several years, many of our government organizations, both State and Federal, have handled information-sharing and analysis in vastly different ways, much like various people would do in trying to put a puzzle together. For many of these organizations, when they get information, it is like reaching into a bag or box full of mixed-up puzzle parts, grabbing a handful of it, and running into their office to try to put the puzzle together without ever sharing the information about what they have with anyone else in another room. Just trying to put it all together all alone. And this has led to information gaps and analytical failures. The so-called Phoenix memo is a perfect example of this type of information hoarding.

I am pleased to support this bipartisan legislation which I believe helps

our government organizations connect the dots much more effectively than it had before September 11. Over the past 10 months, it has become frighteningly clear that the terrorists targeting our Nation are far more advanced than previously thought. The new Department of Homeland Security must have complete and unobstructed access to every piece of information, whether Federal or State, and this information regarding cyberterrorism, weapons proliferation, terrorist financial activities and narcotics trafficking, to name a few, are critical for every organization to have at hand.

H.R. 5005 establishes a key counterintelligence division within the Department of Homeland Security that will keep vital information out of the hands of our enemy, tighten the noose around the neck of terrorist organizations, such as al Qaeda, Hamas, Islamic Jihad, and others, while being able to share that information with our first responders down at the local level.

The Information Analysis Center is another integral part of this overall legislation, and this Center will have several key missions, including correlating and evaluating information and intelligence; producing all-source collaborative intelligence analysis, warnings, and assessments of the terrorist threat and disseminating these assessments.

Improving the lines of communication between the States and the Federal Government, local public safety agencies, and the private sector through the timely dissemination of information pertaining to threats of terrorism is critical and a key part of this amendment.

Coordinating elements of the intelligence community with Federal, State and local law enforcement agencies is also a critical part of this. If the new Department is to make credible threat warnings, it must be able to obtain and analyze information from all possible sources. It is not enough to rely on whatever the CIA and FBI themselves choose to tell them.

To put it simply, Mr. Chairman, knowledge is good, all-source analysis is even better, an all-source, collaborative analytical center within the Department that shares information is best. This legislation gives the Department of Homeland Security the information and resources necessary to make its own conclusions.

Mr. Chairman, I have had the privilege to work closely with both my colleagues, the gentleman from Georgia (Mr. CHAMBLISS) and the gentlewoman from California (Ms. HARMAN) on this legislation, and they are great leaders. I applaud their work, and this is a strongly supported amendment to this overall legislation. It is important for our country today, and I urge my colleagues to vote ''yes'' on it.

Ms. HARMAN. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. PELOSI), the ranking member on the House Permanent Select Committee on Intelligence, on which I serve, and the Democratic whip.

Ms. PELOSI. Mr. Chairman, I thank the gentlewoman for yielding me this time, for her kind words, but most of all for her leadership.

□ 1830

Mr. Chairman, I am very pleased that this amendment is being considered on the floor today. I commend the gentleman from Georgia (Mr. CHAMBLISS) and the gentlewoman from California (Ms. HARMAN) for their work on this over the long term.

This bill passed the floor 412–2. It had been our hope to include it in the base bill that would come to the floor, but it was rejected by a 5–4 vote in the Select Committee. I am pleased that we have another chance for Congress to work its will on this important issue on the floor this evening.

As I have quoted previously real estate, the three most important words are location, location, location. When it comes to homeland security, the three most important words are localities, localities, localities. Our work on homeland security should begin and end in the localities. That is largely where the threat is. That is where the ideas are, and that is where the needs are. The gentleman from Georgia (Mr. CHAMBLISS) and the gentlewoman from California (Ms. HARMAN) have traveled the country having hearings on this subject.

We hear from our experts that information sharing is absolutely essential. They have pled with us to make this part of any homeland security. I want to praise them for the response they have received thus far from Congress, and hope that result will even be better today.

In any event, the need for information is essential for us to reduce risk to protect the American people better, and that is why this is so essential. I hope that we can do it in a department of homeland defense that is technologically maximizing the capabilities of the new technologies, and it will further enable information to be shared to protect the American people.

Ms. HARMAN. Mr. Chairman, I yield myself such time as I may consume.

This is the kind of bipartisan debate that this bill, H.R. 5005, deserves. I am pleased that on a bipartisan basis, every single speaker has been for this good idea. I hope our first responders are listening because they are about to get some very important new tools, the critical one of which is the ability to get accurate, credible threat information in time to know what to do.

Mr. Chairman, I yield the balance of my time to the gentleman from New Jersey (Mr. MENENDEZ), who has shown extraordinary leadership on this issue and the related issues in this bill we are considering today as head of the House Democratic Caucus on Homeland Security.

Mr. MENENDEZ. Mr. Chairman, I commend the gentlewoman from California (Ms. HARMAN) and the gentleman from Georgia (Mr. CHAMBLISS) and the gentleman from Connecticut (Mr. SHAYS) for the work that they have been producing for quite some time, for the vote that was taken overwhelmingly in the House, and I am glad to have not only offered it in the Select Committee to lay the foundation, but to offer some additional language that was accepted.

This amendment is about the key problem with the Federal Government's performance leading up to September 11. Most important, it is about Congress acting to correct in part what went wrong. The crux of the issue of September 11, it seems to me, is the need for information sharing, both within the Federal Government and between the Federal Government and State and local authorities.

The crux of this amendment is to guarantee that critical threat information will be shared. We have to get this right from the start, and I believe this certainly is. Simply moving agencies as proposed into a new Department without requiring agencies to share information is simply insufficient. We would be remiss not to guarantee, as this amendment would, that critical homeland security information sharing will occur.

We learned that from Coleen Rowley, the courageous FBI whistleblower, among others, about the unacceptable failure to share information critical to the events surrounding September 11 within the Federal Government. This amendment would make sure that those failures are not repeated.

Lastly, the amendment directs the President to prescribe and implement new procedures to share information on terrorist threats. Adding implement to the equation is necessary to ensure that these procedures do not end up collecting dust on the shelves of Washington's bureaucracies.

This amendment requires that through those procedures, the information will be shared, and the information must be shared both across the Federal Government and down to the State and local governments and first responders. Local responders have told all of us in meetings throughout the country that they need threat information on terrorist activities along with clear guidance on what to do with it.

Only with the guarantees in this amendment can we be secure in knowing that a process is in place to make sure that the secretary, police, firefighters, all first responders, get all of the critical information that they need and that they know what to do with it.

Governor Ridge often says if the hometown is secure, the homeland is secure. Shared information will empower the local communities to protect themselves. And shared information will also supplement the administration's homeland security advisory system by giving those responders useful and actionable information.

Lastly, this amendment recognizes that the sharing of information is more

effective when it is unclassified, but it protects all of the sources and methods and the work that my colleagues have done in this regard, which is I think exceptionable and is to be commended to the House in that regard.

I think that by having this amendment adopted, we can guarantee that information sharing takes place across the Federal Government and then across the landscape of our country from States, counties, and municipalities. With that when we know that information is being shared, we are secure. I urge adoption of the amendment.

Mr. CHAMBLISS. Mr. Chairman, I yield myself such time as I may consume.

We are coming to a close of two long days of debate on what is the most major restructuring of the Federal Government that we have seen in 60 years. This is probably the most important piece of legislation that in, my 8 years, that I have served in this great institution that we will take up and pass. I am very pleased that this particular amendment is going to be included in the bill that is going to be finally passed in this House, because I am totally confident that because of this particular amendment, because we are going to be able to now get information in the hands of local and State officials, law enforcement officials, the folks who are on the front line, the folks like Sheriff Richie Chaifin, Sheriff Bunch Conway, those folks on the front lines are going to have information now to be able to disrupt and stop terrorist activities.

I want to conclude by just commending our President under his leadership, his particular step to take this bold action of restructuring our Federal Government to ensure that our children and our grandchildren are able to live in the same safe and secure society that all of us have enjoyed is a major, major step in the right direction.

This Department of Homeland Security is going to allow us to give our children and grandchildren that safe and secure America. I again thank the gentlewoman from California (Ms. HARMAN) for the gentlewoman's hard work on this. We have traveled a long trail with this, and it is good that we are coming to a conclusion with it.

Mr. BALDACCI. Mr. Chairman, I rise in support of this amendment, which will improve the sharing of relevant terrorist threat information between federal agencies and local governments and our first responders.

To me, this is the very foundation of our efforts, and the fundamental basis of a sound homeland security and an effective Department of Homeland Security. Since September 11th, I have worked closely with my colleagues to secure funding to equip our first responders, as they are our first line of defense in the fight against terrorism. However, to successfully win this fight against terrorism, we must provide our first responders with more than equipment and money. In order to safely and effectively perform their jobs and prevent or respond to a terrorist attack we must share critical homeland security threat information with our first responders and local officials.

I am sure that we have all heard from first responders and local officials in our districts about the need to strengthen lines of communication between federal and local governments regarding Homeland Security information. This amendment directly addresses the concerns that I have heard from Maine officials. The more information provided to them, the better they are able to perform their duties and protect our citizens.

Finally, I would like to thank my colleagues for their work on this important amendment.

The CHAIRMAN pro tempore (Mr. SWEENEY). The question is on the amendment, as modified, offered by the gentleman from Georgia (Mr. CHAMBLISS).

The amendment, as modified, was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 27 printed in House Report 107–615.

AMENDMENT NO. 27 OFFERED BY MR. WELDON OF FLORIDA

Mr. WELDON of Florida. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 27 offered by Mr. WELDON of Florida:

At the end of section 402 (relating to functions transferred) insert the following:

(9) The Visa Office of the Bureau of Consular Affairs of the Department of State, including the functions of the Secretary of State, relating thereto.

In section 403 (relating to visa issuance) strike subsections (a) through (f) and insert the following (and redesignate subsection (g) as subsection (i)):

(a) AUTHORITY.—Notwithstanding the provisions of section 104 of the Immigration and Nationality Act (8 U.S.C. 1104) or any other law, the Secretary shall have exclusive authority to issue regulations with respect to, administer, and enforce the provisions of that Act and all other immigration and nationality laws relating to the granting or refusal of visas.

(b) TRANSITION.—

(1) IN GENERAL; DETAILS.—During the 2-year period beginning on the effective date of this Act, there shall be a transition period. During this period consular officers (as defined in section 101(a)(9) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(9))) of the Department of State and other foreign service officers in the Visa Office, to the extent they are involved in the granting or refusal of visas or any other documents required for entry into the United States, shall be detailed to the Department of Homeland Security. A detail under this subsection may be terminated at any time by the Secretary.

(2) MAINTENANCE OF ROTATION PROGRAM.—During the transition period described in paragraph (1), the Secretary of State shall maintain and administer the current rotation program (at least at the employment level in existence on the date of enactment of this Act) under which foreign service officers are assigned functions involved in the adjudication, review, or processing of visa applications.

(3) TERMINATION OF TRANSITION PERIOD.—The transition period may be terminated within the 2-year period described in paragraph (1) by the Secretary after consultation with the Secretary of State.

(4) EXISTING EMPLOYEES OF VISA OFFICE.—Employees of the Visa Office who are not foreign service officers shall become employees of the Department of Homeland Security immediately upon the effective date of the transfer of the Visa Office to the Department under this title.

(c) TRAINING.—

(1) TRAINING PROGRAM.—The Secretary shall provide for the training of Department personnel involved in the adjudication, review, or processing of visa applications, specifically addressing the language skills, interview techniques, fraud detection techniques, and other skills to be used by such personnel.

(2) STUDY REGARDING USE OF FOREIGN NATIONALS.—During the transition period, the Secretary shall study the role of foreign nationals in the review and processing of visa applications, specifically addressing the following:

(A) The proper role, if any, of foreign nationals in such processing.

(B) Any security concerns involving the employment of foreign nationals.

(C) Whether there are cost-effective alternatives to the employment of foreign nationals.

(3) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit a report on the findings of the study under paragraph (2) to the Committee on Government Reform, Committee on the Judiciary, and Committee on International Relations of the House of Representatives and the Committee on Governmental Affairs, Committee on the Judiciary, and Committee on Foreign Relations of the Senate.

(d) LEGAL EFFECT.—

(1) IN GENERAL.—The transfer of authority to the Secretary in section 403(a) shall not be construed to modify—

(A) any ground for such refusal authorized by law (including grounds under sections 212 and 221(g) of such Act (8 U.S.C. 1182 and 1201(g)));

(B) the presumption of immigrant status established under section 214(b) of such Act (8 U.S.C. 1184(b)) or the effect of failure to establish eligibility for nonimmigrant status described in such section; or

(C) the burden of proof placed upon persons making application for a visa or any other document required for entry under section 291 of such Act (8 U.S.C. 1361) or the effect of failure to establish eligibility for such visa or other document described in such section.

(2) NONREVIEWABILITY.—No court shall have jurisdiction to review the granting or refusal of a visa by the Secretary or a designee of the Secretary.

(e) REFUSAL OF VISAS AT REQUEST OF SECRETARY OF STATE.—Upon request by the Secretary of State, the Secretary of Homeland Security shall refuse to issue a visa to an alien if the Secretary of State determines that such refusal is necessary or advisable in the interests of the United States.

(f) REVIEW OF PASSPORTS ISSUED TO AMERICANS OVERSEAS.—The Secretary shall have the authority to review requests for passports by citizens of the United States living or traveling overseas.

(g) CONFORMING AMENDMENTS.—Section 104 of the Immigration and Nationality Act (8 U.S.C. 1104) is amended as follows:

(1) In subsection (a), by striking ''conferred upon consular officers'' and inserting ''conferred upon the Secretary of Homeland Security''.

(2) In subsection (c)—

(A) in the first sentence, by striking '', a Visa Office,''; and

(B) in the second sentence, by striking ''Directors of the Passport Office and the Visa

Office'' and inserting ''Director of the Passport Office, and the head of the office of the Department of Homeland Security that administers the provisions of this Act and other immigration and nationality laws relating to the granting or refusal of visas,''.

(3) By striking subsection (e).

The CHAIRMAN pro tempore. Pursuant to House Resolution 502, the gentleman from Florida (Mr. WELDON) and the gentleman from California (Mr. LANTOS) each will control 10 minutes.

The Chair recognizes the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, why are we passing this bill? Why are we creating this Department of Homeland Security? As I see it, we are doing it because if we are ever attacked again, we want to be able to respond better; but more importantly, we never want to be attacked again. We also believe that this is going to be a very long fight. Why else would we be rearranging all of these agencies like this. We certainly would not be doing this if we thought that this was just going to last for a few short years.

It is important to note that this is not primarily an issue of protecting real estate, although the damage to the Pentagon and the loss of the Twin Towers hurt us, and hurt us badly. What hurt us much, much more is the loss of lives. I knew someone who was killed September 11. Many Members knew people as well. Thousands of innocents are dead. We all agree, never again do we want to see Americans killed like we did on 9/11. I ask Members, what is the single most effective thing that we can do to prevent another terrorist attack on American soil. I think the answer is obvious, never let another terrorist into our Nation, a difficult task, granted, but nothing less than that should be our goal. It should be our mandate.

I ask Members, what are we doing in this bill to respond to this mandate? Well, we are moving border patrol and INS into homeland security. We are moving the Customs Service, the Coast Guard, even APHIS. Why are we leaving the State Department's visa office, the very agency responsible for issuing all 19 of the September 11 terrorist visas, why are we leaving them out of the new department?

Members will hear some of the reasons from some of the opponents to my amendment. I want to make two important points. We may hear that Colin Powell will be able to reform State's troubled visa office and give homeland security the priority it needs. Colin Powell is not going to be there forever. Deciding who we let into this country is arguably the most important homeland security function of all. Why leave this in the hands of diplomats? We may be fighting this battle for decades.

The structural changes made in our government by Harry Truman provided the tools that were used throughout the Cold War by all Presidents who followed, Democrat and Republican alike. Should we leave the visa office out of the Department of Homeland Security simply because today we have a very capable person who understands security at the Department of State?

I say that is not a valid reason. I will tell Members another reason why many people are fighting to move the Office of Visa Issuance into the Department of Homeland Security. The office next year will generate $630 million for the State Department. They do not spend that much money on visa services.

Concerns about jurisdiction and money must not prevent us from doing what is best for our Nation. This amendment transfers the visa function to the Department of Homeland Security where it belongs, and provides singular management of the visa process. It allows for a 2-year transition period during which those foreign service officers currently on the visa line will remain there, and the State Department's current rotation system remains in place. It preserves the Secretary of State's authority to deny a visa for reasons of national interest, and it preserves the nonreviewability of visa refusals in the courts. It also provides for comprehensive training for visa officers.

Mr. Chairman, I reserve the balance of my time.

Mr. LANTOS. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. HYDE).

(Mr. HYDE asked and was given permission to revise and extend his remarks.)

□ 1845

Mr. HYDE. Mr. Chairman, this is a simple issue. There are 12 million, give or take, applications for visas every year submitted around the world. There are about 200 stations around the world where American foreign service officers process those applications for visas. What the gentleman from Florida wishes to do is to take the issuing of the visas, the administrative function, 12 million of them every year, and put them in the Homeland Security Agency. I am suggesting that that is impractical, that it is not going to work.

You are not doing the Homeland Security Agency any favor by dumping an administrative task in their lap. The present foreign service officers have done, for the most part, a very good job, although I will agree with the gentleman from Florida, we do need some changes. This is not status quo. The gentleman from California (Mr. LANTOS) and the gentleman from California (Mr. BERMAN) are cosponsors of this bipartisan bill which has been approved by the Committee on the Judiciary, the Committee on International Relations, the Committee on Government Reform, and the Select Committee on Homeland Security.

What we do is we do turn over the administration of the office to the Homeland Security. The training, the review, the regulatory power, the authority, the running of the whole operation is turned over to Homeland Security. But the ministerial work out in the field, in the 200 offices around the globe, is left with the Foreign Service Department of State because they have the experience, they know what they are doing, and they are in place. It would take 2 years to replace them all. I do not know where you would get the people to replace them all.

This is not going to work. You are not helping Homeland Security by giving them this monumental task which has little to do with homeland security.

I do not ask that the gentleman reconsider, I know that is not going to happen; but I hope that his amendment is defeated and this compromise that has been worked out with the administration and with four standing committees is not upset.

Mr. WELDON of Florida. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Florida (Mr. KELLER).

Mr. KELLER. I thank the gentleman for yielding me this time.

Mr. Chairman, I rise tonight in support of the Weldon amendment to move the visa office from the State Department to the new Department of Homeland Security. I have the happy privilege of representing Orlando, Florida, which is the world's number one tourist destination. Orlando was devastated by the events of September 11. Nothing would be more harmful to Orlando's tourism-based economy than another terrorist attack. So I care deeply about this issue.

Some of you may initially be reluctant to support the Weldon amendment because you have heard that Colin Powell and Henry Hyde oppose any attempt to strip the State Department of its power to issue visas to foreigners. I certainly do not blame you for deferring to these individuals, and I do not pretend to have the same level of expertise in foreign relations as these two esteemed gentlemen. But I am reminded of the words of President Ronald Reagan: facts are stubborn things. So let me give you the facts with respect to one country, Saudi Arabia:

Fifteen of the 19 airplane hijackers on September 11 were from Saudi Arabia and were issued visas by the State Department. Ten of those visas were issued by a single foreign service officer, yet we know from a recent GAO investigation that the State Department did not interview that officer after 9–11 to learn what might have gone wrong. Three of the other Saudi terrorists obtained their visas through the State Department's ''visa express'' travel agency program and were never even interviewed by the State Department prior to obtaining their visas. In fact, in the 3 months prior to 9–11, the State Department failed to do a personal interview on 97 percent of the 22,360 Saudis they issued visas to.

Shockingly, despite September 11, the State Department continued the

visa express program until just this week. Let me ask my colleagues a simple question: As a Member of Congress, how will you feel if there is another airplane hijacked in the United States because a poorly trained, entry-level State Department diplomat-wannabe issued a visa to yet another terrorist from Saudi Arabia?

Vote ''yes'' on the Weldon amendment.

Mr. LANTOS. Mr. Chairman, I yield myself such time as I may consume.

(Mr. LANTOS asked and was given permission to revise and extend his remarks.)

Mr. LANTOS. Mr. Chairman, I find myself in the unusual position of representing the position of the President of the United States, George W. Bush; the Secretary of State, Colin Powell; the President's adviser on homeland security, Governor Ridge; and, of course, the unanimous voice of the House Committee on International Relations which voted without a single dissenting vote for the Hyde-Lantos-Berman proposal.

Our distinguished chairman, Chairman HYDE, outlined the main reasons for our position. Four House committees approved our position. It is a position which is a rational, sensible compromise. It leaves the issuance of over 11 million visas to competent foreign service officers all over the country, but it gives the Homeland Security Department the authority to place as many of their people into every single one of these offices that issues visas and they will have the sole and exclusive jurisdiction of final decision.

It is inconceivable to me why the gentleman from Florida does not find this arrangement a perfectly safe, rational, and foolproof arrangement. Not a single visa will be issued under our plan if Homeland Security objects. Every single approval must come from Homeland Security.

I think it is important to realize that the thousands of foreign service officers who perform the ministerial function do not choose to join the foreign service because they want to spend a lifetime issuing visas. That is their initial step. Their hope is to be an ambassador to a country 25 or 30 years into their career. The notion that we will set up a duplicate foreign service which has no other function but to issue visas simply boggles the mind. What quality individuals will we be able to find who will be dedicating their entire lives to issuing visas? Not the kinds of people we now find for our foreign service.

I would like to suggest, Mr. Chairman, that our compromise, which has the support of four of our committees with jurisdiction in this matter, the President of the United States, the Secretary of State and Governor Ridge is the only rational formula. I urge all of my colleagues to reject the Weldon amendment.

Mr. Chairman, I rise to claim the time in opposition to the Weldon amendment.

Mr. Chairman, I rise in strong opposition to the Weldon amendment and I ask unanimous consent to revise and extend my remarks.

Mr. Chairman, Chairman HYDE and I worked together on a bipartisan basis on H.R. 5005 with other members of the International Relations Committee to craft a sensible proposal relating to visas. This provision is now in section 403 as reported by the Select Committee.

Under our proposal, the Secretary of Homeland Security would have exclusive authority to set visa policy, while State Department consular officers will continue to process the visas. The Secretary of Homeland Security can overturn decisions of consular officers to grant a visa, alter visa procedures now in place, and can develop programs of training for consular officers. In addition, our proposal would allow Homeland Security employees to be assigned abroad to review cases that present homeland security issues and deal with homeland security issues that arise abroad.

