So it is not only that we are failing to change the formula to comply with the 9/11 Commission, we are directing the Department of Homeland Security not to comply with the 9/11 Commission.

I am not saying take the money away from all the States and direct it where it is most needed. I am not going the full place that the 9/11 Commission has set out for us. I am recognizing the political reality and the fairness of allocating money to every State. At the very least, let us not direct the Department of Homeland Security to distribute the money above the small State minimum on a per capita basis. So I hope we could remove that language, and my formula amendment would do that.

Secondly, we cannot wait for the Governmental Affairs Committee to come forward with their authorization. I stood on this floor months ago and said we needed to change the risk and threat analysis in order to distribute the money more effectively. The very effective chairwoman of that committee came down to the floor and said: We are working on a change of formula. Work with us. Let us get the authorization changed.

We have been waiting for that bill ever since. There is no authorization. The only opportunity we have to begin to try to focus our efforts on homeland security to address the kind of threats that we face is in this appropriations. In fact, the door has been opened because in this appropriations bill coming from the House, they talk about a PATRIOT Act minimum, and then the Senate committee goes one step forward and says above that minimum do not direct it any other way except per capita.

So I understand very well that everybody has to look out for his or her own State, but on this matter we have to put the money where the threat is, and the threat is in places such as New York and Washington. Every committee, every commission that has looked at this has come to the same conclusion.

So I look forward to working with the chairman to make it possible to distribute the money on a threat-based analysis as opposed to directing the Department to distribute the money above the small State minimum, 62 percent of the money, also on a per capita basis.

I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:44 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2005—Continued

AMENDMENT NO. 3624

The PRESIDING OFFICER. There is 2 minutes evenly divided before proceeding to the vote on the amendment.

The Senator from Mississippi.

Mr. COCHRAN. Mr. President, at the appropriate time it will be my intention to make the point of order against the amendment, in that it violates the Budget Act because it provides for the appropriation of additional funds above the allocation of the amount available to this subcommittee and there is no offset provided in the amendment. So for the information of Senators, that is the intention of the managers of the bill.

Under the previous order, as I understand it, a vote is scheduled to occur at 2:20. Is that the order?

The PRESIDING OFFICER. The Senator is correct.

Mr. COCHRAN. I thank the Chair and yield the floor.

Ms. MIKULSKI. Mr. President, what is the pending business before the Senate? Is it my amendment increasing firefighters funds?

The PRESIDING OFFICER. Pending before the Senate is the Senator's amendment.

Ms. MIKULSKI. As I understand it, I have 1 minute and then there will be a subsequent comment by the chairman of the subcommittee; is that correct?

The PRESIDING OFFICER. That is correct. The Senator from Maryland.

Ms. MIKULSKI. My amendment which is pending adds $150 million to the Fire Grant Program, bringing it to the authorized level of $900 million. This Fire Grant Program is peer-reviewed and merit based with no pork in it. It provides grants to local fire departments. The President requested $500 million, the chairman added another $200 million, then Senator FRIST added another $50 million on Friday, but I want to bring it up to the full $900 million. Why? This Fire Grant Program is the only program that really helps our firefighters have the equipment they need to protect themselves, as well as modern equipment.

Last year, the Fire Grant Program received $2.5 billion for its requests—20,000 worthy applications. I know we can't fund it at $2.5 billion, but we can fund it at the authorized level. Therefore, I urge adoption of my amendment. Let us protect the first responders so they can protect us.

I ask unanimous consent that letters of support from the National Volunteers Fire Council and the Congressional Fire Services Institute be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL VOLUNTEER FIRE COUNCIL,
Washington, DC, September 8, 2004.

Hon. BARBARA A. MIKULSKI,
Hart Senate Office Building, Washington, DC

DEAR SENATOR MIKULSKI: The National Volunteer Fire Council (NVFC) is a non-profit membership association representing the interests of the more than 800,000 members of America's volunteer fire, EMS, and rescue services. On behalf of our membership, I am writing to lend our full support for your amendment to the FY 2005 Homeland Security Appropriations Bill to fully fund the Assistance to Firefighters Grant program at the $900 million level.

As you know, the Assistance to Firefighters Grant program provides critical funding to our nation's 1.1 million firefighters, 75% of which are volunteers. The purpose of the program is to bring every fire department up to a base-line level of readiness—and keep them there. The program has proven to be the most effective program to date in directly providing local volunteer and career fire departments not only with the tools they need to perform their day-to-day duties, but it has also enhanced their ability to respond to large disasters as well. As we move to prepare for terrorist incidents at home, we must first ensure that local fire departments have the basic tools they need to do their jobs on a daily basis.

The program benefits our entire nation by providing local fire departments with much-needed training and equipment to respond to 21 million calls annually. These calls include structural fire suppression, emergency medical response, hazardous materials incidents, technical rescues, wildland fire protection, natural disasters and events of terrorism.

Once again, we strongly support your amendment to the FY 2005 Homeland Security Appropriations Bill and we thank you for your continued leadership and support of America's fire service. If you or your staff have any questions please feel free to contact Craig Sharman, NVFC Director of Government Relations.

Sincerely,

PHILIP C. STITTLEBURG,
Chairman.

CONGRESSIONAL FIRE SERVICES INSTITUTE,
Washington, DC, September 7, 2004.

Hon. BARBARA MIKULSKI,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR MIKULSKI: On behalf of the Congressional Fire Services Institute's National Advisory Committee comprised of 42 national fire and emergency organizations, I am writing to thank you for all your efforts, past and present, to preserve the Assistance to Firefighters Grant Program (AFGP), also known as the FIRE Act. As you know, the FIRE Act has been a critical program in our efforts to prepare America's firefighters to effectively respond to all emergencies. It is for this reason that I would like to commend you on your efforts to increase the funding allocation for the AFGP in the FY05 Homeland Security Appropriations Act to $900 million, the full amount authorized by Congress.

The purpose of the FIRE Act is to bring every fire department up to a base-line level of readiness—and keep them there. Too many fire departments in this country lack

even the most basic needs, including proper turn-out gear, communication systems, training, prevention, and public education programs. These facts are contained in the Needs Assessment of the U.S. Fire Service published by the United States Fire Administration in cooperation with the National Fire Protection Association. It revealed that many departments lack the basic tools and training they need to respond to over 21 million calls, annually—from daily incidents to major disasters, both deliberate acts and natural events. The all-hazards response enhancement provided by the FIRE Act ensures the most efficient and effective use of federal funding. It not only prepares departments to respond to acts of terrorism, it enhances the department's ability to respond to all other emergencies that occur thousands of times each day across our country.

The FIRE Act addresses another important mission of every fire department, one that often does not command the attention it deserves because of budgetary constraints: prevention and education. Over 3,000 people die in fires every year and over 20,000 people suffer injuries. We can reduce these figures with additional funds targeted at prevention and education programs. This would allow firefighters to spend time in their communities teaching children and others about fire prevention or conducting inspections of both occupied and abandoned buildings.

A growing challenge facing the fire service is urban sprawl. As construction increases in wildland/urban interface, fire departments face new challenges requiring additional resources and personnel. During the Southern California fires last October, the media reported the number of homes destroyed. Largely overlooked were the number of lives saved and homes protected because of the heroic actions taken by the fire service. Yet we cannot expect the fire service assigned to these areas to meet the public's expectations to safeguard their lives and property without adequate resources.

When reviewing the totality of a fire department's responsibilities, it is important to recognize that every function serves a vital role in fulfilling a fire department's mission, protecting lives and property. By design, the FIRE Act addresses the entire spectrum of education, prevention and response.

The FIRE Act is not about supplanting local fiduciary responsibilities; it's about supplementing efforts to protect this country's people, property, and economy. And because the fire service provides protection to so much of our nation's infrastructure, the federal government does indeed have a responsibility to support the mission of our first responders.

In the three years the FIRE Act has been in existence, it has become one of the most effective programs administered by the federal government. In January of 2003, officials from the U.S. Department of Agriculture selected the Fire Grant Program for a study they were conducting as part of a management training course. Summarizing the programs, they said that the grant program has been ''highly effective in increasing the safety and effectiveness of grant recipients.'' Their study found:

97% of program participants reported positive impact on their ability to handle fire and fire-related incidents.

Of those recipients receiving firefighting equipment, 99% indicated improvements in the safety of firefighters and 98% indicated improvements in operation capacity.

90% of the participants indicated that their department operated more efficiently and safely as a result of the training provided by the grant program.

Over 88% of the participants who were able to measure change at the time the survey was distributed reported improvement in the fitness and health of their firefighters as a result of the program and 86% indicated reduced injuries.

The FIRE Act plays a critical role in addressing the needs of over 30,000 fire departments and one million fire and rescue personnel. We thank you for your commitment to our nation's firefighters and this important program.

Sincerely,

STEVE EDWARDS,
Chairman, CFSI National Advisory Committee.

Mr. DORGAN. Mr. President, I support the Mikulski amendment because I think that it includes important funding for firefighter grants. The amendment includes $200 million for firefighter grants—the authorized level—so that we can increase the resources available for our first responders.

In its current form, this amendment does not include any offsetting reductions to pay for the new investments. If this amendment is adopted today—and I hope that it will be—I intend to work with the conferees to offset these increases by reducing funds that have been earmarked for Iraqi reconstruction. I believe these expenditures should be offset with these other spending cuts.

Iraq is a nation that sits on some of the largest oil reserves in the world. My view is that Iraq should pay for its own reconstruction.

Last year, this Congress acted in an expedited way to appropriate $18.4 billion for Iraqi reconstruction. And yet, 10 months later, most of that money is still unspent. Less than $1 billion has been actually expended and only about $7 billion has been obligated.

Therefore, I support Senator MIKULSKI's amendment. But my intention is to push for the rescission of those unobligated Iraqi reconstruction funds and use them to offset these needed security investments.

Mr. COCHRAN. Mr. President, the bill provides adequate funds—generous funding—for this program.

I make a point of order under section 302(f) that the amendment exceeds the subcommittee's allocation under section 302(b) of the Budget Act.

The PRESIDING OFFICER. A point of order has been raised.

Ms. MIKULSKI. I move to waive the point of order.

Mr. COCHRAN. Mr. President, I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Kentucky (Mr. BUNNING) and the Senator from Colorado (Mr. CAMPBELL) are necessarily absent.

I further announce that if present and voting the Senator from Kentucky (Mr. BUNNING) would vote ''no''.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 50, nays 45, as follows:

[Rollcall Vote No. 175 Leg.]

YEAS—50

Baucus	Dorgan	Lincoln
Bayh	Durbin	Mikulski
Biden	Feingold	Murkowski
Bingaman	Feinstein	Murray
Bond	Graham (FL)	Nelson (FL)
Boxer	Harkin	Nelson (NE)
Breaux	Hollings	Pryor
Byrd	Inouye	Reed
Cantwell	Jeffords	Reid
Carper	Johnson	Rockefeller
Clinton	Kennedy	Sarbanes
Collins	Kohl	Schumer
Conrad	Landrieu	Specter
Corzine	Lautenberg	Stabenow
Daschle	Leahy	Talent
Dayton	Levin	Wyden
Dodd	Lieberman	

NAYS—45

Alexander	Domenici	McCain
Allard	Ensign	McConnell
Allen	Enzi	Miller
Bennett	Fitzgerald	Nickles
Brownback	Frist	Roberts
Burns	Graham (SC)	Santorum
Chafee	Grassley	Sessions
Chambliss	Gregg	Shelby
Cochran	Hagel	Smith
Coleman	Hatch	Snowe
Cornyn	Hutchison	Stevens
Craig	Inhofe	Sununu
Crapo	Kyl	Thomas
DeWine	Lott	Voinovich
Dole	Lugar	Warner

NOT VOTING—5

Akaka	Campbell	Kerry
Bunning	Edwards	

The PRESIDING OFFICER. On this vote, the yeas are 50, the nays are 45. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the point of order was sustained.

Ms. MIKULSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. Mr. President, we are at a point now where we are hopeful we can begin disposing of amendments that have previously been offered and on which debate has occurred. They have been set aside so Senators can offer amendments on other subjects. We have at this time nine amendments that are in that situation: amendments offered by Senators NELSON, CORZINE, KENNEDY, DAYTON, DODD, CLINTON, and one by CLINTON and SCHUMER.

We are hopeful we can reach some understanding about a time to begin voting on these amendments. We do know there are a couple meetings that require Senators' attendance off the floor at this time, and that might be the situation until about 3:30. But I am hopeful the leaders on the other side

can consider entering into an understanding or an agreement that we will begin voting on these amendments at 3:30. So I say that for the information of Senators.

There is a markup session going on by the Senate Appropriations Committee. That may start at 3 o'clock. That is going to require the attendance of a good number of Senators. So for the information of Senators, we are hopeful we can begin a series of votes at about 3:30, dispose of the pending amendments, and then proceed to consider other amendments that Senators may wish to offer.

Mr. NELSON of Florida. Will the Senator yield?

Mr. COCHRAN. I am happy to yield to my friend from Florida.

Mr. NELSON of Florida. Perhaps the distinguished Senator from Mississippi—by the way, the third hurricane has a track that keeps getting closer and closer to the Mississippi gulf coast. But as the distinguished Senator, the chairman of the committee, and I have been talking about the emergency supplemental appropriations for hurricane damage, I have been provided with a copy of what will be the President's request for the new supplemental.

I note that it does include a lot of the agencies of Government about which this Senator has spoken that have desperate needs as a result of two hurricanes hitting back to back in Florida. I noticed there is nothing in here for the agricultural losses, including crop losses as well as equipment losses, of which the Florida commissioner of agriculture has written to the White House, to OMB, and said those losses are $2 billion. What would the advice of the chairman of the committee to this Florida Senator be of how we want to address that, since the President is not requesting in his new supplemental any money for agricultural losses?

Mr. COCHRAN. Mr. President, I appreciate the inquiry of the Senator from Florida. It is my understanding that the Department of Agriculture has existing authority under current law to provide assistance for agricultural purposes in areas where people have suffered disasters. It provides opportunities for haying and grazing on conservation lands. There are a wide range of emergency activities that can be undertaken under existing law.

When we reach a point at which there is a determination of exact dollar amounts of damage incurred by citrus growers or others who have been hurt by the storms in Florida, that may be a possible reason for an additional supplemental to be submitted whose benefits were not described in the submission that was received today. This is considered an emergency for the Federal Emergency Management Agency and others who are on the frontline of recovery, providing shelter, providing food, emergency items to protect life, debris removal, particularly areas where the debris poses a danger to life and limb.

This is the kind of supplemental, as I understand it, the President has submitted. We hope to be able to approve that and call it up. The Appropriations Committee is meeting this afternoon. Senator STEVENS, chairman of the committee, wants to take action on it as soon as possible. The House has to act on it as well. It may very well be that we will have a vehicle on which to go to conference with the House this week.

I am hopeful we can keep the President's request clean and approve the request, get the money to the agencies that need the funds, and look to these other issues as they mature in time, in the sense that there has been time to assess the damages and we know what they are and who is entitled to the benefits and what kind of benefits there are in agriculture.

But there is no doubt in my mind there will be a need for sensitive and generous assistance for agricultural producers which do not have any other benefits. We do have crop insurance. There are other things available to farmers under current law, and they will be able to receive these and be provided with deserved and well-needed benefits.

Mr. NELSON of Florida. Mr. President, if the distinguished Senator will yield for a further question.

Mr. COCHRAN. I am happy to yield to my friend.

Mr. NELSON of Florida. Indeed, I understand what the Senator is referring to. There are section 32 discretionary funds that would be, for example, available for Florida citrus growers. But it comes nowhere close to the estimated amount of losses in these two hurricanes for the citrus crop and equipment which is going to exceed $½ billion, just in itself. That is not even to speak of all the other kinds of crops—vegetables, sod, timber, milk that was dumped as a result of the dairies, all kinds of vegetables, tropical fruit, clams, oysters, poultry. Nurseries, Florida's top cash crop, has suffered $½ billion in losses.

My question is, there is buzzing out here an amendment that is being put together by midwestern Senators, Republican and Democratic, to take care of their agricultural problems. Yet they do not address the full need of Florida which has suffered back-to-back hurricane losses that have affected its agriculture.

What would be the advice of the Senator from Mississippi to the Florida Senators, when others are coming forth, and yet Florida's agricultural needs, after two disastrous hurricanes, are not being met?

Mr. COCHRAN. Mr. President, my advice to all Senators, including my good friend from Florida, is to try to work with the Appropriations Committee leadership. Senator STEVENS is chairing a meeting marking up individual appropriations bills this afternoon. The committee will be considering the request for supplemental appropriations submitted by the President that we just talked about. At that time, when we are considering the supplemental for disaster assistance, would be the time, in my view, when we could consider other hurricane damage that the Senator is discussing now. In my mind that would be a more appropriate vehicle for the Senators who are talking about midwestern agricultural needs as well.

I hope this annual appropriations bill for the Department of Homeland Security won't get held up with a debate over disaster assistance because of drought or other problems in other parts of the country. It is hard to say yes, let's have some funds included in the bill for those purposes, and then say no to those in our part of the country where we do know the needs are real. They are just as expensive, maybe much more so in reality, than the Midwestern problems.

I am hopeful that we can protect the integrity of the appropriations process and the integrity of the Homeland Security appropriations bill. Let's move this to completion, go to conference with the House, and, in an orderly, coherent way, fund the needs of the Department of Homeland Security to protect us from terrorist threats, other natural disasters such as the ones that are being addressed by the Federal Emergency Management Agency. Then in a separate action, let's consider disaster assistance for hurricane victims and drought victims and others in agriculture who have otherwise suffered serious losses this year.

Mr. NELSON of Florida. Did this Senator misunderstand the distinguished Senator from Mississippi in that the President's request for this hurricane relief that has happened on those two hurricanes was going to be or not going to be attached as an amendment to the Department of Homeland Security appropriations bill?

Mr. COCHRAN. I don't think that is a decision that has been made.

Mr. NELSON of Florida. I see.

Mr. COCHRAN. My expectation is that the committee leadership, in consultation with the leaders of the Senate, will make that decision at a later time. Today they are trying to mark up individual appropriations bills, and in due course they will take up the supplemental as well.

Mr. NELSON of Florida. Then I would say to the distinguished Senator from Mississippi, I was given to believe that, in fact, was a decision that was made, that this hurricane relief was going to be attached to this Homeland Security bill. I got that impression from the majority leader, Senator FRIST. If that decision has not been made then, fine.

Mr. COCHRAN. It may have been made and I just haven't heard about it. The Senator from Florida may be more up to date than I am. But I knew it was an option that was being considered and being discussed. I was not aware that the decision had definitely been made to do that.

Mr. NELSON of Florida. Then this Senator certainly would not have to encourage the quickening of the interests in all of this hurricane disaster assistance relief as this Senator speaks with the Senator from Mississippi, because right now Hurricane Ivan, a category 5 hurricane, is bearing down on the Mississippi coast. It could well be that we are looking at an additional hurricane emergency disaster relief supplemental that would directly affect the State represented by the distinguished Senator who is the chairman of the committee.

Mr. COCHRAN. Mr. President, the Senator is absolutely correct. It poses a real danger, not only to the people in that area but also to property. It is clear that the disaster relief fund of the Federal Emergency Management Agency, which we replenished just a few days ago to the tune of $2 billion, could run out of money again. I know the tendencies of this Congress to be that where there are needs like that, we will act to address them. At a time when that relief fund or any other account is depleted and hurricane victims need the attention of these agencies and the benefits to which they are entitled, we will act. I believe we will act promptly and with dispatch and with generosity to the fullest extent allowed under the law.

Mr. NELSON of Florida. Mr. President, is FEMA appropriated under the Appropriations subcommittee the Senator chairs?

Mr. COCHRAN. It is one of the agencies under the Department of Homeland Security, and it is covered in this annual appropriations bill.

Mr. NELSON of Florida. Then this Senator simply makes a recommendation that we should never be in an emergency posture like we were last week, where FEMA is not carrying the adequate reserves. On Thursday, they ran out of money and were, in fact, not spending the money that was desperately needed in the previous 5 days for hurricane relief. This Senator is merely making the recommendation that, as we look to FEMA appropriations in the future, there should be a cushion of reserves in FEMA because this country can face all kinds of disasters, as we know, and this year FEMA's budget was too lean to be able to respond.

Mr. COCHRAN. The Senator makes a point we should consider. I agree with that. It is awfully difficult for us to know the future or to be able to predict it and the needs of every agency of the Government, even FEMA. But we do the best we can and we will continue to work hard. Any advice or suggestions the Senators might have for the appropriate level of funding on an annual basis would be welcome.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CRAPO). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CORZINE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3619, AS MODIFIED

Mr. CORZINE. I ask unanimous consent that I be allowed to modify amendment No. 3619 at the desk. The change is to allow for funding of the offset of the proposed amendment, regarding chemical security plants.

The PRESIDING OFFICER. Is the Senator asking that amendment be made pending at this time?

Mr. CORZINE. Yes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. CORZINE. Mr. President, I send the modified amendment to the desk.

The PRESIDING OFFICER. The amendment will be so modified, and it is now pending.

The amendment (No. 3619), as modified, is as follows:

On page 19, line 17, strike ''$2,845,081,000'' and all that follows through ''grants'' on page 20, line 11, and insert the following: ''$2,915,081,000, which shall be allocated as follows:

''(1) $970,000,000 for formula-based grants and $400,000,000 for law enforcement terrorism prevention grants pursuant to section 1014 of the USA PATRIOT Act (42 U.S.C. 3714): *Provided*, That the application for grants shall be made available to States within 45 days after the date of enactment of this Act; that States shall submit applications within 45 days after the grant announcement; and that the Office of State and Local Government Coordination and Preparedness shall act within 15 days after receipt of an application: *Provided further*, That each State shall obligate not less than 80 percent of the total amount of the grant to local governments within 60 days after the grant award; and

''(2) $1,270,000,000 for discretionary grants for use in high-threat, high-density urban areas, as determined by the Secretary of Homeland Security: *Provided*, That the amount under title I for the Human Resources Account of the Office of the Under Secretary for Management shall be reduced by $70,000,000: *Provided further*, That $150,000,000 shall be for port security grants; $15,000,000 shall be for trucking industry security grants; $10,000,000 shall be for intercity bus security grants; $150,000,000 shall be for rail and transit security grants; $70,000,000 shall be for enhancing the security of chemical plants''.

Mr. CORZINE. Mr. President, this amendment addresses one of the most serious security threats facing our Nation: the threat of terrorist attacks on chemical facilities. It is a subject I have worked on with a number of colleagues on both sides of the aisle over the last 3 years. It addresses an issue where there are literally thousands of chemical facilities across the country where a chemical release could expose tens of thousands of Americans to highly toxic gases.

I have tried to stress that there are 123 of these where more than a million people could be exposed. About eight of those are in New Jersey, so this is an intensely important subject matter for the community I represent. We need to change this.

While we are working today on the Department of Homeland Security appropriations, there is authorizing legislation working through the Environment and Public Works Committee that would deal with this problem. I want to be a constructive element in bringing that to a conclusion. We have a security problem now with our chemical plants. My modified amendment would provide $70 million to State and local governments in order to enhance the security of those chemical plants. Also, it includes that offset I mentioned, which is changed from the original version of the amendment.

This amendment only takes a modest first step by appropriating that money to these State and local efforts. Funds could be used, for example, to strengthen law enforcement's presence around chemical plants. When we go to Code Orange, the Department of Homeland Security requests that our local law enforcement provide additional security for these plants. It is not like they are not doing this already. That is overtime for additional individuals. Also, this money would go to train and prepare officials to respond to a terrorist attack. The release of a chemical toxic cloud is not like fighting a fire; it takes different kinds of actions. This amendment would provide some of that support. It would also provide guidance and assistance to plant managers. It would have the proper interface with State and local officials on how to respond and maybe even prevent attacks on chemical security plants.