I am very pleased that the White House has announced its support for this proposal, and that in addition to the Select Committee, all three other House committees that considered it adopted virtually the same amendment. Moreover, I understand that Governor Ridge confirmed the Administration's support for the amendment in testimony before the Select Committee last week. I am simply asking that the House endorse what all four Committees considering this matter have done and what the Administration has supported.

Mr. Chairman, I want to take a brief moment to tell you why I feel so strongly about maintaining the provision as it exists in the Select Committee.

The talented young people who join the Foreign Service, at the average age of 32 for the last entering class, have the ambition to become an ambassador to an important country or some other high level position in the Department of State. It is on this basis that they are willing to dedicate years of their lives to focus their talents on questions related to visas. It is inconceivable that we can attract quality people to jobs that have no such promise of advancement, with employees facing an entire career of visa interviews.

Even more important, any proposal transferring the entire visa function to Homeland Security would risk overwhelming Homeland Security personnel with non-homeland security functions and thereby make it difficult or impossible for them to perform their central mission. The last thing this Department should be focused on is creating a whole new system for adjudicating over 11 million visas per year, at a huge and unknown cost.

Mr. Chairman, I know people are concerned about the visas that were issued to the terrorists who attacked New York, and the amount of training that consular officers have on conducting interviews of visa applicants.

Under our amendment, the Secretary of Homeland Security will be able to order exactly what kind of training consular officers should receive, specifically direct that certain persons will not be issued visas (irrespective of the Department of State's views), and will ensure that security concerns are properly considered both in Washington and abroad. If he believes that ''Visa Express'' or other similar programs should be closed, he can close it.

Moreover, Mr. Chairman, the Weldon Amendment undercuts the very structure of this legislation. The Select Committee mark keeps the visa processing element of INS in the Department of Justice. The Gentleman's amendment would have the bizarre effect of keeping domestic visa issues out of Homeland Security, but overseas visa processing in Homeland Security. This is an absurd outcome.

Finally, Mr. Chairman, the version in the Select Committee also includes a provision that Mr. WELDON already added in the Government Reform Committee, requiring assignment of Homeland Security personnel to Saudi Arabia and review of all Saudi visa applications by such personnel. But this does not seem to be enough for Gentleman—he wants another bite at the apple.

In conclusion, Mr. Chairman, I think that the Hyde-Lantos-Ros-Lehtinen-Berman Amendment adopted by four committees on a bipartisan basis, addresses all the Gentleman's concerns. I urge my colleagues to support section 403, which has been endorsed by the President, Governor Ridge, the President's adviser on Homeland Security, and Secretary of State.

By retaining a role for consular officers in adjudicating the millions of applications presenting no security-related issues, the President's plan will allow Homeland Security officers to perform their homeland security mission. By authorizing the presence of Homeland Security officers in our overseas posts to identify and deal with homeland security issues, Section 403 as written offers the best protection for our homeland security.

Do not upset this balance. Oppose the Weldon Amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. WELDON of Florida. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Colorado (Mr. TANCREDO).

Mr. TANCREDO. Mr. Chairman, many of our colleagues have come to the floor today to express their deep commitment to doing everything that can be done to ensure the protection of the American people. It is a laudable sentiment, but one that rings hollow when juxtaposed against the fact that today our borders are just as porous and just as undefended as they were on September 11, 2001.

We may indeed wish to go home to our constituents and tell them that we have done everything we can do, but that would be far from the truth. Just last week a television program documented the ease with which human smugglers illegally bring people into the United States, including potential terrorists. This is 10 months after September 11. This situation will improve only marginally by the creation of this new agency, and that is because of only one thing. It is the consolidation of the various border enforcement activities that now reside in a myriad of Federal agencies, each one operating within a vacuum, with little if any communication between and among them. But even this effort is being crippled because perhaps the most moribund of all of these agencies, namely, the Department of State does not want to give up a responsibility that they have so dismally failed to uphold.

We have heard the horror stories, but it is not all due to just incompetence. Much of the slipshod process is a result of a culture within the Department of State. Consular officials are told that their primary responsibility is to treat every applicant for a visa as if they were a ''customer'' and to expedite the process as quickly as possible with as little inconvenience to the ''customer'' as possible. Hence, most interviews are completed literally in seconds. Of course, some of those ''customers'' showed their appreciation for this consideration by crashing airplanes into our buildings.

Even today, attempts to enforce security standards are resisted by the State Department. In Mexico, consular officials today have been told to ignore FBI requests to fingerprint and record all applicants on particular watch lists. They are told that it would take, quote, ''too much time.''

I ask you, if you were leaving home at night, would the State Department be the type of neighbor with whom you would leave the keys to your house? Vote for the Weldon amendment.

Mr. LANTOS. Mr. Chairman, I am delighted to yield 2 minutes to the distinguished gentleman from California (Mr. BERMAN).

Mr. BERMAN. Mr. Chairman, I thank the gentleman for yielding me this time.

Three points: first, the logic of the amendment from the gentleman from Florida is simple. Consular employees, State Department consular employees have granted visas to bad people. They have made mistakes. Therefore, eliminate them. Eliminate the State Department role. Under that logic, the CIA should be taken out of intelligence-gathering because they did not know that Iraq was developing nuclear weapons during the 1980s. The central office of the FBI should be collapsed because they did not act on messages from the Phoenix and Minneapolis offices regarding suspicious activities by people in the United States. And the National Security Agency should be folded up because it did not translate intercepted communications fast enough to warn us about September 11.

I would suggest that for 2 days we have been debating amendments with arguments tossed back and forth. ''Listen to the committees of jurisdiction, they have expertise.''

''Defer to the administration, they know what is best.''

''Take the approach of the Special Committee on Homeland Security because they have the right synthesis.''

Well, in this case the administration, the three committees of jurisdiction, and the Special Committee on Homeland Security have considered the gentleman's amendment and have rejected it. Moreover, had the other gentleman from Florida (Mr. KELLER) talked to the gentleman from Florida (Mr. WELDON), I am sure he would have learned that in the case of Saudi Arabia, the Weldon amendment, the other Weldon amendment, exists in this bill that says as to Saudi Arabia visas, someone from Homeland Security has to make every single interview in this context.

In this bill, policies, training and ultimate final decisions are made by the Department of Homeland Security but do not try to re-create, because you will not be able to, an incredible bureaucracy of language-trained people in many countries to do this process. It will not work. It will fall on its face. This compromise is the sensible compromise. I urge the amendment be rejected.

Mr. WELDON of Florida. Mr. Chairman, may I inquire who has the right to close?

The CHAIRMAN pro tempore (Mr. SWEENEY). The gentleman from Florida, the proponent of the amendment, has the right to close.

Mr. WELDON of Florida. Mr. Chairman, I reserve the balance of my time.

Mr. LANTOS. Mr. Chairman, I am delighted to yield 1 minute to the distinguished gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. President, I want a Homeland Security Department, but I want a deliberative and thoughtful process. I thank the ranking member, I thank the gentleman from California (Mr. BERMAN), and the gentleman from Illinois (Mr. HYDE) for a thoughtful process. This is the way to have this work effectively.

How does it work? First, it gives the Homeland Security officers authority to oversee the visa process. Those officers can actually refuse visas and develop programs for training the consular offices. But at the same time, we do not throw away the expertise of the State Department and all the expertise of our outstanding foreign service staff persons who deal with diplomacy every day, who understand the language and the culture. We keep the employees in the State Department, but the hardline rules and the instructions and the way to protect us and the security direction is with the Department of Homeland Security. I believe the Weldon amendment will undermine this expertise and will take us further away from being secure; and it should be defeated and we should keep the language and the format as it is in the bill.

Mr. President, I want a bill, but I want it to be deliberative and effective on behalf of the security of the American people.

As the ranking member of the Judiciary Subcommittee on Immigration, Border Security and Claims, I, like many others in this body, have sat through many a hearing and markup about the creation of the Department of Homeland Security (DHS). At every hearing and every markup that I have attended regarding the DHS, visa processing has been a contentious and difficult issue. There are the State Department for its role in the events of September 11.

Yes, we all know that the nineteen terrorist who attacked the U.S. on this infamous date, traveled to the United States on legally issued visas. What they fail to realize, however, is that the consular agents who man the front lines of the war on terror and interview and carry out the rules which govern visa processing, have no way of knowing that a visa applicant is a terrorist, but for the information they are provided about the applicant through the FBI, CIA or other organizations and institutions that make up the Intelligence Community in the United States. I distinctly recall the testimony of the Under Secretary for Management at the State Department before my Subcommittee. He unflinchingly stated that ''There is no way, without prior identification of these [applicants] as terrorists through either law enforcement or intelligence channels and the conveyance of that knowledge to consular officers abroad, that we could have known [the terrorists] intention.'' I would underscore this point by adding that the largest of these intelligence organizations, we all know who they are, are not even a part of the newly created DHS.

I, for one, find the prospect of placing the entire visa issuance function, currently the responsibility of the State Department, within the exclusive authority of the Secretary of Homeland Security troubling. Everyday, in consular posts around the world, issues arise as to how a policy or regulation should apply in a specific case. Cases often turn on questions that have a significant impact on U.S. foreign policy interests, U.S. business interests, or the American values of family unity and humanitarian protection. These issues all properly reside within the expertise of the State Department and should be resolved in consultation with it.

During, the Judiciary Committee's markup of its recommendations for the Department of Homeland Security, my colleagues Mr. HYDE and Mr. BERMAN, offered an amendment that addresses these important issues. I spoke in favor of the provisions of the Hyde-Berman amendment and I do the same today as it is currently the prevailing language of H.R. 5005. This bill provides that the administration of visa issuance function be carried out by State Department employees under the policy and regulatory guidance of the DHS. I had planned to offer an amendment creating a fifth division of the DHS. My amendment includes the Hyde-Berman Amendment language.

The Weldon amendment is opposed by the White House and Secretary of State Powell and is contrary to the bipartisan decision of the four House Committees that considered this issue, including the Select Committee. If adopted, the amendment will distract the Secretary of Homeland Security from the task of securing the United States by forcing the new Department not only to absorb all the agencies described in H.R. 5005, but also to create a whole new bureaucracy and career track for processing between 10 and 12 million visa applications a year—of which the overwhelming majority are from bona fide tourists, business people, and relatives of U.S. citizens who pose no danger to homeland security.

The House International Relations, Judiciary and Government Reform Committees considered this issue and determined that the visa function should remain with the State Department, which will act under the guidance of the policies and regulations developed by the new

Department of Homeland Security. Transferring exclusive policy and regulatory authority over visa issuance to the Secretary of Homelands Security will put security concerns at the forefront of visa decisions without losing the talent, training and experience of consular officials currently serving at the State Department.

Mr. Chairman, I urge my colleagues to oppose the Weldon amendment.

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Mr. LANTOS. Mr. Chairman, I yield myself my remaining time.

Mr. Chairman, my colleagues have made all the arguments but one: Buying into the Weldon amendment would incur a vast and indeterminable cost in building a gigantic overseas bureaucracy to perform administerial functions. Homeland Security has full authority to reject any visa application they choose. The State Department officers must continue to issue visas. I ask all of my colleagues to reject this ill-advised amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. WELDON of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this body passed a bill creating a large bureaucracy to protect our airline security, so the argument that was just made, as far as I am concerned, is not really valid, particularly when you look at the fact that I do not create a new bureaucracy. I transfer the visa office to the Department of Homeland Security.

What will happen if we do that? Well, some of the Department of State personnel will stay on in the new Department of Homeland Security, because they have been doing visa issues for years, and then the Department of Homeland Security will have to hire new people.

The important thing they will do is they will hire people who are trained more like police officers, that have more security in mind. The people who are currently occupying these positions essentially are people who are interested in becoming diplomats. Is that the right thing? Do we want the people who screen who comes in to be people who really want to do diplomatic and economic policy?

Finally, I want to say one important thing about the current supposed compromise. Under current law, the Justice Department under the Attorney General defines policy for visa issuance and the State Department carries it out. Under this supposed compromise, the Department of Homeland Security will define those policies and the State Department will carry it out.

I do not really see the current language as going obviously far enough. In committee I managed to get an amendment through that at least gave the Department of Homeland Security Secretary the authority to deny a visa, which I would have to say is somewhat of an improvement. But it simply does not go far enough.

The most effective thing we can do is transfer the visa office. I ask my colleagues again, why are we moving all of these other functions into the Department of Homeland Security and leaving this vital function out?

I was in the Army. When you deploy to the field, protecting your perimeter was the most important thing. If you could not do that, you were not going to be able to be a fighting force.

Protecting our borders is the most important thing. Vote yes on the Weldon amendment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, as the ranking member of the Judiciary Subcommittee on Immigration, Border Security and Claims, I, like many others in this body, have sat through many a hearing and markup about the creation of the Department of Homeland Security (DHS). At every hearing and every markup that I have attended regarding the DHS, visa processing has been a contentious and difficult issue. There are the State Department for its role in the events of September 11.

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The House International Relations, Judiciary and Government Reform Committees considered this issue and determined that the visa function should remain with the State Department, which will act under the guidance of the policies and regulations developed by the new Department of Homeland Security. Transferring exclusive policy and regulatory authority over visa issuance to the Secretary of Homeland Security will put security concerns at the forefront of visa decisions without losing the talent, training and experience of consular officials currently serving at the State Department.

Mr. Chairman, I urge my colleagues to oppose the Weldon Amendment.

The CHAIRMAN pro tempore (Mr. SWEENEY). All time for debate on this amendment has been exhausted.

The question is on the amendment offered by the gentleman from Florida (Mr. WELDON).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. WELDON of Florida. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Florida (Mr. WELDON) will be postponed.

Ms. PELOSI. Mr. Chairman, I ask unanimous consent to speak for 1 minute.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Ms. PELOSI. Mr. Chairman, I rise to speak to inquire of the distinguished majority leader how he would like to proceed.

Mr. ARMEY. Mr. Chairman, will the gentlewoman yield?

Ms. PELOSI. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Chairman, we have come to the conclusion now of the consideration of all our amendments. We will soon move on to votes. The gentlewoman from California may note that under a previous unanimous consent request, both she and I will be recognized for 5 minutes to speak out of order for the purpose of appreciating the process and our colleagues.

Mr. Chairman, it would be my suggestion the gentlewoman take her 5

minutes and then, as has been my custom, I will cling to the last word.

Ms. PELOSI. Mr. Chairman, reclaiming my time, if I may further inquire of the distinguished majority leader, would it then be the intention that we would move to the votes and any other business before we move to final passage?

Mr. ARMEY. The gentlewoman is right.

Ms. PELOSI. Mr. Chairman, would the gentleman like to shed any light on the schedule for the remainder of the evening?

Mr. ARMEY. Mr. Chairman, if the gentlewoman will continue to yield, we will soon be completing this bill. I would guess we would probably go to the bankruptcy conference report that so many of us have waited upon with such great expectations. Then, should other business make itself available after that, we would be prepared.

I would advise Members to be prepared to work until sometime later in the evening, but that we should conclude our work before we adjourn tonight's session and be available, I think, for first flights in the morning.

Ms. PELOSI. Mr. Chairman, I thank the distinguished gentleman for the information, and look forward to making further inquiries into the night as may be required.

The CHAIRMAN pro tempore. Pursuant to the prior unanimous consent request, the gentlewoman from California (Ms. PELOSI) is recognized for 5 minutes.

Ms. PELOSI. Mr. Chairman, I thank you and all of those who have presided over this debate in the last 2 days on an issue of very, very immediate importance to the American people, the safety of our country and their personal safety. I wish to commend all of the Members of Congress, of this House, on both sides of the aisle for their enthusiastic embrace of the issues involved in this legislation.

I particularly want to commend the staff, the bipartisan staff of the standing committee, as well as of the committees of jurisdiction, who worked very, very hard over the past few weeks. Personally I want to commend on my own staff Carolyn Bartholomew, George Crawford and Nathan Barr for their good work; Kristi Walseth of the staff of the gentleman from Texas (Mr. FROST); Pedro Pablo Permuy of the staff of the gentleman from New Jersey (Mr. MENENDEZ); and Becky Salay of the staff of the gentlewoman from Connecticut (Ms. DELAURO), and as I say, all of the staff of the standing committee.

Mr. Chairman, we are gathered here today to honor a compact that our government has with the American people, and that compact is to provide for the common defense. It is embodied in our preamble to the Constitution, wherein our civil liberties are enshrined. Our Founding Fathers knew that we could do both, protect and defend our country and protect and defend our Constitution and our civil liberties, and that is what we set upon to do in this legislation.

On September 11, our country was attacked in a way that was unimaginable up until that time, and is unforgettable from then on. Anyone who has visited Ground Zero in New York, the Pentagon or the crash site in Pennsylvania knows that they have walked on hallowed ground. Indeed, in our work here today and in the past few weeks, we, too, are on hallowed ground. We have a solemn obligation to those heroes who died as martyrs to freedom and to their families to respond in a way that reflects the greatness of our country. That greatness, again, calls for protecting our country and our civil liberties in the best possible way, to reduce risk, to protect the American people in the best possible way.

Mr. Chairman, I am sad to report that I do not think that the legislation before us meets that standard. We have tried to find our common ground, and where we found agreement, we resolved differences. But on some issues that are fundamental to us on both sides, we could not find agreement.

We are in a stage of the legislative process, and it is my hope that, as we go forward, we will be able to resolve some of these differences further, so that at the end of the day we will have bipartisan agreement on the Department of Homeland Security, which we all agree we need, but have some disagreement over what form it should take.

I myself had hoped that we could present to the American people a Department of Homeland Security that was lean and of the future, not a monstrous bureaucracy of the '50s that would have been obsolete even then. I had hoped that this new lean department would, instead of bulk, capitalize on the technological revolution in order to increase communication and coordination.

I had hoped that the Secretary of Homeland Security would be able to coordinate functions, rather than have to manage and administer staff. Indeed, the very size of this Department is alarming. It will have, by low estimate, 170,000 employees, and the Government Accounting Office says it may even have 200,000 employees.

Mr. Chairman, there are 85,000 jurisdictions in the United States, cities, towns, municipalities, governments, and only 120 of them, of the cities in our country, have a larger population than the Department of Homeland Security. Salt Lake City, Utah, Providence, Rhode Island, Portsmouth, Maine, Reno, Nevada, to name a few, are all smaller in their population than the Department of Homeland Security will be.

I am sad that in the bloated bureaucratic approach we are taking that we are looking backward rather than forward in protecting the American people. But hopefully we can resolve some of that as we go forward. That speaks to the need for a strong Office of Homeland Security in the White House.

The CHAIRMAN pro tempore. The time of the gentlewoman from California has expired.

Ms. PELOSI. Mr. Chairman, I would ask the distinguished chairman, the gentleman from Texas (Mr. ARMEY), if he would agree to an additional 5 minutes on both sides. I will ask unanimous consent to have an additional 5 minutes on each side. I understand that the gentleman from Texas (Mr. DELAY) wishes to speak. I will use our time.

Mr. ARMEY. Mr. Chairman, if the gentlewoman makes that request, I can say to the gentlewoman that I certainly would not object, and I would encourage my colleagues to not do so, if the gentlewoman would direct the request to the Chair.

Ms. PELOSI. Mr. Chairman, I ask unanimous consent for an additional 5 minutes on both sides.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Ms. PELOSI. Mr. Chairman, I am afraid that we do not see the respect for the civil service that I think that this Homeland Security Department legislation should contain. There is a serious reason why we have a civil service. It came into existence to eliminate corruption and favoritism, and, here, we have here a diminishing of the rights of our workforce, rather than enhancement of our civil service.

We sing the praises of our first responders, of our public employees who stand as the first line of defense, physically and intellectually, in protecting America, and yet in this new Department we want to diminish their rights.

I am also concerned about the safety issues. It took my breath away in committee when the chairman's mark had in it the elimination of a deadline for putting detection devices in place to detect explosives in baggage. We end up in this bill with an extension. But I hope that that will not be an endless extension, but I fear that it may be. I do not think that is the way to protect the American people best.

I am very concerned about the liability provisions, the total immunity given to businesses, even those guilty of fraud and wrongdoing. Unlimited immunity. We had a nice alternative, a good alternative that the business community agreed to offered by the gentleman from Texas (Mr. TURNER) which lost by one vote on the floor. I hope that we can revisit that issue.

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So I put it to my colleagues. Is it your judgment that a bloated bureaucracy that undermines the civil service, that gives unlimited immunity even to wrongdoers is the best way to protect the American people?

As my colleagues know, our tragedy started at the airports, Mr. Chairman, and in this legislation, there is protection for the very kinds of security companies that were a part of the problem

to begin with. Not only are we not trying to improve the situation, we are protecting the wrongdoers very specifically.

So as my colleagues can see, I have some concerns about the bill. It does not mean I have some concerns about the idea; we all know that we want a Department of Homeland Security. We all hope that in working together through the rest of the legislative process, we can come closer to a department that will do the job. What we have now is the department that the Government Accounting Office says will take 5 to 10 years to be up and running, and that will cost $4.5 billion to set up. We will spend any amount of money to protect the American people, but is that $4.5 billion spent in the best way to protect the American people?

After all is said and done, Mr. Chairman, it comes back to the families. I have had them say to me that a plane flying overhead is a source of terror to them. We owe it to them to reduce risk, to bring life as close to normal as possible for them.

The goal of terrorists is to instill fear. We cannot let them have that victory. We must work together to again, protect the American people best, and to do so in a way that is not only a comfort to the families, but removes sources of terror for them.

Again, though, I want to commend all of my colleagues on both sides of the aisle for the respect and dignity for those families they have brought to this debate. I know we all have a common goal; we have different ways of reaching it. But those of us who have certain beliefs about how government should look in the future, and have experience that speaks to the possibilities of technology being the source of coordination and communication, rather than having cohabitation in a building for 170,000 people, believe that we can reach that goal.

In closing, I want to compliment the majority leader. He is never listening, so my colleagues will have to tell him what I say, and that is that he, throughout the process, has been a champion for protecting our civil liberties every step of the way.

Not only has he been vigilant, he has taken leadership, and for that I want to commend him. We did not have many other areas of agreement, but I hope the American people know that we are all of good intent when it comes to their welfare.

Mr. Chairman, I yield back the balance of my time.

Mr. ARMEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, at this time I yield to the gentleman from Texas (Mr. DELAY), the distinguished whip, and a member of the Select Committee on Homeland Security.

Mr. DELAY. Mr. Chairman, I thank the majority leader for yielding me time.