As I said, the funds will be offset by eliminating funds for a new Department of Homeland Security performance pay system, and we will provide the resources that I think—at least looking at a tradeoff of how I see it in New Jersey, and I think it is the case across the country, since 123 plants expose more than a million people, it is a good tradeoff. It may be an important issue to get on with pay systems, but I don't understand how we trade that off versus the security of the individuals who surround the plants.

Remember, these plants were built in a different era, at a different time. They are very prominently located in densely populated areas in the country. We ought to do what we can to protect them. One of the ways is to provide these funds. That is what this amendment is about. I spoke about it at length the other day on the Senate floor. I believe very strongly that there are real reasons for us to pay attention to chemical plant security in this country. Every time the Department of Homeland Security raises the code level, they mention chemical plant security. It is in the Hart-Rudman report. It is in studies of the vulnerabilities of the critical infrastructure in this country. We ought to take special steps to make sure there is security at these plants. We would not tolerate the kind of security arrangement we have in chemical plants if

they were nuclear powerplants, and there are as many people exposed to these toxic exposures, if there were to be a terrorist attack, as there would be in many, if not most, nuclear powerplants, which are located in many different areas.

I hope my colleagues will realize this is an important consideration, a modest first step. It is paid for, and I believe we can make the American people a little bit more secure by adjusting where we are spending $70 million to provide for chemical plant security. I appreciate it, and I hope that it will be favorably considered by my colleagues.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, we are at a point now where we can announce to Senators our intention to proceed to votes on some of the amendments that are pending now. The amendment of the Senator from New Jersey, which he has modified, would be the first amendment we would consider. It would be the intention of this manager to move to table the Corzine amendment and get the yeas and nays, and then have a similar motion against the Dayton amendment No. 3629 and the Clinton/Schumer amendment No. 3632. We are advised that the Appropriations Committee is in meeting now and members may not be available until close to 4, but we could begin these votes at 3:45.

The distinguished assistant leader has assured us that is an agreement that is OK with the Democratic side of the aisle, and with that understanding, I will propound this unanimous consent request.

I ask unanimous consent that at 3:45 p.m. today, the Senate vote in relation to the following amendments in the order mentioned: Corzine No. 3619, as modified; Dayton No. 3629; Clinton No. 3632. I further ask unanimous consent that no amendments be in order to the amendments prior to those votes and that there be 2 minutes equally divided for debate prior to each of the votes, and finally that the second and third votes in the series be limited to 10 minutes each.

Mr. REID. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. I thank the distinguished leader and I thank all Senators for that agreement.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I direct a question through the Chair to the distinguished manager of the bill. On this side, we still have every intention to try to finish this bill tonight. Unless something comes up we do not know about, it is my understanding that the manager also feels the same way. So if people have amendments—for example, I talked to a couple of my Senators this afternoon and they said, well, we will do it later. Everyone should know later is here. We are now at that time. Later is right now. This would be an appropriate time for someone to come over and offer an amendment as we speak. We would set what is pending aside, lay that down. It is my understanding the manager of the bill wants to move through these pending amendments as quickly as possible. We have several amendments after we finish this block of votes that are still outstanding. That is going to get us into the evening time. So if people still have amendments they want to offer, they should get over here and do that.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I thank the distinguished Senator very much for his suggestions. He is absolutely right. We do intend to press on and try to complete action on this bill tonight. We would appreciate the cooperation of all Senators in that regard. We are going to try to get to the point where we can announce that we are definitely going to finish the bill tonight. That is our intention. We hope we can move forward with dispatch and determination to achieve that goal. We thank the distinguished Senator for his good assistance in that regard.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DEWINE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3619, AS MODIFIED

Under the previous order, there are now 2 minutes equally divided on the Corzine amendment.

Mr. JEFFORDS. Mr. President, homeland security experts refer to chemical plants as ''pre-positioned weapons of mass destruction.'' Yet more than 3 years after the September 11 attacks, the Bush administration has done almost nothing to enhance the security of the estimated 15,000 chemical facilities in the United States.

I therefore support the amendment of Senator CORZINE to provide $100 million for State and local efforts to enhance the safety of communities around chemical plants. These funds are needed to allow for expanded law enforcement presence around plants, better training and preparation for first responders and local officials, and additional guidance for plant managers.

This is just a first step, however. Communities cannot do it alone. To truly enhance security, chemical sources must implement security plans that address their unique vulnerabilities. Some facilities have already made considerable improvements, such as repositioning storage tanks away from public roads and hiring more guards. Here in Washington, DC, the Blue Plains water treatment plant went one step further by switching from chlorine to bleach, thereby reducing the inherent hazards posed by their operations. Notwithstanding these improvements, numerous media and government reports continue to document significant security gaps at many facilities.

National legislation mandating federally enforceable minimum standards is long overdue. When I was chairman of the Environment and Public Works Committee, we unanimously passed Senator CORZINE's legislation out of committee. Bowing to pressure from the petroleum and chemical industries, the Bush administration put the brakes on this legislation. Now, almost 2 years later, we are still debating the issue.

We cannot afford to ignore the risks posed by chemical plants any longer. A terrorist attack at any one of the 15,000 chemical facilities nationwide would likely cause death or injury to the people in the surrounding communities. The chemical industry's own data indicates that, in a worst case release, toxic chemicals could threaten more than 1 million people at each of 123 facilities spread across 24 States. There are also more than 700 facilities from which a chemical release could threaten more than 100,000 residential neighbors.

This issue is too important to ignore or add at the last minute to another bill without adequate time for proper consideration. I have asked my staff to continue working in a tri-partisan fashion to develop legislation that can be adopted unanimously by the Senate. If such an agreement cannot be reached quickly, however, we should move stand-alone legislation to the floor for a full debate.

In the meantime, I urge my colleagues to support the amendment of Senator CORZINE to help communities surrounding chemical plants address the added security risks that these facilities pose. We should then quickly enact comprehensive chemical security legislation to supplement these community efforts and ensure that the chemical facilities themselves do their part to ensure the safety of our home towns.

Mr. COCHRAN. Has a motion to table the Corzine amendment been made?

The PRESIDING OFFICER. It cannot be made until the time is expired.

Mr. COCHRAN. Mr. President, the committee has recommended in this bill $193,673,000 for protective action activities, for developing and implementing protective programs for the Nation's critical infrastructures, including chemical facilities, Federal, State and local, and private sector activities and programs and best practices.

Nationwide, we have seen 2,040 chemical facilities complete vulnerability

assessments as developed by Sandia National Laboratories and the Center for Chemical Process Safety. The Department of Homeland Security has made considerable progress in increasing the security of chemical facilities across the country. Site visits are conducted at chemical facilities as part of a buffer zone protection plan. These plans reduce specific vulnerabilities and build a general protection capacity of communities. As part of the protective buffer zone effort, the protective security division has developed plans to install cameras to detect and deter surveillance and other threatening activities.

The Department has provided protective measures and risk management efforts on the sites of greatest concern. We are confident these are working to improve the safety and security of chemical facilities.

We urge the Senate to support the committee and vote to approve the motion to table the Corzine amendment.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. Mr. President, this amendment addresses one of the most serious security threats we have in the Nation, the threat of terrorist attack on our chemical plants. There are literally thousands—not 230 but literally thousands—of plants that are exposed to more than 10,000 folks in the country; 123 plants expose a million people or more.

My amendment provides $70 million to State and local governments, particularly to focus on this issue of security of chemical plants. It includes an offset, as I mentioned a few minutes ago.

The facts speak loudly: We need to address chemical plants. Time and time again, there are reports where people can walk on to plants without there being any kind of protection and actually following through on a lot of the security plans that were talked about before.

There is a whole further authorization bill working its way through the Environment and Public Works Committee right now, which is a very bipartisan effort to try to get at this issue, but we need to do something now.

There are, as I said, literally thousands of plants across this country. We need to provide the support to State and local officials to be able to provide the security, the overtime, needed at these plants, and particularly when we raise our code levels. The lack of security at our chemical plants has been cited as one of the greatest threats to our infrastructure. We need to provide for training. We need to provide funds for guidance and assistance to plant managers and for other steps that State and local officials can take to prevent and respond to attacks on chemical plants.

I hope my colleagues will recognize we have a problem. We ought to be doing everything we can to support and protect the American people.

Mr. COCHRAN. Mr. President, I move to table the Corzine amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The bill clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Kentucky (Mr. BUNNING) and the Senator from Colorado (Mr. CAMPBELL) are necessarily absent.

I further announce that if present and voting the Senator from Kentucky (Mr. BUNNING) would vote ''yes''.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 48, nays 47, as follows:

[Rollcall Vote No. 176 Leg.]

YEAS—48

Alexander	Dole	McConnell
Allard	Domenici	Miller
Allen	Ensign	Murkowski
Bennett	Enzi	Nickles
Bond	Fitzgerald	Roberts
Brownback	Frist	Santorum
Burns	Graham (SC)	Sessions
Chafee	Grassley	Shelby
Chambliss	Gregg	Smith
Cochran	Hagel	Snowe
Coleman	Hatch	Stevens
Collins	Inhofe	Sununu
Cornyn	Kyl	Talent
Craig	Lott	Thomas
Crapo	Lugar	Voinovich
DeWine	McCain	Warner

NAYS—47

Baucus	Durbin	Lieberman
Bayh	Feingold	Lincoln
Biden	Feinstein	Mikulski
Bingaman	Graham (FL)	Murray
Boxer	Harkin	Nelson (FL)
Breaux	Hollings	Nelson (NE)
Byrd	Hutchison	Pryor
Cantwell	Inouye	Reed
Carper	Jeffords	Reid
Clinton	Johnson	Rockefeller
Conrad	Kennedy	Sarbanes
Corzine	Kohl	Schumer
Daschle	Landrieu	Specter
Dayton	Lautenberg	Stabenow
Dodd	Leahy	Wyden
Dorgan	Levin	

NOT VOTING—5

Akaka	Campbell	Kerry
Bunning	Edwards	

The motion was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3629

The ACTING PRESIDENT pro tempore. There are 2 minutes evenly divided on Dayton amendment No. 3629.

Mr. COCHRAN. Mr. President, the Senator from Minnesota has offered an amendment dealing with the Federal protective service. It is my intention as a manager of the bill to urge my colleagues to vote against it. First, it is the intention of the manager to move to table this amendment and ask for the yeas and nays, and I do so now.

The ACTING PRESIDENT pro tempore. There is still time remaining. The motion is not in order at this time.

The Senator from Minnesota is recognized.

Mr. DAYTON. Mr. President, this amendment is necessary to protect the health care benefits of security guards who are protecting our security at Federal buildings in Minnesota and in other States.

In this instance, private contractors have low-bid these security contracts, and they unilaterally have shifted the employees' health payments to 401(k) contributions. The company thereby increases its profits by not paying taxes at the expense of their own employees, with no consultation, no negotiation, just cold-blooded profiteering. No wonder a company like this can underbid its competitors. The bids can go lower and lower every time they cut wages or benefits. That is why there should be employee protections—protections that were eliminated, unfortunately, over the objections of many of us when this Department of Homeland Security was created just 2 years ago.

This amendment simply requires that if a company takes over a contract, it must negotiate changes in health benefits with its employees. I think that is the least we can do on behalf of those who are risking their lives to protect our lives.

I yield the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, this amendment seeks to define the responsibilities of the Federal Protective Service to negotiate employment contracts with other agencies or individuals who seek to work for the Federal Protective Service. This is actually a Department of Labor Fair Labor Standards Act issue. It is not a Homeland Security issue. It should not be offered as an amendment to this bill but, rather, the issue should be presented to the Department of Labor which is responsible for overseeing employee and employer relationships.

This amendment would have a very serious adverse effect on the Federal Protective Service's ability to carry out protective services and ensure the security of Federal buildings throughout the country. It could bring the efforts to a standstill.

I move to table the amendment and I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There appears to be a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Kentucky (Mr. BUNNING), the Senator from Colorado (Mr. CAMPBELL), and the Senator from Alabama (Mr. SESSIONS) are necessarily absent.

I further announce that if present and voting the Senator from Kentucky (Mr. BUNNING) would vote ''yes.''

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The ACTING PRESIDENT Pro Tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 49, nays 45, as follows:

[Rollcall Vote No. 177 Leg.]

YEAS—49

Alexander	Domenici	Miller
Allard	Ensign	Murkowski
Allen	Enzi	Nickles
Bennett	Fitzgerald	Roberts
Bond	Frist	Santorum
Brownback	Graham (SC)	Shelby
Burns	Grassley	Smith
Chafee	Gregg	Snowe
Chambliss	Hagel	Specter
Cochran	Hatch	Stevens
Coleman	Hutchison	Sununu
Collins	Inhofe	Talent
Cornyn	Kyl	Thomas
Craig	Lott	Voinovich
Crapo	Lugar	Warner
DeWine	McCain	
Dole	McConnell	

NAYS—45

Baucus	Dorgan	Levin
Bayh	Durbin	Lieberman
Biden	Feingold	Lincoln
Bingaman	Feinstein	Mikulski
Boxer	Graham (FL)	Murray
Breaux	Harkin	Nelson (FL)
Byrd	Hollings	Nelson (NE)
Cantwell	Inouye	Pryor
Carper	Jeffords	Reed
Clinton	Johnson	Reid
Conrad	Kennedy	Rockefeller
Corzine	Kohl	Sarbanes
Daschle	Landrieu	Schumer
Dayton	Lautenberg	Stabenow
Dodd	Leahy	Wyden

NOT VOTING—6

Akaka	Campbell	Kerry
Bunning	Edwards	Sessions

The motion was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. BREAUX. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3632

The ACTING PRESIDENT pro tempore. There are 2 minutes equally divided on the amendment of the Senator from New York.

Mr. COCHRAN. Mr. President, this is the amendment offered by the distinguished Senator from New York.

Mrs. CLINTON. Mr. President, are there 2 minutes available equally divided?

The ACTING PRESIDENT pro tempore. That is correct.

Mrs. CLINTON. Mr. President, I ask unanimous consent to add Senators KENNEDY and CORZINE as cosponsors of this high-threat amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mrs. CLINTON. Mr. President, this amendment would add $625 million to the high-threat urban area category of Homeland Security funding. This would bring the amount close to what the President asked in his budget where he asked for $1.5 billion for the high-threat category.

What has been happening over the last several years is that the Department of Homeland Security has added the number of cities and localities with critical infrastructure to this category, which I support and agree with. But as a result, the amount of money is not sufficient in order to meet the needs of the number of places that the Secretary deems appropriate for high-threat urban funding. So I ask that we support this increase. It brings us close to the President's requested amount in the 2005 budget, and it enables the Secretary to provide the funding to a number of places that have high-threat needs.

Mr. DORGAN. Mr. President, I support the Clinton amendment because I think that it includes important funding for high risk areas. The amendment provides additional funds for those areas that are under the highest threat alert.

In its current form, this amendment does not include any offsetting reductions to pay for the new investments. If this amendment is adopted today—and I hope that it will be—I intend to work with the conferees to offset these increases by reducing funds that have been earmarked for Iraqi reconstruction. I believe these expenditures should be offset with these other spending cuts.

Iraq is a nation that sits on some of the largest oil reserves in the world. My view is that Iraq should pay for its own reconstruction.

Last year, this Congress acted in an expedited way to appropriate $18.4 billion Iraqi reconstruction. And yet, 10 months later, most of that money is still unspent. Less than $1 billion has been actually expended and only about $7 billion has been obligated.

Therefore, I support Senator CLINTON's amendment. But my intention is to push for the rescission of those unobligated Iraqi reconstruction funds and use them to offset these needed security investments.

Mr. COCHRAN. Mr. President, I appreciate very much the suggestion of the Senator from New York. The fact is, we have already identified an appropriate amount of funding for this area of concern in the bill. The committee has reviewed the request very carefully. Because the committee has exhausted its allocation of funds available to it under the allocation of the full committee on appropriations, we have identified what we think is an appropriate amount of funding for this area of concern and activity of the Department of Homeland Security. I make a point of order under section 302(f) of the Congressional Budget Act that the amendment provides spending in excess of the subcommittee's 302(b) allocation.

Mrs. CLINTON. Mr. President, I move to waive the applicable sections of the Congressional Budget Act and ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Kentucky (Mr. BUNNING) and the Senator from Colorado (Mr. CAMPBELL) are necessarily absent.

I further announce that if present and voting the Senator from Kentucky (Mr. BUNNING) would vote ''no''.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), and the Senator from Florida (Mr. NELSON) are necessarily absent.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 44, nays 50, as follows:

[Rollcall Vote No. 178 Leg.]

YEAS—44

Baucus	Feingold	Lieberman
Bayh	Feinstein	Lincoln
Biden	Graham (FL)	Mikulski
Bingaman	Harkin	Murray
Boxer	Hollings	Nelson (NE)
Breaux	Hutchison	Pryor
Byrd	Inouye	Reed
Cantwell	Jeffords	Reid
Clinton	Johnson	Rockefeller
Corzine	Kennedy	Sarbanes
Daschle	Kohl	Schumer
Dayton	Landrieu	Specter
Dodd	Lautenberg	Stabenow
Dorgan	Leahy	Wyden
Durbin	Levin	

NAYS—50

Alexander	DeWine	McConnell
Allard	Dole	Miller
Allen	Domenici	Murkowski
Bennett	Ensign	Nickles
Bond	Enzi	Roberts
Brownback	Fitzgerald	Santorum
Burns	Frist	Sessions
Carper	Graham (SC)	Shelby
Chafee	Grassley	Smith
Chambliss	Gregg	Snowe
Cochran	Hagel	Stevens
Coleman	Hatch	Sununu
Collins	Inhofe	Talent
Conrad	Kyl	Thomas
Cornyn	Lott	Voinovich
Craig	Lugar	Warner
Crapo	McCain	

NOT VOTING—6

Akaka	Campbell	Kerry
Bunning	Edwards	Nelson (FL)

The ACTING PRESIDENT pro tempore. On this vote, the yeas are 44, the nays are 50. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

The Senator from Hawaii.

VOTE CORRECTION

Mr. INOUYE. Mr. President, on rollcall No. 178, I was present and voted aye. The Official record has me listed as absent. Therefore, I ask unanimous consent that the official record be corrected to accurately reflect my vote.

This will in no way change the outcome of the vote.

The ACTING PRESIDING pro tempore. Is there objection? Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

AMENDMENT NO. 3598

Mr. ENSIGN. Mr. President, I ask unanimous consent to set aside the pending amendment to call up amendment No. 3598.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. ENSIGN], for himself, Mr. BOND, Mr. REID, Mr. KYL, Mr. CORNYN, Mrs. HUTCHISON, Mr. CORZINE, Mr. NELSON of Florida, Mr. CHAMBLISS, Mr. MILLER, Mr. GRAHAM of Florida, Mr. BURNS, Mr. ROBERTS, Mrs. FEINSTEIN, Mrs. BOXER, Mrs. CLINTON, Mr. WARNER, Mr. DURBIN, Ms. LANDRIEU, Mr. CAMPBELL, and Mr. ALLEN, proposes an amendment numbered 3598.

Mr. ENSIGN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To increase the amount appropriated for baggage screening activities, and for other purposes)

Beginning on page 10, line 25, strike ''$1,437,460,000'' and all that follows through ''presence'' on page 11, line 3, and insert the following: ''$1,512,460,000 shall be for baggage screening activities, of which $210,000,000 shall be available only for procurement of checked baggage explosive detection systems and $75,000,000 shall be available only for installation of checked baggage explosive detection systems; and not to exceed $796,890,000 shall be for airport security direction and enforcement presence, of which $217,890,000 shall be available for airport information technology''.

Mr. ENSIGN. Mr. President, I thank Chairman COCHRAN and Senator BYRD and their staffs for working with me to draft the Ensign-Bond amendment, which has 20 cosponsors from both sides of the aisle.

This amendment addresses a shortfall in the Transportation Security Administration's budget for our airports' in-line baggage screening systems, or Explosive Detection Systems, for all checked baggage.

My amendment adds $75 million to the TSA's budget request of $250 million, for a total of $325 million. It is fully offset through a reduction in TSA's airport information technology and support.

TSA has asked for a $154 million increase in airport information technology, so we will still be giving them half of that increase. Still, even with this offset, this technology account is left with $218 million, and the reduction will not damage TSA's mission.

The reason I am offering this amendment is clear: One of the major threats of terrorism we face today is crowded airport lobbies. The huge explosive detection devices in the lobbies of airports makes the packed-in crowds an inviting target for terrorists. They could harm and kill more people in an airport lobby than they could on an entire airplane these days.

The amount that TSA requested in fiscal year 2005 for in-line baggage screening is not enough to fully fund the eight airports that are currently constructing their baggage systems, let alone the 21 airports that are waiting for money to become available so they can start their own.

It is estimated that $5 billion is needed to fully install the baggage screening systems. At $250 million a year, we are not going to get there any time soon. We need to live up to our obligation to our airports by clearing the backlog of airports that need to get these monster machines out of their lobbies. It is a huge unfunded mandate for airports that have to operate on tight budgets.

Our airports will be safer as a result. In fact, one of the recommendations of the 9/11 Commission is to expedite the installation of in-line baggage screening equipment. We will never get there if TSA cannot request enough funding for eight airports, let alone for all the airports in America that need these baggage screening systems.

In summary, my amendment is offset and will help 30 airports in our country speed up the installation of their in-line baggage screening systems. We have a huge vulnerability on our hands, and we need to act quickly.

The ACTING PRESIDENT pro tempore. Is there further debate on the amendment?

Mr. COCHRAN. Mr. President, we reviewed the amendment of the distinguished Senator from Nevada. We think it should be accepted by the Senate, so we hope it will be adopted on a voice vote.

The ACTING PRESIDENT pro tempore. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 3598) was agreed to.

Mr. COCHRAN. I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3630

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. DODD. Mr. President, in my conversations with the distinguished chairman of the committee, the Senator from Mississippi, it is my understanding the bipartisan amendment I offered earlier today—on behalf of myself and Senator SPECTER, along with several other colleagues, including Senators STABENOW, SNOWE, BIDEN, MIKULSKI, CORZINE, and CLINTON—to provide funds to fire departments to hire firefighters, will be accepted by the committee. That being the case, I see no reason for us to ask for a rollcall vote.

I ask unanimous consent that a letter from the National Volunteer Fire Council be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL VOLUNTEER FIRE COUNCIL,
Washington, DC, September 13, 2004.

Hon. CHRISTOPHER DODD,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR DODD: The National Volunteer Fire Council (NVFC) is a non-profit membership association representing the interests of the more than 800,000 members of America's volunteer fire, EMS, and rescue services. On behalf of our membership, I am writing to lend our full support for your amendment to the FY 2005 Homeland Security Appropriations Bill to fund the SAFER program at the $100 million level.

The Staffing for Adequate Fire and Emergency Response (SAFER) Firefighters Act, which was passed as part of the FY 2004 Defense Authorization bill, would not only provide grants to local fire departments to hire additional personnel, but also includes a component to provide grants to volunteer and combination departments to implement recruitment and retention programs. In addition, the amendment includes language that ensures that firefighters hired under the SAFER Bill are guaranteed the right to continue to volunteer in other jurisdictions during their off-duty hours.

As you know, recruitment and retention is often cited as the number one challenge facing America's volunteer fire and EMS departments. The SAFER program would not only help to address staffing shortages in career departments, but would go a long way to reverse the national trend in the volunteer fire service that has resulted in a loss of nearly 15% of the volunteer ranks in the last 20 years.

Once again, we strongly support your amendment to the FY 2005 Homeland Security Appropriations Bill and we thank you for your continued leadership and support of America's fire service. If you or your staff have any questions please feel free to contact Craig Sharman, NVFC Director of Government Relations at (202) 887–5700.

Sincerely,

PHILIP C. STITTLEBURG,
Chairman.

Mr. DODD. I appreciate immensely the support of the Senator from Mississippi and others who are willing to accept the amendment. I want to commend Senator BYRD, Senator SPECTER, as well as their staffs, for the tremendous efforts they have made on behalf of the amendment. We were able to work out an offset that will not do any significant damage to the management and administrative functions of the Homeland Security Department. We still would have a 35-percent increase in title I, and roughly the status quo when it comes to title IV.

Firefighter staffing is the No. 1 issue for firefighters all across America. By agreeing to this amendment, we are fulfilling our pledge to these heroes to do everything we can to not only provide them with the materials, training, and equipment they need, but also the necessary personnel these departments

must have if they are going to complete their jobs.

Again, I thank the Senator from Mississippi and his staff for their outstanding efforts.

The ACTING PRESIDENT pro tempore. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, we thank the Senator from Connecticut for his good advice and suggestions in the handling of this bill. We recommend we proceed to a voice vote on his amendment.

The ACTING PRESIDENT pro tempore. The question is on agreeing to amendment No. 3630.

The amendment (No. 3630) was agreed to.

Mr. DODD. Mr. President, I move to reconsider the vote.

Mr. COCHRAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3639

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. Is there objection to laying aside the pending amendment? Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for himself and Mr. DOMENICI, proposes an amendment numbered 3639.

Mr. BINGAMAN. Mr. President, I ask unanimous consent the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide for continued support by the New Mexico National Guard for the performance of the vehicle and cargo inspection activities of the Department of Homeland Security)

On page 39, between lines 5 and 6, insert the following:

SEC. 515. During fiscal year 2005 the Secretary of Homeland Security and the Secretary of Defense shall permit the New Mexico Army National Guard to continue performing vehicle and cargo inspection activities in support of the Bureau of Customs and Border Protection and the Bureau of Immigration and Customs Enforcement under the authority of the Secretary of Defense to support counterdrug activities of law enforcement agencies.

Mr. BINGAMAN. Mr. President, this is an amendment which simply provides that during fiscal year 2005, the Secretary of Defense shall permit the New Mexico Army National Guard personnel to continue performing vehicle and cargo inspection activities in support of Customs and Border Protection and immigration enforcement agencies along the border.

This is work our New Mexico National Guard has been doing now for some time. They do an excellent job. We have 17 full-time guardsmen who are involved with this inspection. They are well trained to accomplish this work. This is work which will be very difficult for the other Federal agencies involved to try to take over themselves. It is important that the National Guard be allowed to continue doing the work. The amendment would accomplish that. It is a very meritorious amendment, and I urge my colleagues to support it.

The ACTING PRESIDENT pro tempore. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, we understand the Senator from New Mexico, Mr. DOMENICI, is a cosponsor of the amendment. We appreciate Senator BINGAMAN's bringing this issue to the attention of the Senate. We recommend that we proceed to a voice vote on the Senator's amendment.

The ACTING PRESIDENT pro tempore. The question is on agreeing to amendment No. 3639.

The amendment (No. 3639) was agreed to.

Mr. BINGAMAN. Mr. President, I move to reconsider the vote.

Mr. COCHRAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3636

Mr. BAUCUS. Mr. President, I rise to speak on an issue that is vitally important. If there are any pending amendments, I ask unanimous consent that they be set aside.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAUCUS. I call up amendment No. 3636.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for himself, Mr. BURNS, Mr. CONRAD, Mr. ROBERTS, Mr. DORGAN, Mr. BROWNBACK, Mr. NELSON of Nebraska, and Mr. HAGEL, proposes an amendment numbered 3636.

Mr. BAUCUS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide emergency disaster assistance to agricultural producers in Florida and other States due to losses from hurricanes, droughts, freezes, floods, and other natural disasters)

At the appropriate place, insert the following:

TITLE ____—EMERGENCY AGRICULTURAL DISASTER ASSISTANCE

SEC. ____01. CROP DISASTER ASSISTANCE.

(a) DEFINITIONS.—In this section:

(1) ADDITIONAL COVERAGE.—The term ''additional coverage'' has the meaning given the term in section 502(b) of the Federal Crop Insurance Act (7 U.S.C. 1502(b)).

(2) INSURABLE COMMODITY.—The term ''insurable commodity'' means an agricultural commodity (excluding livestock) for which the producers on a farm are eligible to obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(3) NONINSURABLE COMMODITY.—The term ''noninsurable commodity'' means an eligible crop for which the producers on a farm are eligible to obtain assistance under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

(b) EMERGENCY FINANCIAL ASSISTANCE.—Notwithstanding section 508(b)(7) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)(7)), the Secretary of Agriculture (referred to in this title as the ''Secretary'') shall use such sums as are necessary of funds of the Commodity Credit Corporation to make emergency financial assistance authorized under this section available to producers on a farm that have incurred qualifying crop or quality losses for the 2003 or 2004 crop (as elected by a producer), but not both, due to damaging weather or related condition, as determined by the Secretary.

(c) ADMINISTRATION.—The Secretary shall make assistance available under this section in the same manner as provided under section 815 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat. 1549A–55), including using the same loss thresholds for the quantity and quality losses as were used in administering that section.

(d) REDUCTION IN PAYMENTS.—The amount of assistance that a producer would otherwise receive for a qualifying crop or quality loss under this section shall be reduced by the amount of assistance that the producer receives under the crop loss assistance program announced by the Secretary on August 27, 2004.

(e) INELIGIBILITY FOR ASSISTANCE.—Except as provided in subsection (f), the producers on a farm shall not be eligible for assistance under this section with respect to losses to an insurable commodity or noninsurable commodity if the producers on the farm—

(1) in the case of an insurable commodity, did not obtain a policy or plan of insurance for the insurable commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) for the crop incurring the losses; and

(2) in the case of a noninsurable commodity, did not file the required paperwork, and pay the administrative fee by the applicable State filing deadline, for the noninsurable commodity under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333) for the crop incurring the losses.

(f) CONTRACT WAIVER.—The Secretary may waive subsection (e) with respect to the producers on a farm if the producers enter into a contract with the Secretary under which the producers agree—

(1) in the case of an insurable commodity, to obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) providing additional coverage for the insurable commodity for each of the next 2 crops; and

(2) in the case of a noninsurable commodity, to file the required paperwork and pay the administrative fee by the applicable State filing deadline, for the noninsurable commodity for each of the next 2 crops under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

(g) EFFECT OF VIOLATION.—In the event of the violation of a contract under subsection (f) by a producer, the producer shall reimburse the Secretary for the full amount of the assistance provided to the producer under this section.

SEC. ____02. LIVESTOCK ASSISTANCE PROGRAM.

(a) IN GENERAL.—The Secretary shall use such sums as are necessary of funds of the

Commodity Credit Corporation to make and administer payments for livestock losses to producers for 2003 or 2004 losses (as elected by a producer), but not both, in a county that has received an emergency designation by the President or the Secretary after January 1, 2003, of which an amount determined by the Secretary shall be made available for the American Indian livestock program under section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat. 1549A–51).

(b) ADMINISTRATION.—The Secretary shall make assistance available under this section in the same manner as provided under section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat. 1549A–51).

(c) MITIGATION.—In determining the eligibility for or amount of payments for which a producer is eligible under the livestock assistance program, the Secretary shall not penalize a producer that takes actions (recognizing disaster conditions) that reduce the average number of livestock the producer owned for grazing during the production year for which assistance is being provided.

SEC. ___03. TREE ASSISTANCE PROGRAM.

The Secretary shall use such sums as are necessary of the funds of the Commodity Credit Corporation to provide assistance under the tree assistance program established under subtitle C of title X of the Farm Security and Rural Investment Act of 2002 to producers who suffered tree losses during the winter of 2003 through 2004.

SEC. ___04. COMMODITY CREDIT CORPORATION.

The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this title.

SEC. ___05. REGULATIONS.

(a) IN GENERAL.—The Secretary may promulgate such regulations as are necessary to implement this title.

(b) PROCEDURE.—The promulgation of the regulations and administration of this title shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

(c) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

SEC. ___06. EMERGENCY DESIGNATION.

Amounts appropriated or otherwise made available in this title are each designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 1014).

Mr. BAUCUS. Mr. President, this is a bipartisan amendment. My colleague from Montanam Mr. BURNS, is a cosponsor of the amendment, along with Senators ROBERTS, BROWNBACK, HAGEL, CONRAD, DORGAN, and NELSON from Nebraska. Maybe there will be more later.

This amendment provides for emergency agricultural natural disaster assistance. Some might ask why I am offering this amendment, particularly on this bill. The answer is very simple. First of all, there is a tremendous need, a need in rural America to address drought agricultural disaster assistance. Just as there is a need in Florida because of the two hurricanes which have devastated that State, and a third potentially on its way, for agricultural disaster assistance, agricultural disasters from droughts in many parts of America are just as devastating. We don't hear about them as much because it is in the nature of a silent killer. They don't get on TV as much. It is over a period of time, for years. But the effect is just the same, if not worse, in many parts of our country.

We are in America. We are an entire country. Just above the Presiding Officer is our national motto, ''e pluribus unum.'' Clearly, this is something of which we should all be reminded. We are many States, but we are one Nation, here to help each other—one indeed.

Our amendment would fully fund the Crop Disaster Program, the Livestock Assistance Program, and the American Indian Livestock Feed Program for losses incurred in 2003 or 2004. The producer would have the option of deciding which of the 2 years he or she needs the assistance.

I might point out that in 1996, the year before the major years of drought began, Montana sold $847 billion worth of wheat. Just a couple years ago, we sold only $366 million. That is a 43-percent decline. Why? Essentially because of drought.

This devastation does not end at the front door of our rural homes. It is unrelenting and has taken an enormous economic toll on our communities as well as our farmers. It will take years to recover. Businesses are closing doors. Employees are being layed off in many parts of rural America as a consequence, and main streets are just drying up. Producers are considering selling parcels of land they own or pieces of equipment that they have in order to keep their operation going. They will do so only if they can keep the farm or the ranch that their family has been working on for, in many cases, generations, and scraping that money together has never been more difficult as most of the potential buyers are similarly in financial straits.

So we are drying up in many parts of the country. It is all patchwork. It is not uniform. There are certain parts of the drought that even in certain parts of my State of Montana, you can tell from this map which indicates it is very dry. Some parts are more drought stricken than others. This bill is tailored to give help to those producers who are experiencing drought, who have a disaster, very little of their crop is left, and they would be compensated for only a portion of the loss. We have to act now.

Some will say: Put this off to another bill. This is the Homeland Security bill. This is not an agricultural disaster assistance bill.

That is a technical argument. The unanimous consent request states, and I will point it out to my colleagues, that first-degree amendments to this bill are in order related to the text of homeland security and natural disasters. This is a natural disaster amendment.

This bill clearly contemplates amendments that address assistance to parts of the country that are experiencing natural disasters. You might hear, gee whiz, after all, we should wait until an agriculture bill comes up. We cannot do that. We know there are 3 weeks left before we are scheduled to adjourn. There is no time to wait. We know the big disaster bill comes up for Florida, and we know the pressure here for that to be a clean bill—don't add anything to it because it so accurately portrays the devastation in Florida, and there is going to be a rush to adjourn and they don't want any amendments, and that will happen.

We are going to hear the argument to put it off until the supplemental or another bill. Well, you have to strike while the iron is hot here. You need to take advantage of your opportunities. This is needed now, not weeks from now. It is needed right now. Frankly, a bird in the hand is worth two in the bush. If we don't act now, we jeopardize assistance that farmers deserve, as well as the folks in Florida.

I point out that we see hurricanes and tornadoes and ice storms and floods in the news; newspapers and television cover that. Those folks deserve help and we will give them help before we adjourn.

We must also remember that an agricultural disaster such as drought is more of a silent killer; it is not as visible on TV screens, but the effect is just as bad, if not worse.

You are going to hear, why doesn't the farm bill take care of all this? We know it is important to remind ourselves that disaster assistance is completely separate from funding in the farm bill. It is a totally different animal, a different phenomenon.

The argument is also made that farmers and ranchers should be satisfied with the funding they will receive in the farm bill. The truth is, only 18 percent of the total funding in the farm bill goes directly to producers. The rest goes to food stamps, nutrition programs, et cetera. The farm bill is never intended to cover losses from natural disasters; it is economic losses, not natural disasters, as this amendment so provides.

In the same way we use emergency funds to rebuild communities hurt by tornadoes and hurricanes, we should rebuild communities hurt by drought. We should not treat natural disasters differently and just pay attention to the ones that make the evening news. A disaster is a disaster. There is no reason a double standard should apply. We must not and cannot continue to ignore the impact of drought, the effect it has on our agricultural producers,

and our rural communities. It is every bit as deserving of assistance.

I repeat that it is just as important as small business owners in Florida or anybody else. Florida needs assistance and we will give them that. Those folks are hurting. But I might also say that parts of rural America need assistance and we should give them assistance because they are hurting just as much in some cases, if not worse.

I will end there, just by saying this is bipartisan. We have just as many Republican cosponsors as Democratic cosponsors. It is not a political issue. This is meant to help people who really need help.

With that, I yield the floor and urge my colleagues to take a good long hard look at this and not be—I am trying to use another word—deceived by arguments that say this is just a Homeland Security bill. That is a technicality. The unanimous consent provides for natural disaster amendments to this bill. Second, there is no time to wait. That is why we are here. That is why we are elected, to do what is right.

Somebody, who was wise, said to me: When you are going to do something, do it now, don't wait. Second, do it right the first time. Don't do it wrong the first time.

I think if we are going to do it, we should do it now, do it right the first time; and the right way is a basic, simple amendment. We are not trying to take advantage of somebody or pad anybody's pockets. It is to help people who need help.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, I rise in strong support of the amendment of the Senators from Montana, Kansas, and others States that have been affected by natural disasters. We have enormous sympathy for the State of Florida and the extraordinary disasters they have faced, and we are ready to help them, as we have been helped in the past.

My State has once again been hit by the most remarkable set of disasters I have seen yet—and I have seen a lot—from the worst floods in the 1990s—we had the 500-year flood of the Red River. People may recall the images of that extraordinary flooding. In the 1980s, we had the worst drought since the 1930s.

This year, our State has been hit by a combination of flooding and drought that is truly stunning. It is almost hard to express what I have seen as I have crisscrossed North Dakota this summer.

These headlines on the chart sum up a little of what people in North Dakota have been reading all year: ''Water Everywhere, While Deadline Looms to Get Crops in the Ground.'' What that is talking about is that, in our State this year, nearly 2 million acres were prevented from even being planted because of extraordinary flooding. This is a continuation of the flooding in the Devil's Lake Basin that we have seen over the past 6 or 7 years. This lake is now bigger than the District of Columbia; it is several times the size of the District of Columbia. The lake has risen 25 feet in the last 7 years.

Throughout this entire basin, which is the size of the State of Massachusetts, the land is increasingly under water. There is a joke in North Dakota that Lake Agassiz may be reforming. Lake Agassiz, my colleagues will remember, was a giant lake, a glacial lake that covered much of the State of North Dakota in earlier ages.

Something truly phenomenal is happening in my State. Some have suggested that global climate change is affecting the severity of the weather. I don't know, but something dramatic is happening. We have towns that have experienced 18 inches of rain in 1 day, and these are places that only get 20 inches of rain in a year. It is Biblical and it is unlike anything we have ever seen.

In the midst of all of this, we had a killer frost in August. Whoever heard of a frost in August? In fact, we had several frosts in August. And while that is happening in the northern tier of the State, in the southwestern part of the State is the meanest, toughest drought I have seen in my lifetime. I just toured the southwestern part of our State. In county after county, I was in pastures that are like moonscapes because nothing is growing.

This is a headline from one of the newspapers back home: ''Drought Cancels Annual Crop Show.'' They cannot have a crop show because there are no crops to show. That is how devastating the drought has been in the southwestern part of the State. At the same time, the great irony is, just a hundred miles north, it is so wet they cannot get the crops off. I had one farmer—Mr. BAUCUS—say to me: The incredible thing here, Senator, is when you look from the road, it looks like there is 90 bushels of barley there, but you cannot get in to harvest it because it is so wet that your equipment bogs down. Now, here we are in the second week of September and there are very few days left that will be warm enough to mature the crop. The result is going to be losses that will mount geometrically.

This says, ''Losses Total $530 million.'' This is our State university that has done a calculation of the extraordinary losses. Already, there have been Presidential disaster declarations.

I make these points because while we have enormous sympathy for Florida and are prepared to assist them and to vote for natural disaster assistance to them, they are not the only ones being affected by natural disasters. I wish it were not so. I wish nobody was being faced with natural disasters, but that is the circumstance we face.

On this most recent tour, this is a wheat field that we were looking at. This is a wheat field in September. It is not up much past a person's socks. There is nothing here. It was a total loss. These people are going to lose their entire investment.

Here is a cornfield. We say knee high by the Fourth of July. You can see this corn is not knee high by the first week in September. In fact, most of these corn plants have no ears on them. About one in four has any ears, and the ears they have are like those little miniature ears that one gets in a salad when going to a restaurant. It is unlike anything I have ever seen.

This is a cornfield that is totally stunted. This is one of my assistants who is holding up this corn plant showing there are no ears on it. It is a total loss. As the farmer who was with me said: Senator, that is garbage. That whole field is just garbage.

Yet here is another part of North Dakota—I do not know if people can see this clearly through the television lens, but this is mile after mile of northern North Dakota—water, water everywhere. Everywhere one looks there is water. That is the circumstance we face in North Dakota.

In the middle of all of this, here is a map that shows the damage. There are 1.7 million acres that were prevented from even being planted all across northern North Dakota. All the green area is places where acreage was prevented from being planted. Just to put 1.7 million acres in perspective, how much is that? That is 25 percent more than the whole State of Delaware. That is the acreage they could not even plant. Those who were lucky enough to plant could not harvest. They could not harvest because it is so wet the machines are bogged down. That is what we are facing in North Dakota. It is not just drought and it is not just flooding.

On top of that, killer frost. Here is the indication of where they had killer frost. My colleagues can see in the blue those are areas that had killing frost this year. On August 20, 2004, there were freezing temperatures. The areas in the lightest blue experienced temperatures from 28.5 degrees to 32.2. In the next shade of blue, 32.2 to 35.9. In all of these areas, enormous damage was done to the crops.

One does not have to take my word for it. We brought back pictures showing what has happened. This picture is from Cass County, ND, an ear of corn unaffected. This picture was taken on August 24. That is a healthy ear of corn. Look at the Foster County picture taken the day before, August 23. This is frost-damaged corn.

My colleagues can see what a totally different picture it is, the difference between corn that is healthy and unaffected and that which has been damaged by frost.

The losses in my State are now enormous and growing geometrically. Our State university just did this assessment: Prevented planting losses as I described, 1.7 million acres, a loss of over $206 million; crop production losses, $264 million; crop quality losses,

another $58 million. Total losses in my State so far, $530 million.

Now, some say that is what crop insurance is for. Let me explain. Crop insurance will only cover 40 percent of the loss, not even 40 percent of the loss, because of the way crop insurance works. That is with the vast majority of my farmers buying crop insurance. Some will say, gee, more farmers should have bought crop insurance. In my State more than 90 percent of the farmers do buy crop insurance.

The way crop insurance works, it in no way makes one whole. It just offsets the losses, and when the losses are this massive and this significant, crop insurance only covers less than 40 percent. This shows net direct crop losses of almost $330 million.

The economists at our State university then did an analysis of what the indirect losses would be to the State. Households will lose $511 million. Retail sales will be reduced by $245 million, and put in the direct crop losses, that is an economic loss to North Dakota's economy of over $1 billion, and $1 billion to my little State is a huge amount of money. I know in Washington $1 billion may not seem all that significant. It may not be all that significant in California or New York, but in North Dakota $1 billion is real money. It means real hardship to real people, people who deserve assistance just as much as the people in Florida who have been devastated by hurricane after hurricane.

Our people have not been hit by a hurricane. They have been hit by flooding, frost, and drought. What a perverse collection of natural disasters to visit any State in any year.

The final point I wish to make to my colleagues who may be concerned that we are busting the budget is this is what has happened to the pattern of farm payments under the new farm bill. The national press has missed this story completely, I might say, but the fact is, farm program payments have come down dramatically under the new farm bill.

This is where they were under the old farm bill, $32.3 billion in the year 2000; 2001 it came down to $22.1 billion; 2002, $15.7 billion. Then we had a tick up in 2003 to $17 billion, and in 2004 they are anticipating the spending will be $11.5 billion. That is $20 billion less than 2000. The national press has not reported this at all.

The fact is, the new farm bill is costing a lot less than what we were spending under the old farm bill, much less. This year, it is $20 billion less than the cost was going to be in 2000.

My colleagues know I have been voting against waivers of the Budget Act for amendment after amendment, and I have told my colleagues there is only one exception for me and that is natural disaster, whether it is Florida, Georgia, North Carolina, South Carolina, North Dakota, Minnesota, Montana.

The hard reality is, natural disasters are unpredictable. Nobody can know who is next. Nobody can know who is going to face a flood or a drought or a hurricane. That is why we have always treated them as emergencies, with emergency funding. That is my intention this year as well.

I believe we have natural disasters. Nobody could have predicted Hurricane Charley or Hurricane Frances or Hurricane Ivan. And nobody could have predicted these terrible droughts.

Senator NELSON from Nebraska said we ought to be naming droughts because then it would get more attention. It kind of personalizes things. People could understand when we are getting hit with a natural disaster, because it has a name. We don't name droughts. Maybe we should. We certainly name a hurricane and that helps us personalize it and remember it. Droughts and floods don't have names, but I will tell you what, they affect real people who have names.

I have gone all across my State in dozens of farm meetings, all across the northern tier of North Dakota with this devastating flooding, and all across the southwestern part of my State with this disastrous drought. These are real people, real families, who are being devastated and, through no fault of their own, they are on the brink of being pushed off the farm. They have been devastated every bit as much as the people in Florida. All of them deserve our assistance and our support. I hope very much our colleagues will support this amendment.

I yield the floor.

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 3641

Mrs. BOXER. Mr. President, I ask the pending amendment be set aside and that we take up amendment No. 3641, which has been cleared on both sides.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mrs. BOXER], for herself and Mr. CARPER, proposes an amendment numbered 3641.

On page 20, line 14, strike ''rail'' and insert ''inter-city passenger rail transportation (as defined in section 24102(5) of title 49, United States Code), freight rail,''.

Mrs. BOXER. Mr. President, this is a very simple amendment. I give tremendous thanks to Senator TOM CARPER of Delaware who has worked so hard on this amendment, and Senator BIDEN for his strong support. They have been a real leadership team, in terms of real security for Amtrak. I am pleased we were able to work together.

I also thank Senator COCHRAN enormously, because he has been so helpful to us, and of course Senator BYRD. Basically, last March we received what should have been a wake-up call when terrorists blew up a commuter train in Madrid, Spain, killing nearly 200 people and injuring 1,400. I don't think there is any American who will not remember our shock and sadness at what occurred.

Obviously, we have to address the vulnerabilities of America's rail systems. We must act now. I am so pleased that the bill before us includes more than $207 million for rail and transit security. This amendment that Senator CARPER has done so much work on and which I have worked with him on will make it clear that all rail operators will be eligible for this vital funding. This will allow the Secretary of Homeland Security to use full discretion to allocate funds to those operators with the greatest need regardless of whether they are local transit agencies, Amtrak, or freight railroad. This minor change will go a long way toward helping, and clearly many of us believe we need to do more.