Mr. Chairman, we need to move forward, and we need to move forward to provide the President with the tools that he needs to secure our homeland. Our current structure simply cannot meet the demands of an age in which the primary threats to the United States have shifted. New threats have surfaced. We face asymmetrical warfare from rogue regimes. We face grave danger from terrorist organizations plotting to use weapons of mass destruction.

America needs an overhauled, comprehensive agency that is engineered to combat the dangers that are unique to our time. We need to move beyond our current dysfunctional organization of domestic security responsibility. We need to apply ingenuity and experience to craft a combined agency whose employees will arrive at work each morning with a single defining mission: protecting the people, resources, and institutions of the United States.

To be organized effectively and function efficiently, the Homeland Security Department must be consolidated. It has to be flexible, and its employees must be readily accountable to its Secretary.

The President's focus is a department that is lean, focused, and operating under the highest standards of accountability. Unfortunately, many of the amendments that we saw through this process had little or nothing to do with protecting our homeland.

We saw attempts to freeze out private enterprise. We saw efforts to water down the Homeland Security Secretary's power to hold the Department's employees to the highest standards of performance and conduct. We saw initiatives to deny flexibility. We saw proposals that would have opened a whole banquet for trial lawyers and dissuaded companies offering high-tech, terror-fighting tools; amendments that would serve a divergent agenda; amendments that would weaken the Department to placate entrenched interests; amendments designed by the bureaucracy to preserve bureaucratic unaccountability.

We should be pursuing a common goal. We should only consider change that would increase the effectiveness of the new Department to catch and preempt terrorists. Changes that do not should be rejected out of hand. We do not have the luxury of weakening our last line of defense.

Let me just close with a word about the extraordinary job that the gentleman from Texas (Mr. ARMEY) performed in stewarding the President's plan through the Select Committee on Homeland Security process.

Mr. Chairman, the majority leader was fair, he was open to constructive ideas, even-tempered, and generous to the minority. He was a true leader in the best sense of the term. Unfortunately, his generosity was not met in kind. He was rewarded with a raw dividend of stale partisanship.

I take my hat off to the majority leader. I take my hat off to the majority leader for accomplishing his mission and producing a plan that upheld the President's vision and brought us closer to a safer, stronger America. Members were right to keep a sharp eye against any measure that would cripple our effort. We simply could not afford to invest this new Department with the ponderous inefficiency that hobbles much of the Federal bureaucracy. This is a reorganization that we can be proud of, a reorganization that will ensure our security at home.

Mr. ARMEY. Mr. Chairman, as we said earlier, on June 18, the President of the United States sent up here a request for legislation to create a Department of Homeland Security which we all recognize to be a daunting task. On the very next day, on June 19, this body enacted resolution 449, which established the Select Committee on Homeland Security and the procedure by which we would act upon the President's request. In just these few short weeks, all 12 of our standing committees have acted and have acted judiciously and comprehensively, with a sense of focus on this Nation's security that demands and commanded our respect.

The Select Committee on Homeland Security was privileged to have the work of these 12 different committees and to work with that work, and I hope with all of my heart that that which we brought before this body tonight justifies the quality of commitment that we saw in our colleagues on those 12 committees. We will vote on that in a minute, but one thing is for certain. By the time we take a final vote tonight, every Member of this body will know: I had my say, I had my influence, I had my input, and I have a part of what we produced here.

Let me, if I may, talk about a few people in addition to, of course, our standing committees, those members of the President's administration and cabinet, Governor Ridge, I suppose, in particular, but virtually every member of the cabinet came before us and shared their insight, their advice, their understanding. We had what I like to call our congressional entrepreneurs who worked with us so much of the time, shared their insight, their understanding. We had so many people, but we also had some remarkable staff work, and I would like to talk about those people we call staff that make it possible for us to take bows.

Let me mention a few. Brian Gunderson, my chief of staff. Brian and I had the extraordinary opportunity in the years 1987, 1988 as a couple of green horns to earn some spurs around here over this thing called base closing. We have been working together on so many products since, and now we come to a parting for us. Brian is moving on, I am sure to better things. I will miss him, my friend, my advisor, my partner.

Brian served as the Select Committee on Homeland Security staff director, and Paul Morrell as the deputy staff director. Paul covered everything,

and I think you all will agree, with consideration and charm.

Margaret Peterlin served as the Select Committee on Homeland Security's general counsel, and she has been my right-hand man. Margaret worked day and night, and we may have, I say to my colleagues, we may have owned the days around here, but Margaret Peterlin owned the nights and she kept everything on hand, and everybody enjoyed working through her good cheer and her kindness.

Stephen Rademaker, you even worked through your birthday, Stephen, bless your heart, as the Select Committee on Homeland Security's chief counsel. He came to us from the House Committee on International Relations and his expertise was outstanding, and we now know your secret, Mr. Chairman, why your committee produces such quality work.

Hugh Halpern served as the Select Committee on Homeland Security's Parliamentarian. Hugh took a temporary leave of duty from the House Committee on Financial Services to serve with the Select Committee on Homeland Security, and he sat at my side through some of the difficult things. I always wondered why the gentleman from Ohio (Chairman OXLEY) looks so good in committee. I hope I look nearly as good. But for the extent to which I may or may not have, it was Hugh that made it possible for me to not look as bad as I could have.

Kim Kotlar served as the senior professional staff member. Kim came to the Select Committee on Homeland Security from the office of one of our brightest stars in this Chamber, my good friend, the gentleman from Texas (Mr. THORNBERRY), long before September 11. The gentleman from Texas (Mr. THORNBERRY) was on the job on this deal, and Kim obviously is the brains of that, and she has been so sharing with us.

Richard Diamond served as the Select Committee on Homeland Security's Press Secretary. Richard first started in my Texas office, he has done so many things, but he is, I say to my colleagues, the conscience of the conservative when it comes to basic foundation human rights. In my office, Richard is my guy. He is the one that spots the transgressions and calls them to my attention.

Joanna Yu overcame an educational handicap as a Princeton graduate. Joanna has worked so hard as the select staff member providing support to all of our general efforts.

Michael Twinchek from the House Committee on Resources served as clerk for the Select Committee on Homeland Security. Mike kept our hearings and markup running smoothly, and proved that it was not just the chairman that knew how to mispronounce a name.

Will Moschella, as counsel from the Committee on the Judiciary to the Select Committee on Homeland Security, was a vast resource for us.

I would also like to thank members of the majority leader staff who pitched in to help. Liz Tobias and Tiffany Carper who helped to plan, organize, and implement our grueling days of hearings and markup. Terry Holt, who served double duty on the press front, and I do believe helped the Nation to see and appreciate what it is we were trying to accomplish. Those are just a few of the people I might mention.

Let me say what it is I think we tried to do, all of us working together. The need for a Select Committee on Homeland Security to work with the President's proposal and the 12 committees of jurisdiction and the Members of this body to create a Department of homeland defense was born out of one of the most horrible moments of terror in the history of this Nation.

□ 1930

It was certainly the most in any of our lifetimes. But we believed that we could rise beyond that. America is a great Nation that refuses to have its future and its expectations about its future defined by its fears.

We believe that we have helped to craft a department of this government that will focus the resources of this government on our safety and on our security, on the defeat of villainy, so thoroughly well that this great Nation can get back to its business of living by its greatest expectations, its hopes, and dreams.

Should we have done that right, Mr. Chairman, we will look back some day and we will say, we had a hand in that, and are we not proud?

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore (Mr. SWEENEY). Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: Amendment 23 offered by the gentleman from Minnesota (Mr. OBERSTAR); amendment No. 24 offered by the gentlewoman from Illinois (Ms. SCHAKOWSKY); amendment No. 25 offered by the gentleman from Virginia (Mr. TOM DAVIS); amendment No. 27 offered by the gentleman from Florida (Mr. WELDON).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 23 OFFERED BY MR. OBERSTAR

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Minnesota (Mr. OBERSTAR) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 211, noes 217, not voting 5, as follows:

[Roll No. 362]

AYES—211

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Berman
Berry
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (IL)
DeFazio
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Ford
Fossella
Frank
Frelinghuysen
Ganske
Gephardt
Gonzalez
Gordon
Graves
Green (WI)
Grucci
Gutierrez
Hall (OH)
Harman
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kolbe
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lipinski
Lofgren
Lowey
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Pallone
Pascrell
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Ramstad
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Shays
Sherman
Shimkus
Shows
Simmons
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thune
Thurman
Tierney
Towns
Turner
Udall (NM)
Upton
Velazquez
Visclosky
Vitter
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Wilson (NM)
Woolsey
Wu
Wynn

NOES—217

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bentsen
Bereuter
Berkley
Biggert
Bilirakis
Bishop
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Castle
Chabot
Chambliss
Coble
Collins
Cooksey
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal
DeGette
DeLay
DeMint
Diaz-Balart
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers

Ehrlich
Emerson
English
Everett
Flake
Fletcher
Foley
Forbes
Frost
Gallegly
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Green (TX)
Greenwood
Gutknecht
Hall (TX)
Hansen
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
Kerns
Kingston
Kirk
Kleczka
Knollenberg
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Matheson
McCrery
McHugh
McInnis
McKeon
Meek (FL)
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (VA)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Otter
Oxley
Pastor
Paul
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shuster
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Stearns
Stenholm
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Udall (CO)
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—5

Blunt
Combest
Cox
Meehan
Roukema

□ 1958

Messrs. HEFLEY, HUNTER, HOBSON, REGULA, KENNEDY of Minnesota, and SCHAFFER changed their vote from ''aye'' to ''no.''

Messrs. ROEMER, HILL, and WYNN, and Ms. MILLENDER-McDONALD changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 24 OFFERED BY MS. SCHAKOWSKY

The CHAIRMAN pro tempore (Mr. SWEENEY). The pending business is the demand for a recorded vote on the amendment No. 24 offered by the gentlewoman from Illinois (Ms. SCHAKOWSKY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 188, noes 240, not voting 5, as follows:

[Roll No. 363]

AYES—188

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dingell
Doggett
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Hastings (FL)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Horn
Hostettler
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kleczka
Kucinich
LaFalce
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McKinney
McNulty
Meek (FL)
Meeks (NY)
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Morella
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Petri
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Skelton
Slaughter
Solis
Stark
Strickland
Stupak
Tauscher
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—240

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Berry
Biggert
Bilirakis
Bishop
Boehlert
Boehner
Bonilla
Bono
Boozman
Boyd
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Cooksey
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Dicks
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
Kind (WI)
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Lampson
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
McCrery
McHugh
McInnis
McIntyre
McKeon
Menendez
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Moran (VA)
Murtha
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Pence
Peterson (MN)
Peterson (PA)
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spratt
Stearns
Stenholm
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Turner
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—5

Blunt
Combest
Meehan
Roukema
Terry

□ 2007

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 25 OFFERED BY MR. TOM DAVIS OF VIRGINIA

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Virginia (Mr. TOM DAVIS) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 195, noes 233, not voting 5, as follows:

[Roll No. 364]

AYES—195

Aderholt
Akin
Armey
Baker
Ballenger
Barr
Bartlett
Barton
Bass

Bereuter
Biggert
Bilirakis
Boehlert
Boehner
Bonilla
Bono
Boozman
Boucher
Brady (TX)
Brown (SC)
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Castle
Chambliss
Coble
Collins
Condit
Cooksey
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Foley
Forbes
Frelinghuysen
Gallegly
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Graves
Greenwood
Grucci
Hall (TX)
Hansen
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hobson
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
Kind (WI)
King (NY)
Kingston
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Miller, Dan
Miller, Gary
Moran (VA)
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Pence
Peterson (MN)
Peterson (PA)
Pickering
Pitts
Pombo
Portman
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (MI)
Smith (TX)
Souder
Stearns
Stenholm
Stump
Sullivan
Sununu
Sweeney
Tancredo
Terry
Thornberry
Tiahrt
Tiberi
Turner
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—233

Abercrombie
Ackerman
Allen
Andrews
Baca
Bachus
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Bryant
Burr
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Chabot
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Ford
Fossella
Frank
Frost
Ganske
Gephardt
Gonzalez
Gordon
Granger
Green (TX)
Green (WI)
Gutierrez
Gutknecht
Hall (OH)
Harman
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kirk
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Linder
Lipinski
Lofgren
Lowey
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McKinney
McNulty
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Morella
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Petri
Phelps
Platts
Pomeroy
Price (NC)
Pryce (OH)
Rahall
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schaffer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson (CA)
Thompson (MS)
Thune
Thurman
Tierney
Toomey
Towns
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Weldon (PA)
Wexler
Woolsey
Wu
Wynn

NOT VOTING—5

Blunt
Combest
Meehan
Rangel
Roukema

□ 2015

Mr. TURNER, Mr. FOSSELLA, and Mr. ADERHOLT changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT 27 BY MR. WELDON OF FLORIDA

The CHAIRMAN pro tempore (Mr. SWEENEY). The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Florida (Mr. WELDON) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 118, noes 309, not voting 6, as follows:

[Roll No. 365]

AYES—118

Aderholt
Baker
Barr
Bartlett
Barton
Bilirakis
Bonilla
Brady (TX)
Brown (SC)
Bryant
Burton
Buyer
Calvert
Camp
Castle
Coble
Cooksey
Crane
Cubin
Culberson
Cunningham
Deal
DeFazio
DeLay
DeMint
Doolittle
Duncan
Ehlers
Ehrlich
Emerson
Everett
Fletcher
Forbes
Fossella
Gallegly
Gilchrest
Gillmor
Goode
Goodlatte
Granger
Graves
Green (WI)
Grucci
Gutknecht
Hall (TX)
Hansen
Harman
Hayworth
Hefley
Hilleary
Hobson
Hostettler
Hulshof
Hunter
Isakson
Israel
Istook
Jenkins
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Lewis (KY)
Lofgren
Lucas (OK)
Maloney (CT)
Manzullo
McInnis
Miller, Jeff
Moran (KS)
Myrick
Northup
Norwood
Ose
Paul
Pence
Pickering
Pitts
Platts
Pombo
Putnam
Ramstad
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ryun (KS)
Schaffer
Sensenbrenner
Sessions
Shadegg
Shimkus
Shows
Shuster
Smith (TX)
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (MS)
Thune
Tiahrt
Upton
Vitter
Wamp
Watkins (OK)
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wicker
Wilson (SC)

NOES—309

Abercrombie
Ackerman
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baldacci
Baldwin
Ballenger
Barcia
Barrett
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bishop
Blagojevich
Blumenauer
Boehlert
Boehner
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Burr
Callahan
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Collins
Condit
Conyers
Costello
Cox
Coyne
Cramer
Crenshaw
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doyle
Dreier
Dunn
Edwards
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Flake
Foley
Ford
Frank
Frelinghuysen
Frost
Ganske
Gekas
Gephardt
Gibbons
Gilman
Gonzalez
Gordon
Goss
Graham
Green (TX)
Greenwood
Gutierrez
Hall (OH)
Hart
Hastings (FL)
Hastings (WA)
Hayes
Herger
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Hyde
Inslee
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Linder
LoBiondo
Lowey
Lucas (KY)
Luther
Lynch
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McIntyre
McKeon
McKinney
McNulty
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Mink
Mollohan
Moore

Moran (VA)	Rivers	Stenholm
Morella	Rodriguez	Strickland
Murtha	Roemer	Stump
Nadler	Ros-Lehtinen	Stupak
Napolitano	Ross	Sununu
Neal	Rothman	Tanner
Nethercutt	Roybal-Allard	Tauscher
Ney	Royce	Taylor (NC)
Nussle	Rush	Terry
Oberstar	Ryan (WI)	Thomas
Obey	Sabo	Thompson (CA)
Olver	Sanchez	Thompson (MS)
Ortiz	Sanders	Thornberry
Osborne	Sandlin	Thurman
Otter	Sawyer	Tiberi
Owens	Saxton	Tierney
Oxley	Schakowsky	Toomey
Pallone	Schiff	Towns
Pascrell	Schrock	Turner
Pastor	Scott	Udall (CO)
Payne	Serrano	Udall (NM)
Pelosi	Shaw	Velazquez
Peterson (MN)	Shays	Visclosky
Peterson (PA)	Sherman	Walden
Petri	Sherwood	Walsh
Phelps	Simmons	Watson (CA)
Pomeroy	Simpson	Watt (NC)
Portman	Skeen	Watts (OK)
Price (NC)	Skelton	Waxman
Pryce (OH)	Slaughter	Wexler
Quinn	Smith (MI)	Whitfield
Radanovich	Smith (NJ)	Wilson (NM)
Rahall	Smith (WA)	Wolf
Rangel	Snyder	Woolsey
Regula	Solis	Wu
Rehberg	Souder	Wynn
Reyes	Spratt	Young (AK)
Reynolds	Stark	Young (FL)

NOT VOTING—6

Blunt	Lipinski	Roukema
Combest	Meehan	Waters

□ 2023

Mrs. KELLY changed her vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

PREFERENTIAL MOTION OFFERED BY MR. MURTHA

Mr. MURTHA. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. MURTHA moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

The CHAIRMAN pro tempore. The gentleman from Pennsylvania (Mr. MURTHA) is recognized for 5 minutes in support of his motion.

Mr. MURTHA. Mr. Chairman, let me explain the problem. Last night, as my colleagues are aware, in my district we had a mine incident where we have nine miners trapped. The gentleman from Kentucky (Mr. ROGERS) offered an amendment which I was interested in and was concerned about and was not able to talk about because of the work we were doing with the mine rescue effort.

Just to report to the Members, the drill bit broke, as many saw on TV, and we are trying to drill another hole. The shafts are big and it is very, very difficult. We have not heard anything for over a day and a half. We have gone as far as 5 days, but the water, we are pumping the water out and hot air in and doing everything we can.

There has been marvelous cooperation with the Federal Government, the State government, the local commissioners, and my guy has been out there for 2 straight days. So we are hopeful.

But the reason I rise is that the gentleman from Kentucky offered an amendment last night which I am concerned about. I am concerned that it involves posse comitatus. We are allowing the military to get involved in civilian affairs. I worry that even the Germans had the Gestapo picking people up; I worry that the Russians had their special agency picking people up; and I am worried that this amendment would delegate to an unelected official the ability to have police authority.

Now, after talking to the gentleman from Kentucky (Mr. ROGERS), he and I talked about it, and I want him to put on the RECORD, so that we understand, the concerns that he has, but I first have a couple of people who want to speak.

Mr. KUCINICH. Mr. Chairman, will the gentleman yield?

Mr. MURTHA. I yield to the gentleman from Ohio.

Mr. KUCINICH. Mr. Chairman, the concerns that some of us have had is that the amendment that was passed by the House would open up the possibility for the military to be empowered to act as a domestic police force and would be a clear invitation to put the Posse Comitatus Act at risk.

The American constitutional experience has required the separation of the military from domestic police authority. Countries where the military has the power to act as a domestic police force include dictatorships and totalitarian regimes. I think many of us believe the Federal military is no substitute for civilian police authority.

Now, notwithstanding that the underlying bill contains language reaffirming the posse comitatus, I think many of us in this Chamber are familiar with statements by some high-ranking administration officials indicating a strong interest in employing the military in a domestic police force setting. So that is what causes our concern to arise here and why we bring this matter to the House.

Mr. Chairman, I want to thank the gentleman from Pennsylvania for allowing this opportunity for this discussion.

Mr. ABERCROMBIE. Mr. Chairman, will the gentleman yield?

Mr. MURTHA. I yield to the gentleman from Hawaii.

Mr. ABERCROMBIE. Mr. Chairman, no one doubts for a moment the motivation of the gentleman from Kentucky (Mr. ROGERS). No one doubts the desire of the body to move forward in this area, not just with dispatch but with a focus that will accomplish the task.

The problem I think that we have is that some of this has been debated, including this amendment, in a late hour, without much opportunity for exchange between the Members. The plain fact is that those of us on the Committee on Armed Services know there are some folks, perhaps in the Pentagon and elsewhere, who have a separate political agenda on this which may be in contrast to what the intentions are here, and that is why I think the question is being raised at this point.

□ 2030

Mr. MURTHA. Mr. Chairman, I yield myself the balance of my time.

I am willing to withdraw or not ask for a revote after we hear the explanation from the gentleman from Kentucky (Mr. ROGERS).

Mr. ROGERS of Kentucky. Mr. Chairman, I claim the time in opposition.

The CHAIRMAN pro tempore (Mr. SWEENEY). The gentleman from Kentucky (Mr. ROGERS) is recognized for 5 minutes.

Mr. ROGERS of Kentucky. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment simply tries to use the template, the model, of the Nation's drug interdiction program which is coordinated in two different places, in Key West, Florida, for the east side, South America, and the Caribbean, and Alameda, California, for the West Coast, Mexico and South America.

These centers are under no one's command. These are voluntary, governmental agencies that cooperate together in those centers under a memorandum of understanding. It is not controlled by anyone. Yet in those centers, and I recommend that Members visit them, we see the Nation's military, our civilian agencies, our intelligence agencies, in a boiler-room operation, all working 24 hours a day, 7 seven days a week, receiving intelligence from all sorts of places, and then acting on it with whatever resource may be available from whatever agency of the government that may be on the scene.

Now, they recognize posse comitatus; military is only used offshore. If there is a domestic or civilian aspect of what they do, they turn to the proper domestic civilian authorities, the sheriffs, the police departments, and so on. So there is a high recognition of posse comitatus there. This amendment requires if the secretary sets up such an operation, that he must model it after those models that I mentioned, which recognize posse comitatus.

Number two, the underlying bill in the manager's amendment reaffirmed that we are operating under posse comitatus. That we cannot violate in the bill posse comitatus. All civil liberties are completely protected under this amendment. The amendment grants no new authorities or powers to the components of the proposed task force, recognizing the existing Posse Comitatus Act.

Number two, we wrote this amendment so it is even permissive. We do not direct the Secretary to do this. He may if he chooses; but if he does, he must recognize posse comitatus. If Members believe that the war against foreign terrorism must be coordinated, then Members should be for this. There is no better model that we have than

what exists in Key West and Alameda, which can easily be transferred if the secretary deems necessary to the fight against foreign terrorism.

Mr. Chairman, I appreciate the concerns of the gentlemen who have expressed interest. It is too bad we had to debate this last night at 12:30 or 1 in the morning. We had 5 minutes, and it was too bad that the gentleman was busy in his home district in Pennsylvania. If the gentleman has questions about it, I will be happy to answer by whatever means the gentleman deems necessary.

The CHAIRMAN pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. MURTHA).

The motion was rejected.