I proudly sit on the Commerce Committee. That committee has now twice voted out rail security bills that are very strong. But adding more dollars to rail security would enable us to do more checking on what may be lying on the railroad tracks and set up a system so we can be sure that baggage on trains does not contain bombs. We have K–9 teams.

There are many things we want to do. It is a great frustration for me that even though Senator MCCAIN and Senator HOLLINGS and the whole committee in a bipartisan way passed railroad security not once but twice, that bill sits at the desk, as does the port security bill that we voted out, as does the nuclear plant security bill the Environment Committee voted out, and the chemical plant security bill. It is frustrating. But tonight, at least we have a chance to do a little bit more for rail security. I am very grateful for that. I know this amendment has been cleared on both sides.

I see Senator CARPER coming to the Senate floor, so I will yield the floor. But once more, I give him my tremendous thanks for his very hard work. It is wonderful to see that we can accomplish something when we reach across the aisle. We have taken a big step. Of course, we want to take even bigger steps to make sure our rail passengers are safe.

I will yield the floor at this time. I would like to know, because I would like to leave the floor at this time, if it is OK to ask for this amendment to be adopted in a unanimous consent fashion at the conclusion of Senators who wish to speak.

Mr. COCHRAN. Mr. President, if the Senator will yield, I am happy to express my support for the adoption of this amendment on a voice vote at the conclusion of the remarks of Senators

from Delaware and California or any other Senators who would like to speak.

Mrs. BOXER. All right. At the end of Senator CARPER's remarks, if no other Senator seeks recognition, then he can make that request. Would that be appropriate at that time?

Mr. COCHRAN. Mr. President, that would be my suggestion. If the Senator will yield, we will adopt the amendment on a voice vote at the conclusion of the remarks of Senators who are interested.

Mrs. BOXER. My thanks to everyone involved.

I yield the floor.

Mr. CARPER. Mr. President, before Senator BOXER leaves the Senate floor, I want to thank her for her tenacity and leadership on this issue. I think we have come to a conclusion.

I see my senior Senator, Senator BIDEN, has joined us as well. This is an issue he has worked on longer than I have been in the Senate. I want to say to my friend, job well done.

I say to Senator COCHRAN and his staff on the Senate floor, and Senator BYRD as well, thank you very much for working with us in writing a very good compromise. A number of us have expressed concern upon learning that as money was added to this bill for transit security, there was an inability—in fact, no ability—for us to access these dollars to enhance security for inner-city passenger rail, on rails principally Amtrak, and to enhance the safety and security of freight railroad operations.

As it turns out, the Northeast corridor, which runs from Washington, DC, up to Boston, MA, is owned by Amtrak. Not only do Amtrak trains ply these corridors from here to Baltimore to Wilmington to Philadelphia and New York, on to Boston, but you can stop in Providence, the State of the Presiding Officer. Also, a lot of freight rail use these tracks. The tracks themselves, the overhead wires, the tunnels through which these trains go, the bridges over which they cross are owned and operated by Amtrak. The commuter trains that use the tracks from here to New York City and on up to Boston in many cases are owned and operated by Amtrak. For us to have passed legislation here today which attempts to promote rail security at least by giving money through State and local governments to transit operations without allowing Amtrak to have any access to those moneys I believe would be very shortsighted.

With the addition of this language which we have worked out on the Republican and Democratic side, we have actually a larger pot of money than we started with. That is good. With the addition of this amendment, we have the ability to enhance the safety and security of inner-city passenger rail operations and freight rail operations, too.

When I go home later this week, I will probably take the train. There is a tunnel that runs under this Capitol in which we work that is about 100 years old. There are concerns about the safety and security of trains that go through there. There is a tunnel under Baltimore that is about 130 or 140 years old. There are six tunnels that are about 100 years old which go in and out of New York City and under the rivers. They have problems with respect to ventilation, lighting, surveillance, and all kinds of safety concerns. They need to be addressed, and they can be addressed at least partly with money made available here.

Not all enhancements to safety and security for rail need to be as expensive as fixing old tunnels. Some of them can be as inexpensive as adding dollars for an old technology—the ability of our K–9 corps to detect bombs and explosives. It is as good today as it was 20, 30, or 40 years ago. With this money, those folks who are running our inner-city passenger rail will be able to better use K–9, if that makes sense, for detecting and ensuring our trains don't end up with explosives on board.

Again, in conclusion, we have come to a good place. This is not an amendment that, frankly, asks for more money. It is an amendment that actually enables us to use some common sense in allocating the moneys that have been added to the bill. It will allow us to enhance the safety and operation of our commuter operations, whether it be commuter trains or buses. Hopefully, we will also be able to use a good deal of this money to enhance the safety of inner-city passenger rail and some of our freight operations. For that, I think we can all be grateful.

I yield the floor.

The ACTING PRESIDENT pro tempore. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 3641) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SMITH). Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I would like to read a list of supporters of the pending amendment which provides for emergency agricultural disaster assistance: the Alabama Farmers Federation, American Corn Growers Association, American Farm Bureau Federation, American Soybean Association, Georgia Fresh Fruit and Vegetable Association, Georgia Peanut Commission, National Association of Farmer Elected Committees, National Association of State Departments of Agriculture, National Association of Wheat Growers, National Barley Growers Association, National Cotton Council, National Council of Farmer Cooperatives, National Farmers Union, National Grain Sorghum Producers, National Milk Producers Federation, National Potato Council, National Sunflower Association, Southern Peanut Farmers Federation, U.S. Canola Association, USA Dry Pea & Lentil Council, USA Rice Federation, and Women Involved in Farm Economics.

Mr. President, I ask unanimous consent, if consent is necessary, to add as cosponsors to the pending amendment Senator COLEMAN of Minnesota, Senator DAYTON of Minnesota, and Senator CLINTON of New York.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I think the growing support indicates we should adopt this amendment. There may be a point of order raised. It would be a technicality. I hope if that is raised, Senators will vote to waive that point of order so we can help some people in America, farmers and ranchers in various States all around our country, who have suffered from drought disasters or, as in the case in North Dakota—it is very interesting—from flood disaster.

It was very sad listening to Senator CONRAD speak about North Dakota, how part of the State has been devastated by flooding, with 18 inches of rain in 1 day, if you can believe it. The average annual rainfall in the upper plains States is about 14 inches a year. They had 18 inches in 1 day. That is in one part of North Dakota. In another part of North Dakota, they have had the worst drought he has said he has seen in his lifetime.

I might say, the condition is somewhat similar to that in Montana. Northeast Montana is getting a little more moisture than it usually gets, but southwest Montana is getting a lot less than it normally gets. It is hard to know where we are going to get drought and where we are not. But there is drought.

We are asking to use the formulas that are in the law; that is, the Emergency Livestock Feed Program and the Crop Disaster Assistance Program. Let's use the formulas in the law. If they need disaster assistance, we should give it to them.

In addition, Mr. President, I ask unanimous consent to add Senator MURRAY as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. The more I speak, the more I am getting cosponsors. I ought to keep talking. They are coming in at a rate of about four a minute.

With that, I urge Senators to support this legislation.

TREES

Mrs. CLINTON. I would like to engage the Senator from Montana in a colloquy on Senate amendment No. 3636, the agriculture disaster assistance amendment. I appreciate his hard work in bringing this amendment forward. New York's farmers have suffered this year—both from heavy rains in July and from damaging winter frosts. In particular, both apple trees and grape vines were destroyed in New York this past winter. And while the losses for this year's crop will be covered by the crop disaster assistance provisions of this amendment, it is the tree assistance program that assists growers in replacing their lost trees and vines. So I thank the Senator for including that provision, and I would like to clarify with the Senator that the term ''tree'' as used in his amendment is used in the same way as it is defined in the 2002 farm bill. That is, term ''tree'' in this context means trees, bushes and vines, and would therefore assist New York's apple growers and grape growers alike.

Mr. BAUCUS. I thank the Senator from New York for her support of the amendment, and I assure her that the Tree Assistance Program provision in my amendment is intended to cover eligible losses of trees, bushes and vines.

Mrs. CLINTON. I thank the Senator for his assurance on this issue.

Mr. COLEMAN. Mr. President, I rise in strong support of the bipartisan amendment offered by my good friends and colleagues from Montana, Senators BAUCUS and BURNS, and am proud to be an original cosponsor of this measure important to my State of Minnesota.

Earlier this year, heavy precipitation and moisture prevented many farm families from planting a crop at all and not long afterward, many of them lost what they had planted. This led to a disaster declaration request for three especially hard hit counties along the Canadian border: Lake of the Woods, Roseau, and Marshall Counties.

Then, after a late start in the growing season, my State's farm families were hit with a bizarre August, yes August, freeze that took its toll on another at least 29 counties for which disaster declarations are being sought. This includes pretty much everything north of Interstate 94 that runs from the Twin Cities northwest toward Fargo Moorhead.

It's been said that Minnesota is a place with 9 months of winter and 3 months of poor sledding but a freeze in August even surprised us.

But all kidding aside, this has been a rough season for my farm families and depending on what happens in the next few weeks, it could get a lot worse and become a statewide problem. My farm families tell me, particularly south of I–94, that they need an extra 15 days of growing season beyond what is normal in order to get the heat units necessary to produce a decent crop. If they don't, they are looking at some of the lowest yields since the great flood of 1993, which I remember as the newly minted Mayor of Saint Paul when the same flood ripped up parts of our capitol city.

Now, I know some folks think that we should not be providing disaster assistance to my farm families. They note that my farmers already have insurance. In fact, better than 95 percent of my farm families do carry crop insurance. But, those who face other kinds of disasters also carry insurance, and yet this does not bar them from disaster relief—nor should it. In fact, folks who carry insurance on their cars, on their boats, on their businesses, and on their houses carry insurance that—save the deductible—allows them to recoup the market value of what they have lost. Not so with farmers. Our farmers have to absorb as much as 15 percent, 25 percent, 35 percent, and sometimes even more of their loss alone before they even begin to qualify under their insurance policy. So, disaster assistance is meant to help bridge the gap that exists for farmers but not for others.

This disaster assistance amendment is not out of bounds. It is the traditional level of disaster provided in past years. There is a crop disaster payment covering crops of every kind; a livestock assistance program that helps our livestock producers recoup feed costs resulting from natural disaster; and a quality loss program to help producers who do not suffer yield losses but suffer quality losses that cut into the price they receive in the market place.

Frankly, I believe it is time for us to put our heads together in a bipartisan fashion and craft a more coherent, predictable, fiscally responsible, and long-term policy that better addresses natural disasters. I know that this has been attempted in earnest numerous times in the context of crop insurance—with considerable success—as well as in the context of an emergency reserve or standing disaster program, albeit with less traction in this regard. But, clearly, we need to take another hard look at this issue and see what we can do about alleviating the need for ad hoc relief like this, which is not very reliable to those it's intended to help and not the best option in terms of Federal budgeting.

I urge the amendment's adoption, but I do so looking down the road a ways in hopes that, in the future, we find a new and better way of addressing these crises whose timing we can not always predict but whose occurrence we can certainly all foresee.

Mr. NELSON of Nebraska. Mr. President, I support our amendment to provide emergency drought disaster assistance for farmers and ranchers who have suffered under a prolonged—in some areas a 5 year—drought. I am pleased to be working with Senators CONRAD, BAUCUS, DORGAN, BURNS, ROBERTS and BROWNBACK to offer this amendment. It is a bipartisan amendment, with strong support. This amendment has the strong support of our national farm organizations, such as the American Farm Bureau Federation and the National Farmers Union.

Nebraska's facing its fifth straight year of record drought, which as you know has a damaging effect on the agriculture industry, as well as the main street of every Nebraska community. The same is true in Montana, North Dakota, Kansas and other States as well. Droughts, hurricanes, tornadoes and earthquakes, are natural disasters and deserve to be treated the same. Multiple years of drought have cost our Nation billions of dollars in economic losses and have many farmers wondering whether they'll be able to carry on.

We were successful in 2003 in getting assistance to our producers, but only at half the amount necessary. We passed a $3.1 billion assistance package that was offset with farm bill programs—a plan I opposed. I offered a $6 billion emergency assistance package that if it had passed; we probably wouldn't be here today seeking what we were denied in 2003.

I have continuously worked for the additional assistance we have been unable to secure. I have repeatedly called on the President and Congress to support funding for drought aid for our farmers and ranchers, and to fully fund the crop and livestock disaster programs so critical to Nebraska's farmers and ranchers. This is of the utmost importance to farmers and ranchers in Nebraska and across all the areas suffering from this natural disaster.

The estimated cost for this disaster assistance is $2.9 billion. The assistance will be provided through emergency assistance in the form of a Corp Disaster Program, Quality Loss Program and a Livestock Assistance Program. This assistance is targeted to those who need it most. It will help recover eligible losses sustained by producers in counties designated as primary or continuous disaster areas during the 2003 or 2004 production years.

Producers can choose to claim losses for either the 2003 or 2004 production years, but not both years. This flexibility will allow for ranchers and producers to seek assistance for the year with the greatest negative impact on their farm operation.

I am happy to report that a similar effort is underway in the House of Representatives. Nebraska's own TOM OSBORNE is leading a bipartisan effort to secure relief for agriculture producers. I am hopeful that my Senate colleagues will join me in supporting this amendment. We must respond to the crisis this drought has caused in Nebraska and our Midwestern neighbors.

Mr. BURNS. Mr. President, I am pleased to join my fellow Senator from Montana in sponsoring this agricultural disaster amendment. Agriculture is Montana's largest industry, and these persistent weather-related losses are devastating to our economy. Farmers and ranchers across the country are

struggling to cope with weather-related disasters, and this amendment will deliver needed relief to those producers. Whether we are talking about hurricanes, floods, or the prolonged devastation caused by drought, some of our producers are barely hanging on.

I am particularly happy that this amendment responsibly targets assistance to those individuals who need it most. It provides crop disaster assistance, livestock disaster assistance, and funds for the American Indian livestock feed program. It allows producers to choose which year's losses 2003 or 2004 were the worst. In Montana, most folks suffered the biggest losses in 2003. Our crop losses that year were over $70 million. Livestock producers in many counties in 2003 lost a good percentage of their pasture land to drought. For others, 2004 may have been the year that nearly finished them off. Nearly half of our grazing land is in poor or very poor condition. Record low streamflows are still being recorded, and our reservoirs are nearly empty. And even though some of our wheat producers had good yields, topsoil moisture is still well below average. The drought is far from over in Montana, and throughout the West. Some folks need the assistance for 2003 losses, others for severe weather losses incurred this year. This amendment will let farmers and ranchers make the right choice, based on their individual situation.

I know some of my colleagues have concerns about the price tag of this bill, and I admit it worries me too. But there are people back home who might not make it another year if they don't get relief from the impacts of a 6-year drought. Drought is a silent killer. It doesn't make headlines, and few television stations report on it. This assistance is essential for those people just like it is critical for farmers with flooded cropland, or producers with unexpected summer frost damage. This bill is targeted to just those who meet certain loss thresholds, to make sure that assistance goes where it is most needed, whether that need be in Florida, Maine, or Montana. We cannot discriminate between producers or disasters.

I thank my colleagues for their support of this amendment, and look forward to its adoption.

Mr. ROBERTS. Mr. President, today I rise in support of the Baucus amendment. This amendment ensures that farmers and ranchers across the country will receive assistance for losses sustained through natural disasters.

In Kansas this assistance is critical to provide aid to our farmers and ranchers who have been hit hard by a multiyear drought. While many have viewed the terrible destruction wrought across Florida and the Southeastern U.S. by successive hurricanes in recent weeks, I cannot forget the terrible drought that has continued to grip much of the western portion of Kansas.

I also cannot forget the eerie photographs, taken earlier this summer, of a giant dust cloud that swept across western Kansas. This dire result of continuous drought caused Interstate 70 to shut down, its dust inundated homes and hospitals and even caused a tragic traffic accident that claimed the life of a distinguished Kansan, the late State Senator Stan Clark.

It may surprise my colleagues, but I am no fan of Federal disaster programs for agriculture. They are difficult to pass and often a disaster to implement.

It is unfortunate that the current farm bill, which I voted against, does not provide producers with assistance when they need it most—when there is no crop to harvest.

Without the crop insurance program, which I fought to improve and enhance in 2000, and additional Federal disaster aid, many Kansas producers might not be around another year to continue participating in the current farm bill.

Mr. President, I stand in support of the Baucus amendment. I urge my colleagues to do the same.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I have been in a markup of the Appropriations Committee for the past several hours. I wanted to be here when my colleagues offered the disaster relief legislation. I was not able to be here at that point, but let me add to the comments that have been made by my colleague from Montana, Senator BAUCUS, and my colleague from North Dakota, Senator CONRAD, and many others.

The amendment that has been offered, as a bipartisan amendment on behalf of Republicans and Democrats who represent a significant part of farm country, is to ask the Congress to consider passing a disaster bill to respond to weather-related disasters in our part of the country.

Let me begin by saying it is my intention that I would support all and any resources that are necessary to respond to those who have been devastated by successive hurricanes.

Those in Florida and other parts of the Southeast, and now those in the gulf area who may well be hit by another hurricane, have had a devastating time of it. It is sad to see the plight of the victims on television when these hurricanes come through and destroy property and destroy homes and destroy livelihoods. It is a pretty awful scene. When that happens, this country has an obligation to extend its hand to those victims and say: You are not alone. This country wishes to help.

I have always voted in favor of disaster assistance and always will because it is part of what this country needs to do for those who have been hit with tough times. That is certainly the case with respect to those hit by the successive hurricanes in the southern part of our country. My colleague from Montana and others have said that as devastating as those hurricanes are—and it is hard to adequately describe the devastation—there are, in addition to the damage from those hurricanes, other areas of the country that have suffered weather-related disasters.

My State is one of those States. I will describe what has happened in my State.

I have toured throughout the entire State of North Dakota in the past months. In the northern part of our State, torrential rains in the spring that came and stayed in a torrent of moisture meant that 1.7 million acres of ground could not even be planted in North Dakota. Obviously, that is a serious economic problem for our State, but it is a devastating circumstance for a farmer that had all of their ground inundated by these torrential rains and couldn't plant an acre. That is a personal circumstance that is very difficult because they will lose all of their revenue. Many of them will go out of business. That is a time when disaster assistance is necessary.

In other parts of North Dakota in the southwestern corner, I had ranchers tell me that from January 1 to July 1, they received 2.2 inches of moisture total in 6 months. One can imagine what their crops look like.

These are two pictures from my State. They describe the circumstances faced by producers. This is a field inundated with water. It would not have been planted, and this farmer would not have an opportunity to make a living by planting this field because the field will be prevented from being planted by this water.

This, in the same State, looks like a moonscape. It is an area that is completely without moisture, a pastureland that has no growth. These are from the same State in the same year.

We had, in addition to the torrential rains and the drought in different parts of the State, in the month of August, strangely enough, a frost, and then a freeze. What happened as a result? My colleagues can look at a cob of corn. This shows a healthy cob of corn. That is what you get when you produce it and you have the heat units and you are able to harvest and pick the corn. Here is what happens when you have a freeze in August, exactly when corn needs heat units to grow. Perhaps even more dramatic, here is what a healthy field of soybeans looks like. We have a lot of acres of soybeans. It looks great, a beautiful green field.

Here is what that same field looks like after you have a freeze in the month of August when you need the heat units to be able to have these beans reach maturity and growth.

It is estimated by North Dakota State University that in North Dakota,

the impact of these weather-related disasters was about $1 billion total. The impact on farmers is more than half a billion dollars. And that which is above that, which crop insurance would pay, is over a third of $1 billion. That is a weather-related series of disasters that is significant and troubling to the producers in our State.

My colleague described the circumstances in Montana. Others will describe circumstances in their States. The point is, this damage was not from a hurricane that came with a fury and in just a matter of days blew its way through and devastated a lot of property. In most cases, this was either a slow motion drought that just drained the life from the soil, or torrential rains, as happened in the northern part of North Dakota that made 1.7 million acres unplantable. Those, too, are weather-related disasters and circumstances in which the Congress should want to—and I expect will want to—reach out its hand to say you are not alone to family farmers and ranchers trying to make a living, trying to survive tough times, trying to deal with weather-related disasters by themselves.

I hope this Congress will, once again, say to those family farmers and ranchers: You are not alone. You don't have to deal with this by yourself because we know you can't. When you lose all sources of revenue for an entire year, then we want to help.

I have served in the House and the Senate. I don't believe I have ever failed to support disaster assistance when it is necessary. I will continue to aggressively support disaster assistance again now for the people of Florida, the Southeast, the people in the gulf region who may be hit. We need to pass that disaster assistance. I will strongly support that.

The amendment being discussed is offered by my colleague and me and others who say there are other weather-related disasters as well that we need to deal with in this bill. We expect our colleagues will understand that. But it should not in any way be misinterpreted as wanting to hold up the necessary resources to deal with and to help make whole those—I guess we probably never make whole people who have suffered a disaster, but at least to say to those folks who have been hit over and over again by the vicious hurricanes: You are not alone. This country wishes to help. We are determined to do that.

I am pleased to at least raise my voice to say I am going to be one person who supports aggressively that which is needed for the citizens of Florida and other parts that have been affected by hurricanes. My hope is that they, too, will help our family farmers and ranchers in South Dakota and North Dakota, Montana, and other regions of our northern Great Plains that have been hard hit by weather-related disasters this year.

Mr. JOHNSON. May I put a question to my colleague?

Mr. DORGAN. I am happy to yield for a question.

Mr. JOHNSON. We all feel for the enormous damage that has occurred in the State of Florida, and there is great risk that there will be additional damage in other Southern States from these hurricanes. One of the great problems that strikes me about the kinds of disasters we are talking about in the northern plains, where we have had this severe drought year after year after year, and the Missouri River now, I am told, is at the lowest level in living memory, or at least since it was impounded into the Missouri River Dam, one of the characteristics of that kind of disaster is that it is as profound as a hurricane, but it is in slow motion. It does not turn buildings upside down, and it doesn't throw cars around. But what it does to the Earth and the lives of these producers is catastrophic.

I am especially pleased with the recently adopted drought provision to the American Jobs Creation Act. With my support, the Senate adopted legislation authored by Senator DASCHLE that would provide increased flexibility for livestock producers to rebuild their herd after drought. The legislation extends the amount of time from two to four years that producers have to reinvest an amount equivalent to the sale of cattle into their farm through the purchase of machinery or equipment with no tax owed whatsoever. Unfortunately, the American Jobs Creation Act has failed to emerge from conference so that it can be voted on by this body. I am hopeful that we will see this bill emerge from conference soon, and that this exceptionally beneficial provision will be included.

The United States Department of Agriculture (USDA) released $1.9 million in unused Emergency Conservation Program (ECP) funding for stopgap water hauling measures, and authorized emergency grazing on Conservation Reserve Program (CRP) acres in limited counties across the country. In South Dakota, only parts of a few counties have qualified for emergency grazing. These measures fail to provide any substantive relief for our agriculture producers during an exceedingly challenging time. I am also concerned for the Agriculture Secretary's recent decision regarding emergency nonfat dry milk assistance. Although nine states and 95 counties were included in this program, South Dakota was excluded from this assistance.

In 2002 and 2003, Senator DASCHLE and I pushed for a $6 billion drought relief plan that would have helped many farmers and ranchers make it through this multi-year drought. President Bush and others in the Senate opposed our proposal and in the end, would only allow a $3 billion package to pass. While it has taken an enormous amount of time and effort to secure bipartisan support for relief in such a harsh budgetary year, I am pleased to see that Senators from both sides of the aisle recognize the importance of ensuring that victims of agriculture disaster are deserving of a comprehensive assistance package. I am pleased to support this amendment and am hopeful for the impact on South Dakota agriculture.