Mr. OXLEY. Mr. Chairman, I rise today in strong support of H.R. 5005 and the hard work of the Select Committee on Homeland Security. By creating the Department of Homeland Security we will send a clear message to the world that the United States will not sit idly by while our enemies plot against us. It is critical that we quickly approve this measure in order to ensure that the President has the tools necessary to protect our citizens from evil acts perpetrated by those who hate our free and open society.

The creation of a Department of Homeland Security is a logical and necessary step. There are over 100 different federal agencies which are charged with protection of our borders. By consolidating this collection of bureaucracies into one agency, we will eliminate duplication of effort and conserve resources.

As Chairman of the Financial Services Committee, I have reviewed the Committee's jurisdiction over three programs within the Federal Emergency Management Agency that would become the responsibility of the new department. These programs are: the National Flood Insurance Programs, the Defense Production Act, and the Emergency Food and Shelter Program. FEMA's mission is to prevent, prepare for, respond to and recover from disasters of all types. The Financial Services Committee believes that FEMA's expertise in consequence management is critical to the function of the proposed Office of Homeland Security and that all of these programs should remain within FEMA at this time.

I commend the Committee's proposal to move the United States Secret Service to the new Department and maintain it as a ''distinct entity'' outside the four major jurisdictional cylinders established under the new Secretary. The long dual-role history of the Service—investigation and protective—combined with its more recently developed expertise in preventing and investigating cyber crimes, and its core mission of protecting the financial system of the United States make the Secret Service uniquely suited to draw from and augment the work of the other component agencies of the new Department.

Mr. Chairman, I would like to thank the Majority Leader and the other Members of the Select Committee for all their efforts in crafting this bill. The creation of this new department will be reflected in the history of our Nation as occurring at a time when Americans joined together in a unified fight against terrorism and against those who seek to suppress freedom. I strongly urge my colleagues to cast aside partisan differences and vote in favor of this legislation.

Mr. KOLBE. Mr. Chairman, I rise in strong support of the Homeland Security Act.

The Select Committee on Homeland Security and the other Committees, recognizing the gravity of this matter, have moved swiftly to bring this legislation to the Floor. But they have given adequate consideration for the many different points of view about the legislation. One of the guiding principles of the Select Committee is that there should be no greater priority than defending the promise of America and that individual liberty and personal safety come before bureaucratic regulations, rules and red tape. I could not agree more.

I represent the people of southeastern Arizona, an area of the country that borders Mexico and has considerable experience with border security needs. We have been struggling for years to reform and improve the coordination and effectiveness of federal law enforcement efforts along the southwest border.

During the debate on reorganizing the INS earlier this year, I hoped to offer my legislation implementing the Jordan Commission's recommendation to separate the two divergent functions within the INS—immigration services and benefits, but I was not provided the opportunity to offer this substitute. The bill before us today does include this fundamental restructuring the INS by placing enforcement functions within the new Department of Homeland Security and leaving the immigration services functions in a different Cabinet-level department—the Department of Justice. Although I would go further by consolidating all the immigration services that are shared by the Department of Justice and the Department of State, this bill does most of what I proposed and is needed to make our immigration system work.

Some have argued in the past that the two functions—enforcement and services—are complementary and must be coordinated by a single government official. But this concept was tried for decades through a failed experiment known as the INS, and has caused great harm to America. We cannot make the same mistake again. The price is too high as we wage our war on terrorism.

As we create this new Cabinet department, we must give the highest priority to ensuring that the responsibilities given to the Undersecretary for Border and Transportation are not assigned based simply on the current structure of the affected bureaucracies. The various agents and inspectors at a port-of-entry today, such as Customs officials, INS officials, Transportation officials, and Agriculture officials, should all be ''Homeland Security officials'' with the same management, same uniform, same communication and information networks, and the same policies and guidelines. We should not maintain the current bureaucracies separately within the new Bureau for Border and Transportation Security. It is essential that all these border functions be fully consolidated under the same, seamless management structure. Of course, the consolidation of the many agencies along the border will take time, but the bill before us today moves us significantly towards this vision.

Finally, I am pleased that the Select Committee on Homeland Security's recommendation would keep the statutory authority for revenue collecting with the Department of Treasury, while transferring law enforcement and trade responsibilities exercised by the existing Customs Service to the Department of Homeland Security. However, we must not diminish the capability of the Customs Service to carry out its diverse missions. Trade responsibilities of Customs should be separated from the enforcement activities. Activities that should remain at the Department of Treasury or be shifted to the U.S. Trade Representative's office include: rulings; legal determinations and guidelines relating to classification and value of merchandise; and the responsibility for identifying and planning for major trade issues.

Trade is a critical component of the U.S. economy. The flow of imports and exports contribute enormously to our economic growth as well as that of the global economy. We should not assign purely commercial decision making responsibilities to the new Homeland Security Department. It will have neither the mission nor the core competency to perform that role adequately. Nonetheless, it should be obvious that the Department of Homeland Security will perform a host of front line enforcement responsibilities that in fact will intersect with commercial or trade related spheres. This is a delicate balancing act, and we're not quite there with this bill.

This legislation to create a new Homeland Security Department comes as close to solving our illegal immigration border woes as could be done without a comprehensive overhaul of our immigration policies. I enthusiastically support this bill. I believe it will have a positive impact on southern Arizona and the entire nation in the years to come.

I urge my colleagues to support this legislation.

Mr. DREIER. Mr. Chairman, in creating a new Department of Homeland Security, the House of Representatives is considering legislation which realigns the federal government in order to properly address a new threat. This bill promotes security, integrates new solutions to address new threats, recognizes the value and service of first responders, and defines clear lines of government authority.

The primary mission of this new department will be the prevention of terrorist attacks within the United States, to reduce America's vulnerability to terrorism, and to minimize the damage and recover from attacks that may occur. In carrying out this mission, the Department of Homeland Security must be equipped with the proper expertise available in the various government agencies which currently perform the functions of border security, emergency preparedness and response, information analysis, and infrastructure protection.

In all of this, the focus must remain the basic protection of our neighborhoods and communities from the threat of terrorism. On the front lines of that effort are first responders—local law enforcement, firefighters, rescue workers, and emergency response teams. This bill establishes a National Council of First Responders charged with the responsibility to provide first responder best practices, latest technological advances, identify emerging threats to first responders, and identify needed improvements for first response techniques, training, communication, and coordination.

With this emphasis on improving first responder capabilities, we must not ignore the integral role of our local governments in the ability of first responders to succeed in their mission. Local governments have already

dedicated millions of dollars on increased security, preparedness, and emergency response costs since September 11. Cities and counties have upgraded security at key public facilities, enhanced information technology and communications systems, and improved local bioterrorism response capabilities.

Congress approved the Fiscal Year 2002 Emergency Supplemental Appropriations bill this week, which includes $151 million in grants to first responders. In providing this federal assistance, I requested consideration of local input regarding the application of federal first responder grants. In response, the bill requires state strategic plans for terrorism response to fully consult local governments. While this provides a good first step in integrating our local governments, we must keep the application of resources for first responders a top legislative priority.

In order to successfully secure our communities and provide effective emergency response, it is critical that local governments are integrally involved in the National Council of First Responders, and in any regional strategic planning for terrorism response. Most importantly, local governments must be given the opportunity to directly access available resources. The task at hand is too critical to allow funding and other assistance to be swallowed up by bureaucracy, or hijacked to mask deficits. Local governments are in the best position to understand what the first responders in their community need and must remain integrally involved in determining the allocation of resources.

I strongly support H.R. 5005 and commend the various committees of jurisdiction that deliberatively and expediously contributed to the creation of the new Department of Homeland Security. I also applaud the leadership of the Select Committee on Homeland Security, without which we may not have had the opportunity to enact this historic legislation.

Mrs. CHRISTENSEN. Mr. Chairman, I rise as a staunch supporter of homeland defense, but in strong opposition to H.R. 5005, the Homeland Defense Bill.

This bill is seriously flawed in many areas, and several of its measures would undermine civil liberties and deny work protections, while protecting contractors who could supply flawed, even deadly products.

Overall, the bill as currently constructed, would in my opinion put us more at risk than we are now, or was in September 10, 2001.

While the leadership sought input from the relevant committees in writing the bill, in the end that process turned out to be no more than a sham. As they have done time and time again, the regular order, processes that have served this body and our country well for over 200 years have been cast aside. That sets a dangerous precedent, and does nothing to ensure expert input into a very complex bill and agency.

I am particularly concerned about the rush to create headlines by having the bill ready on September 11th of this year. There can be no other reason.

This is a massive undertaking, and reorganization. It needs to be well thought out, and planned. Personally, I do not feel that the merging of the different agencies is at all necessary, and jeopardizes the other important functions of many of them.

We should look at the difficulties encountered with a much smaller project—the creation of the Transporting Security Agency, and take counsel on what happens when we rush headlong into something, without proper forethought and expert input.

Our homeland Defense is too important to give it such short shrift in our deliberations. As we have done time and time again since September 11th, we are throwing everything at the problem, hoping that something will stick and be effective. That is no way to lead.

Because caution, due diligence, and respect for process has already been called for by many on my side of the aisle, I know that this plea will also fall on deaf ears, but nevertheless, I am asking the leadership of this body, to stop this rush to meet an unnecessary and unwise deadline. The people of this country don't want a sound bite or photo-op, they want real leadership from us, and they want real homeland security.

Mr. BORSKI. Mr. Chairman, I would like to take this opportunity during debate on H.R. 5005 to apprise my colleagues of a Coast Guard issue that, if not properly addressed, will have serious consequences on our ability to defend our homeland. As the Coast Guard is to be transferred to the Department of Homeland Defense under this Act, the subject is most relevant to today's debate.

The Coast Guard recently launched a new mission known as HITRON. A combination of ships, boats and helicopters pursue drug runners in fast boats. Following a competition in 2000, the Coast Guard leased 8 MH–68A helicopters as a part of a new mission to dramatically improve the nation's ability to interdict drug traffickers. The helicopters fleet became fully operational this winter and has had a 100 percent interdiction success rate with 13 chases, 13 busts and a seizure of cocaine and marijuana valued at nearly $2.4 billion. Thus the mission is proven, the effectiveness of the helicopter is proven and HITRON has been made permanent by the Commandant.

On April 26, Congressman Howard Coble and I led 39 Members of Congress in a request to the Appropriations Committee to provide the Coast Guard with plus-up funding of $60 million the purpose of purchasing 8 MH–68A helicopters currently under short-term lease to the Coast Guard, plus 4 additional helicopters. We believe buying the helicopters would be a better investment than a continuation of leasing arrangements. Leasing is an expensive alternative to purchase.

Mr. Coble and I kept the Coast Guard Commandant and staff informed of our every step while we worked with the appropriations and authorization processes. On May 7, I met with representatives of the Commandant led by Admiral Harvey Johnson. Admiral Johnson informed me that while the helicopter was performing well; the Coast Guard did not want to make a purchase at this time. The reason is the Coast Guard was evaluating the option of deploying a ''multi-mission'' aircraft which would have drug interdiction capability as a part of the Deep Water modernization program. The USCG was awaiting a recommendation from the newly selected Integrated Coast Guard Systems group (ICGS), which is led by Lockheed and Northrop Grumman.

Congressman Coble and I responded to the Coast Guard that we understood the interest in a multi capability aircraft, and did not want to foreclose the Coast Guard option through a congressional mandate to purchase the existing MH–68A fleet. However, a very serious problem remains. The lease on the existing HITRON fleet expires this January 2003. It will be five years before new multipurpose helicopters are introduced. I am extremely worried that there could be an interruption in this program. Mr. Coble and I called on the Coast Guard to extend the lease of eight or more MH–68A helicopters for five years or until a permanent Deepwater multipurpose helicopter is fully operational and in the Coast Guard DeepWater inventory. An independent, but identical request for a five year lease extension was made by Congressman Bob Filner on June 28.

Last week, on July 17, the ICGS group presented its findings to the Coast Guard. It recommended a USCG-Industry team evaluate the trade offs between a single mission and multi-mission helicopter for drug interdiction. ICGS selected the Bell/Agusta Aerospace Company's AB–139 as the multi-mission aircraft. Consistent with the request made by Mr. Coble, Mr. Filner and myself, ICGS recommended an extension of the MH–68A lease for up to five years.

Mr. Chairman, Mr. Speaker, I urge the Coast Guard to adopt the recommendation of the ICGS to extend the MH–68A lease up to 5-years to get us from here to there. I also support specific funding to provide more protection for the crews of these helicopters. I hope my colleagues will join my efforts to ensure that there is no interruption in this vital homeland security program, and to secure the resources necessary to add further protection for our brave pilots and crew who have already done so much.

Mr. PAUL. Mr. Chairman, the move to create a federal Department of Homeland Security was initiated in response to the terrorist attacks of September 11 and subsequent revelations regarding bureaucratic bungling and ineptness related to those attacks. Leaving aside other policy initiatives that may be more successful in reducing the threat of future terror attacks, I believe the President was well-intentioned in suggesting that a streamlining of functions might be helpful.

Mr. Speaker, as many commentators have pointed out, the creation of this new department represents the largest reorganization of federal agencies since the creation of the Department of Defense in 1947. Unfortunately, the process by which we are creating this new department bears little resemblance to the process by which the Defense Department was created. Congress began hearings on the proposed department of defense in 1945—two years before President Truman signed legislation creating the new Department into law! Despite the lengthy deliberative process through which Congress created the new department, turf battles and logistical problems continued to bedeviled the military establishment, requiring several corrective pieces of legislation. In fact, Mr. Speaker, the Goldwater-Nicholas Department of Defense Reorganization Act of 1986 (PL 99–433) was passed to deal with problems stemming from the 1947 law! The experience with the Department of Defense certainly suggests the importance of a more deliberative process in the creation of this new agency.

This current proposed legislation suggest that merging 22 government agencies and departments—compromising nearly 200,000 federal employees—into one department will address our current vulnerabilities. I do not see

how this can be the case. If we are presently under terrorist threat, it seems to me that turning 22 agencies upside down, sparking scores of turf wars and creating massive logistical and technological headaches—does anyone really believe that even simple things like computer and telephone networks will be up and running in the short term?—is hardly the way to maintain the readiness and focus necessary to defend the United States. What about vulnerabilities while Americans wait for this massive new bureaucracy to begin functioning as a whole even to the levels at which its component parts were functioning before this legislation was taken up? Is this a risk we can afford to take? Also, isn't it a bit ironic that in the name of ''homeland security'' we seem to be consolidating everything except the government agencies most critical to the defense of the United States: the multitude of intelligence agencies that make up the Intelligence Community?

Mr. Speaker, I come from a Coastal District in Texas. The Coast Guard and its mission are important to us. The chairman of the committee of jurisdiction over the Coast Guard has expressed strong reservations about the plan to move the Coast Guard into the new department. Recently my district was hit by the flooding in Texas, and we relied upon the Federal Emergency Management Agency (FEMA) to again provide certain services. Additionally, as a district close to our border, much of the casework performed in my district offices relates to requests made to the Immigration and Naturalization Service.

There has beem a difference of opinion between committees of jurisdiction and the administration in regard to all these functions. In fact, the President's proposal was amended in no fewer than a half dozen of the dozen committees to which it was originally referred.

My coastal district also relies heavily on shipping. Our ports are essential for international trade and commerce. Last year, over one million tons of goods was moved through just one of the Ports in my district! However, questions remain about how the mission of the Customs Service will be changed by this new department. These are significant issues to my constituents, and may well affect their very livelihoods. For me to vote for this bill would amount to giving my personal assurance that the creation of this new department will not adversely impact the fashion in which the Coast Guard and Customs Service provide the services which my constituents have come to rely upon. Based on the expedited process we have followed with this legislation, I do not believe I can give such as assurance.

We have also received a Congressional Budget Office (CBO) cost estimate suggesting that it will cost no less than $3 billion just to implement this new department. That is $3 billion dollars that could be spent to capture those responsible for the attacks of September 11 or to provide tax-relief to the families of the victims of that attack. It is three billion dollars that could perhaps be better spent protecting against future attacks, or even simply to meet the fiscal needs of our government. Since those attacks this Congress has gone on a massive spending spree. Spending three billion additional dollars now, simply to rearrange offices and command structures, is not a wise move. In fact, Congress is actually jeopardizing the security of millions of Americans by raiding the social security trust fund to rearrange deck chairs and give big spenders yet another department on which to lavish pork-barrel spending. The way the costs of this department have skyrocketed before the Department is even open for business leads me to fear that this will become yet another justification for Congress to raid the social security trust fund in order to finance pork-barrel spending. This is especially true in light of the fact that so many questions remain regarding the ultimate effect of these structural changes. Moreover, this legislation will give the Executive Branch the authority to spend money appropriated by Congress in ways Congress has not authorized. This clearly erodes Constitutionally-mandated Congressional prerogatives relative to control of federal spending.

Recently the House passed a bill allowing for the arming of pilots. This was necessary because the Transportation Security Administration (TSA) simply ignored legislation we had passed previously. TSA is, of course, a key component of this new department. Do we really want to grant authority over appropriations to a Department containing an agency that has so brazenly ignored the will of Congress as recently as has the TSA?

In fact, there has been a constant refusal of the bureaucracy to recognize that one of the best ways to enhance security is to legalize the second amendment and allow private property owners to defend their property. Instead, the security services are federalized.

The airlines are bailed out and given guaranteed insurance against all threats. We have made the airline industry a public utility that get to keep its profits and pass on its losses to the taxpayers, like Amtrak and the post office. Instead of more ownership responsibility, we get more government controls. I am reluctant, to say the least, to give any new powers to bureaucrats who refuse to recognize the vital role free citizens exercising their second amendment rights play in homeland security.

Mr. Speaker, government reorganizations, though generally seen as benign, can have a deleterious affect not just on the functioning of government but on our safety and liberty as well. The concentration and centralization of authority that may result from today's efforts should give us all reason for pause. But the current process does not allow for pause. Indeed, it militates toward rushing decisions without regard to consequence. Furthermore, this particular reorganization, in an attempt to provide broad leeway for the new department, undermines our Congressional oversight function. Abrogating our Constitutionally-mandated responsibilities so hastily now also means that future administrations will find it much easier to abuse the powers of this new department to violate constitutional liberties.

Perhaps a streamlined, reconfigured federal government with a more clearly defined and limited mission focused on protecting citizens and their freedoms could result from this reorganization, but right now it seems far more likely that the opposite will occur. That is why I must oppose creation of this new department.

Until we deal with the substance of the problem—serious issues of American foreign policy about which I have spoken out for years, and important concerns with our immigration policy in light of the current environment—attempts such as we undertake today at improved homeland security will amount to, more or less, rearranging deck chairs—or perhaps more accurately office chairs in various bureaucracies. Until we are prepared to have serious and frank discussions of policy this body will not improve the security of American citizens and their property. I stand ready to have that debate, but unfortunately this bill does nothing to begin the debate and nothing substantive to protect us. At best it will provide an illusion of security, and at worst these unanswered questions will be resolved by the realization that entities such as the Customs Service, Coast Guard and INS will be less effective, less efficient, more intrusive and mired in more bureaucratic red tape. Therefore, we should not pass this bill today.

Mr. EVANS. Mr. Chairman, I rise in support of legislation creating the Department of Homeland Security.

We will never forget the tragic events of September 11th. That day truly ushered in a new era when we, as a nation, can never take for granted the security of our borders or terrorist threats.

If anything, the tragedies that unfolded on that day demonstrated that we have much work to do to guarantee the safety of average Americans. There were too many warning signs that should have been acted on by our government. It is clear that there are many gaping holes between numerous agencies in responding to terrorist threats and that those same agencies have not cooperated properly in analyzing and working to eliminate these threats.

The legislation before us today addressed areas such as border security, immigration enforcement, and infrastructure preparedness, that must be immediately reorganized to better deal with these threats. This reorganization will better facilitate communication and intelligence sharing between many of these agencies that are on the front line of fighting and preventing terrorist acts. The reorganization will also prepare our communities to address weaknesses in physical cyber-security.

Despite the strengths of the legislation, I do have serious reservations about some provisions that needlessly restrict the rights of Americans and would not contribute to the goals of a more secure homeland. For example, provisions in this legislation unnecessarily abridge civil service protections for the 170,000 federal employees being transferred to the Department of Homeland Security. We should not view civil service protections as a hindrance to fighting terrorism, nor should the cover of anti-terrorism be used to roll back these protections.

This legislation would allow employees transferred to the new department to have their salaries arbitrarily reduced, as well as deny thousands of federal servants due process in merit board proceedings. Many Americans are making sacrifices to fight terrorism, but to ask federal employees to forfeit these basic job protections is callous and unnecessary. There are some in this body that would like to eliminate all civil service protections, but using the cover of terrorism is offensive.

The bill also has a blanket waiver for contractors who produce anti-terrorist devices and products from civil product liability. Contractors who even exhibit fraud or willful misconduct in manufacturing could not be brought to justice under the act. This would even apply to the very servicemen and women who would use this equipment. I believe this is unconscionable and should not be allowed to stand.

I am also very disappointed that the committee did not include an amendment by Representative DELAURO to deny government contracts to American firms that skirt their tax liability by using offshore havens. The DeLauro amendment would have restored a similar bipartisan provision that passed unanimously in the Ways and Means but was deleted by the Republican leadership when they drew up their version of the legislation to be offered on the floor of the House. I believe that Companies that avoid their tax liability should not be eligible for contracting and procurement for a department with a budget the size of Puerto Rico's entire economy.

I encourage my colleagues to support this legislation and support the Morella and DeLauro amendments when they come up for a vote. Their addition would help improve what is largely a worthwhile and effective piece of legislation that will greatly aid our nation in its war on terrorism.

Ms. DEGETTE. Mr. Chairman, although I believe it is imperative to install explosion detection devices at our airports as soon as possible, we must also understand what is reasonable and not lull the public into false hopes by setting arbitrary and unattainable deadlines. We need to listen to the experts and agree to an extended deadline for implementing explosion detection systems to improve baggage screening at our nation's airports. That is why I am voting against the amendment to strike the language form the homeland security bill to extend the Transportation Safety Administration (TSA) deadline. I remain deeply concerned about passenger safety and I believe we ought to continue to take aggressive steps to ensure it. Nevertheless, December 31, 2002 is an arbitrary deadline. Worse than that, it is an arbitrary deadline that our nation's largest airports cannot meet.

For example, in my district, Denver International Airport (DIA) has already implemented many safeguards that exceed TSA standards. However, TSA has failed to fund the equipment that needs to be installed. As a result, if we push forward with a band-aid solution, the large machines that are currently TSA-certified would force passengers to stand outside waiting for their bags to be checked. We are talking about Denver, Colorado. We have cold winters. And having crowds of people waiting outside where cards drive up to let out passengers would create a new safety hazard. An interim solution that provides a less-than-optimal level of security and that will result in unacceptable delays to the traveling public is unacceptable.