I have walked across fields of South Dakota that frankly look like a moonscape, where there is nothing growing. It is simply dirt. Stock dams where there is either no water, or the water is of such poor quality, it is so murky that it would be a mistake to allow cattle even near the water. In fact, there are stories of pulling cattle out with a tractor because they get mired in the mud. It would seem to me that this disaster, although different in nature than the others, is equally as profound, equally as damaging, and has an equally long-term negative consequence on those who are victimized as any other disaster that may be striking America today.

Does my colleague see it in that perspective?

Mr. DORGAN. Senator JOHNSON has described well the circumstance in a number of areas.

I have seen big, strong family farmers and ranchers with tears in their eyes describing circumstances where they approached this year with some hope and then discovered that almost everything they intended to do was gone. The grain they planted was washed away, or the field they intended to plant was inundated with water and they couldn't plant it, or in the Southwest they planted seeds and they never grew because they got no moisture. It is a devastating circumstance.

The network of farmers around this country who live on the land, under that yard light all by themselves, they live on hope. They risk everything in the spring to put a seed in the ground. They live on hope that somehow it will grow, that somehow they won't get too much rain but they will get enough rain, that they won't have crop disease, that all of these things will happen, and they will be able to harvest and maybe somehow there will be a good price when they harvest.

But it has been devastating when they can't plant a seed that will grow because there is no moisture, or when they can't plant a seed at all because the water has inundated their land. They set their jaw and they act like, well, they will get through this. But many of them have told me that they won't get through this. You can't live without income, especially with the cost of doing business on family farms these days.

That is why at this time, in this circumstance, my colleagues who have joined in offering this amendment are simply saying let's say to these folks as well you are not alone. They have had a tough time. This, too, is a weather-related disaster. Let's recognize it and deal with it in an appropriate way. That is what this legislation does.

We have done this before. It is time now, and there is a need to do it again—to say to family farmers and ranchers in this country: You matter; we care whether you exist out there. You are part of the culture of this country in which family values exist, nurturing, refreshing families' values from small towns to big cities.

That is part of the important culture of this country. When they are in trouble, this country is in trouble. I hope we will agree to advance this amendment as we will advance all the help necessary for the hurricane victims.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I will make a few comments concerning the Baucus amendment requesting $2.65 billion of drought assistance. I have two or three comments. One, it doesn't belong on this bill. This is the Homeland Security bill. This is not an agriculture bill, not even an urgent supplemental bill.

Senator REID, the assistant minority leader, has stated repeatedly let's do the supplemental separately from Homeland Security. I happen to think he is right. One could debate it, but he stated repeatedly and recommended strongly to the Senate to have a separate bill on the President's request.

The President requested yesterday $3.1 billion for hurricane relief. He requested it yesterday. That doesn't mean it has to be done on the Homeland Security bill. Senator REID thought it should not be on this bill. We don't even have that amendment. The President didn't request drought assistance. I looked back over the history of drought assistance and I see a lot of requests. In 2002, we had $600 million, I guess, in drought assistance. In 2003, it was $3.6 billion.

But I might say it was offset by reductions in other programs in the Agriculture Committee. How can we pay for this request, because we don't have the Agriculture bill up to have offsets? This bill is not offset. This is just to add $2 billion or $3 billion of additional money. I would like to have it be paid for. I might support it if it is paid for. I might not. I want to see how it is paid for. I know in this case it is not paid for. It would add to the deficit. I am not willing to do that. So a budget point of order will lie against the amendment, and this Senator plans on making one.

I don't think this is the way we should do business. I think we should follow the regular order, to the extent we can. We should be talking about an appropriations bill and maybe consider the President's request. If Congress wishes to change it or alter it, I guess we have the right to do so. But to try to double it, when we just got the President's request, and not even consider an offset, not even look at an offset, I think is a serious mistake.

I don't know if this is more about helping farmers or politicians. If you want to help farmers, I think we can find a couple billion dollars in offsets. We did last year. Why can we not find an offset to pay for it this year?

I make those comments. Senator REID urged us time and again to do the urgent supplemental separate from Homeland Security. We just received the President's request, which was $3.1 billion, and it didn't include this. To pass an urgent emergency supplemental takes 60 votes, and it is this Senator's intention to hopefully join with Senator COCHRAN and Senator STEVENS in objecting to the emergency designation and making the budget point of order on this amendment, and passing Homeland Security.

Let's finish the job we have at hand. We have a real problem. Senator COCHRAN has done an outstanding job in managing the bill. He has already defeated amendments that totaled over $19 billion—not including the amendments this afternoon—for 2004, and $256 billion I think over a 10-year period of time, using budget points of order. A budget point of order lies against this amendment as well.

So I compliment Senator COCHRAN for his leadership and urge our colleagues who are pushing this amendment to postpone it, hold it back another day, or find offsets to help pay for it. That is what we did last year. It had strong support last year after it was paid for.

If memory serves me correctly—and I am stretching it—early last year we considered this and, initially, people tried to pass it without offsets. Objections were raised and eventually some offsets were found. That was done in the early part of last year. That was done in February of 2003. I don't think we should just be adding another $2.5 billion to our debt and deficit in this manner. So I urge our colleagues, at the appropriate time, to support a budget point of order against this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. NELSON of Florida. Mr. President, the amount just referred to as an urgent supplemental requested by the President of $3 billion is the money that is requested by the President for Florida's two hurricanes that just hit us. It does not include any amount for agricultural losses. The $3.1 billion includes Department of Defense losses, NASA losses, Small Business Administration losses. FEMA itself is $2 billion of that, with all of these ongoing expenses of the back-to-back hurricanes.

What is missing from the President's request is the agricultural losses, which are substantial, from these two hurricanes. For example, the citrus crop alone is over $½ billion in losses. The nursery industry, which is a huge industry in Florida, has losses of $½ billion.

Now, the question is, How do we address this? I was expecting that the President was going to include the agricultural losses in his request. He has not. So how do we address this, since the needs are obviously there?

Presently, there are discussions going on between my office and the sponsors of this amendment. There is a little bit in this amendment for Florida agricultural losses from the two hurricanes, but it is somewhere in the range of $150 million to $300 million. That is a drop in the bucket compared to what the elected Florida agriculture commissioner has totaled up the losses at, which is $2 billion.

It is my hope that we are going to be able on this amendment—if we proceed with this amendment, I will certainly support it because, as all of these Senators from the Midwest, both Republican and Democrat, say, disaster doesn't know anything about partisan politics. Disaster knows something about hitting people where it hurts them, and that is one of the reasons you have the Federal Government to protect people and to respond in times of disaster.

So I am going to help these Senators with their amendment. What I am hoping is that through our discussions we can expand this so it can be acceptable and address the needs of Florida agriculture after these back-to-back hurricanes. If those discussions are not fruitful, then it is my intention that I will offer an amendment to this bill for the disaster to Florida agriculture. That will be somewhere in the range of about a billion dollars in losses, which will not even get anywhere close to the estimated $2 billion, but it will be a step in the right direction.

Now, this is, as you know, ''no fooling'' time.

We have just been hit by two hurricanes. There is a third on the way. And until 2 days ago, that third one was headed for Florida. As a matter of fact, until a day ago, that third one was headed for Florida, and that centerline now on the projected path is shifting to the West, and that centerline is headed straight for the State of the Senator from Mississippi.

We know there is an error because in hurricane path projection, it can either go to the right or to the left. In the projected path, it can go all the way over into the panhandle of Florida, or it can go all the way to the left, as far as New Orleans. It is about a day out. It is churning in the Gulf of Mexico, moving in a northward direction.

What I am saying is if it continues on its present path to Mississippi or to Alabama or to Louisiana, there are going to be other Senators who are going to be in here trying to help their people. This Senator is going to help them when that happens because that is the right thing to do. Now it is the right thing to do to help the people of Florida.

I yield the floor, Mr. President.

Mr. COCHRAN. Mr. President, I do not know if there are other Senators who wish to continue to debate. If there are, this would be a good time to do it.

Mr. BAUCUS. Mr. President, very briefly, I heard two arguments from one Senator as to why this pending amendment, agricultural disaster assistance, should not pass. It is a very technical argument that it violates the Budget Act.

I remind my colleagues, the unanimous consent agreement that applies to this bill, to this amendment basically says first-degree amendments are in order: First-degree amendments are in order, that they be related to the text of the bill, homeland security, and also natural disasters.

This is a natural disaster amendment. It clearly is contemplated by the unanimous consent agreement. The argument was made: Not on this bill. That is clearly not an argument because the unanimous consent agreement clearly contemplates amendments that relate to natural disasters. So that argument is gone. That is wrong.

The second argument was made: Gee, the cost violates the Budget Act. A very simple point I make is if one wants to press that argument, it also applies to disaster assistance for the State of Florida.

Agricultural disaster assistance is the same as Florida hurricane disaster assistance under the Budget Act. They are the same. They are technically the same. There can be a point of order made against both. Sixty votes are required. I do not know whether the other side is going to make a point of order against the Florida hurricane disaster assistance. I frankly doubt it. I think it would be very unwise. The very same law, the Budget Act, applies to the pending amendment, which is the amendment providing for agricultural disaster assistance.

I say to my colleagues, what is sauce for the goose is sauce for the gander. We are Americans, and let's work together as Americans. Let's help people who need help, and those are our farmers, ranchers, and Floridians because of the hurricanes—all of us. I see no reason why a point of order should be made. And, second, if it is made, I see no reason why the point of order should be sustained. We are talking again about natural disasters that apply—this amendment does not apply to Florida, but it is tied with it because we are going to have that in the next several days. They are all the same. We are all in the same boat.

I very much hope this does not become a partisan political measure. I do not think it is. I remind my colleagues of the bipartisan support of this amendment. Senator BROWNBACK of Kansas is a cosponsor. Senator BURNS, my colleague from Montana, is a cosponsor of this amendment. Senator COLEMAN from Minnesota told me an hour ago he wants to be a cosponsor of this amendment. Senator ROBERTS of Kansas is a cosponsor of this amendment. Senator HAGEL of Nebraska is also a cosponsor of this amendment. I hope Senators can all work together. Let's help each other. Let us help people in various parts of our country, not only in Florida, but in other parts of America who are hurt very much by agricultural disasters.

Mr. President, I yield the floor. I do not know what the chairman has in mind, but I hope whatever it is we can move rather quickly.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. I know some Senators who are interested in this issue are in discussions off the Senate floor, and pending completion of those, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWNBACK. Mr. President, I wish to speak briefly in favor of the Baucus amendment because of the situation in my home State. Parts of my State have had the worst drought in a century. It is being compared by some veteran farmers to what they witnessed in the Dust Bowl era—crops withering and dying in the fields before the farmers' eyes without any ability to address it.

I grew up on a farm. My family still farms. I was secretary of agriculture in Kansas. I have seen these situations.

The one point I want to add—I think people pretty well understand these issues—what I want to address is that in some disaster relief—and we seem to be in a cycle because we have disasters hitting every year, but it is a compassionate society that tries to help those in the worst situation. But more than that, they do not win if they get hit by a disaster and then we do disaster drought assistance. I have not seen people come out ahead.

What we try to do is get them back toward zero so they do not lose too much money, so they can continue to farm and continue to operate their ranch and work their crops. That is what we are trying to do, to help people sustain themselves and not have to go out of business altogether. They are not hitting the jackpot when we pass these types of bills. They are simply trying to sustain themselves in their operations—a commodity-based business. Margins are thin, and it is difficult to make it. So we try to help them.

Crop insurance is helpful, it is important, but despite its critical value to farmers, it cannot mitigate effects of prolonged drought and its impact in the area. And the weather condition has been building for several years. Fortunately, in areas of my State this has broken. Not all areas.

I was at the State fair this past weekend and people continue to cite the problem they are having with the drought and this continuing cycle of lack of rainfall.

I support the Baucus amendment. I appreciate him raising it.

It is difficult because we are in a budget situation where we all want to get this budget more under control. Yet I do not think that is the place to do it in a situation where we have people suffering because of natural disasters or natural causes. So I am pleased that the amendment has been brought up. I am a cosponsor and am pleased to support it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. TALENT. Mr. President, I certainly appreciate the efforts of the Senator from Montana to make certain our farm families do not lose, as the Senator from Kansas said, because of the droughts that have periodically struck the Midwest. Missouri has suffered as well. I am very interested in this issue being worked out in a way that is satisfactory.

I do want to take a minute, though, on a different subject to thank the ranking member and the chairman for what I understand is an agreement on a sense-of-the-Senate resolution I have offered in the form of an amendment, and I think it is going to be added later on a voice vote. I believe it has been cleared on both sides. I wanted to make the Senate aware of the importance of this subject.

We had a situation in St. Louis last year where our local Jewish community was hosting the Maccabee Games. It is an international event where Jewish youths come and participate in effect in Olympic games. Obviously, it is an event with special security risks in today's day and age. Locally, we needed several hundred thousand dollars in extra funds for security.

The State had the Federal homeland defense money but not in the right account, and despite all of our efforts on a Federal, State, and local level, we were unable to free up dollars to provide for the necessary security. It ended up being okay, but it did not have to end up okay. As a result of that, I have become very interested in allowing at least some discretion on the part of the Secretary and the Director of the Office for State and Local Government Coordination to approve waiver applications on the part of the State to reprogram some of their Federal grant homeland money when some new kind of security issue arises that was unforeseen when they originally applied for those grants.

So the sense-of-the-Senate resolution in effect says that we ought to be able to do that. It is a first step toward what I hope will be a successful change in the law by allowing this kind of discretion in these kinds of cases.

I ask Senators to think about the situation because it could come up in anybody's State where an unforeseen new security risk arises and their local authorities have to spend substantial dollars in order to be able to deal with it. That is exactly what we have this

homeland defense money for. Under certain circumstances, they will be unable to access it without some kind of discretionary waiver authority being allowed the department. I hope we can follow up on this sense-of-the-Senate resolution with an appropriate change in the underlying authorization.

Again, I appreciate the help of the Senator from Mississippi and the distinguished Senator from West Virginia in getting this amendment cleared.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, I am pleased to advise the Senate that we have been able to reach agreement to recommend approval of several amendments offered by Senators on both sides of the aisle. I am prepared to propound a unanimous consent request.

AMENDMENTS NOS. 3589, 3603, 3611, 3633, 3634, 3635, 3638, 3640, 3642, AND 3645, EN BLOC

I ask unanimous consent that the Senate proceed to the en bloc consideration of the following amendments: No. 3589 proposed by Mr. ALLARD; No. 3611 proposed by Ms. MIKULSKI; No. 3634 proposed by Mrs. BOXER; No. 3603 proposed by Ms. LANDRIEU; No. 3640 proposed by Mrs. BOXER; No. 3642 proposed by Mrs. BOXER; No. 3633 proposed by Mr. REED of Rhode Island; No. 3638 proposed by Mr. HATCH; No. 3635 proposed by Mr. FEINGOLD; and No. 3645 proposed by Mrs. DOLE.

I understand these amendments are cleared on both sides of the aisle, and I urge that they be adopted en bloc.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the amendments en bloc.

Mr. COCHRAN. I ask unanimous consent that the amendments be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendments are agreed to.

The amendments were agreed to, as follows:

AMENDMENT NO. 3589

(Purpose: To provide for a report on common geospatial awareness of critical infrastructure)

On page 39, between lines 5 and 6, insert the following:

SEC. 515. (a) Not later than 3 months after the date of enactment of this Act, the Secretary of Homeland Security shall submit a report to the Committees on Appropriations of the Senate and the House of Representatives and to the Committee on Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives on the implementation of Homeland Security Presidential Directive Seven.

(b) The report under this section shall include—

(1) the Department's plan and associated timeline for the mapping of the United States critical infrastructure;

(2) an assessment of the resource requirements of relevant States, counties, and local governments so that full participation by those entities may be integrated into the plan;

(3) the Department's plan for oversight of all geospatial information systems management, procurement, and interoperability; and

(4) the timeline for creating the Department-wide Geospatial Information System capability under the direction of the Chief Information Officer.

AMENDMENT NO. 3603

(Purpose: To require a GAO report on employment discrimination complaints relating to employment in airport screener positions in the Transportation Security Administration)

On page 39, between lines 5 and 6, insert the following:

SEC. 515. (a) Congress finds that (1) there is disproportionate number of complaints against the Transportation Security Administration for alleged violations of equal employment opportunity and veterans' preference laws as those laws apply to employment of personnel in airport screener positions in the Transportation Security Administration, and (2) there is a significant backlog of those complaints remaining unresolved.

(b)(1) Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the personnel policies of the Department of Homeland Security that apply to the employment of airport screeners in the Transportation Security Administration, particularly with regard to compliance with equal employment opportunity and veterans' preference laws.

(2) The report under this subscription shall include an assessment of the extent of compliance of the Transportation Security Administration with equal employment opportunity and veterans' preference laws as those laws apply to employment of personnel in airport screener positions in the Transportation Security Administration, a discussion of any systemic problems that could have caused the circumstances giving rise to the disproportionate number of complaints described in subsection (a), and the efforts of the Secretary of Homeland Security and the Under Secretary for Border and Transportation Security to eliminate the backlog of unresolved complaints and to correct any systemic problems identified in the report.

(3) In conducting the review necessary for preparing the report, the Comptroller General shall examine the experience regarding the airport screener positions at particular airports in various regions, including the Louis Armstrong New Orleans International Airport.

AMENDMENT NO. 3611

(Purpose: To ensure the fiscal year 2004 overtime cap applies to certain Customs Service employees)

On page 39, between lines 5 and 6, insert the following:

SEC. 515. Notwithstanding any other provision of law, the fiscal year 2004 aggregate overtime limitation prescribed in subsection 5(c)(1) of the Act of February 13, 1911 (19 U.S.C. 261 and 267) shall be $30,000 and the total amount appropriated by title II under the heading ''CUSTOMS AND BORDER PROTECTION SALARIES AND EXPENSES'' is hereby reduced by $1,000,000.

AMENDMENT NO. 3633

(Purpose: To require a report on processes for issuing required permits for proposed liquefied gas marine terminals)

On page 14, line 19, strike the period and insert the following: '': *Provided further*, That not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Transportation and Infrastructure of the House of Representatives, a report on opportunities for integrating the process by which the Coast Guard issues letters of recommendation for proposed liquefied natural gas marine terminals, including the elements of such process relating to vessel transit, facility security assessment and facility security plans under the Maritime Transportation Security Act, and the process by which the Federal Energy Regulatory Commission issues permits for such terminals under the National Environmental Policy Act: *Provided further*, That the report shall include an examination of the advisability of requiring that activities of the Coast Guard relating to vessel transit, facility security assessment and facility security plans under the Maritime Transportation Security Act be completed for a proposed liquefied natural gas marine terminal before a final environmental impact statement for such terminal is published under the Federal Energy Regulatory Commission process.''.

AMENDMENT NO. 3634

(Purpose: To require reports on the Federal Air Marshals program)

On page 39, between lines 5 and 6, insert the following new section:

SEC. 515. Not later than 90 days after the date of enactment of this Act, and every 90 days thereafter, the Secretary of Homeland Security shall provide to the Committee on Commerce, Science, and Transportation and the Subcommittee on Homeland Security of the Committee on Appropriations of the Senate, a classified report on the number of individuals serving as Federal Air Marshals. Such report shall include the number of Federal Air Marshals who are women, minorities, or employees of departments or agencies of the United States Government other than the Department of Homeland Security, the percentage of domestic and international flights that have a Federal Air Marshal aboard, and the rate at which individuals are leaving service as Federal Air Marshals.

AMENDMENT NO. 3635

(Purpose: To provide a data-mining report to Congress)

At the appropriate place, insert the following:

SEC. ____. DATA-MINING REPORT.

(a) DEFINITIONS.—In this section:

(1) DATA-MINING.—The term ''data-mining'' means a query or search or other analysis of 1 or more electronic databases, where—

(A) at least 1 of the databases was obtained from or remains under the control of a non-Federal entity, or the information was acquired initially by another department or agency of the Federal Government;

(B) the search does not use a specific individual's personal identifiers to acquire information concerning that individual; and

(C) a department or agency of the Federal Government or a non-Federal entity acting on behalf of the Federal Government is conducting the query or search or other analysis to find a pattern indicating terrorist, criminal, or other law enforcement related activity.

(2) DATABASE.—The term ''database'' does not include telephone directories, information publicly available via the Internet or available by any other means to any member of the public without payment of a fee, or databases of judicial and administrative opinions.

(b) REPORTS ON DATA-MINING ACTIVITIES.—

(1) REQUIREMENT FOR REPORT.—The head of each agency in the Department of Homeland Security or the privacy officer, if applicable, that is engaged in any activity to use or develop data-mining technology shall each submit a public report to Congress on all such activities of the agency under the jurisdiction of that official.

(2) CONTENT OF REPORT.—A report submitted under paragraph (1) shall include, for each activity to use or develop data-mining technology that is required to be covered by the report, the following information:

(A) A thorough description of the data-mining technology, the plans for the use of such technology, the data that will be used, and the target dates for the deployment of the data-mining technology.

(B) An assessment of the likely impact of the implementation of the data-mining technology on privacy and civil liberties.

(C) A thorough discussion of the policies, procedures, and guidelines that are to be developed and applied in the use of such technology for data-mining in order to—

(i) protect the privacy and due process rights of individuals; and

(ii) ensure that only accurate information is collected and used.

(D) Any necessary classified information in an annex that shall be available to the Committee on Governmental Affairs, the Committee on the Judiciary, and the Committee on Appropriations of the Senate and the Committee on Homeland Security, the Committee on the Judiciary, and the Committee on Appropriations of the House of Representatives.

(3) TIME FOR REPORT.—Each report required under paragraph (1) shall be submitted not later than 90 days after the end of fiscal year 2005.

AMENDMENT NO. 3638

(Purpose: To retain the uniqueness of the United States Secret Service within the Department of Homeland Security)

At the appropriate place, insert the following:

SEC. ____. None of the funds available in this Act shall be available to maintain the United States Secret Service as anything but a distinct entity within the Department of Homeland Security and shall not be used to merge the United States Secret Service with any other department function, cause any personnel and operational elements of the United States Secret Service to report to an individual other than the Director of the United States Secret Service, or cause the Director to report directly to any individual other than the Secretary of Homeland Security.

AMENDMENT NO. 3640

(Purpose: To protect the security of the Federal Air Marshals)

On page 39, between lines 5 and 6, insert the following new section:

SEC. 5____. No funds appropriated or otherwise made available by this Act shall be used to pursue, implement, or enforce any law, procedure, guideline, rule, regulation, or other policy that exposes the identity of an air marshal to any party not designated by the Secretary of the Department of Homeland Security.

AMENDMENT NO. 3642

(Purpose: To require a report on protecting commercial aircraft from the threat of man-portable air defense systems)

On page 39, between lines 5 and 6, insert the following new section:

SEC. 515. (a) The Secretary of Homeland Security, in coordination with the head of the Transportation Security Administration and the Under Secretary for Science and Technology, shall prepare a report on protecting commercial aircraft from the threat of man-portable air defense systems (referred to in this section as ''MANPADS'').

(b) The report required by subsection (a) shall include the following:

(1) An estimate of the number of organizations, including terrorist organizations, that have access to MANPADS and a description of the risk posed by each organization.

(2) A description of the programs carried out by the Secretary of Homeland Security to protect commercial aircraft from the threat posed by MANPADS.

(3) An assessment of the effectiveness and feasibility of the systems to protect commercial aircraft under consideration by the Under Secretary for Science and Technology for use in phase II of the counter-MANPADS development and demonstration program.

(4) A justification for the schedule of the implementation of phase II of the counter-MANPADS development and demonstration program.

(5) An assessment of the effectiveness of other technology that could be employed on commercial aircraft to address the threat posed by MANPADS, including such technology that is—

(A) either active or passive;

(B) employed by the Armed Forces; or

(C) being assessed or employed by other countries.

(6) An assessment of alternate technological approaches to address such threat, including ground-based systems.

(7) A discussion of issues related to any contractor liability associated with the installation or use of technology or systems on commercial aircraft to address such threat.

(8) A description of the strategies that the Secretary may employ to acquire any technology or systems selected for use on commercial aircraft at the conclusion of phase II of the counter-MANPADS development and demonstration program, including—

(A) a schedule for purchasing and installing such technology or systems on commercial aircraft; and

(B) a description of—

(i) the priority in which commercial aircraft will be equipped with such technology or systems;

(ii) any efforts to coordinate the schedules for installing such technology or system with private airlines;

(iii) any efforts to ensure that aircraft manufacturers integrate such technology or systems into new aircraft; and

(iv) the cost to operate and support such technology or systems on a commercial aircraft.

(9) A description of the plan to expedite the use of technology or systems on commercial aircraft to address the threat posed by MANPADS if intelligence or events indicate that the schedule for the use of such technology or systems, including the schedule for carrying out development and demonstration programs by the Secretary, should be expedited.

(10) A description of the efforts of the Secretary to survey and identify the areas at domestic and foreign airports where commercial aircraft are most vulnerable to attack by MANPADS.

(11) A description of the cooperation between the Secretary and the Administrator of the Federal Aviation Administration to certify the airworthiness and safety of technology and systems to protect commercial aircraft from the risk posed by MANPADS in an expeditious manner.

(c) The report required by subsection (a) shall be transmitted to Congress along with the budget for fiscal year 2006 submitted by the President pursuant to section 1105(a) of title 31, United States Code.

AMENDMENT NO. 3645

(Purpose: To provide that funds appropriated to the Bureau of Customs and Border Protection be used to enforce the provisions relating to textile transshipments provided for in the Customs Border Security Act of 2002, and for other purposes)

On page 6, line 2, strike the period and insert '': *Provided further*, That of the total amount provided, not less than $4,750,000 may be for the enforcement of the textile transshipment provisions provided for in chapter 5 of title III of the Customs Border Security Act of 2002 (Public Law 107–210; 116 Stat. 988 et seq.).''.

On page 8, line 18, strike the period and insert '': *Provided further*, That of the total amount provided for, not less than $4,750,000 shall be for the enforcement of the textile transshipment provisions provided for in chapter 5 of title III of the Customs Border Security Act of 2002 (Public Law 107–210; 116 Stat. 988 et seq.).''.

AMENDMENT NO. 3638

Mr. HATCH. Mr. President, I rise to speak in favor of an amendment that I offer together with my colleague from Vermont, Senator LEAHY. Senator LEAHY serves as ranking democrat member of the Judiciary Committee, which I chair.

The purpose of the Hatch-Leahy amendment is to help ensure that the United States Secret Service continues to carry out its most critical functions, including the protection of the President of the United States. The Secret Service has a distinguished history over a 139 year period of protecting the President and protecting the financial institutions of this country.

This amendment clarifies that the Secret Service shall be maintained as a distinct entity within the Department of Homeland Security, forbidding it from being merged with any other subunit within the Department. And, it makes clear that Secret Service personnel report directly to the Director of the Secret Service who, in turn, reports directly to the Secretary of Homeland Security.

It is important that the Secretary not re-delegate any of his or her authority to other DHS officials or entities nor to unduly interfere with the unique historical relationship that exists between the President and White House and the Secret Service. That is the intent of the Hatch-Leahy Amendment.

This is a codification of what was originally intended when we created the Department of Homeland Security and ensures that the Secret Service operates within the Department of Homeland Security just as it did prior to September 11 within the Department of Treasury.

Given its proven track record of performance and independence, we must

guard against this relatively small but critical agency from being lost in or swallowed up by the myriad of programs and entities within the new Department of Homeland Security. Any attempt by DHS managers, however well-intentioned, to interpose themselves in the decision making processes, resource allocations, and field operations of the Secret Service should be avoided.

Simply stated, there is much wisdom in the old saying that ''if it ain't broke, don't fix it.'' The Secret Service has operated well in the past and operates well today. The Hatch-Leahy Amendment will help provide the autonomy and responsibility that will help keep the Secret Service operating well in the future.

We made a similar clarification with the Coast Guard and should do the same for the Secret Service. I believe that this clarification of intent, and delineation of reporting requirements, will ensure that the mission of the Secret Service remains clear, definite, and unimpeded.

Senator LEAHY and I urge all of our colleagues to support this important amendment which I understand is supported by the administration.

Mr. LEAHY. Mr. President, I have worked closely with the United States Secret Service for many years. Their tradition of excellence and the quality of their protective services and investigations is well known. I know that the Sergeant at Arms of the Senate, William Pickle, proudly served with them for many years.

As the chairman and ranking member of the Judiciary Committee, with jurisdiction regarding United States Secret Service matters, Senator HATCH and I have introduced an amendment to ensure that the Service remains a distinct entity within the Department of Homeland Security. It is important that the Secret Service continue, as they did under the Department of the Treasury, to function as a cohesive unit and not have its functions divided. It is also important that the Secret Service, as they did under the Department of the Treasury, not be merged with other agencies which would dilute the Service's ability to achieve their crucial mission. It is also important to preserve their current chain of command structure.

Our amendment requires that the United States Secret Service be maintained as a ''distinct entity within the Department of Homeland Security'' and that the Secret Service not be merged with any other Department function. Further, our amendment requires that all personnel and operational elements of the Service report at all times to ''the Director of the United States Secret Service'' who shall report directly to the Secretary of Homeland Security without having to report through other officials.

The United States Secret Service is doing an outstanding job in tough times and this amendment will assure that they keep fully devoted to their critical missions in the same excellent manner as they have done in the past.

I hope all Members will join us in including this important amendment in the Department of Homeland Security appropriations bill.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the pending amendment be set aside so that I may offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3649

Mr. BYRD. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself, Mr. LEVIN, Mr. BINGAMAN, and Mr. FEINGOLD, proposes an amendment numbered 3649.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To fulfill Homeland Security promises)

At the appropriate place, insert the following:

TRANSPORTATION SECURITY ADMINISTRATION

AVIATION SECURITY

For an additional amount for necessary expenses of the Transportation Security Administration relating to aviation security services pursuant to the amendments made by the Aviation and Transportation Security Act (115 Stat. 597), $70,000,000, to remain available until expended, for activities relating to screening passengers and carry-on baggage for explosives.

UNITED STATES COAST GUARD

OPERATING EXPENSES

For an additional amount for ''Operating Expenses,'' $20,000,000, for non-homeland security missions (as defined in section 888(a) of the Homeland Security Act of 2002 (6 U.S.C. 468(a))).

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For an additional amount for ''Acquisition, Construction, and Improvements,'' $80,000,000, to remain available until September 30, 2009, for the Integrated Deepwater Systems program.

OFFICE OF STATE AND LOCAL GOVERNMENT COORDINATION AND PREPAREDNESS

STATE AND LOCAL PROGRAMS

For additional amounts for ''State and Local Programs,'' $225,000,000: *Provided*, That of the amounts made available under this heading, $100,000,000 shall be available for discretionary grants for use in high-threat, high-density urban areas as determined by the Secretary of Homeland Security, and $125,000,000 shall be for port security grants.

MASS TRANSIT AND RAIL SECURITY

For necessary expenses relating to mass transit, freight and passenger rail security grants, including security grants for the National Railroad Passenger Corporation, a backup communications facility for the Washington Area Metropolitan Transit Authority, security upgrades for various rail tunnels, research and development of rail security methods and technology, capital construction, and operating requirements, $75,000,000.

SEC. ____. PROHIBITION ON ACQUISITION OF PETROLEUM PRODUCTS FOR STRATEGIC PETROLEUM RESERVE.

(a) FUNDING PROHIBITION.—None of the funds made available by this Act or any other Act may be used during fiscal year 2005 to acquire petroleum products for storage in the Strategic Petroleum Reserve.

(b) AMOUNTS OF OIL CURRENTLY UNDER CONTRACT FOR DELIVERY.—The Secretary of the Interior shall sell, in fiscal year 2005, any petroleum products under contract, as of the date of enactment of this Act, for delivery to the Strategic Petroleum Reserve in that fiscal year.

Mr. BYRD. Mr. President, the Senate has before it a $32 billion homeland security appropriations bill. Chairman COCHRAN has put together a fair and balanced bill. Regrettably, the allocation that is available for homeland security programs is simply inadequate. This is not a criticism of Chairman COCHRAN, nor is it a criticism of full committee Chairman TED STEVENS. The fact is that the overall levels in the allocation constrain our ability to address known threats to the safety of the American people.

In response to the threats so often invoked by the President, the Attorney General, the Secretary of Homeland Security, and the FBI Director, one might anticipate that the President would not be satisfied with a bill that cuts funds for first responders, that leaves first responders unable to communicate, that leaves airline passengers worrying about whether a fellow passenger has brought explosives on board, or that fails to adequately invest in securing our ports and trains.

To address these shortcomings, I offered an amendment last week to add $2 billion to the bill. The amendment would have funded authorizations signed by the President; it would have funded 9/11 Commission recommendations; and it would have addressed known vulnerabilities not funded in the committee bill.

The amendment was defeated. The principal argument made against the amendment was that it was not paid for. So today, I offer an amendment that provides $470 million for homeland security, and it is fully paid for.

Last March, during debate on the budget resolution, an amendment was adopted with support on both sides of the aisle. The amendment would have set up a reserve for homeland security programs. The reserve was paid for by directing the Secretary of the Interior to cancel planned deliveries of oil to the Strategic Petroleum Reserve and to instead sell the oil on the open market in order to finance homeland security programs.

As a provision on a budget resolution, that amendment did not have the force of law. Today, I offer an amendment that will make America safer.

The amendment adds funds for first responders that, consistent with the 9/11 Commission recommendation, will be allocated based on threat; for securing mass transit systems; for expediting the modernization of Coast Guard ships, planes and helicopters and improving Coast Guard operations; for purchasing equipment for screening passengers and carry-on baggage for explosives; and for port security.

The amendment addresses vulnerabilities that we all know exist. And, let there be no doubt, if we know that these gaps exist, so do the terrorists.

The amendment includes $125 million for port security grants, bringing the total in the bill to $275 million, the same level assumed in the budget resolution. A 1-month closure of a major port would cost our national economy $60 billion. But because of the tremendous volume of containerized cargo, Customs officials are inspecting only 5 percent of the 9 million containers that come into our ports on vessels each year. With Chairman COCHRAN's support, we have provided additional resources on the floor for Customs and Border Protection inspectors. But, we must do more for securing the ports.

The Coast Guard has estimated that $1.125 billion will be needed in the first year and $5.4 billion will be needed over the next 10 years for the ports to comply with the Federal regulations mandated by the Maritime Transportation Security Act, which was signed into law by President Bush with great fanfare in November 2002. It has been 2 years since the law was signed. If this amendment is adopted and becomes law, Congress will have approved only $770 million for port security, far less than the $1.125 billion Coast Guard estimate for the first year of implementation.

It has been more than 2½ years since Richard Reid, the so-called ''shoe bomber,'' tried to blow up a Miami-bound aircraft over the Atlantic Ocean with explosives he carried onto the aircraft. Last month, two Russian airplanes simultaneously were blown out of the sky, most probably by Chechnyan terrorists who carried the explosives on board the aircraft. The 9/11 Commission Report states clearly and succinctly that the threat posed to passenger aircraft by explosives being carried onto the plane is real.

The additional $70 million in this amendment will significantly expand the effort to screen air travelers for explosives. We know that newly developed passenger portals can detect whether passengers are carrying explosives. These systems have been tested and proven to work. We need the money to physically deploy these systems at our Nation's airports.

Following the March 11 Madrid railroad bombings, the administration issued security bulletins to law enforcement officials and transit authorities warning of the danger of similar attacks here at home. But they requested no funding to help our mass transit agencies hire more guards, train new canine teams, or install additional cameras. Paper directives and press releases will not stop terrorist bombs.

With Chairman COCHRAN's support, we have provided $278 million for mass transit security grants. But that level does not come close to the level authorized by the Senate Banking Committee, on a bipartisan basis, on May 6, 2004. The committee authorizes $5.2 billion for transit security. On May 21, 2004, the Senate Commerce Committee, also on bipartisan basis, approved S. 2273, which authorizes $1.2 billion for additional rail security activities. My amendment would add $75 million for mass transit and Amtrak security.

The 9/11 Commission recommends allocating first responder funds based on threat rather than on population. My amendment adds $100 million to the $875 million currently provided in the Senate bill for urban area security initiative grants. These grants are targeted to cities determined to be at greatest risk of a terrorist attack, that have the highest number of critical assets, such as tunnels, bridges and chemical plants, and that have high population densities. We need to get funds to the places most at risk.

My amendment also includes $100 million for the Coast Guard, including $80 million for the Deepwater Program and $20 million for traditional Coast Guard missions, such as search and rescue and protection of our marine resources. The committee bill funds these activities at levels $575 million below the levels just authorized by the Congress and the President.

Prior to September 11, 2001, the Coast Guard began to modernize its fleet of assets. Since the attacks on 9/11, the Coast Guard's responsibilities have grown substantially. As a result, assets vital to homeland security are being used more today than ever in the Coast Guard's history. The Government Accountability Office recently reported that ''resource usage as measured by the number of hours the Coast Guard's cutters, boats, and aircraft used to perform its missions—was up almost 40 percent from the pre-September 11 baseline.''

The Coast Guard Commandant, in testimony before the Senate Appropriations Subcommittee on Homeland Security, testified that the current condition of the aging fleet threatens Coast Guard mission performance. He testified that Coast Guard assets are in a ''declining readiness spiral.''

Yet, the President has not responded. My amendment will help address the Coast Guard's ''declining readiness spiral.'' The funding would go to accelerate the Coast Guard's highest priorities, which are to enhance safety and reliability on the HH–65 helicopter, to accelerate the design of the fast response cutter for near shore missions, and to complete design of the offshore response cutter for the high endurance missions of the Coast Guard.

The amendment is paid for by suspending the fill of the Strategic Petroleum Reserve. This step makes economic sense. Using Federal dollars to buy high-priced oil for the reserve does not. Oil prices hit an all-time high on August 20, and oil is currently trading at about $44 per barrel. By filling the reserve in this high-priced environment, we are paying more for oil now than we would if we waited until prices went down. This makes no sense for U.S. taxpayers.

Suspending the fill of the reserve in no way threatens our energy security. The reserve is already filled to 96 percent capacity, with 669 million barrels now stored, the highest level that it has ever been. The reserve currently covers 67 days of import capacity.

Buying oil when the market is so high makes no economic sense. It is a bad deal for the taxpayer. Failing to fund critical homeland security measures that the 9/11 Commission has recommended and that address clear vulnerabilities is also a bad deal for the taxpayer. This amendment is a good deal.

I urge Members to support this amendment.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. COCHRAN. Mr. President, I was going to respond to the Senator's comments and his amendment which would add funding to this bill in the amount of $470 million for the Department of Homeland Security.

I don't know at what point we want to consider the fact that, because of the way it is drafted, the impact the amendment would have on future appropriations for fiscal year 2006 would actually, according to the Budget Committee staff and chairman, violate the Budget Act and that a point of order would lie against this amendment.

Reluctantly and with great respect for my friend from West Virginia, I am constrained to make that point of order. Rather than going through all the talking points that my staff has prepared on the subject of the individual amounts to be added by the amendment and the offsets that are identified, which is the Strategic Petroleum Reserve, I am constrained to make a point of order.

Mr. LEVIN. I wonder if the Senator would withhold making the point of

order for a few minutes so I have an opportunity to speak in support.

Mr. COCHRAN. I am happy to reserve that right and yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi yields the floor.

The Senator from Michigan.

Mr. LEVIN. I greatly appreciate my old friend from Mississippi yielding.

We are in an energy crisis. I will speak about that part of the Byrd amendment particularly, which would use the money from not continuing to fill the 96-percent filled Strategic Petroleum Reserve and taking the money that would then be made available and using it for some critical homeland security needs.

I congratulate the Senator from West Virginia for both identifying some very significant needs in the homeland security area, as well as paying for it in a very rational way; that is, to suspend further deliveries into the Strategic Petroleum Reserve.

The energy crisis is obvious. We are paying a record amount per barrel for oil. The addition of these millions of barrels to the Strategic Petroleum Reserve is significantly adding to the cost of oil and is weakening our economy.

Last week, Alan Greenspan stated:

> [E]conomic activity hit a soft patch in late spring. . . . That softness in activity no doubt is related, in large measure, to this year's steep increase in energy prices.

Chairman Greenspan further stated:

> Most macroeconomic models treat an increase in oil prices as a tax on U.S. residents that saps the purchasing power of households and raises costs for businesses.

Yet in the face of this crisis, the administration is decreasing rather than increasing the supply of oil. Day after day, month after month, regardless of how much American consumers and industry need oil, regardless of how high the cost is of this oil, the administration has been taking millions of barrels of oil off the market and depositing them into the Strategic Petroleum Reserve. And by doing that, the administration is increasing the price of oil and gasoline and decreasing our energy security.

The use to which the $470 million that would be saved by using this oil in the commercial market rather than depositing it into a reserve—which is already 96 percent filled—those uses provide a win-win situation for national security and energy security. For energy security, we would have this energy placed into the private sector, into commercial inventories, rather than into the Petroleum Reserve. For national security, the way in which the Senator from West Virginia would use these funds—for airline security, port security, mass transit and rail security, firefighter grants, State and homeland security grants—these are all very important needs and uses.

Now, very quickly, supplies are tight. That is the reason crude oil prices are high. Demand is strong. Commercial inventories are low. Supplies are vulnerable. Supplies are tight because OPEC is producing barely enough oil to meet demand. Private sector inventories of crude oil are near the lows, historically, for this time of year. Of course, there is also great concern over the vulnerability of Iraqi oil supplies to terrorism—we see that again today—the problems in Russia with Yukos, the largest oil company in that country; and the turmoil in Nigeria and Venezuela, which have added a premium to prices.

Over the last 2 years, private sector inventories have declined significantly. Last January, private sector inventories fell to their lowest levels since the mid-1970s. The SPR Program is a major reason for the decline in private inventories. From April 2002 through December 2003, the Department of Energy deposited about 78 million barrels of oil in SPR. During that same period, private sector inventories declined by about 61 million barrels. Thus, the total amount of oil in inventory in the United States in both private and public storage increased by only 17 million barrels over this entire period.

The SPR Program is directly the reason for recent price increases to the extent of somewhere between 10 cents and 25 cents a gallon when looking at gasoline.

Goldman Sachs, one of the largest and most successful crude oil traders in the world, reported, on January 16 of this year, that ''large speculative positions, builds in strategic petroleum reserves, and low inventory coverage have contributed to current price levels.'' In this report, Goldman Sachs also stated that ''past government storage builds will provide persistent support for the market,'' and that ''current plans for the injection of 130 thousand [barrels a day] of royalty-in-kind barrels into the US Strategic Petroleum Reserve (SPR) between now and the end of September . . . will likely provide even further support.''

Goldman Sachs estimated that the strategic reserve programs in the United States and Europe in 2003 and 2004 are adding about $4.25 to the price of each barrel of crude oil sold in the United States.

Now, DOE's plans, regardless of the price of oil, are to continue to deposit oil into the Petroleum Reserve. Until late 2001, the policy of the Department of Energy was to buy oil for the Strategic Petroleum Reserve when prices were low and to buy less oil when prices were high. That policy was explained by DOE officials, in late 2001, to energy officials in other countries, and the presentation was entitled: ''The Key To A Successful Strategic Reserve Is Cost Control.'' The DOE identifies the ''Lessons Learned to Control Oil Acquisition Costs'' as follows—this was the DOE, before they changed their policy in 2002—1, ''let the markets determine your buying pattern;'' 2, ''buy in weak markets;'' 3, ''delay delivers during strong markets;'' and 4, ''use your acquisition strategy to stabilize markets.''

That was prior to early 2002. They have now reversed it. Instead of buying low and selling high, they are buying high and shorting supply. It makes absolutely no sense to do this. We are all paying more for the price of gasoline and heating oil and jet fuel as a result of this policy. We should stop continuing to deposit oil into the Strategic Petroleum Reserve, which is 96 percent filled. And when we do this in a tight supply, which is now the case, we are adding to gasoline prices alone somewhere between 10 and 25 cents per gallon.

Indeed, ''buy low, sell high'' is just plain common sense. Unfortunately, in early 2002, the Department of Energy abandoned this commonsense approach. Instead, since early 2002, DOE has been buying oil for the SPR without regard to the price of oil. No matter how high the price of oil has been or will be, DOE has been and will be buying more and more oil for the SPR.

Since over this period the price of oil has been very high—often over $30 per barrel—and the oil markets have been tight, this cost-blind approach has increased the costs of the program to the taxpayer and put further pressure on tight oil markets, thereby helping boost oil and gasoline prices to American consumers and businesses.

It is a rip-off of the taxpayers to pay $45 a barrel for oil in today's market, when the same oil could be acquired for $10 to $15 a barrel less in a couple of years.

We need oil in the private sector more than in the SPR. In the current tight market, there is a critical need to prevent minor shortages or disruptions from causing major price spikes. Increasing private inventories, not the SPR, is the best way to meet this need.

Canceling the deposits into the SPR could lower gasoline prices by 10 to 15 cents a gallon. Each $1 increase in the price of oil increases gasoline prices by about 2.5 cents. Depending on which estimates of the effect of the SPR fill is correct, postponing the upcoming SPR deposits therefore could lower gasoline prices by 10 to 25 cents.

Postponing SPR deliveries will signal speculators that the U.S. Government is willing to take action to put a lid on increasing prices. The administration has repeatedly stated that it will keep on filling the SPR regardless of price. The market, therefore, correctly believes DOE will not stop SPR deliveries or release SPR oil no matter how high the price of oil. This has eliminated an important potential brake on speculation that prices will keep rising. In effect, the administration's statements have taken off any lid on prices. Stopping SPR deliveries will signal this is not the case, and could take speculative steam out of the market.

In 2002, DOE SPR staff urged the postponement of deliveries in tight markets. In 2002, when the administration told DOE to change its policy and buy oil for the SPR regardless of the price, the DOE career staff attempted

to persuade the administration to retain the old policy of taking price into consideration.

DOE staff wrote the new policy:

[I]s a business model different from that followed by all private market participants, and if followed by a significant number of market participants would lead to explosive price swings.

In another memo, DOE SPR staff reported the current policy ''appears irrational to the market place.''

In spring 2002, as prices were rising and inventories falling, the DOE SPR staff recommended that DOE postpone filling the SPR:

This is good public policy. Commercial inventories are low, retail prices are high and economic growth is slow. The Government should avoid acquiring oil for the Reserve under these circumstances.

The market conditions today are the same as they were in 2002 when the DOE SPR staff recommended that SPR deliveries be postponed.

Many other oil industry leaders and economists believe now is not the time to fill the SPR.

In May of this year, Bill Greehey, CEO of Valero Energy, the largest independent refiner in the U.S., said:

They tell Saudi Arabia to produce more oil. Then they put it into Strategic Petroleum Reserve. It just doesn't make any sense at all.