Increasing passenger safety is our mutual goal and there is technology that will better achieve that awaiting certification this November. It has been shown to have a greater rate of positive detection, a decreased rate of false positives, and it is a more reasonable size. Denver is planning on implementing this technology and DIA will serve as a test site for the rest of the nation. TSA needs to certify this superior technology and make the financial commitment to allow airports like DIA to begin working on these vital projects. Thus far, the TSA's funding delays have hindered DIA's ability to commence building the necessary infrastructure. DIA and other airports should not be punished for the lack of coordination and support from the TSA.

Let's get it right the first time and implement the technology that will best achieve greater safety and reassure the flying public. We need to recognize the very real, very serious and very costly obstacles the TSA and airports face and allow the airports to continue to utilize one or more of the current screening methods required by the TSA beyond the December 31, 2002, deadline.

Let's not insist on an arbitrary deadline that will not and cannot be met. This should not be construed as a weakening of Congress' resolve. Our nation's airports and airlines have a responsibility to ensure the safety of the flying public. However they determine to achieve this, it needs to happen with all due speed.

Mr. CRANE. Mr. Chairman, today I rise in support of House Resolution 5005 creating a new Department of Homeland Security.

Like the rest of Congress, I applaud the President for his bold decision to reorganize the government and make homeland security the highest priority. Like others, however, I also have had questions about the details of this transition and how it would affect the many responsibilities of those agencies transferred to the new department. The bill before us has answered my questions and provides real protection for our Nation.

Let me focus on one of the important sections dealing with the security of collecting revenue and the economically critical mission of trade facilitation.

Mr. Chairman, the requirement to generate revenue for this country through Customs duties, which was the very first Act of Congress, was the primary reason Customs was established in the fifth Act of Congress as the first Federal agency of the new Republic. This function is still important today as demonstrated by the fact that Customs collects over $20 billion of revenue.

Today, under the authority of the Department of the Treasury, Customs enforces well over 400 provisions of law for at least 40 agencies. In addition to collecting revenue, Customs safeguards American agriculture, business, public health, and consumer safety and ensures that all imports and exports comply with U.S. laws and regulations.

Through the work of this Congress, the new Department now has the tools it needs to protect our borders while at the same time ensuring that revenue continues to be collected and that goods keep moving across the border with little delay.

For these reasons I urge a YES vote on H.R. 5005.

Mr. CAMP. Mr. Chairman, today I rise in support of H.R. 5005, the Homeland Security Act of 2002. I would like to thank the distinguished Majority Leader for his hard work and leadership on the Select Committee to bring this legislation to the Floor.

The U.S. government has no higher purpose than to ensure security of American citizens and to preserve our democratic way of life. The proposal before us creates the Department of Homeland Security, a Cabinet-level agency that will unite essential agencies for better coordination, greater preparedness and quicker response time. Currently, there is no one department that has homeland security as its primary mission. In fact, responsibilities for homeland security are dispersed among more than 100 different government organizations. We need to strengthen our efforts to protect America, and the current governmental structure limits our ability to do so.

As a northern border state, Michigan is on the frontline in border security. We enjoy the longest unmilitarized border in the world with our friend and ally, Canada. With over $1.9 billion in goods and over 300,000 people crossing the border every single day, the connection between our societies is critical to maintain the economic stability of both nations. However, this openness can become a vulnerability when exploited by the mobility and destructive potential of terrorists.

Currently, border security involves multiple agencies—including INS, which is under the Department of Justice; Customs, which is part of the Department of Treasury; and plant and livestock inspectors from the Department of Agriculture. All of these entities have different bosses, different equipment, and even different regulations that govern them. This legislation moves these principal border and transportation security agencies into the Department of Homeland Security. This will provide a direct line of authority and clear chain of command administered by the Secretary of Homeland Security, who is answerable to Congress and the President.

Homeland security should not be a partisan issue. We must rise above politics and jurisdictional disputes to send to the President a strong bipartisan bill that will be effective in improving America's security. I urge my colleagues to vote in favor of H.R. 5005 because it is the right thing to do.

Mr. UNDERWOOD. Mr. Chairman, H.R. 5005, a bill to establish the Department of Homeland Security to safeguard our homeland, to secure our nation for the protection of citizens and property, to defend and preserve our democracy for posterity, to reorganize our government to strengthen emergency preparedness throughout the country, and to reduce the vulnerability of the United States to terrorism, is a bold undertaking that deserves our most serious consideration and attention. As we take up the task of establishing this new department, I want to reiterate and emphasize several important points that concern my constituency, the people of Guam.

In this debate, it is important to recognize that the American homeland extends far beyond the 50 states, and includes the U.S. territories, including my home island of Guam, some 9,500 miles away from Washington, D.C. I have long maintained that in concept, the American homeland should consist of all U.S. jurisdictions which Americans reside and call home. I was pleased to learn that the President's ''National Strategy for Homeland Security,'' unveiled last week, takes into account the U.S. territories. I feel it is equally important for the House to ensure that the bill before us today properly takes into account the U.S. territories. The domestic defense and emergency response capability needs of Americans residing in the U.S. territories are just as critical as the needs of Americans residing in the 50 states.

The territories present unique challenges in planning for homeland security and defense. These unique needs and challenges should be addressed and assessed by the new Department of Homeland Security. Critical resources need to be harnessed and clear lines of communication must be established for the local law enforcement officials in the territories, just as they should be for the 50 states, to combat terrorism at the front lines. In this regard, I am pleased that this bill defines the U.S. territories as part of the geographic homeland. I am

equally pleased that this bill ensures coordination on the part of the Department of Homeland Security with the territorial and local governments of Guam, American Samoa, Puerto Rico, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

I want to thank the Select Committee on Homeland Security, in particular the Majority Leader, Mr. ARMEY, and the Democratic Whip, Ms. PELOSI, for their acceptance of my request to add a specific definition of ''State'' to the bill that includes Guam and the U.S. territories. This specific definition is needed in order to ensure that the other provisions of the bill adequately take into account how guidelines will be carried out and implemented in and for the U.S. territories. The Select Committee's inclusion of my proposal as well as the House Armed Services Committee's recognition of this matter is important to guarantee that information, intelligence, and analysis produced and gathered by the Department is shared with the territories. This action also makes certain that public advisory notices issued and infrastructure vulnerability assessments conducted by the Department include the territories. Furthermore, border control measures implemented, regulations promulgated, policy formulated, communication facilitated, and comprehensive planning will be for the benefit of the territories as well as the states.

The people of Guam proudly continue to stand united with our country in the war against terrorism, but we want to ensure that we stand together when it comes to the planning and preparation to safeguard our homeland, even in distant shores. Let us pass a bill that will help protect all Americans, both in the states and the territories.

Mr. CHAMBLISS. Mr. Chairman, the events of September 11 changed the way Americans view the safety of air travel by exposing loopholes in security procedures at our nation's airports. Aviation security is now more than ever a top priority for all Americans, and it is the responsibility of the federal government to provide for the security and safety of every passenger on a commercial flight originating in this country. In my home state of Georgia is Hartsfield Atlanta International Airport the world's busiest airport.

Hartsfield's Aviation General Manager, Ben DeCosta, has implored Secretary Norman Mineta to assist in moving the arbitrary December 31, 2002 deadline to screen 100% of checked baggage. I agree with Mr. DeCosta, if this artificial deadline is maintained and we do not allow for a more measured approach, we will compromise the very security that we are trying to restore. Waiting until later in the year to extend the deadline is a tragic public policy failure. I have submitted for the record Mr. DeCosta's letter urging support for legislative relief from this deadline for my colleagues to view.

HARTSFIELD ATLANTA INTERNATIONAL AIRPORT,
Atlanta, GA, June 12, 2002.

Rep. SAXBY CHAMBLISS,
U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR REPRESENTATIVE CHAMBLISS: I thought you would be interested in hearing from me directly regarding a letter that I, along with 38 other airport directors, wrote to Transportation Secretary Norman Mineta to stress our concerns about the December 31, 2002 congressional deadline to screen 100% of checked baggage. I also have enclosed a copy of the letter for your review.

We fully support the Transportation Security Administration's efforts to fulfill the nation's goal of strengthening the security of aviation in this nation. Tight deadlines have focused the attention of everyone to get things done expeditiously. But, in the case of the 100% baggage screening deadline, it will drive the TSA to implement a program at Hartsfield that will not give us the best security or an acceptable level of customer service.

We believe that an integrated and automated Explosive Detection System is a must for many airports. But, the TSA will not implement such a system because it cannot be completed by December 31, 2002. We fear that harried efforts to meet an artificial deadline will compromise efforts to enhance security, frustrate our aims to increase capacity and slow the return of the industry to financial health. We should do the bag screening right the first time. We may not be able to afford to do it over again.

We urge you to support our request for legislative relief from the December 31, 2002 deadline. A more measured approach can lead to successful results in both enhanced security and good customer service. I will provide you with additional information and analysis when TSA finalizes its approach for Hartsfield.

Sincerely,

BENJAMIN R. DECOSTA,
Aviation General Manager.

Mr. BLUMENAUER. Mr. Chairman, strengthening the capacity of our government agencies to defend our nation from terrorist attacks is necessary and vital to our security. Our Nation will benefit from better communication among federal agencies and from improved safety of air travel, our borders, our ports, and our water supplies. However, we must develop a focused strategy to protect our Nation rather than taking cosmetic actions. The proposed Homeland Security Department, as proposed in this bill, does not achieve this end.

We need to address the intelligence failures that led up to the events of September 11th. We need to work with local governments to coordinate responses to future attacks. The proposed Department does not address either. Instead we will create a new bureaucracy that, I fear, gives more the illusion of safety. By concentrating on a massive restructuring of the federal government, we will not be able to focus on actually improving the security of our Nation. Under this proposal, those working at all levels will have to divert their attention from national security to bureaucratic reorganization.

As has been documented time and again in jarring detail by the news media, the FBI and CIA were not properly coordinated before September 11. This massive reorganization, rather than dealing with fundamental problems between these two agencies, adds a third governmental department to the uncoordinated mix.

There are real questions about whether we are spending the necessary amount of time to ensure the success of this new Department or are setting it up for failure. We need only look to the Department of Energy reorganization, which occurred over 25 years ago, and today still has failed to become a streamlined, effective department with an efficient process. Past successful reorganizations required more time and enjoyed fuller cooperation and interaction between the administration and Congress.

The proposed Homeland Security Department would include agencies like the Coast Guard and FEMA, whose primary responsibilities are not related to the terrorist threat. Focusing the resources of these agencies instead on homeland security could well detract from the majority of their other vital services that affect the health and safety of millions of Americans every day.

The cost of this new department is another factor that needs more attention. The President has suggested that the most massive reorganization in 50 years will not require any new spending. History and my own experience in governmental reform and reorganization suggest the contrary.

This proposal was developed in private by the Administration with very little Congressional deliberation and input. For such a significant reorganization we should include all segments of our community: local government officials, first responders, and private entities. Homeland security should not be a Washington-driven agenda and we must ensure that local consultation is part of the process.

Finally, the timing is problematic. There appears to be an imperative to rush this into law before the anniversary of September 11th. A more fitting tribute than marking the anniversary with questionable legislation would be to honor those who lost their lives with our best efforts, even if it takes a few more weeks. It would be a shame if this critical legislation left America in greater jeopardy after its passage than it is today.

Mr. TIAHRT. Mr. Chairman, I rise today in support of HR 5005, the Homeland Security Act of 2002. This important legislation will bring more than 100 different security and safety units from around the nation together into a newly created Cabinet department. This new department will work to control movement at the borders, emphasize coordination with state and local emergency responders, merge intelligence units to identify, map threats, and address vulnerabilities, and develop technologies to protect the homeland.

The attacks on September 11th changed the everyday lives of Americans. As a result of these attacks, our country is now at war with an invisible enemy that lurks in the shadows. We face the real possibility of additional attacks of a similar or even greater magnitude. Terrorists around the world are conspiring to obtain chemical, biological and nuclear weapons with the express intent of killing large numbers of Americans. We saw on September 11th that terrorist will use unconventional means to deliver their terror.

These new times require new thinking. Creating a Department of Homeland Security will give the Government the flexibility necessary to make the right decision that are needed to protect the American people. Consolidating these agencies into one Cabinet-level Department will support the President's National Strategy for Homeland Security, it will facilitate the ability of the private sector to more effectively communicate and coordinate threat and vulnerability management, and it will centralize response and recovery management with the federal government. The Department of Homeland Security will have three mission function. They are (1) to prevent terrorist attacks within the United States, (2) to reduce America's vulnerability to terrorism and, (3) to minimize the damage and recover from attacks that do occur.

H.R. 5005 transforms many government functions into a 21st century Department. In order to protect the freedom of our citizens,

we must protect America's borders from those who seek to cause us harm. Under this legislation, protection of our borders is a primary function. This legislation will encompass INS enforcement functions, the Customs service, the border functions of the Animal Plant Health Inspections Service and the Coast Guard all together in the new Department of Homeland Security. H.R. 5005 will also ensure that our neighborhoods and communities are prepared to address any threat or attack we may face. The Federal Emergency Management Agency (FEMA) will also be included in the Department of Homeland Security.

Thus, if an attack should occur, it will be clear who is responsible for consequence management and whom our first responders can quickly communicate with. Additionally, HR 5005 places a high priority on transportation safety. The Transportation Security Agency is transferred entirely to the Department of Homeland Security. TSA has the statutory responsibility for security of all modes of transportation and it directly employs transportation security personnel.

These are just a few of the agencies that will encompass the Department of Homeland Security. Only those agencies whose principal missions align with the Department's mission of protecting the homeland are included in this proposal. The current unfocused confederation of government agencies is not the best way to organize if we are to effectively protect our homeland, as responsibility is too scattered across the federal government. This has led to confusion, redundancy and ineffective communication.

Even though this legislation addresses issues concerning personal privacy, government disclosure, and individual rights, lawmakers and citizens alike must be vigilant against government encroachment of traditional liberties. Specifically, this bill prohibits the implementation of the Terrorism Information and Prevention System (TIPS), a national ID card system, guarantees whistle-blower protections, details Freedom of Information provisions, and establishes a Privacy Officer responsible for ensuring privacy rights of citizens. I believe an unaccountable government is an irresponsible government and in addition to a vigilant watch against abuses of individual rights, we must be accountable to taxpayers and not allow the Department to expand beyond its fiscal and bureaucratic parameters.

Mr. Chairman, the new Department of Homeland Security will be the one department whose primary mission is to protect the American Homeland. It will be the one department to secure our borders, transportation sector, ports, and critical infrastructure. One department to synthesize and analyze homeland security intelligence. One department to coordinate communications with state and local governments, private industry and first responders, and one department to manage our federal emergency response activities.

We owe the American people nothing less than the absolute best to protect its citizens. Reorganization of America's homeland security functions is critical to defeating the threat of terrorism and is vital to the nation's long-term security.

Mr. NETHERCUTT. Mr. Chairman, I rise today in support of H.R. 5005, a bill to create a much-needed Department of Homeland Security in the Presidential Cabinet.

For the first time, America will have all its border protection services under one authority. The Immigration and Naturalization Service (INS) enforcement, the Customs Services, the border activities of Animal and Plant Health Inspection Service (APHIS) and the Coast Guard will be able to work more closely than ever to ensure that our borders—especially our northern border, the longest undisputed border in the world—are protected from threats. Whether those threats are from terrorists, illegal immigrants, drug smugglers or smugglers of other contraband, the Department of Homeland Security will be in a position to protect against those threats, while utilizing technology to aid the free flow of legal commerce.

The legislation before us today varies from the President's initial proposal in a very meaningful and positive way. It incorporates language I supported with the Science Committee to include an Undersecretary for Science and Technology who will be given the task of coordinating homeland security-related scientific research government-wide. One aspect I fought to keep in this bill is the flexibility for federal partnerships with small businesses that have innovative technologies to offer. Other Transaction Authority, as it is called, has been used successfully by the Defense Advanced Research Projects Agency (DARPA), and I believe it has equal merit to advance time-critical and life-saving technologies in this new Department. I am pleased that the President has embraced these changes.

Mr. Chairman, I am also pleased that this Department will be organized almost entirely out of existing government agencies. Congress could have easily taken this opportunity to create more government bureaucracy. The terrorist threat that faces our great Nation could have easily been used as an excuse to broaden the size and scope of the federal government. The bill before us today does not take that approach, but rather reorganizes, consolidates, streamlines and focuses those federal agencies responsible for homeland security. With those agencies under one Secretary of Homeland Security, I am confident that our nation is in a better position to prepare for and responds to any threat to our domestic security.

This legislation will provide the flexibility the President needs in order to make staffing changes and provide for the national security, and to reorganize activities within the Department so that agencies work with one another to make our country safe. At the same time, this bill provides the Constitutionally mandated Congressional oversight necessary to maintain separation of powers and prevent excessive and abusive government. For example, this bill preserves the authority of Congress and the Appropriations Committee to prescribe levels of funding for Executive Branch functions. Furthermore, H.R. 5005 will prohibit the unwise Terrorism Information and Prevention System (TIPS) program, which would have encouraged neighbors to spy on neighbors. I am pleased with the privacy protections built into this act, which will prevent an intrusive 'Big Brother' government which violates our Constitution.

I thank the members of the Select Committee on Homeland Security, and the distinguished Majority Leader and Chairman of the Committee, Mr. ARMEY, for their hard work crafting this bill.

Mr. ETHERIDGE. Mr. Chairman, I rise in support of H.R. 5005, a bill that establishes the new U.S. Department of Homeland Security.

Since September 11th, the United States has made protecting the American homeland from terrorism and fighting terrorism abroad our top priority. I support the reform and reorganization of the departments and agencies with responsibilities for homeland defense, as well as a thorough review of events and factors that led to the tragic events of September 11.

Such reform and reorganization, coupled with a comprehensive threat assessment and strategy to address threats to the American homeland, are the best way to improve the safety and security of the American people. I call on the Secretary to operate the new Department in an open and fiscally responsible manner. Through this legislation we have given the Department Secretary the requisite statutory and budget authority to effectively and efficiently protect America from terrorism.

Make no mistake: this bill is far from perfect. The House Republican leadership in too many instances misused H.R. 5005 to score political points instead of legislating responsibly. I am hopeful the conference with the Senate will overcome these deficiencies and Congress can pass a final Homeland Security bill that produces real security for the American homeland.

As we protect and defend our country, we must also protect and defend the Constitution, the Bill of Rights, our civil liberties, and the protection of civil service employees. Futhermore, the development and operation of the Department of Homeland Security must involve a bottom-up process, with the input and recommendations of local first responders and local officials from America's cities, small towns and rural communities. They are our first line of defense against terrorism, and also the first to answer a call in case of attack.

The security of our country, our people and our freedoms are paramount. The new Department of Homeland Security will allow us to devote time, people and resources in a coordinated and effective manner to deter any more tragedies like September 11.

Mr. STENHOLM. Mr. Chairman, I rise today in support of the bill H.R. 5005, the ''Homeland Security Act of 2002.''

At the very outset, I want to express my thanks to the Members of the Select Committee on Homeland Security, from both sides of the isle, all of whom were very gracious in considering and ultimately accepting the recommendations from the House Agriculture Committee. I am convinced that through this cooperation we were able to make significant improvements to the sections involving the transfer of the Plum Island Animal Disease Laboratory and the border inspection functions of the USDA Animal and Plant Health Inspection Service (APHIS). In addition, I want to acknowledge the support and cooperation of the Administration in our efforts to improve these specific provisions as well.

Despite my support for moving the process forward today, however, I would not be fully honest if I didn't express serious concern about the accelerated pace at which we have developed this legislative package and about some of the uncertainties associated with it. Many in Congress are concerned that, in our haste, we may not have given adequate consideration to unintended consequences that could result from the current effort.

Little that I have heard during this abbreviated process has reassured me that the American people will be significantly safer from terrorist threats as a result of the passage of this bill and its enactment into law. Of course, the vast majority of this bill is really not about creating new protections for the American Homeland. Rather, much of this bill relates to a gigantic reshuffling and potential expansion of the federal bureaucracy—the largest new federal bureaucracy created since World War II. This too is a source of serious concern to me.

While I realize that efforts have been made to ensure that no important functions are lost or degraded by this reorganization, I would feel much more comfortable if we had been able to question the Administration about these matters during the hearings held by the House Agriculture Committee. Unfortunately, representatives for the Administration did not choose to accept our invitation to appear, and we consequently had to do our work with less information and assistance from them than I would have liked.

Nonetheless, I do remain hopeful, that through our actions today, some improvements in inter-governmental communication and coordination may take place. I am also pleased that we were able to address the issues related to the USDA Animal and Plant Health Inspection Service in a way that will preserve important agricultural functions, while assisting the effort to consolidate homeland security protections.

Given these positive steps, I will be voting for the legislation before us today. I am hopeful that, as a result of this legislation, at least one American family will be spared additional loss and suffering at the hands of those who hate us and our way of life.

Mr. SERRANO. Mr. Chairman, I rise in reluctant but strong opposition to the Homeland Security Act before us today.

It has been clear since September 11th—indeed it was clear well before that date—that the Federal government needs to change to better face the threats posed by terrorists, to better coordinate and focus prevention, preparation, and response efforts. The bill before us attempts to do that. But I have several serious concerns with the approach the President and the majority are taking.

First, let me praise the Select Committee for including in the new department an Office for Civil Rights and Civil Liberties. This represents an acknowledgement that our fundamental values must be preserved as we fight against forces that seek to destroy those values.

However, on a number of other issues, equally important values, such as fairness and openness, are undercut.

I am deeply concerned that what is proposed in this bill goes too far too fast and actually risks disrupting our efforts to detect and prevent future terrorist acts against America and Americans. Changed priorities and restructuring are very disruptive to any organization, and it will be extremely difficult to maintain a new department's focus on its primary missions when so many different entities with so many different cultures are being merged. The Comptroller General has testified that, based on review of organizations undertaking similar ''transformational change efforts'', it could take between five and ten years for the department to become fully effective.

I am also deeply concerned that the non-homeland security activities of many of the agencies proposed to move to the new department will suffer within an organization focused on homeland security. While the new department's primary mission is critical to the well-being of our people, so are the Coast Guard's search and rescue function and FEMA's response to natural disasters. They must not lose attention or resources because the main focus of the department and its top managers is on homeland security.