Writing in Forbes magazine, Professor Steve Hanke of Johns Hopkins University, commented:

The oil price run-up and scarcity of private inventories can be laid squarely at the White House's door. Since Nov. 13, 2001 private companies have been forced to compete for inventories with the government.

This May, The Houston Chronicle stated:

With oil at more than $40 a barrel and the federal government running a huge deficit, it should take a timeout on filling the stockpile until crude prices come down from record levels. That would relieve pressure on the petroleum market and ameliorate gasoline prices.

A leading energy consulting firm, PFC Energy, wrote this May:

The Bush Administration has actually been helping OPEC to keep spot prices high and avoid commercial stock increases by taking crude out of the market and injecting significant volumes into the SPR.

Mr. President, I ask unanimous consent that a list of other comments be included in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LEVIN. The Senate has twice acted on this issue to restore some common sense to our SPR policy. The Senate passed an amendment Senator COLLINS and I offered, by a bipartisan vote of 52 to 43, SPR deliveries and use the receipts from the sale of the royalty oil for homeland security programs. The Senate amendment regrettably was not retained in conference.

Last fall, the Senate unanimously passed an amendment to the Interior Appropriations Bill that Senator COLLINS and I offered that would have required DOE to adopt procedures to acquire oil for the SPR in a manner that minimizes the program's cost to the taxpayers while maximizing our overall energy security. The Senate amendment was not retained in conference, and, unfortunately, DOE has chosen to ignore the Senate's direction in the amendment.

The major reason given by DOE for not postponing any of the scheduled shipments into the SPR is that, according to DOE, the amount of oil that is placed into the SPR is only a small fraction of the global daily supply and demand. This comparison is not relevant in a tight market. The amount that is being put into the SPR is about as much as is produced in several of our own States—Wyoming or Oklahoma, for example. It is about three-quarters of our daily imports from Kuwait. In a tight market, this additional demand can cause a large price increase. Moreover, these daily deposits add up to a lot of oil over weeks and months. The Department of Energy's own documents explain this effect as follows:

Essentially, if the SPR inventory grows, and OPEC does not accommodate that growth by exporting more oil, the increase comes at the expense of commercial inventories. Most analysts agree that oil prices are directly correlated with inventories, and a drop of 20 million barrels over a 6-month period can substantially increase prices.

I support the filling of the SPR, but not at any price. DOE, like any well-managed business, should acquire more oil when prices are low, and less when prices are high. DOE should not be diverting crude oil from depleted private-sector inventories when prices are high and supplies are tight. Deferring further shipments to the SPR at this time will reduce energy prices, lower taxpayer costs, and help strengthen our economy. It will also make about $470 million available for vital homeland security programs.

Clearly, now is not the time to be taking more oil off the market. This amendment is a win-win for consumers, taxpayers, and the Government.

I urge the adoption of the amendment.

Mr. President, I commend the Senator from West Virginia for his amendment, for both parts of it, for both adding money to needed homeland security needs but also finding the source from suspending deposits in the Strategic Petroleum Reserve.

EXHIBIT 1

COMMENTS ON THE SPR PROGRAM

''Commercial petroleum inventories are low, retail product prices are high and economic growth is slow. The Government should avoid acquiring oil for the Reserve under these circumstances. . . . Essentially, if the SPR inventory grows, and OPEC does not accommodate that growth by exporting more oil, the increase comes at the expense of commercial inventories. Most analysts agree that oil prices are directly correlated with inventories, and a drop of 20 million barrels over a 6-month period can substantially increase prices.'' John Shages, Director, Office of Finance and Policy, Strategic Petroleum Reserves, U.S. Department of Energy, Spring 2002.

''As a U.S. Senate committee pointed out Wednesday, the U.S. government was filling the Strategic Petroleum Reserve last year as prices were rising. And by my estimate, had the U.S. government not filled the Strategic Petroleum Reserve or returned the 20 million barrels they'd put in back to the market, prices right now would be around $28 a barrel instead of $38 a barrel and gasoline prices might be 25 to 35 cents lower.'' Philip Verleger, NPR Morning Edition, March 7, 2003.

''We believe the administration has been making a mistake by refilling the reserve to the tune of about 11 million barrels since the start of May. . . . Washington should back off until oil prices fall somewhat. Doing otherwise is costing the Treasury unnecessarily and is punishing motorists during summer vacation driving time.'' Omaha World Herald, August 14, 2003.

''They've continued filling the reserve—which is crazy, putting the oil under ground when it's needed in refineries.'' Dr. Leo Drollas, Chief Economist, Centre for Global Energy Studies, The Observer, August 24, 2003.

''If that was going into inventory, instead of the reserve, you would not be having $29 oil, you'd be having $25 oil. So, I think they've completely mismanaged the strategic reserve.'' Bill Greehey, CEO of Valero Energy, largest independent refiner in the U.S., Octane Week, September 29, 2003.

''Over the last year, the [DOE] has added its name to this rogues list of traders by continuing to acquire oil for the nation's Strategic Petroleum Reserve (SPR). In doing so, it has (1) wasted taxpayer money, (2) done its part to raise crude oil prices, (3) made oil prices more volatile, and (4) caused financial hardship for refiners and oil consumers.'' Philip K. Verleger, Jr., The Petroleum Economics Monthly, December 2003.

''U.S. taxpayers and the economy would realize greater economic potential with a more prudent management of this national asset by not further filing the SPR under the current market structure. The DOE should wait for more favorable prices before filing the reserve both today and in the future.'' Richard Anderson, CEO, Northwest Airlines, NWA WorldTraveler, January 2004.

''The government is out buying fuel, it appears, without much regard for the impact that it is having on prices.'' James May, Chief Executive, Air Transport Association, quoted in U.S. Airlines Blame Bush for Cost of Oil, Associated Press, January 2004.

''Government storage builds have lowered commercially available petroleum supplies'' and ''will provide persistent support to the markets.'' ''Changes in global government storage injections will have [a] big impact on crude oil prices.'' Goldman Sachs, Energy Commodities Weekly, January 16, 2004.

''The average price per barrel for 2003 was the highest in 20 years and to date, the price for 2004 is even higher. All the while, our government continues to depress inventory stocks by buying oil at these historic highs and then pouring it back into the ground to fill the strategic petroleum reserve.'' Larry Kellner, President and Chief Operating Officer, Continental Airlines, Continental Airlines Earnings Conference Call, January 20, 2004.

''The act of building up strategic stocks diverts crude supplies that would otherwise have entered the open market. The natural time to do this is when supplies are ample, commercial stocks are adequate and prices low. Yet the Bush Administration, contrary to this logic, is forging ahead with plans to add [more oil to] the stockpile.'' Petroleum Argus, January 26, 2004.

[Bill O'Grady, Director of Futures Research at A.G. Edwards, Inc.] also notes the Bush administration has been on an oil-buying binge to stock the nation's strategic petroleum reserves. He guesses that artificial demand boost is adding as much as 15 cents to the cost of a gallon of gas.'' Las Vegas Review-Journal, February 29, 2004. [West Coast gasoline about $2/gallon at the time].

''When the government becomes a major purchaser of oil, it only bids up the price exactly when we need relief. I know that you recently testified to Congress that the SPR fill has a negligible impact on the price of crude oil, but we politely disagree.'' Letter from American Trucking Association to Secretary of Energy Spencer Abraham, March 9, 2004.

''Normally, in Wall Street parlance, you're supposed to buy low and sell high, but in Strategic Petroleum Reserve actions, we're buying higher and higher and that has really helped keep oil prices high.'' Larry Kudlow, Kudlow & Cramer, CNBC, March 22, 2004.

''Filling the SPR, without regard to crude oil prices and the availability of supplies, drives oil prices higher and ultimately hurts consumers.'' Letter from 53 Members of the House of Representatives (39 Republicans, 14 Democrats) to President Bush, March 22, 2004.

''Despite the high prices, American officials continue to buy oil on the open market to fill their country's strategic petroleum reserves. Why buy, you might ask, when prices are high, and thereby keep them up? The Senate has asked that question as well. It passed a non-binding resolution this month calling on the Bush administration to stop SPR purchases; but Spencer Abraham, the energy secretary, has refused.'' The Economist, March 27, 2004.

''[T]he Energy Department plans to buy another 202,000 barrels a day in April. It can't resist a bad bargain.'' Alan Reynolds, Senior Fellow, CATO Institute, Investor's Business Daily, April 2, 2004.

''In my opinion, we have grossly mismanaged the SPR in the last 12 months. When Venezuela went on strike and we had the war in Iraq we probably should have drawn down some of the Reserve in order to build up supplies in the Gulf Coast of the U.S. We didn't do that. When the war was over we started adding to the Reserve, so we were actually taking oil out of the Market. We took something like 40–45 million barrels that would have gone into our inventories—we put in the strategic reserves. . . . We should have stopped filling the Reserves 6 months ago.'' Sarah Emerson, Managing Director, Energy Security Analysis, Inc., Interview, New England Cable News, April 4, 2004, 8:59 p.m.

''The administration continues to have its hands tied on the Strategic Petroleum Reserve, particularly with candidate Kerry's 'high ground' proposal to suspend purchases putting Bush in a 'me too' position.'' Deutsche Bank, Global Energy Wire, ''Election-Year Oil: Bush Painted into a Corner,'' April 6, 2004.

''At a time when supplies are tight and prospects for improvement are grim, Bush continues to authorize the purchase of oil on the open market for the country's Strategic Petroleum Reserve. Bush is buying serious quantities of oil in a high-price market, helping to keep it that way.'' Thomas Oliphant, Blatant Bush Tilt Toward Big Oil, Boston Globe, April 6, 2004.

''He pointed out that Senator Carl Levin, D–Mich. had a good idea earlier this month in proposing earlier this month cutting back the contribution level to the Strategic Petroleum Reserve, which Kerr said is 93 percent full. 'By reducing the input, it could provide a great deal more supply to help rein in prices a bit.' '' CBS MarketWatch, Gasoline, crude prices pull back, April 23, 2004, referring to the views of and quoting Kevin Kerr, editor of Kwest Market Edge.

''The Bush Administration has actually been helping OPEC to keep spot prices high and avoid commercial stock increases by taking crude out of the market and injecting significant volumes into the SPR.'' Crude Or Gasoline? Who Is To Blame For High Oil Prices: OPEC Or The US? Market Fundamentals & Structural Problems, PFC Energy, May 6, 2004.

''Kilduff said the Bush administration could have stopped filling the SPR, saying 'it's not the best move to start filling the SPR when commercial inventories were at 30-year lows.' '' John Kilduff, senior analyst, Fimat, in Perception vs. reality, CBS MarketWatch, May 17, 2004.

''Oppenheimer's [Fadel] Gheit said Bush's decision to fill the nation's Strategic Petroleum Reserve in the wake of the Sept. 11 attacks caused a crisis of confidence around the world that led to the perception of short supply and drove up prices. 'The administration has not tried hard to dispel notions and rumors and perceptions and concerns over supply disruption,' [said Gheit]. 'Gasoline prices are at record levels because of mismanagement on a grand scale by the administration.' '' Fadel Gheit, oil and gas analyst at Oppenheimer & Co., in Perception vs. reality, Camps debate Bush influence on Big Oil, CBS MarketWatch, May 17, 2004.

''With oil at more than $40 a barrel and the federal government running a huge deficit, it should take a timeout on filling the stockpile until crude prices come down from record levels. That would relieve pressure on the petroleum market and ameliorate gasoline prices.'' Houston Chronicle, Keep the oil in it, but take a timeout on filling it, May 18, 2004.

''They tell Saudi Arabia to produce more oil. Then they put it into the Strategic Petroleum Reserve. It just doesn't make any sense at all.'' Bill Greehey, CEO of Valero Energy, Washington Post, May 18, 2004.

''The Bush administration contributed to the oil price squeeze in several ways, according to industry experts. First, it failed to address the fact that demand for gasoline in the United States was increasing sharply, thanks to ever more gas guzzlers on the road and longer commutes. The administration also continued pumping 120,000 barrels a day of crude into the Strategic Petroleum Reserve, making a tight market even tighter.'' David Ignatius, Homemade Oil Crisis, Washington Post, May 25, 2004.

''How can the administration rectify its mistakes? It could calm the market by moving away from its emergency-only stance. It could also stop buying oil to add to the strategic reserve. The government has done a good job making sure that the reserve is at its 700-million barrel capacity. But now that we are close to that goal there is no reason to keep buying oil at exorbitant prices.'' Edward L. Morse and Nawaf Obaid, The $40-a-Barrel Mistake, New York Times, May 25, 2004.

''President Bush's decision to fill the reserve after the terror attacks of September 2001 has been one of the factors driving up oil prices in recent months, along with reports that China, which recently surpassed Japan as the second-largest importer of oil, is going ahead with plans to build its own petroleum reserve.'' Simon Romero, If Oil Supplies Were Disrupted, Then . . . New York Times, May 28, 2004.

''The oil price run-up and scarcity of private inventories can be laid squarely at the White House's door. Since Nov. 13, 2001 private companies have been forced to compete for inventories with the government.'' Steve Hanke, Oil and Politics, Forbes, August 16, 2004.

The PRESIDING OFFICER (Mr. TALENT). Who seeks recognition?

The Democratic leader is recognized.

AMENDMENT NO. 3636

Mr. DASCHLE. Mr. President, I know we have set aside the Baucus-Burns-Brownback et al. amendment. I just want to come to the floor to express my support for the amendment as well. This is a bipartisan effort. It is long overdue. As others have noted, the need is great. There are disasters around the country that have to be addressed, including some in South Dakota. It is not just the severity of the drought, but it is the length of time that drought has existed in some parts of our country, especially in South Dakota.

So I am very hopeful the Senate will express itself on a unanimous basis and provide the kind of support that our farmers and ranchers and others need. I hope the amendment will be adopted.

I yield the floor.

The PRESIDING OFFICER. The Senator yields the floor.

Who seeks recognition?

The Senator from New Mexico is recognized.

AMENDMENT NO. 3649

Mr. BINGAMAN. Mr. President, I just want to speak briefly in support of Senator BYRD's amendment as well.

This amendment will make available to the market an additional 19 million barrels of oil that the Federal Government will receive in fiscal year 2005 as in-kind royalties. Without this amendment, the Federal Government would hold this oil off the market by putting it in the Strategic Petroleum Reserve in 2005. Because this Federal royalty oil would be sold, under this amendment it would generate an offset of $470 million, which the amendment then proposes to use for important homeland security measures, such as port security grants, aviation passenger screening, the Coast Guard, mass transit grants, and the SAFER Program.

It is important to note that the amendment will not take out of the Strategic Petroleum Reserve any oil that is now in the Reserve.

It is merely suspending further filling of the reserve. Suspending the fill of the Strategic Petroleum Reserve during times of high oil prices makes economic sense. Using Federal dollars to buy high-priced oil for the Strategic Petroleum Reserve does not make economic sense.

Oil prices hit an all-time high on the NYMEX on August 20, trading at $49.40 a barrel. Today oil is trading at close to $45 a barrel, which represents a price increase of more than 30 percent since the beginning of the year. By filling the Strategic Petroleum Reserve in this very high-priced environment, we are paying more for oil now than we would if we waited until prices went down.

Filling the Strategic Petroleum Reserve when oil prices are high costs

American taxpayers unnecessarily. It also puts more pressure on already tight fuel markets and keeps oil prices higher for longer.

The royalty-in-kind oil program used to fill the Strategic Petroleum Reserve was first envisioned in a low-price environment. The Government bought oil from domestic producers on Federal lands when prices were low in order to absorb some of the excess oil. The royalty-in-kind program was used to keep domestic oil prices from falling even further, but we were then talking about below $14 per barrel, not below the $45 per barrel which is currently prevailing. The royalty-in-kind program was not established to help high oil prices remain high, but buying in a high-priced environment has that exact effect.

Suspending the fill of the Strategic Petroleum Reserve does not pose an immediate security threat, as the Senator from Michigan pointed out. The reserve is already 96 percent of capacity, with 669 million barrels now stored. That is the highest level of storage we have ever had in the Strategic Petroleum Reserve. It currently covers 67 days of import capacity at a level of 10 million barrels per day of imports. Using scarce Federal dollars to fill the Strategic Petroleum Reserve while failing to fund necessary homeland security measures presents a security threat itself.

Some of you may recall—I think we all recall—that the Senate passed a similar amendment to this to the budget resolution that was considered earlier this year, the Levin-Collins amendment.

I urge support of Senator BYRD's amendment this evening. It will put our limited homeland security dollars to work in the most beneficial way for Americans.

I yield the floor.

AMENDMENT NO. 3636

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, we are at a point now where I think we can proceed to dispose of an earlier amendment that was offered. If there is no objection to setting aside the pending Byrd amendment for that purpose, I ask unanimous consent that the Byrd amendment be set aside and that we proceed to a voice vote on the Baucus amendment.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The question is on agreeing to the Baucus amendment No. 3636.

The amendment (No. 3636) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3649

Mr. COCHRAN. Mr. President, the Byrd amendment has been presented and discussed by the Senator from West Virginia, the Senator from Michigan, and the Senator from New Mexico. Compelling arguments have been made for the additional funds that would be made available to the Department of Homeland Security under this amendment. The difficulty, however, is that the amendment would provide appropriations that are not consistent with the Budget Act. Section 501 of H. Con. Res. 95, the fiscal year 2004 concurrent resolution on the budget, limits the amount and type of advance appropriations which may be provided for fiscal years 2005 and 2006. The pending amendment would provide advance appropriations for fiscal year 2006 which are not on the list of programs, projects, activities, or accounts identified in the joint explanatory statement of managers accompanying the budget resolution.

Thus, I raise a point of order pursuant to section 501(b) of H. Con. Res. 95, the 108th Congress, against the pending amendment.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for purposes of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate?

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. I ask unanimous consent to set aside the pending amendment to permit the Senator from New York to offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New York is recognized.

AMENDMENT NO. 3651

Mrs. CLINTON. Mr. President, I call up amendment No. 3651.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mrs. CLINTON], for herself and Mr. SCHUMER, proposes an amendment numbered 3651.

Mrs. CLINTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3651) is as follows:

(Purpose: To require the Federal Emergency Management Agency to allocate at least $4,450,000 of any funds previously made available in response to the September 11, 2001, attacks in New York City for continued mental health counseling services for emergency services personnel requiring additional assistance as a result of the September 11, 2001, terrorist attacks)

On page 39, between lines 5 and 6, insert the following:

SEC. 515. (a) Of any funds previously made available to the Federal Emergency Management Agency in response to the September 11, 2001, attacks in New York City, not less than $4,450,000 shall be provided, subject to the request of the Governor of New York, to those mental health counseling service entities that have historically provided mental health counseling through Project Liberty to personnel of the New York City Police Department, the New York City Fire Department, and other emergency services agencies, to continue such counseling.

Mrs. CLINTON. Mr. President, I thank the chairman of the subcommittee, the Senator from Mississippi, and his excellent staff for their assistance in working out this amendment.

This is an amendment that would continue to provide funding for the mental health counseling that the fire department and police department and other first responders have been receiving because of their experiences arising out of September 11. We are finding that only now are some of the firefighters, police officers, and others coming forward and expressing their need for some kind of intervention and assistance.

This is a program that has worked very well. I am grateful for the Federal assistance to start this program, and we are hopeful that this amendment will enable FEMA, which already has money set aside arising out of already appropriated money for New York and for purposes like this, to obtain the requisite support they need to go forward with this mental health counseling. So I am very grateful that we have worked this out.

There is no new money in it, there is no new earmarking or appropriations; it is merely giving FEMA the go-ahead, with the appropriate authorization, to continue the mental health program that has proven so successful.

So, again, I appreciate greatly the chairman and his staff's assistance. I ask for a voice vote on this amendment, if appropriate at this time.

Mr. COCHRAN. Mr. President, we are happy this has been resolved. I think it improves the bill. We are ready to accept the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 3651) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ENZI). Without objection, it is so ordered.

Mr. COCHRAN. Regular order.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Colorado (Mr. CAMPBELL) and the Senator from Alabama (Mr. SESSIONS) are necessarily absent.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 48, nays 47, as follows:

[Rollcall Vote No. 179 Leg.]

YEAS—48

Allen	Dorgan	Lieberman
Baucus	Durbin	Lincoln
Biden	Feingold	Mikulski
Bingaman	Feinstein	Murray
Boxer	Graham (FL)	Nelson (FL)
Breaux	Harkin	Nelson (NE)
Byrd	Hollings	Pryor
Carper	Inouye	Reed
Clinton	Jeffords	Reid
Coleman	Johnson	Rockefeller
Collins	Kennedy	Sarbanes
Conrad	Kohl	Schumer
Corzine	Landrieu	Snowe
Daschle	Lautenberg	Specter
Dayton	Leahy	Stabenow
Dodd	Levin	Wyden

NAYS—47

Alexander	Dole	McCain
Allard	Domenici	McConnell
Bayh	Ensign	Miller
Bennett	Enzi	Murkowski
Bond	Fitzgerald	Nickles
Brownback	Frist	Roberts
Bunning	Graham (SC)	Santorum
Burns	Grassley	Shelby
Cantwell	Gregg	Smith
Chafee	Hagel	Stevens
Chambliss	Hatch	Sununu
Cochran	Hutchison	Talent
Cornyn	Inhofe	Thomas
Craig	Kyl	Voinovich
Crapo	Lott	Warner
DeWine	Lugar	

NOT VOTING—5

Akaka	Edwards	Sessions
Campbell	Kerry	

The PRESIDING OFFICER. On this vote, the yeas are 48, the nays are 47. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. Mr. President, we are at a point now where we can proceed with two or three other amendments that may require votes and then we expect to have a vote on final passage. We would like to get an agreement that these are the amendments which will be voted on and that we will have votes in sequence on those amendments and final passage of the bill. I hope my friend from Nevada will consider that.

The Senator from Florida wants to be heard.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3652

Mr. NELSON of Florida. Mr. President, I send amendment 3652 to the desk.

The PRESIDING OFFICER. Without objection, the pending amendment will be set aside.

Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mr. NELSON], for himself and Mr. GRAHAM of Florida, proposes an amendment numbered 3652.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide supplemental disaster relief assistance for agricultural losses in the State of Florida resulting from Hurricanes Charley and Frances)

At the appropriate place, insert the following:

TITLE ____—EMERGENCY AGRICULTURAL DISASTER ASSISTANCE

SEC. ____. CROP LOSSES.

In addition to amounts otherwise made available under this Act, there is appropriated $560,000,000, to remain available until expended, for the Commodity Credit Corporation Fund for crop losses in excess of 25 percent of the expected production of a crop (including nursery stock, citrus, dairy, timber, vegetables, tropical fruit, clams and other shellfish, tropical fish, poultry, sugar, hay, equines, wildflower seed, sod, and honeybees and losses sustained by packing houses) in the State of Florida resulting from Hurricane Charley or Frances: *Provided,* That any producer of crops and livestock in the State of Florida that has suffered at least 25 percent loss to a crop covered by this section, 25 percent loss to livestock, and damage to building structure in 2004, resulting from Hurricane Charley or Frances, shall be eligible for emergency crop loss assistance, emergency livestock feed assistance under the Emergency Livestock Feed Assistance Act of 1988 (7 U.S.C. 1471 et seq.), and loans and loan guarantees under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.).

SEC. ____. WATERSHED AND FLOOD PREVENTION OPERATIONS.

In addition to amounts otherwise made available under this Act, there is appropriated $30,000,000, to remain available until expended, for the emergency watershed protection program established under section 403 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203) and related watershed and flood prevention operations, an additional amount to repair damage to the waterways and watersheds in the State of Florida resulting from Hurricane Charley or Frances.

SEC. ____. EMERGENCY CONSERVATION PROGRAM.