Another problem I see with the bill is that it rewrites or even abandons an array of good government protections in the name of ''flexibility''. As several of my colleagues have noted, we got through World War II, the Cold War, Korea, and Vietnam without needing to exempt the federal workforce from civil service protections, ranging from collective bargaining to whistleblower protection. It is simply wrong to turn hardworking, loyal civil servants into second-class employees because their box is moved to a new place on an organizational chart.

It is also wrong and unnecessary to fiddle with the Freedom of Information Act and the Federal Advisory Commission Act. Both have sufficient protections against disclosure of sensitive information and should be retained.

Mr. Chairman, others have identified other serious problems with this bill, but I believe the fundamental problem is that it tries to do too much all at the same time. The real problems were not the structure of the government; they involved priorities that did not include counter-terrorism, as well as failures of coordination and information-sharing among existing agencies.

As an example of a more focused, less disruptive approach, a team from the Brookings Institution suggested concentrating initially on agencies involved in border and transportation security and infrastructure protection and creating a new intelligence analysis unit, and stressed strong management in the department and central White House coordination of government-wide strategy and budgets as crucial to the success of the reorganization. Other activities and agencies could be considered for inclusion later, as the department finds its footing. This is not the only approach, but shows it is possible to address the real need for restructuring on a smaller, less disruptive scale.

Mr. Chairman, I continue to believe that we must reorganize our government—and Congress—to meet the terrorist threats against us. But this is not the right way to do it and I urge my colleagues to vote against it and start over.

Mrs. TAUSCHER. Mr. Chairman, I reluctantly must rise in opposition to the Oberstar-Menendez amendment.

As a Member of the Transportation Committee, I have a great deal of respect for my Ranking Member and Mr. Menendez, but I must oppose their amendment.

As a Member of the Aviation Subcommittee, making air travel safer is my highest priority.

But I do not believe that forcing arbitrary deadlines on our local airports will actually make air travel any safer.

On the contrary, if airports are forced to set up temporary solutions to meet these deadlines, the result will be wasted tax dollars and huge crowds of passengers standing in lines inside and outside airport lobbies, which will create an entirely new security risk.

Congress has taken many bold, new steps to respond to the terrorist attacks since September 11th.

One of these is the sweeping aviation security reforms we passed last year.

As a member of the committee that drafted last year's bill, I can tell you that the deadlines established in the legislation were arbitrary and are unenforceable.

The United States had never experienced such an attack.

And because Congress' response was swift, the details on how to achieve such sweeping reforms were untested.

Our airports, which are responsible for implementing these mandates on the ground, have told us for months that these deadlines are unworkable.

I have been contacted by all of the Bay Area airports: SFO, Oakland, San Jose and Sacramento International airports urging me to allow the TSA to have the flexibility it needs to deploy the most reliable explosive detection equipment as soon as possible.

Secretary Mineta testified before our subcommittee three days ago that due to the funding cuts and new mandates in the supplemental appropriations bill, the TSA could not meet these deadlines.

I think the Secretary knew before two days ago that these deadlines were unachievable.

And I find it too convenient that the administration is now trying to blame Congress for this.

But the underlying fact still remains: These deadlines are not realistic.

We should not be playing political chicken with common-sense aviation security.

Instead, we should be working together to find real solutions at each of our airports.

The Granger language included in the underlying bill requires the TSA to work with every airport to customize its unique security needs and establish a plan to achieve 100 percent baggage screening.

The Frost language sets an outer limit of one year to achieve this goal at every airport.

My understanding is that most airports will be able to comply with this well before the year deadline.

I, like all of you, want to keep the pressure on to ensure that all baggage is screened as soon as possible.

I believe the underlying bill will do that while still addressing the reality of implementing this at all our nation's airports in a cost effective and responsible way.

I urge my colleagues to oppose the amendment and support the common-sense language in the underlying bill.

Mr. SCHROCK. Mr. Chairman, first I would like to thank the members of the Select Committee for all of their hard work to craft this legislation. I also want to thank the President for moving forward to establish a Department of Homeland Security. The Government Reform Committee and many other House Committees gave the Select Committee many amendments to work with, and they skillfully sifted through these amendments to come up with what I think is a bill that sets up the best framework to protect our nation.

The creation of this department is of particular interest to the people I represent as they live every day with the threat of terrorism. The greatest security threat that we in the Second Congressional District of Virginia face is an attack on our seaport.

The characteristics that make Hampton Roads an ideal seaport—a great location and an efficient intermodal transportation system—also makes it a prime target.

A ship sailing through Hampton Roads steams within a few hundred yards of the Norfolk Naval Base, home to the Atlantic Fleet, and Fort Monroe, home of the US Army Training and Doctrine Command. The detonation of a ship-based weapon of mass destruction would have disastrous effects on our military and our economy.

Under the current framework, the Coast Guard, the Customs Service, the Immigration and Naturalization Service, and the Animal and Plant Health Inspection Service all have some jurisdiction over ships coming into the Port of Hampton Roads.

These agencies have different, often limited, powers to search and inspect ships and cargo and lack a formal process for sharing information with each other. In some cases, federal laws even prevent the sharing of information between these federal agencies.

These problems became clear at a workshop I recently held on port security. Putting these agencies under one umbrella will enable them to communicate more effectively and work together, filling the security gaps that exist today.

Also, this homeland security plan will help goods get to market more efficiently. Under the current system, a ship and its containers are stopped and searched several times by different agencies. This system unnecessarily impedes the flow of commerce.

I am confident the President's proposal will ensure security remains our top priority during the inspection of ships, while also providing for a more efficient flow of goods to their ultimate destination through the reduction of duplication.

Many government agencies want to work together to ensure homeland security, but in the past, either the framework did not exist or legal barriers prohibited their cooperation. This legislation will create the necessary framework for the collaboration needed to keep our ports, our airports and our entire homeland safe from terror.

This legislation will establish the structure necessary to address today's new problems. But as we develop this legislation it is imperative that we not amend the legislation such that this new department is a static one, difficult to change and unable to address the unforeseen problems of tomorrow. We must not unnecessarily tie the hands of this and future Presidents, robbing them of their ability to best address the threats of the future.

I am proud to support this legislation, and I urge my colleagues to do the same.

Ms. HOOLEY of Oregon. Mr. Chairman, the Rules Committee Wednesday was presented with a tremendous number of amendments to the Homeland Security Legislation. Their task was certainly a monumental one. However, the Committee did not allow my amendment to be considered on the floor or be included in the Manager's amendment, which I believe to be an erroneous decision.

As such, I have converted that amendment into a bill, the ''Secure Identity Protection Act of 2002.'' This bill would effectively prevent the theft of Social Security numbers of the deceased by requiring the White House to issue a report on the advisability of requiring State DMVs to subscribe to the Social Security Administration's Death Master File. The report, in turn, must be submitted to Congress.

This bill is not a mandate. It is not a proposal to create a national ID card, nor is it an effort to ban Social Security Numbers from general usage. Rather, it is a common sense proposal that would greatly benefit our national security, as well as prevent billions of dollars in fraudulent charges by identity thieves.

Identity theft is not just a financial crime, it is a threat to our national security. An individual suspected of training four of the September 11 terrorists used the Social Security number of a New Jersey woman who died in 1991 to establish his identity in the U.S. Untold numbers of other terrorists may have done the same.

The financial services industry, the medical community, the insurance industry, educational institutions and state and local governments rely upon our Social Security Numbers as a means to uniquely identify us. Each of these entities reproduces our Social Security number within their own files and generates documents that make this information available to others in some form. That's why the vast majority of us have our Social Security numbers emblazoned upon our medical insurance cards in our policy numbers or on our driver's licenses as our license numbers.

Even more alarming is that by using the Internet, the ability to gain access to personal identifying information such as Social Security numbers is growing at a tremendous and frightening pace. The ability to exploit that information has empowered a new generation of identify thieves who have in turn made identity theft the fastest growing crime in the world.

Unfortunately, only 18 state DMVs currently subscribe to the Death Master File. So, if a terrorist provides a Social Security number of a deceased individual to a state DMV, it is highly likely that terrorist will be successful in his or her endeavor to obtain a driver's license or identification card. We should all shudder to think of the consequences.

Compounding the problem, Congress has already recognized the need to improve the current system in ensuring states certify the identities of commercial truck drivers, and included $5.1 million in federal funds for states to access the Death Master File in the FY '02 Supplemental appropriations bill. Unfortunately, not every terrorist is going to apply for a CDL.

We have failed for too long to address the problem of identity theft. We have failed to help protect the citizens of the United States from additional terrorists illegally gaining identification and access to numerous resources to plot their attacks.

My bill is a step in the right direction, and I urge all my colleagues to assist me in ensuring our government takes common sense steps to safeguard our national security.

Mr. CARDIN. Mr. Chairman, I support the creation of a new Federal Cabinet Department of Homeland Security. Therefore, I shall vote for H.R. 5005, but I have major reservations about many of its provisions that I hope will be corrected in conference. It is important to let the process move forward.

I agree that we need to consolidate our existing agencies that have homeland security and counter-terrorism functions by creating a new Department with the primary mission to prevent, disrupt, and respond to terrorist attacks. I believe that Congress will enhance the national security interest of the United states by creating this new Department of Homeland Security. The security and safety of the homeland and its citizens is perhaps our greatest responsibility.

I am very disappointed that the House rejected several amendments that could have strengthened this legislation—amendments that would have subjected this new agency to the Freedom of information Act (FOIA), civil service rules, whistleblower protections. The House also rejected amendments that would have stricken the delay in implementing explosives screening for baggage at our airports, as well as an amendment that would have clarified the liability immunity for homeland security contracts.

In each of these areas, I am hopeful that the conference committee will modify these provisions.

We also have to ensure that many of the agencies that would be included in this new department not lose sight of their original missions. An example of that is the U.S. Coast Guard, which boaters rely on in emergency situations. I support strengthening the Coast Guard to deal with border security issues, but I do not want the result to be that Maryland boaters in the Chesapeake Bay are at greater risk because the Coast Guard focus has changed. The new Department of Homeland Security should not jeopardize those functions of different departments and agencies that are not specifically related to security.

In order for me to support this legislation on final passage, it is important that we not only establish the consolidated agency for homeland security, but that it is constituted in a manner that protects the civil liberties of its workforce and the people of this country. I am hopeful that when the legislation returns from conference the legislation will accomplish these goals.

Mr. ROEMER. Mr. Chairman, I rise to express my serious reservations about H.R. 5005, creating the new Department of Homeland Security. On the occasion of this historic vote, I wish to expres my concerns about the Administration's proposal and implementing legislation considered by the House of Representatives today.

The September 11 tragedy confirmed a problem that exists in our domestic security and exposed on vulnerability to outside attacks. The existing bureaucracy and the intelligence community made some mistakes and errors. In addition, there are existing problems with management, organization, ''stove piped'' agencies, outdated technology, and not enough effective communication between key people and departments. I fear that some of these problems and organizations are replicated here in H.R. 5005.

The President proposed to create a new Department constituting the largest federal reorganization in half a century. I hope and pray it works, but I don't think it will. Understanding the urgency of possible future terrorist threats, Congress pledged to enact a bill quickly so that the President can sign it as the Nation approaches the one-year anniversary of September 11th. We should take more time and get this bill right. This organization will last for decades to come.

Homeland security has now become one of the most important challenges facing the Nation, and the vote we cast today to address terrorist threats will have profound and lasting consequences for national security, the economy, the future of our children, and our way of life for the next several generations. It is

therefore critically important that we make our decisions based on careful and thoughtful analysis before voting to institute far-reaching changes altering the face of government and the way we prepare for and respond to terrorist threats. It is vitally important to combine the newest and most effective organizational ideas and theories.

There is considerable agreement in America, including Congress, that some kind of organizational reform is necessary. I applaud President Bush for proposing a plan. The question now is not whether to reorganize but how and to what extent. In Congress, twelve committees considered the President's proposal and offered some thoughtful improvements, although most of them were rejected by the Select Committee.

While I have strongly supported the President's creation of the White House Office of Homeland Security, I maintain serious reservations about this approach to establishing a new Department. My objections are not solely based on the Department's personnel policies or even the absence of Posse Comitatus protections to safeguard individual liberties. Rather, my reservations are based on this ''1960's'' type of approach to reorganizing existing agencies and my belief that this form of restructuring will not be able to respond to terrorist threats with improved agility, flexibility and dispatch. As the management theory of the day promotes synergy and symmetry, this proposal reflects big bureaucracy, big budgets, and big problems.

The legislation considered today is the only solution we are being offered. The bill will shuffle tens of thousands of government employees and billions of dollars in new federal spending without achieving what should be the core mission: to provide sufficiently flexible and responsive intelligence resources and information gathering; reliable analysis and effective sharing to executive agencies; and field agents, intelligence personnel and first responders who are thoroughly trained and prepared. Indeed, the last thing our nation needs now is a hastily conceived Department of Homeland Security. This monumental undertaking, if not carefully and cautiously thought through, could produce an unwieldy and overblown bureaucracy that would exacerbate the current situation and render the country more vulnerable to certain weaknesses.

I have been proud to serve on the Select Committee on Intelligence and on the Congressional Joint Inquiry, which has for the last two months been intensely focused on the role of the core components of the intelligence community, particularly the CIA, FBI and NSA. This inquiry has also heavily scrutinized information management particularly with regard to intelligence collection, analysis and information sharing. Following dozens of special briefings and lengthy hearings, I have concluded that increasing resources and technology for intelligence and improving information management are some of the keys to reform. We must improve the ability of our services to turn lots of information into knowledge and therefore actionable intelligence.

Rather than folding dozens of executive agencies under one tent and moving desks from one department to another, the bill should increase efficiencies for computers, equipment, and technology in order to assure that we communicate more quickly between federal offices with e-mail and databases to the field where terrorists might be located. The intelligence community is challenged by the use of increasingly sophisticated technology, such as encryption systems, that require a far different effort than we have employed over the last few decades to combat technology used by terrorists.

One of the amendments I proposed, which was not accepted by the Committee on Rules, would have bolstered the intelligence functions of the Department by creating stronger directorates for intelligence and critical infrastructure protection. These directorate's missions would have fused and analyzed intelligence from all sources in a more integrated approach than that proposed by the Administration's proposal.

Another amendment I proposed would have prohibited the transfer of the Federal Emergency Management Agency into the new Department. FEMA's mission is reactive, responsive, and rehabilitative. Folding them into the Department would threaten to disrupt one of our most respected and effective independent federal agencies from delivering premier first-responder relief that has added tens of thousands of Americans devastated by natural disasters, such as fires, floods, earthquakes and hurricanes. Focus for FEMA would then be split between a proactive and preventive priority and secondly, the traditional rehabilitative mission. My amendment would have retained FEMA's independent status and ensured that our nation's increased focus on terrorism preparedness will be in addition to, and not at the expense of, FEMA's natural disaster response capabilities.

Mr. Speaker, H.R. 5005 focuses on reorganization and insists on the misguided notion that if law enforcement and related agencies are swept under one roof, they will be able to communicate and respond to threats more quickly and efficiently. Our agents should be able to communicate via email and hand-held technology with tremendous speed and efficiency. It is not always necessary for them to be located under the same roof to achieve their mission. Information management is another key to securing homeland security, preventing future attacks, and protecting valuable assets. Effectively using intelligence is one of the most useful and powerful instruments we have to prevent, or at least mitigate, the likelihood and consequences of a possible future attack. However, the bill's approach toward information management and accountability seems limited and flawed. If the new Department is to function effectively, its access to information relating to terrorist threats must not be restricted as it is under this bill.

For example, the Secretary of Homeland Security is granted only limited access to ''raw data'' on information collected by the intelligence community and law enforcement agencies. The bill specifically provides that the Secretary can obtain unanalyzed information ''only if the President has provided that the Secretary shall have access to such information.'' This approach seems designed to keep the new department dependent on the good will of the intelligence community and law enforcement agencies and hostage to their partial clues on insufficient information. This would be a grave mistake.

I believe we should modestly increase the size and scope of the current White House Office of Homeland Security, headed now by Director Ridge. That position should have Cabinet level status, a larger budget, and analytical intelligence function, and jurisdiction over the Coast Guard, among some other agencies and responsibilities. But it should not be combined with 22 federal departments and 180,000 workers costing taxpayers $38 billion.

Mr. Speaker, for many of these reasons, I have serious reservations about the bill. I do not cast this vote lightly. I believe that we should provide accountability and maximum efficiency in our effort to provide homeland security. Congress should rework this bill and try again. We should break the mold, think ''outside the box,'' and create the agency of the new century, not the bureaucracy of the 1960's. After all, we are not targeting the former USSR and missile silos in Siberia, but targeting against terrorists that can swiftly move from Hamburg, Germany to New York and kill thousands of Americans.

Mr. UDALL of Colorado. Mr. Chairman, I rise in support of this bill. I do have some concerns about it, but I think it deserves to be passed.

I am united with my colleagues and with the President in a shared determination to win the war against terrorism. We must do everything we can to reduce the risks of further attacks. I believe we must reorganize our government to meet that goal.

What we have chosen to take on in the aftermath of September 11th is an enormous task, the largest reorganization of the government in half a century, a total rethinking of how we approach security. We need to plan for the protection of all domestic people, places, and things. We need to fundamentally restructure our government to be more responsive to terrorism.

This is a tall order. Homeland security has always been an important responsibility of federal, state and local governments. But in the aftermath of the terrorist attacks, the scope of this responsibility has broadened.

The bill before us has much in common with a report that we received just last year from a commission headed by former Senators Gary Hart of Colorado and Warren Rudman of New Hampshire. The report recommended sweeping changes, including the establishment of a Department of Homeland Security.

I have reviewed the commission's report carefully and discussed it with Senator Hart, and I have been impressed with the soundness of the report's recommendations. I have also cosponsored two bills dealing with this subject.

So I am glad that the President has come to agree that a new Department of Homeland Security is necessary.

The question we face today is whether the bill before us is up to the challenge. Will this bill actually make the American people safer? I'm not entirely certain. I believe this bill generally heads in the right direction, but it still contains a number of troubling provisions.

One concern I have is that in our rush to create this new department, we may be assembling an unwieldy bureaucracy instead of a nimble department that can be quick to respond to the challenges at hand. The proposed department's size, cost and speed may well hamper its ability to fight terrorism. We need to recognize that no department can do everything. Homeland security will be the primary responsibility of the new department, but it will also continue to be the responsibility of other departments, of states and local governments, and of all Americans.

It's also true that many of the agencies that will be subsumed by this new department have multiple functions, some of them having nothing to do with security. That's why I think it's right that the bill abolishes the INS and includes its enforcement bureau in the new DHS, while leaving a bureau of immigration services in the Department of Justice. I also think it's right that the bill moves only the agricultural import and entry inspection functions of the Animal and Plant Health Inspection Service into the new department, while leaving the rest of the service—including the unit that investigates chronic wasting disease and other possibly contagious diseases—intact. I believe this same model should apply to the Federal Emergency Management Administration, or FEMA, which this bill would move as a whole into the new department. While it may seem that FEMA—as the central agency in charge of disaster response and emergency management—should constitute the heart of the new DHS, FEMA is primarily engaged in and especially effective at responding to natural hazards. This bill should leave FEMA outside the new department, or at a minimum transfer its Office of National Preparedness to the new department, while leaving FEMA's Disaster Response and Recovery and Mitigation Directorates intact. I voted today to leave FEMA outside the new department because I fear FEMA's current mission and focus will be lost in the new bureaucracy we are creating.

I am hopeful that the President will continue to work with the Congress to make sure the agencies moved to the new Department will be supported in their many other important duties even as they focus anew on their security roles.

I have other concerns aside from the organization of the agency.

The bill includes language that denies basic civil service protections for the federal workers who would be transferred to the new department. While I am encouraged by the passage of two amendments that slightly improve the bill's language in these areas, I remain fearful for the 170,000-plus employees of the new DHS whose jobs this bill would put at risk in an attempt to give the President ''flexibility'' to manage in a ''war-time'' situation. That's why I voted for amendments to preserve collective bargaining rights, whistleblower protections, and civil service rules that have protected career employees for over 75 years. I don't believe we should use the creation of a new department as an excuse to take away these protections—protections that Congress enacted so that we could attract the very best to government service. Taking away these protections now signals that we don't value our federal workers, their hard-won rights, or the integral role these workers will continue to play as part of the new department in the fight against terrorism.

I also supported an amendment striking the overly broad exemptions in the bill to the Freedom of Information Act, or FOIA, which was designed to preserve openness and accountability in government. The bill includes a provision excluding information voluntarily submitted to the new department from the requests for disclosure, it would also preempt state disclosure laws. FOIA does not require the disclosures of national security information, sensitive law enforcement information, or confidential business information, which makes the exemptions to FOIA in this bill unnecessary in my view.

I think that these parts of the bill will need to be revised, and I will do all I can to improve them.

There is one provision we debated today that I do think should remain in the bill. Last year, I strongly supported the airport security bill because I believed then—as I do now—that we must protect the public from a repetition of terrorist hijackings. One key part of that is to have baggage screened to safeguard against explosives being smuggled aboard airplanes in checked luggage.

But today I voted to extend the baggage screening deadline established in the airport security bill because it doesn't make sense to me to mandate a deadline that clearly is impossible for a quarter of airports in this country to meet. It has been clear for some time that although 75% of airports would be able to meet the December 31st deadline, 25% of this country's largest airports would not. Denver International Airport (DIA) is among those airports still waiting for the Transportation Security Administration (TSA) to approve its security plan.

DIA has developed its own plan that would employ a baggage-screening system that costs approximately $85 million to implement, versus $130 million for the system currently approved for use in the U.S. The bill before us today allows TSA to incrementally address individual airport requirements like DIA and accommodate new technology improvements.

I am a cosponsor of legislation that would extend the deadline because I believe DIA will be able to provide a better, more cost-effective baggage screening system than the current TSA-approved model given a bit more time. So I am pleased that this bill includes an extension on the baggage screening system.

In summary, I am pleased that this bill echoes the overall approach of the Hart-Rudman report recommendations. I am also pleased that the bill includes important Science Committee contributions, such as the one establishing an Under Secretary for Science and Technology in the new department, as well as provisions I offered in the Science Committee markup requiring the new department and NIST to engage in a systematic review and upgrading of voluntary consensus standards. I believe it is important that the bill includes a provision reaffirming the Posse Comitatus Act, which prohibits the use of the armed forces for civil law enforcement. And it is important that the bill prohibits the government from implementing the proposed ''Operation TIPS,'' an Orwellian program under which designated citizens would be trained to look for and report suspicious behavior on the part of their fellow citizens.

Despite the problems in the bill, I am voting for it today because I remain committed to a strong, effective Department of Homeland Security. I am hopeful that the problematic issues I highlighted and other concerns will be successfully addressed in the conference committee.

Mr. BEREUTER. Mr. Chairman, this Member rises to express his reluctant support for H.R. 5005, legislation to establish a Department of Homeland Security (DHS). There are several improvements to the bill included as a result of the work of the House Permanent Select Committee on Intelligence (HPSCI).

When the Intelligence Committee, of which this Member is Vice-Chairman, reviewed President Bush's initial proposal, it considered a number of issues:

What will be the relationship between the Department of Homeland Security and the intelligence community?

Will the Department have the access it needs to intelligence information?

Will the Department have the trained personnel to analyze threat information and other critical intelligence data?

Will the new Department be tasked to defense the homeland against threats in addition to terrorism—for example, threats from the proliferation of weapons of mass destruction?

As offered by the Administration, the Homeland Security Department proposal would not provide for the capability to analyze the range of threat information that is gathered by the U.S. intelligence community. Without such an analytical capability, the Homeland Security Department will have to rely on whatever finished intelligence the Director of the Central Intelligence Agency (CIA) and the Director of the Federal Bureau of Investigation (FBI) chooses to supply. The Intelligence Committee overwhelmingly agreed that the new Homeland Security Department could not simply rely on final reports and analysis generated by the myriad of intelligence agencies—its mission is just too important. We agreed that the Department must have timely access to raw data from all intelligence sources, information systems to integrate these diverse data, and the trained people to analyze the information.

Mr. Chairman, this Member generally appreciates the improvements the Select Homeland Security Committee made to the bill regarding the tasking for the collection of intelligence gathering by the Intelligence Community under existing law and this Member is particularly appreciative of the Select Committee on Homeland Security's willingness to accept these recommendations and incorporate them into H.R. 5005 by establishing the meaningful analytical organization we recommended. However, during the Select Homeland Security Committee's markup, an unfortunate decision was made to delete the new Department's seat at the table when it comes to intelligence-gathering instructions. The members of the Select Committee expressed the concern that the new Homeland Security Department should not ask intelligence services to gather information on American citizens.

Mr. Chairman, the protection in individual liberties of American citizens is an understandable and appropriate priority. This Member fully concurs that the Homeland Security Department should not be allowed to issue instructions that the CIA gather information on Americans.

However, to ensure that the Department's analytic capability is robust, it must have a role in tasking our intelligence services to gather information on foreign individuals, entities, and threats. Without a seat at the mission formulation table, the policy decisions of the Homeland Security Department will rely on whatever foreign threat information our Intelligence Community happens to collect under the tasking decisions they have made according to their respective agency and collective priorities.

This Member must express deep regret that the amendment to H.R. 5005 he had hoped to offer was not made in order by the Rules Committee. This is an unfortunate error in judgment, apparently reflecting the advice of various persons in the Executive Branch. The amendment was a simple and straightforward

one that would have offered a slightly modified version of language that received bipartisan support in the Intelligence Committee. It should be emphasized that this Member's amendment was narrowly constructed and would have specifically authorized such tasking only on foreign adversaries, not U.S. citizens or other persons legally resident within the United States.

The tasking for information on foreign adversaries is not a trivial concern, Mr. Chairman. Without the proper information, the Homeland Security analysts will not be able to devise appropriate defenses. The other departments of government have different missions (for example, the State Department is to advance diplomacy, the Department of Defense is to win wars, and the FBI is to prosecute criminals) and their analytic needs are quite different.

It is unfortunate that this Member's amendment was not made in order as it would have made a critical improvement to the final bill. Without this authority for the Department of participate in the tasking for the collection of foreign intelligence, we will have a major and continuing gap in information which the DHS will need to do its job well in protecting our citizens and homeland. It is this Member's hope that the other body may include this authority.

Mr. Chairman, this Member has grave concerns about the overall approach to the creation of the Department of Homeland Security as proposed by the Administration. Its drafting may well have been a defensive reaction to a proposal by the junior Senator from Connecticut (Mr. LIEBERMAN) and by other Members of Congress from both houses. The proposal presented to the Congress has all the indicators of a proposal too hastily prepared and of one that was drafted in too much isolation. It was understandable in that its preparation was a process so heavily guarded—restricted to relatively very few people—in order to avoid the otherwise inevitable massive internal campaign of bureaucratic turf-protection, pre-emptive opposition campaigns from a wide variety of interests, and the immediate opposition of competing congressional authorizing and appropriations committees while the consideration and drafting was underway.

The proposal had whole agencies, bureaus, or divisions shifted to the DHS when very major parts of such units clearly don't belong in the DHS. Fortunately, the House has corrected a few of the most egregious misplacements.

A lean, well-organized DHS would have been the way to proceed. This is an absolutely huge bureaucracy being created with very disparate parts. Merging the employees and their agencies' cultures into an efficient and effective DHS will be an incredibly difficult feat. It will result in an unnecessarily long number of years to put in place when the security of our country demands an expeditious reorganization of our government. Undoubtedly too, the prospects for increased costs to attain these undesirable results are certain and highly under-estimated.

This Member's only hope is that the Senate version and results of a House-Senate conference will give us a much smaller, refined and properly focuses DHS, but from all accounts of expected action in the other body, that appears to be unlikely. Practically no Member of Congress wants to oppose the creation of a DHS, especially during the war on terror when our President is requesting congressional action. Ultimately this Member will have to make the judgment whether the legislative product from the House-Senate conference is better than the status quo and if the costs of further delay in starting over to create a much different and much smaller DHS is achievable and worth the delay at a time when the United States and its facilities and personnel abroad remain very vulnerable. Will the enactment of the legislation creating a DHS that now seems in prospect be worth the delay and dissension caused by starting over and doing it right? That is the question and the answer is not clear, Mr. Chairman, count this Member's vote as a vote to move the legislative process forward.

Mr. LEVIN. Mr. Chairman, twenty-six hours ago, when the House began this historic debate to create a new Homeland Security Department, it was my hope and expectation that I would be able to support this legislation on final passage. In light of the terrorist strikes of September 11, and the continued threat, I strongly believe we need to reorganize the federal government to better address the dangers facing our nation.

The bill as reported to the House by the Select Committee on Homeland Security fell short in a number of key areas. During the long amendment process of the last two days, I regret that the House voted down amendments that would have improved this bill. As a result, I cannot support this legislation at this time.

I am particularly disappointed that the amendment offered by Representative Oberstar was rejected. This is not the time to extend the deadline for airports to install the explosive detection equipment that is critically needed to check airline passenger luggage for bombs. Last fall, this House voted overwhelmingly to have this equipment in place by the end of this year. There is no good reason to extend that deadline for another twelve months as this bill does.

I hope that this and other flaws in the House bill be addressed in conference with the Senate. This is the largest reorganization of the Federal Government ever attempted. It concerns the security of our nation and the safety of every American. With so much at stake, we should get it right. I believe we can and must do better. I will continue my efforts to strengthen and improve this bill as we go to conference with the Senate.

Mr. PASTOR. Mr. Chairman, it is with great reluctance that I must oppose H.R. 5005, the Homeland Security Act.

The tragic events of September 11 thrust this nation across the threshold into an entirely new world where terrorism is a real and viable threat to the well-being of all Americans. For that reason, I supported the President when he recommended that we create a new department to address the prevention and impacts of terrorists. However, our experience with forming new cabinet posts in the past has taught us that this is an undertaking that should be done in a careful and deliberate manner, not one that is rushed to meet an arbitrary deadline.

The reorganization as proposed by the President would create the third-largest Cabinet department, in terms of personnel, by combining 22 federal agencies with 170,000 to 225,000 employees and a total budget of $37.5 billion. However, that budget estimate was simply the compilation of those agencies' current budgets with no regard to the costs associated with creating an entirely new infrastructure and giving those agencies expanded areas of responsibility. Clearly, this rearranging of agencies is going to cost many billions of dollars above that budget estimate.

It has been exactly 48 days since the President made his proposal, but in that time, Congress has had less than 29 working days to hold hearings, consult with experts, receive input from interested parties, and evaluate all this information. That is simply not enough time to form a sound structure that addresses Congressional oversight, elimination of redundancy, budget and labor issues, in addition to the critical delineation of areas of responsibility. Furthermore, consideration must be given to the impact that such a change will have on agency core activities which do not have a direct interface with the war on terrorism, such as Customs collecting duties and the Coast Guard rescuing people at sea. Many are concerned that these non-security missions may be diluted under the new department's mission to fight terrorism.

In the few days available, an attempt was made by ten authorizing committees to hold hearings and formulate recommendations on how they thought the plan should be implemented. But after all was said and done, the 9-member Select Committee on Homeland Security dismissed many of those recommendations and gave the Administration most of its wants, irrespective of the wishes of many lawmakers.

In particular, I am concerned over the White House's desire to deviate from established federal labor practices and protections such as collective bargaining rights, the potential for the Administration to assume too much fiscal power by shifting funds among agencies without Congressional oversight or approval, and the diminishment of non-security roles. With such a short time to stimulate national debate and to review the above issues, I can not support this measure.

Mr. LEWIS of Georgia. Mr. Chairman, it is impossible for me to support this legislation. It is not constitutional, it is not just, and it is not fair.

This bill would strip hundreds and thousands of Federal employees of their labor protections. It would deprive hundreds of millions of American citizens of their civil liberties and fundamental rights.

This bill is nothing less than a power grab by our President and this administration. It would be the largest consolidation of power in recent American history.

By denying our citizens their basic rights, but giving this administration overwhelming power, this bill would effectively declare Marshall law. It would violate the Constitution and the Bill of Rights.

Even the name—''Homeland Security'' conjures images of Banana Republics where individuals rights are a mere afterthought. This is America. Our government does not deny our citizens fundamental rights in the name of homeland security. We are greater than that. We are better than that.

As Thomas Jefferson said, ''the price of freedom is eternal vigilance.'' My Colleagues, let us heed the warning of the author of our Bill of Rights. It is time to be vigilant. Now is the time to stand up for all of our citizens. Now is the time to do what is right.

Do not deny our people their fundamental rights. Vote ''no'' on this ill-conceived bill.

Mr. BENTSEN. Mr. Chairman, I regrettably rise in opposition to H.R. 5005, the Homeland Security Act of 2002, which establishes a Department of Homeland Security, as an executive department of the United States, headed by a Secretary of Homeland Security.

Mr. Speaker, while I support the core concept of H.R. 5005, as I believe that our government is sorely in need of reorganization to anticipate, prevent and react to potential future terrorist attacks on our soil, I have strong concerns with several aspects of this measure, especially those that should never have become political issues. Certainly, when it comes to defending our nation and prosecuting our war on terrorism, we must spare no expense. Those entities who attacked us on that unfortunate day on September 11, 2001 cruelly exploited our weaknesses, and it is our responsibility to make sure that we close all the gaps in our national safety infrastructure.

Neither should we spare the principles of democracy we seek to defend in this very bill. And our desire to move quickly to arrest the threat should not be done with such haste as to not fully comprehend the model, structure and mission we wish of this new mega-Department. But in fact, Mr. Speaker, after two days of debate, I am afraid that is exactly what we are doing, and thus I am voting tonight not against the concept of a Department which better coordinates our efforts, but against the plan as it has been laid before us in the hope that deliberation in the other body and in conference will yield a better, more efficient product.

H.R. 5005, as it stands, is not the ideal solution to this problem. The defeat of Representative MORELLA's amendment will subject employees to less protection from political interference than is now the standard. The bill goes too far in exempting this new, powerful department from contractor liability and the Freedom of Information Act, exceeding that which is already afforded to other national security entities such as the Department of Defense. The bill would gut ''whistle blower'' protections, further subjecting employees to the potential of political interference and intimidation. Surely we have learned from our recent experiences with the Federal Bureau of Investigation that rank-and-file employees need to be allowed to speak up. And, Mr. Speaker, the adoption of Representative ROGER's amendment seeks to undermine the longstanding concept of ''posse comitatus'' by opening the door for domestic police action by our armed forces, something which goes against the very essence of our system of government.

Indeed, should H.R. 5005 become law, we will see the largest reorganization and outward growth of the federal government in decades, all done without sufficient, thoughtful consideration on how this will affect the responsibilities and organization of numerous Cabinet Departments and agencies. All of us want to do what we can to protect the nation, but we should do it right.

As this measure takes further steps in the Congress toward final passage, I am hopeful that these key issues are resolved in a manner that is in the best interests of all parties affected, and that we will one day have a Department of Homeland Security that offers unrivaled protection. Therefore, Mr. Speaker, as the measure stands, I oppose H.R. 5005. I implore my colleagues to consider that this measure is in need of refinement, and that if we do not resolve these outstanding issues, all this debate and consideration will be counterproductive and harmful to our nation.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise to express my deep skepticism the Homeland Security Act of 2002. We are rushing to undertake the most dramatic reorganization of the federal government in decades, and I am uncertain whether the particulars of this plan are well thought out.

As a member of the Transportation and Infrastructure Committee I have heard my friend Mr. OBERSTAR speak about the deliberative process that went into the creation of the Department of Transportation in 1966. That effort took over 9 months, and the final product has produced lasting benefits for Americans.

In comparison, we are rushing this bill in less than 9 weeks. We are pulling together disparate elements from all over the federal government. I am uncertain whether these pieces really do fit together, and even if they do, it will take years for them to come together as a coherent department that protects the homeland.

I strongly object to partisan manner in which the bill's authors are, under the guise of homeland security, assaulting the civil service protections of our nation's federal workers.

There is no justification for this proposal. If we are to maintain the morale and professionalism of employees of the new department, they will need the basic protections that we afford all other federal workers.

Finally, I wish to reiterate that the provisions to push back by one year the deadline for deployment of EDS equipment at the nation's airports do not belong in this bill. As I indicated earlier, the prudent course of action is to wait for the DOT IG's recommendation forthcoming in late August. We will have plenty of time to address this issue when we come back from the recess.

Because of the aforementioned reasons, I intend to vote against final passage today. I do so with great misgiving because it would be ideal for members to stand together in a united front in our war against terrorism.

It is my sincere hope that the Senate will fix the defects in the bill we pass today and that conferees will produce a final product I can support.

Mr. MOORE. Mr. Chairman, in October, I co-sponsored H.R. 3026, the Office of Homeland Security Act of 2001, to establish an Office of Homeland Security within the Executive Office of the President. Eight months later, President George W. Bush gave impetus to the creation of a Department of Homeland Security, and Congress has been given a week to give it our stamp of approval. The primary issue for Congress and the President is what the program composition and administrative organization of the new department should be, unfortunately with only a few weeks, we had to craft the best legislation possible.

As proposed, the administration bill would permit the Secretary of Homeland Security to choose how or whether their employees would be covered by current legal protections against reprisal when they call attention to instances of agency misfeasance. The bill also would exempt from the Freedom Of Information Act (FOIA) any information about infrastructure vulnerabilities given to the Homeland Security Department by any private or nonfederal entity.

In congressional hearings, members of both parties have made it clear that the administration is overreaching, especially with regard to whistle-blowers and exemptions to the Freedom of Information Act. The need for whistle-blowers and for their protection was evidenced by the recent cases of Special Agent Coleen Rowley and of two Immigration and Naturalization Service agents disciplined for revealing how thin security is along the U.S.-Canadian border. These examples argue for extending whistle-blower protection to the FBI, not withdrawing it from the INS, which could be part of the Homeland Security Department.

In June, I sponsored H. Res. 436, commending Special Agent Coleen Rowley for outstanding performance of her duties. As a former district attorney, I know any law enforcement organization is only as good as its people and their ability to gather and analyze information. FBI agent Rowley courageously came forward to reveal critical breakdowns in the FBI's information gathering processes before September 11. She did this without any regard for her own career or prospects for advancement. Agent Rowley personifies the American tradition of demonstrating integrity and selflessness in the service of our nation.

Experts have been saying for years that the U.S. needed a Department of Homeland Security. A Department of Homeland Security is essential to coordinating the U.S. war on terrorism. Arguably our tactical and strategic missions and goals have been forever changed since the events of September 11th. H.R. 5005 is a bipartisan piece of legislation with input from all House standing committees with jurisdiction. H.R. 5005 also shows what Congress can actually achieve when given a deadline and an issue above the fray of partisan politics.

Mr. COSTELLO, Mr. Chairman, I rise today to oppose H.R. 5005, legislation to create a cabinet-level Department of Homeland Security, and I urge my colleagues to do the same. This experience reminds me of the efforts of President Clinton to overhaul our nation's healthcare system. As with that plan, President Bush's homeland security proposal, while well intended, goes too far, too fast in creating a massive new Federal agency that may well add to the current problems in the system—not solve them.

Creating a new federal agency and 170,000 employees with a budget of $38 billion is not something that the Congress should rush into without proper planning or without understanding the ramifications of this action. In announcing his plans to create a Department of Homeland Security just a few weeks ago, the President said that the new agency could be created at no cost to the taxpayers. The Congressional Budget Office now estimates that it will cost about $3 billion to create and implement this new department.

Mr. Chairman, I urge the President to withdraw his plan and attempt to address the issue of homeland security in a thoughtful and deliberative manner, and I urge my colleagues to vote against it.

Ms. SCHAKOWSKY. Mr. Chairman, I rise in opposition to the measure we are considering today, the Homeland Security Act of 2002. Since September 11, it has become abundantly clear that we must change the way we conduct national security in this country and we must address our security shortfalls with aggressive, decisive actions. We all agree we

must do more to protect our country from threats posed by those who wish us harm and those who wish to alter the way we live our lives. There is no question that all members want to protect the American public. Unfortunately, the bill we are considering today does not take the right approach to accomplishing that goal.

At the outset of this process, I said that any new proposal to address our national security shortfalls must pass three basic tests. First, the plan must actually make us safer. Second, the plan must not compromise our precious civil liberties or rights. Finally, the critical non-security functions of government entities must not be compromised. This legislation fails to adequately address those critical tests.

The bill before us today creates a new Department of Homeland Security. As we debated the bill originally proposed by the Administration, we were able to make several significant improvements to it. I am pleased that the legislation includes a provision establishing an Office of Civil Rights and Civil Liberties within the new department. I offered an amendment to accomplish that goal during the Government Reform Committee's consideration of this bill and was glad to see that provision maintained.

I would also like to draw my colleagues' attention to the issue of immigration and the organization of immigration services. I come from an immigrant-rich district. Their contributions to our community demonstrate how important it is to ensure that newcomers to this country are received in a fair and considerate manner. It is critical that, however immigration and naturalization services are structured, the quality and efficiency of the services offered to immigrants are not compromised, and are in fact improved.

For that reason, I have worked hard to help secure various provisions in this bill that will provide immigrants with a place to turn if they have complaints and will hold immigration officials accountable for doing their job with diligence and fairness. First, this bill establishes an Ombudsman's office to assist individuals and employers in resolving problems with citizenship and immigration services.

Second, this bill would require the new Bureau of Citizenship and Immigration Services to report on how it is handling its immigration caseload. This provision includes reporting requirements on how many applications the Bureau receives and how many it is able to process; how it is addressing the enormous backlog that exists; and whether people requiring immigration and naturalization services have adequate access to the Bureau and the services it offers. These are critical data that will allow us to hold this new Bureau accountable for addressing the concerns that have been raised over the years about how the INS has performed its duties.

While the improvements made to the bill are important, there are a number of serious problems with this legislation that force me to vote against it.

This bill gives broad new authority to the President to reorganize the massive federal workforce created by this legislation. The bill gives the President an excuse to disregard and to take away hard-won civil service protections and collective bargaining rights for employees of the new Department.

At a time when agencies throughout the federal government—in Washington, D.C. and in cities across the country—are having difficulty attracting and retaining qualified employees, this bill could turn employees of the new department into second class workers. What kind of a signal will we send to those federal workers if we ask them to move and tell them that they will lose many of the guaranteed rights that they now enjoy? How many of those workers will decide to leave federal service and move to the private sector? For those workers who do stay, how can we expect them to demonstrate high morale and commitment when they know that they lack the same rights as their federal colleagues in other agencies?

Congress enacted civil service protections and collective bargaining rights so that we could attract the very best to government service. We should not give this or any other Administration the right to take them away. As we stand together to fight terrorism, we should also stand together for the rights and well being of federal workers.

The House also missed an opportunity today to provide real protections for whistle-blowers. I offered an amendment that would guarantee American patriots who come forward to expose improprieties and threats to our security a guarantee that, if they are retaliated against for their actions, they will have a right to legal recourse. Sadly, under the current inadequate whistle-blower provisions in the bill, those who risk their future to shed light on issues of concern to the public will have no guarantees and no real protection. By withholding very basic rights and protections for whistle-blowers, we are actually subjecting the American public to greater risk because those with information that should be shared with Congress or the public will be reluctant to do so—leaving us in the dark about threats we might otherwise be able to eliminate.

This bill creates an exclusion from the Freedom of Information Act to all information dealing with infrastructure vulnerabilities and is voluntarily submitted to the new department. This is an unnecessary provision because, under current law, the government already has the authority to exempt from FOIA information that meets one of several standards, including that which is related to national security and trade secrets. While the current law simply requires the Administration to review information voluntarily submitted for possible exemptions from FOIA, this bill provides a blanket exclusion, thereby removing the discretion of the Administration completely. Even worse, the same section of the bill preempts state and local good government and openness laws.

This bill also exempts committees created by the Secretary of Homeland security from the Federal Advisory Committee Act. This would allow the Secretary to create secret forums where lobbyists for all sorts of special interests could push their agendas with the Administration without concern that the public would find out and regardless of whether their discussions are about security or business goals.

The legislation before us today negates the Congressionally-mandated requirement that all airports have the ability to screen checked baggage for explosives. One of our most frightful and realistic vulnerabilities is the status of our air travel system in this country. It is a sad message to send to our constituents and the flying public that we are not willing to do what it takes to ensure the skies are truly safe. Many on the Republican side have argued that the task of providing equipment to secure our planes and prevent terrorist devices from making their way on board is too costly. I would submit that we cannot afford to do otherwise.

Finally, this bill is flawed because it provides an exemption from liability for manufacturers of equipment used for national security purposes. This broad protection for industry would apply even if company officials willfully neglect the welfare of the public in order to make profits. If a new bomb-detection machine company knows that its product is not reliable but does not inform the government, we will not be able to seek legal recourse if that company's product, as anticipated by company officials, fails to work and leads to loss of life.

September 11 made us all painfully aware of the limitations of our current national security and anti-terrorism apparatus. We have become painfully aware of the shortcomings of the FBI and CIA. And we have become painfully aware of the need to act decisively to correct our flawed system.

If we want to be able to prepare our nation and to guarantee America's security, we must improve communications, invest in language translation capabilities, invest in our public health infrastructure, provide necessary training and resources to emergency first responders and focus on improving the capabilities and the capacity of state and local authorities, and more. Moving the boxes from one agency to another will not accomplish these important tasks.

Unfortunately, this bill fails to address even the most obvious and immediate concerns. Instead, what the President and the Republicans in the House put forth is a massive reorganization of the federal government, nothing more than a reshuffling of the deck, with a few added tools for the Administration. Simply shifting people and agencies will not make America safer and that is all we will accomplish if we pass this bill. I urge all members to reject this flawed legislation and to focus on efforts that will actually enhance our security and maintain our American way of life.

Mr. BUYER. Mr. Chairman, I rise in strong support of H.R. 5005, the Homeland Security Act, and am pleased to be an original cosponsor of the legislation.

With this legislation, we will organize and focus on the resources of the executive branch of the federal government on the task of ensuring the security and safety of our citizens inside our borders. While many of the functions of the new Department have been performed by dedicated federal employees for many years, such as insuring the quality of imported food and public health needs, a new dimension will be added to the tasks of the new Department: that of preventing terrorist attacks within the United States and reducing the vulnerability of the United States to further terrorist attacks. This is a high calling.

I am pleased that the Select Committee maintained the transfer of the Coast Guard and the Federal Emergency Management Agency to the new Department of Homeland Security. The Coast Guard will play a significant role in maintaining the security of our borders, the longest of which is our coastlines. It is also crucial that FEMA's expertise be tapped by the Department when plans are developed to respond quickly to the damage and recover of local communities.

Let me also express my support for provisions in the legislation that give the new Department the authority to assist with the cybersecurity of information systems of federal agencies. The Secretary will have the duty to evaluate the security of federal systems; assist federal agencies with the identification of risks; and conduct research and development on security techniques.

I commend the Majority Leader for working through the difficult issues in the creation of the new Department and I believe he has brought to the floor a product worthy of our consideration and passage.

The CHAIRMAN pro tempore. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. HASTINGS of Washington) having assumed the chair, Mr. SWEENEY, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5005) to establish the Department of Homeland Security, and for other purposes, pursuant to House Resolution 502, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MS. DELAURO

Ms. DELAURO. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentlewoman opposed to the bill?

Ms. DELAURO. I am, Mr. Speaker, in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Ms. DeLauro moves to recommit the bill, H.R. 5005, to the Select Committee on Homeland Security with instructions to report the same back forthwith with the following amendment:

Page 173, after line 12, insert the following:

SEC. 735. PROHIBITION ON CONTRACTING WITH CORPORATE EXPATRIATES.

(a) IN GENERAL.—The Secretary may not enter into any contract with a subsidiary of a publicly traded corporation if the corporation is incorporated in a tax haven country but the United States is the principal market for the public trading of the corporation's stock.

(b) TAX HAVEN COUNTRY DEFINED.—For purposes of subsection (a), the term ''tax haven country'' means each of the following: Barbados, Bermuda, British Virgin Islands, Cayman Islands, Commonwealth of the Bahamas, Cyprus, Gibraltar, Isle of Man, the Principality of Monaco, and the Republic of the Seychelles.

(c) WAIVER.—The President may waive subsection (a) with respect to any specific contract if the President certifies to the Congress that the waiver is required in the interest of national security.

Ms. DELAURO (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Connecticut?

There was no objection.

The SPEAKER pro tempore. The gentlewoman from Connecticut (Ms. DELAURO) is recognized for 5 minutes in support of her motion to recommit.

Ms. DELAURO. Mr. Speaker, I yield myself 1 minute.

Every Member of the House should support this motion to recommit which bans the Department of Homeland Security from contracting with corporations which operate in America but incorporate overseas to avoid paying U.S. taxes. Corporate expatriates should not continue to benefit from government largess, but they do, billing $2 billion a year in government contracts.

Not only have these companies abandoned their responsibilities to our country, they put responsible corporate citizens at a disadvantage. We benefit from private sector expertise, and we want to reward their creativity and their entrepreneurial spirit, but we should not reward them for refusing to pay their taxes and their responsibility as U.S. citizens.

The truth is the war on terrorism costs money. $500 million of the revenue lost by those corporations could buy 500 explosive detection systems, which are badly needed at airports across this country. These companies have abandoned our country at a critical time in our history. They leave seniors, our soldiers fighting overseas, and our good corporate citizens with the cost of war on terrorism. They should not be rewarded with contracts from the very department charged with securing our safety. They should pay American taxes on American profits.

Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. TURNER).

Mr. TURNER. Mr. Speaker, the overwhelming majority of the American people play by the rules every day, and they pay their taxes. I cannot explain to those folks why in the world an American corporation can relocate in a tax haven overseas with just a Post Office box and a corporate certificate, and avoid paying any taxes. I cannot explain to hard-working Americans how their tax dollars can go to buy goods and services from those companies that do not even contribute to the cost of our government. I cannot explain to the American people how we allow companies to do business with our government and bid on our government contracts when they have an advantage over their competitors because these companies are not paying any taxes.

We have got to change the tax law. We have got to make sure that companies do not profit by doing business with the government and are not willing to support this government. We are in time of war, and I think it is essential that tonight we send a strong message of corporate responsibility to America's corporations and say it is time to stop this practice. Vote for this motion to recommit.

Ms. DELAURO. Mr. Speaker, I yield 2 minutes to the gentleman from Connecticut (Mr. MALONEY).

Mr. MALONEY of Connecticut. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, corporate expatriates benefit from over $2 billion in lucrative government contracts from large consulting deals with the United States Government agencies, to equipping airport screeners, to providing tools and equipment to the Department of Defense.

Stanley Works of Connecticut, which is attempting to expatriate, received $5.6 million in government contracts in fiscal year 2001, and 92 percent of those government contracts were for defense and homeland security-related items. Our national security should not depend on companies that are overseas or that are American companies that have moved overseas.

Stanley Works and other expatriate corporations do not want to pay for our defense and national security, but they want to reap the fruits of it. They turn their backs on America at the same time they reach out their hands for the money of American taxpayers. This is wrong and this must stop, and this motion will help to stop this abusive practice of some of the leading corporations that have expatriated or plan to do so.

Mr. Speaker, I urge Members to support this very important motion.

Ms. DELAURO. Mr. Speaker, I yield the balance of my time to the gentleman from Texas (Mr. DOGGETT), a member of the Committee on Ways and Means where a similar amendment was passed.

Mr. DOGGETT. Mr. Speaker, motions like this are routinely condemned with the throw-away claim that they are ''partisan.'' Well, tonight, let us be American partisans. Let us be partisan to the loyal businesses that stay and pay their fair share to keep America strong at her time of need.

Corporations that have renounced America have been lobbying overtime all over this Capitol complex this week to stop this motion. They will not pay their fair share, but they are sure ready to take their fair take of government business. American companies that stay and contribute to building this country, to keeping her secure at

home and abroad, they deserve a level playing field on which to compete.

If a Bermuda-bound company does not have to pay taxes on some of its income, of course it can underbid those who stay loyal to America, pay their taxes, and work here at home. We should send those who come here packing when they seek Federal contract dollars, and yet will not contribute to the security of our country.

I recall a communication from a company in Houston that had this very type of situation where a competitor exited, while it remained based in Texas loyal to all of us here at home.

Tonight, let us together send a bipartisan message that if companies want a slice of the American pie, they had better help bake it.

Mr. ARMEY. Mr. Speaker, I claim the time in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from Texas (Mr. ARMEY) is recognized for 5 minutes.

Mr. ARMEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me appreciate the concern that the gentlewoman expresses over the burden of our taxes that make American corporations undertake regrettable action.

Mr. Speaker, that is just one of the burdens of our current Tax Code that would be corrected by the flat tax. But, Mr. Speaker, I think everybody in the body would agree that tonight on this subject on this bill, is not the time to be talking about tax reform.

□ 2045

We ought to be talking, ladies and gentlemen, about the security of our Nation, homeland security. And that, Mr. Speaker, is my point.

This issue has nothing to do with homeland security. Mr. Speaker, I am disappointed that after 2 days of constructive discussion on how best to protect our homeland, we are dealing with a motion to recommit that relates to politics.

Mr. Speaker, the gentlewoman has a right to offer this motion, and I would like to address its shortcomings:

First, the issue is being dealt with, and being dealt with in a much more serious and substantive way, in the Committee on Ways and Means, the committee of jurisdiction. Hearings have been held and legislation has been introduced that actually addresses the underlying problems that lead to the most regrettable and deplorable process of corporate inversions.

Second, Mr. Speaker, even if this were the right place to deal with this issue, this motion to recommit creates more questions than answers. Clearly, this was not written by one of our standing committees. For example, Mr. Speaker, what does it mean when it says that a corporation has the United States as, and I quote, ''the principal market for public trading of the corporation's stock''? Does that mean 10 percent of trading, if trading in all other foreign countries is less than 10 percent? Do we want to, in fact, encourage further with this kind of legislation American firms to trade in European or Japanese exchanges? Why stock? How about debt? Or employees? Or other corporate connections? Why are some tax havens defined and not others? Does the gentlewoman like some countries with lower tax rates better than she likes other countries with lower tax rates?

Mr. Speaker, one of the concerns that is often times expressed about corporate inversions is the suggestion that jobs are lost by American employees. If indeed you deny to American firms producing product in this country the ability to sell to the Federal Government, will that not result in real job losses before their employees? Under this motion to recommit, you could have a longstanding United States or Swiss company that incorporated long ago in Monaco and that happens to have the best new technology for fighting terrorists, but this entity would be prohibited from helping us fight the scourge of terrorism. Is this what we want?

Unbelievably, the result of this motion to recommit could be that we would be hampered in our mission to secure the homeland for reasons that have nothing to do with so-called corporate inversions. Perhaps an inadvertent result, but a result nonetheless.

Mr. Speaker, in summary, this poorly drafted motion to recommit is not about homeland security but about homeland politics. After a serious, thoughtful and bipartisan 7-week process by this Congress to respond to the President's challenge, I am disappointed that this would be the final issue before we vote on this historic legislation to protect our families from the very real threat of terrorism.

I would urge the Members of this body to vote ''no'' on this motion to recommit, and I strongly urge a resounding ''yes'' vote on final passage of this historic bill.

Mr. ARMEY. Mr. Speaker, I yield back the balance of my time.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The Chair would advise Members that it is in violation of the House rules to have cellular phones on the floor and the Chair would ask Members to turn off their phones.

Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Ms. DELAURO. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—ayes 318, noes 110, not voting 5, as follows:

[Roll No. 366]

AYES—318

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Baca
Bachus
Baird
Baldacci
Baldwin
Ballenger
Barcia
Barrett
Bartlett
Bass
Becerra
Bentsen
Berkley
Berman
Berry
Bilirakis
Bishop
Blagojevich
Boehlert
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burton
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Cooksey
Costello
Coyne
Cramer
Crowley
Cubin
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Deal
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Duncan
Edwards
Ehrlich
Emerson
Engel
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Fletcher
Forbes
Ford
Fossella
Frank
Frost
Gallegly
Ganske
Gekas
Gephardt
Gilchrest
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hayes
Hefley
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Isakson
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (GA)
LoBiondo
Lofgren
Lowey
Lucas (KY)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McInnis
McIntyre
McKinney
McNulty
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Peterson (MN)
Petri
Phelps
Pickering
Platts
Pomeroy
Price (NC)
Quinn
Rahall
Ramstad
Rangel
Reyes
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Scott
Serrano

Shays
Sherman
Shimkus
Shows
Shuster
Simmons
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sununu
Sweeney
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thune
Thurman
Tiahrt
Tierney
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Walsh
Wamp
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Wexler
Whitfield
Wicker
Wilson (NM)
Woolsey
Wu
Wynn
Young (FL)

NOES—110

Akin
Armey
Baker
Barr
Barton
Bereuter
Biggert
Blumenauer
Boehner
Brady (TX)
Burr
Buyer
Callahan
Calvert
Camp
Cannon
Coble
Collins
Cox
Crane
Crenshaw
Culberson
Davis, Tom
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Dunn
Ehlers
English
Flake
Foley
Frelinghuysen
Gibbons
Gillmor
Goss
Hansen
Hart
Hastings (WA)
Hayworth
Herger
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Istook
Johnson, Sam
Knollenberg
Kolbe
LaHood
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lucas (OK)
McCrery
McKeon
Miller, Dan
Miller, Gary
Nethercutt
Ney
Osborne
Otter
Oxley
Paul
Peterson (PA)
Pitts
Pombo
Portman
Pryce (OH)
Putnam
Radanovich
Regula
Rehberg
Reynolds
Rohrabacher
Ros-Lehtinen
Ryun (KS)
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Simpson
Smith (MI)
Smith (TX)
Souder
Stump
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiberi
Vitter
Walden
Watkins (OK)
Watts (OK)
Weller
Wilson (SC)
Wolf
Young (AK)

NOT VOTING—5

Blunt
Combest
Lipinski
Meehan
Roukema

□ 2124

Mr. BLUMENAUER changed his vote from ''aye'' to ''no.''

Messrs. THUNE, SWEENEY, CASTLE, KERNS, PENCE, SIMMONS, KELLER, RYAN of Wisconsin, GREEN of Wisconsin, UPTON, ROGERS of Michigan, LoBIONDO, QUINN, McHUGH, FERGUSON, BILIRAKIS, GRAHAM, GEKAS, EHRLICH, SHAYS, BRYANT, OSE, HAYES, GREENWOOD, BARTLETT of Maryland, MANZULLO, BOEHLERT, FOSSELLA, KINGSTON, CHAMBLISS, GOODE, WALSH, RILEY, BACHUS, FORBES, GRAVES, MORAN of Kansas, GOODLATTE, JEFF MILLER of Florida, HALL of Texas, COOKSEY, PLATTS, SHIMKUS, YOUNG of Florida, ADERHOLT, TOOMEY, JOHNSON of Illinois, WELDON of Pennsylvania, SHUSTER, KING, BASS, BALLENGER, GRUCCI, SAXTON, SULLIVAN, GILMAN, DEAL, ISAKSON, JENKINS, RAMSTAD, KENNEDY of Minnesota, WICKER, SMITH of New Jersey, FLETCHER, BOOZMAN, KIRK, MICA, GILCHREST, McINNIS, GALLEGLY, PETRI, ISSA, EVERETT, ROYCE, CUNNINGHAM, SKEEN, WELDON of Florida, CANTOR, ROGERS of Kentucky, BONILLA, BROWN of South Carolina, CHABOT and NORWOOD and Mrs. EMERSON, Mrs. CUBIN, Mrs. CAPITO, Mrs. WILSON of New Mexico, Mrs. JoANN DAVIS of Virginia, Mrs. KELLY, Mrs. BONO, Mrs. MYRICK, Ms. GRANGER and Messrs. BURTON of Indiana, DUNCAN, HEFLEY, HILLEARY, LEACH, McHUGH, PICKERING, STEARNS, STENHOLM, WAMP and WHITFIELD changed their vote from ''no'' to ''aye.''

So the motion to recommit was agreed to.

The result of the vote was announced as above recorded.

□ 2126

Mr. ARMEY. Mr. Speaker, with compliments to the gentlewoman from Connecticut (Ms. DeLAURO), pursuant to the instructions of the House on the motion to recommit, I report the bill, H.R. 5005, back to the House with an amendment.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The Clerk will report the amendment.

The Clerk read as follows:

Amendment:

Page 173, after line 12, insert the following:

SEC. 735. PROHIBITION ON CONTRACTING WITH CORPORATE EXPATRIATES.

(a) IN GENERAL.—The Secretary may not enter into any contract with a subsidiary of a publicly traded corporation if the corporation is incorporated in a tax haven country but the United States is the principal market for the public trading of the corporation's stock.

(b) TAX HAVEN COUNTRY DEFINED.—For purposes of subsection (a), the term ''tax haven country'' means each of the following: Barbados, Bermuda, British Virgin Islands, Cayman Islands, Commonwealth of the Bahamas, Cyprus, Gibraltar, Isle of Man, the Principality of Monaco, and the Republic of the Seychelles.

(c) WAIVER.—The President may waive subsection (a) with respect to any specific contract if the President certifies to the Congress that the waiver is required in the interest of national security.

Mr. ARMEY (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. DOGGETT. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard. The Clerk will continue to read.

The Clerk concluded the reading of the amendment.

The SPEAKER pro tempore. The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. PORTMAN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 295, noes 132, not voting 6, as follows:

[Roll No. 367]

AYES—295

Aderholt
Akin
Allen
Andrews
Armey
Bachus
Baird
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Boehlert
Boehner
Bonilla
Bono
Boozman
Boswell
Boucher
Boyd
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cantor
Capito
Capps
Cardin
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clement
Coble
Collins
Condit
Cooksey
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (CA)
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal
Delahunt
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dooley
Doolittle
Dreier
Dunn
Edwards
Ehlers
Emerson
Engel
English
Etheridge
Everett
Ferguson
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Hooley
Horn
Houghton
Hulshof
Hunter
Hyde
Isakson
Israel
Issa
Istook
Jackson (IL)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kind (WI)
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Langevin
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Mascara
Matheson
McCarthy (MO)
McCarthy (NY)
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, Jeff
Moore
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Pascrell
Pence
Peterson (MN)
Peterson (PA)
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reyes
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Royce
Rush
Ryan (WI)
Ryun (KS)
Sanchez
Sandlin
Saxton
Schaffer
Schiff
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (MI)

Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Spratt
Stearns
Stenholm
Strickland
Stump
Sullivan
Sununu
Sweeney
Tanner
Tauscher
Tauzin
Taylor (MS)
Terry
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Toomey
Turner
Udall (CO)
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Young (AK)
Young (FL)

NOES—132

Abercrombie
Ackerman
Baca
Baldwin
Becerra
Bentsen
Berman
Blumenauer
Bonior
Borski
Brady (PA)
Brown (FL)
Brown (OH)
Cannon
Capuano
Carson (IN)
Clayton
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (IL)
DeFazio
DeGette
DeLauro
Dingell
Doggett
Doyle
Duncan
Eshoo
Evans
Farr
Fattah
Filner
Flake
Frank
Gephardt
Gonzalez
Goode
Gutierrez
Hastings (FL)
Hilliard
Hinchey
Holt
Honda
Hostettler
Hoyer
Inslee
Jackson-Lee (TX)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kilpatrick
Kleczka
Kucinich
LaFalce
Lampson
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lynch
Markey
Matsui
McCollum
McDermott
McGovern
McKinney
McNulty
Meek (FL)
Meeks (NY)
Menendez
Miller, George
Mink
Mollohan
Moran (KS)
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Paul
Payne
Pelosi
Petri
Rahall
Rangel
Rivers
Rodriguez
Roemer
Roybal-Allard
Sabo
Sanders
Sawyer
Schakowsky
Scott
Serrano
Sherman
Slaughter
Snyder
Solis
Stark
Stupak
Tancredo
Taylor (NC)
Thomas
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (NM)
Velazquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Woolsey
Wynn

NOT VOTING—6

Blunt
Combest
Ehrlich
Lipinski
Meehan
Roukema

□ 2141

Messrs. MOLLOHAN, CUMMINGS, LAMPSON, LEVIN, and LARSEN of Washington changed their vote from ''aye'' to ''no.''

Mr. SAXTON changed his vote from ''no'' to ''aye.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. THOMAS. Mr. Speaker, on rollcall 367, although I would love to blame a machine error, apparently it was a human error. The gentleman from California recorded a ''no'' when he intended to record an ''aye''.

Mr. EHRLICH. Mr. Speaker, on rollcall No. 367, I was inadvertently detained. I would have voted ''aye'' on this important legislation.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 5005, HOMELAND SECURITY ACT OF 2002

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 5005, the Clerk be authorized to correct section numbers, punctuation, spelling, and cross-references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Is there any objection to the request by the gentleman?

There was no objection.

PERSONAL EXPLANATION

Mr. WATKINS of Oklahoma. Mr. Speaker, I ask that the RECORD show that I was present and thought I voted ''aye'' on rollcall votes 293 and 348. I was having trouble with my voting card, and it was inaccurately recorded.

REPORT ON H.R. 5263, AGRICULTURE APPROPRIATIONS FOR FISCAL YEAR 2003

Mr. BONILLA, from the Committee on Appropriations, submitted a privileged report (Rept. No. 107–623) on the bill (H.R. 5263) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2003, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

The SPEAKER pro tempore. Pursuant to clause 1, rule XXI, all points of order are reserved on the bill.

□ 2145

RECESS

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 9 o'clock and 56 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 2315

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SIMPSON) at 11 o'clock and 15 minutes p.m.

WAIVING REQUIREMENT OF CLAUSE 6(A) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. REYNOLDS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 507 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

CONFERENCE REPORT ON H.R. 3009, TRADE ACT OF 2002

Mr. THOMAS (during consideration of H.Res 507) submitted the following conference report and statement on the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes:

CONFERENCE REPORT (H. REPT. 107–624)

The Committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3009), to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Trade Act of 2002''.

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into 5 divisions as follows:

(1) DIVISION A.—Trade Adjustment Assistance.

(2) DIVISION B.—Bipartisan Trade Promotion Authority.

(3) DIVISION C.—Andean Trade Preference Act.

(4) DIVISION D.—Extension of Certain Preferential Trade Treatment and Other Provisions.

(5) DIVISION E.—Miscellaneous Provisions.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Organization of Act into divisions; table of contents.

DIVISION A—TRADE ADJUSTMENT ASSISTANCE

Sec. 101. Short title.

TITLE I—TRADE ADJUSTMENT ASSISTANCE PROGRAM

Subtitle A—Trade Adjustment Assistance For Workers

Sec. 111. Reauthorization of trade adjustment assistance program.
Sec. 112. Filing of petitions and provision of rapid response assistance; expedited review of petitions by secretary of labor.
Sec. 113. Group eligibility requirements.
Sec. 114. Qualifying requirements for trade readjustment allowances.
Sec. 115. Waivers of training requirements.
Sec. 116. Amendments to limitations on trade readjustment allowances.
Sec. 117. Annual total amount of payments for training.
Sec. 118. Provision of employer-based training.
Sec. 119. Coordination with title I of the Workforce Investment Act of 1998.
Sec. 120. Expenditure period.
Sec. 121. Job search allowances.
Sec. 122. Relocation allowances.
Sec. 123. Repeal of NAFTA transitional adjustment assistance program.