In addition to amounts otherwise made available under this Act, there is appropriated $60,000,000, to remain available until expended, for the emergency conservation program established under title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 et seq.), an additional amount to repair damage to farmland (including nurseries and structures) in the State of Florida resulting from Hurricane Charley or Frances.

SEC. ____. AGRICULTURAL CREDIT INSURANCE FUND PROGRAM ACCOUNT.

In addition to amounts otherwise made available under this Act, there is appropriated $25,000,000, to remain available until expended, for the Agricultural Credit Insurance Fund program account for the cost of emergency insured loans for costs in the State of Florida resulting from Hurricane Charley or Frances.

SEC. ____. EMERGENCY GRANTS TO ASSIST LOW-INCOME MIGRANT AND SEASONAL FARMWORKERS.

In addition to amounts otherwise made available under this Act, there is appropriated $10,000,000, to remain available until expended, for emergency grants to assist low-income migrant and seasonal farmworkers under section 2281 of the Food, Agriculture, Conservation, and Trade Act of 1990 (42 U.S.C. 5177a): *Provided,* That the emergency services to be provided may include such types of assistance as the Secretary of Agriculture determines to be necessary and appropriate (including repair of existing farmworker housing and construction of new farmworker housing units, including housing that may be used by H-2A workers) to replace housing damaged as a result of Hurricane Charley or Frances.

SEC. ____. RURAL HOUSING FOR DOMESTIC FARM LABOR.

In addition to amounts otherwise made available under this Act, there is appropriated $10,000,000, to remain available until expended, for rural housing for domestic farm labor for the cost of repair and replacement of uninsured losses resulting from natural disasters such as Hurricanes Charley and Frances.

SEC. ____. STATE AND PRIVATE FORESTRY.

In addition to amounts otherwise made available under this Act, there is appropriated $5,000,000, to remain available until expended, of which $2,500,000 shall be made available for urban and community forestry and of which $2,500,000 shall be made available for wildland-urban interface fire suppression efforts resulting from fuel loading from damaged or destroyed tree stands in the State of Florida resulting from Hurricane Charley or Frances.

SEC. ____. EMERGENCY DESIGNATION.

The amounts appropriated in this title are designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 1014).

Mr. NELSON of Florida. Mr. President, we have had two major hurricanes in Florida that have done a great

deal of damage to our agricultural industry in Florida. Our agricultural industry is a $62 billion industry. We have just passed a disaster relief bill for drought for several Midwestern States which was a $3 billion disaster relief bill.

Naturally, where we have an existing disaster that has occurred over the course of the last 6 weeks, we have a lot of farmers hurting, and the well has run dry in the Department of Agriculture funds. Naturally, the Federal Government will respond, which we do in times of disaster, and this Senator and Senator GRAHAM want to make sure we have the funds.

We have bipartisan unanimity in our House delegation, along with Senator GRAHAM and me, on what we are requesting in this particular amendment I have sent to the desk. This is requesting $700 million of disaster relief for agricultural disaster. The figure may be more.

The distinguished chairman of the Appropriations Committee and I will enter into a colloquy in which I can be assured this matter is going to be addressed in this bill when it goes to conference and that the funds are going to be needed.

I engage in a colloquy with the chairman of the Appropriations Committee.

We are told the administration has existing funds to address the massive damage done to Florida agriculture by Hurricanes Charley and Frances, and, indeed, Secretary Veneman has authorized $300 million in section 32 funds which are certainly welcome and appreciated. However, I can state that back in Florida we are also told that already the U.S. Department of Agriculture is running out of relief funds. I ask the distinguished chairman of the Appropriations Committee if he will work with me to ensure additional emergency appropriations for USDA disaster relief can be provided to address this crisis in Florida?

I yield to the Senator.

Mr. STEVENS. We will provide the needed disaster relief for Florida agriculture as soon as possible. This relief will come in the form of appropriations for the U.S. Department of Agriculture disaster relief programs. These funds will be used to help Florida citrus farmers as well as other Florida farmers. If the funds are not provided before we address Hurricane Ivan, we will address this issue when we do address Ivan in the conference on this bill, the Homeland Security bill.

Mr. NELSON of Florida. Mr. President, I thank the chairman of the Appropriations Committee, and I appreciate his cooperation.

I ask the chairman, with his commitment in the Senate, am I in a position to guarantee the agricultural industry of my State that we will provide additional USDA disaster relief or other disaster funds to meet this need in supplemental appropriations in the conference report on this bill, the Homeland Security appropriations bill?

Mr. STEVENS. Mr. President, yes, that is my commitment to the Senator from Florida. We fully intend to take up the Hurricane Ivan funds as an amendment to this bill in conference when the supplemental request is received.

Mr. NELSON of Florida. Mr. President, around this place, a man's word is his bond, and that is good enough for me.

I thank the Senator. Our people are hurting. The President has requested, in addition, a $3.1 billion relief package for FEMA and other agencies of Government other than the agriculture relief. He did not request that. That is the reason for bringing this to a head at this late hour.

AMENDMENT NO. 3652 WITHDRAWN

Therefore, I withdraw my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New York.

Mr. GRAHAM of Florida. Mr. President, I commend Senator NELSON on this issue and thank Senator STEVENS for his efforts.

This amendment represents the first step in correcting an injustice. That injustice is the lack of meaningful disaster relief for the farmers, ranchers, and growers of Florida.

Agriculture is the second largest generator of income in Florida. It is responsible for $7 billion in cash receipts and accounts for a total of $60 billion in total economic impact.

Mr. President, 44,000 farmers and growers produce 280 different crops ranging from tropical fruits to winter vegetables to greenhouse and nursery products to aquaculture and honey and more.

The twin disasters of Charley and Frances devastated a significant portion of this economic sector. Preliminary estimates indicate more than $2 billion in damage to Florida agriculture.

Some growers were hit twice; before they could determine their initial losses, they lost the rest of their crops. It may take months to determine the final cost of these storms. The ground first must dry out before growers can learn if they will be able to plant and harvest a crop this year.

The growers and their families need help now. Yet today's request from the administration contains no aid for them.

Between fiscal year 1989 and fiscal year 2003, Congress added $49.2 billion to USDA programs. Of that amount, $21.4 billion went for market loss payments to compensate for low prices, and $17.9 billion went to crop disaster payments to producers who suffered a natural disaster crop loss.

In the past, the Senate has responded when our farmers and ranchers were in need. We again must respond in an appropriate way by providing the aid that is contained in this amendment.

I want to commend those officials who have been trying to help Florida agriculture since Hurricane Charley first hit the State. Dedicated public servants from the U.S. Department of Agriculture and the Florida Department of Agriculture and Consumer Services have been assessing the damage and directing farmers to available assistance programs. The private sector has worked long hours to minimize the damage. Producers who may have suffered only minor losses are helping their neighbors who are not as fortunate.

The U.S. Department of Agriculture as always is using its resources to aid the victims of these disasters. Additional funds are necessary to begin recovery operations. Yet, those funds were not included in the administration's recent request.

I want to explain why these funds are necessary. Some natural disasters destroy crops. These hurricanes have destroyed more than crops. For example, nurseries and greenhouses collapsed or were crushed by the storms. Replacing a structure is more difficult and costly than just replacing plants.

Consider the citrus industry. In some groves, you can walk from end to end and never touch the ground because it is covered with fallen grapefruits. Next year, another crop may grow, but the grove's owners, and their families, need help today. Even worse, the storms destroyed thousands of citrus trees. It takes 5 years for a new tree to produce fruit and seven years for it to turn a profit.

We are approaching that time of year when people throughout the country order and send gifts of Florida citrus. Its been estimated that packing houses and related businesses could lose as much as $100 million from the storms. Consider the impact on the workers in these facilities.

Preliminary estimates indicate that the sod industry in Florida has suffered $300 million in losses. Many of the sod farms are flooded, and too much water is not good for sod.

Florida's cattle and calving operations generate more than $370 million in cash receipts. The storms destroyed fences and dumped debris on grazing lands. Florida calves are fed and grow at feedlots in other parts of the country.

Consider the plight of the winter vegetable growers. Many in Florida began preliminary planting before the hurricanes hit. Existing programs do not cover their pre-planting costs. They must plant by a certain date to be eligible for aid. If the ground is too wet and they can't plant in time, they suffer twice—the lack of a cash crop and the lack of disaster aid.

The amendment does not ignore the human side of agriculture. It includes funds to assist groups that provide emergency services to the many people who work on farms where crops have been destroyed. Many farm workers have lost their jobs. They also have seen their homes destroyed, or they find themselves without water or power.

I realize that the preliminary estimates of $2 billion in losses will be reduced, once insurance and other payments are taken into account. But the need exists today.

The transmittal letter for the emergency supplemental asked Congress ''to limit this emergency request to those items directly related to the recovery efforts from the impact of these recent major disasters.'' This amendment meets this requirement.

After a more detailed examination of the damage, we may have a need for additional funds for agriculture assistance. That is why I consider this amendment to be just an important first step but not the final step toward the goal of helping the farmers, ranchers, and producers of Florida.

AMENDMENT NO. 3656

Mr. SCHUMER. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER], for himself, Mr. SARBANES, Mr. REED, Mrs. CLINTON, and Mr. KENNEDY, proposes an amendment numbered 3656.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To increase funding for rail and transit security grants)

On page 20, line 7, strike ''$1,200,000,000'' and insert ''1,550,000,000''.

On page 20, line 13, strike ''$150,000,000'' and insert ''$500,000,000''.

Mr. SCHUMER. Mr. President, I will be brief. I know the hour is late, but as I am sure this body knows, these issues, I believe, are extremely important and have to be considered. This amendment deals with rail security. It is rail security and transit grants.

Now, first, I do want to say that we are providing $278 million for these grants. The amendment by my friend from West Virginia raised the amount to that. But it is not close to enough when we are considering that rail is one of the great dangers we face in this war on terrorism. If anything, we have learned since last year's appropriations bill that al-Qaida has chosen rail as one of its methods of terror. We all looked in shock at what happened in Madrid.

Our rail systems, whether they be mass transit, subways, commuter rails, passenger rails, freight rails, are utterly unprotected. While we are making small steps in the direction of protecting them, we are not moving close to quickly enough. Despite the significant threat to transit systems, the funding for transit security has been grossly inadequate.

Over the last 2 years, Congress appropriated only $115 million in transit security: $65 million in fiscal year 2003; $50 million—less—in 2004. The administration's budget requested no additional funding. Now, of course, we have raised it a little bit here but not close to enough.

Furthermore, only 30 to 40 percent of what has been appropriated for transit security has been received by transit agencies. So even with the small amounts we have appropriated, our agencies that are supposed to make our subways, our mass transit, our commuter rail, our passenger rail safer have not been able to do it. As a result, many transit agencies, including those in my city, in my State, many of which are likely to be at risk, have pressing security needs that are still unfunded. In fact, the Banking Committee found that we have invested $9.16 per passenger on aviation improvements but less than 1 cent per passenger on transit security improvements. Now does that make any sense: $9.16 on air travel, less than 1 cent on transit?

On April 8, the Commerce Committee passed the Rail Security Act of 2004. The bill would provide $1.2 billion to enhance the safety of our Nation's mass rail systems. On May 6, the Banking Committee unanimously passed the Public Transportation Terrorism Prevention Act of 2004. That bill would provide over $5 billion to enhance the safety of the Nation's mass transit systems and would mean so much to the New York area where we face a need for hundreds of millions of dollars to shore up our security. So when my friend from Mississippi will get up and say, well, we are giving some money, it is not close to what the authorizing committees felt was needed. It is not a little less; it is not a lot less; it is a huge amount less. If the Commerce Committee would say that $1.2 billion is needed and the Banking Committee would say that $5 billion is needed and we are appropriating as little as we are, clearly we are not doing something right.

These two bills were not taken up by the Senate leadership for several months, and then, in July, Secretary Ridge announced there was credible information indicating al-Qaida is moving ahead with plans for a large-scale attack in the U.S. aimed at disrupting the political elections. In reaction, all of a sudden the Senate leadership decided to try to pass some security measures that were long overdue. I am told the reason they did not bring them up is because they felt these measures cost too much. I am sure my esteemed colleague from Mississippi will make that argument again today, that spending $350 million to secure the thousands of miles of tracks, tunnels, bridges, and stations used by millions of Americans every day is too expensive. I have to respectfully disagree. We are vulnerable. God forbid 10 terrorists strap explosives to themselves and go into 10 of our busiest rail stations and detonate them at a single time. This would cause huge loss of life, tremendous suffering, and economic hardship.

There are things we can do. We can develop detectors that fit mass transit as we are doing in the airports. We are not. We can protect our tunnels and bridges upon which trains go. We are not. The bottom line is, we are doing virtually nothing.

Mr. REID. Mr. President, could I ask my friend to withhold? We have a unanimous consent request that Members have been waiting on for a while.

Mr. SCHUMER. I am happy to yield.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, we are at a point where we can advise Senators of amendments that will now be presented to the Senate for votes. We hope we can get this unanimous consent agreement adopted so we will have an orderly process to follow.

I ask unanimous consent that other than any amendments cleared by both managers, the only remaining amendments be the following and that there be no second degrees in order to the listed amendments prior to votes in relation to those amendments: the pending Kennedy amendment for 5 minutes equally divided; the Schumer amendment on rail safety with 10 minutes equally divided; the Schumer amendment on immigration with 10 minutes equally divided; and the Clinton amendment, No. 3631, with 10 minutes equally divided—and I am sure the Senator from Florida will call up his amendment on funds for the Red Cross, and we will adopt that on a voice vote—further, that any other pending amendments be withdrawn, and following disposition of the above-listed amendments, the bill be read a third time and the Senate proceed to passage as under the order.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. COCHRAN. I thank all Senators.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I appreciate the understanding of my colleague from Mississippi. I think I have used pretty much my time on transit even though I have been given another 10 minutes.

I just want to say this in conclusion: We are currently spending $5 billion a month in Iraq alone. While I wholeheartedly support making sure that our troops have everything they need—and I have supported all of these funding requests—if we can spend $5 billion a month in Iraq, we can surely spend $350 million over 5 years to help ensure the safety of our transit riders here at home. The priorities are wrong. There is a disconnect. We spend what it takes to win a war on terror overseas, as we should. We spend virtually nothing to protect ourselves at home. To say that a couple hundred million dollars is too much when the safety of our citizens is at stake and we are spending $5 billion a month in Iraq is a schizophrenia that this country, as we fight this war on terror in this brave, new world, cannot afford.

I urge adoption of the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, this amendment would add $350 million to the bill for rail and security transit grants. A previously adopted amendment has already added $128 million to the bill for this purpose.

The amendment will cause the bill to exceed the committee's 302(b) allocation; therefore, I make a point of order under section 302(f) of the Congressional Budget Act that the amendment provides spending in excess of the subcommittee's 302(b) allocation.

Mr. SCHUMER. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for the purpose of the pending amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. McCAIN. Mr. President, has all time expired?

The PRESIDING OFFICER. All time has expired.

Mr. COCHRAN. Mr. President, I ask unanimous consent that these votes be stacked that are in order: the two Schumer amendments, the Clinton amendment, the vote on final passage, and any vote in relation to the Kennedy amendment as well—that they be stacked so we can then proceed with debate on the second Schumer amendment or the Clinton amendment and dispose of the discussion, and then we will have a vote on all of those issues at the same time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from New York.

AMENDMENT NO. 3655

Mr. SCHUMER. Mr. President, I offer the Schumer amendment on immigration security. The amendment is at the desk, I believe.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER] proposes an amendment numbered 3655.

Mr. SCHUMER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To appropriate an additional $350,000,000 to improve the security at points of entry into the United States)

On page 7, line 16, strike ''$2,413,438,000,'' and insert the following: ''$2,763,438,000, of which $200,000,000 shall be reserved for the International Civil Aviation Organization to establish biometric and document identification standards to measure multiple immutable physical characteristics, including fingerprints, eye retinas, and eye-to-eye width and for the Department of Homeland Security to place multiple biometric identifiers at each point of entry; of which $50,000,000 shall be reserved for a program that requires the government of each country participating in the visa waiver program to certify that such country will comply with the biometric standards established by the International Civil Aviation Organization; of which $25,000,000 shall be reserved for the entry and exit data systems of the Department of Homeland Security to accommodate traffic flow increases; of which $50,000,000 shall be reserved to integrate the entry and exit data collection and analysis systems of the Department of Homeland Security, the Department of State, and the Department of Justice, including the Federal Bureau of Investigation; of which $25,000,000 shall be reserved to establish a uniform translation and transliteration service for all ports of entry to identify the names of individuals entering and exiting the United States;''.

Mr. SCHUMER. Mr. President, there are so many places where we have to tighten up our security at home. We have talked about security in the air and security at the ports and security on the rails and security with trucks. We have talked about helping our police and our firefighters and hospitals. There is another area that we do have to address even at this late hour because it is so crucial. That is security at our country's borders.

The question is, Who can come across our borders, whether by land or sea or by air, and how do we monitor who they are, and how do we make sure terrorists do not come into this country as they did in the years and months before 9/11, where one part of the Government knew that those who came across the borders might well cause harm, but those who were at the borders letting people into this country did not?

The good news is that technology can help us. We can keep our borders open and free. We can have commerce that we need and at the same time separate those few bad apples. Technology will allow us to do that. But we are not doing it. Again, we run the risk that our porous borders will serve as an attraction to those who want to be in this country to do evil things, either here or abroad.

The amendment I have offered would provide funding necessary to strengthen the eyes and ears and coordination of personnel at our country's borders. Perhaps the greatest threat to our country as a whole is what New York Times columnist Thomas Friedman has called ''people of mass destruction'' or PMDs coming through our borders. It was people of mass destruction who turned airplanes into missiles on 9/11, and we have to do something to avoid that.

My amendment contains five parts. First, the amendment provides $200 million to help bring the biometric technology already at our busiest ports of entry up to the standards called for by the 9/11 Commission and the task force report. The 19 hijackers who invaded my city and our country 3 years ago ran through the borders in a wave of deception. Were there more accurate measures of identifying those terrorists when they entered the country, we might not have suffered 9/11.

Three years after 9/11, it is staggering that we are leaving so much of our safety up to the subjective, fallible judgment of individuals rather than to superior biometric technology. The first part of the amendment deals with upgrading that technology.

Second, my amendment would provide $50 million to help ensure that all travelers entering the United States are held to the same high level of scrutiny. Specifically, the amendment would provide funding to help persuade visa waiver program governments to produce passports compatible with the state-of-the-art biometric technology that I hope will be deployed at U.S. ports of entry.

Third, the amendment would provide $25 million to fund the expansion of the Homeland Security Department's exit and entry data systems to accommodate the ever increasing traffic of travelers in and out of our Nation's ports of entry. As the pace of globalization quickens, U.S. airports, bridges, and ports see a rising number of visitors. We have to have the technology to keep up with that increasing number.

Fourth, the amendment addresses the need to integrate the entry and exit data systems housed within the Department of Homeland Security, the FBI, and the Department of State. We have in our Government a number of sophisticated databases collecting critical information about individuals who could harm our country. Each of these systems has different access rules and runs on different algorithms. It makes integration of these systems with one another and with the people at the borders very chancy and difficult.

Finally, the amendment would provide $25 million to support a uniform transliteration and translation system to identify each visitor entering and exiting. You don't want to let someone in because Mohammed or Bill was spelled incorrectly and that person slipped through the borders.

I ask unanimous consent for 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHUMER. The bottom line is simple. We have a long way to go to make our borders safe. The frustration that many of us have is we can do it but we are not. Again, we are taking tiny baby steps where bold, imaginative, and large steps are required. No one, no matter what their ideology, party, or even vote on this measure, wants to repeat what happened at 9/11 when people came across our borders and should not have. This amendment will help close that loophole. It is worth the cost. I urge its adoption.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, this amendment would add to the bill $350 million for components of the United States Visitor and Immigration Status Indicator Technology system, known as US VISIT. We have included the amount requested by the administration in this bill for the US VISIT system in the amount of $340 million. So

the Senator's amendment would double the amount that is already included in the bill. The amendment will cause the bill to exceed the committee's 302(b) allocation. Therefore, I make a point of order under section 302(f) of the Congressional Budget Act that the amendment provides spending in excess of the subcommittee's 302(b) allocation.

Mr. SCHUMER. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for the purposes of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be. There is.

The yeas and nays were ordered.

Mr. COCHRAN. Mr. President, under the order previously entered, there is an opportunity for consideration of a pending Kennedy amendment or the offering of amendment No. 3631 by Senator CLINTON.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 minutes.

AMENDMENT NO. 3631

Mrs. CLINTON. Mr. President, I call up amendment No. 3631.

The PRESIDING OFFICER. The amendment is pending.

Mrs. CLINTON. Mr. President, this amendment—sponsored by myself and Senators ENSIGN, LAUTENBERG, FEINSTEIN, BOXER, and CORZINE—follows the recommendation in the 9/11 Commission. What it does is to put into our bill language that permits the Secretary of the Department of Homeland Security to allocate the money above the minimum that goes to all States. In other words, 38 percent of the money for homeland security will be distributed on a per capita basis to all States. The remaining 62 percent, which is the subject of my amendment, will be distributed as recommended by the 9/11 Commission and every other expert who has studied this issue on threat factors and risk assessments that will take into account matters such as population, population density, critical infrastructure, and such other factors as the Secretary considers appropriate.

We have debated this on the floor for a number of years. I engaged in a colloquy about this back in July of 2003 when we were considering the Homeland Security appropriations. I have spoken on numerous occasions with Secretary Ridge. I know we have been given assurance that there would be developed some kind of threat matrix so we could take into account the full range of issues that should be considered. I am not in any way suggesting what those factors should be. I think food security should be among them. I think our petrochemical complexes should be among them.

I think our laboratories in States such as New Mexico should be among them. I think there are probably threat-based assessments that would apply to every single State. But we know, having gone through this debate now year after year, that what happens is the path of least resistance is followed and the money is distributed on a per capita basis. I don't think that is good for any State, whether it is a large State or a small State, or any State in any part of our country.

Some have argued my amendment would take money away from other States, particularly the small States. It does not. The money that was guaranteed to the small States, to all States, will continue to flow. But what we have done is to say, wait a minute, the Secretary of this Department should begin to be able to develop a threat assessment. And let's look at our critical infrastructure. Every State has such infrastructure. Instead, the money is going out to the States and they are spending it as they see fit, without necessary regard for our national interests and our homeland security concerns, some of which cross State and county borders, and I believe that looking to this opportunity as recommended by the 9/11 Commission is absolutely essential.

So my amendment embodies the factors that were noted by the 9/11 Commission and it gives the administration—not me—and the Department of Homeland Security the discretion and authority to come up with any other factors they believe are relevant.

It is time we follow the advice of the experts—this Commission and the Rudman Commission. Every commission and every security expert who has looked at this has come to the same conclusion: We should give the Secretary discretion to develop a threat matrix to do a risk analysis, and then to make sure the money is distributed accordingly. I hope for the sake of our homeland defense and in keeping with the words of this Commission, you will support the Clinton-Ensign amendment. Senator ENSIGN wanted to get back in time to be part of the debate, but it moved a little more quickly than we had expected. I look forward to working with him and working with our colleagues to ensure that we do this right.

We have spent a lot of money and we have given a lot of equipment and given a lot of local communities money that, frankly, according to the articles that are often printed about this, they are looking for ways to spend.

Mr. President, I hope we will vote for this amendment.

I ask unanimous consent that Senator SCHUMER be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, the funds allocated for this program in this bill are done on a formula basis under the provisions of the U.S.A. PATRIOT Act. The Senate Governmental Affairs Committee held hearings on this issue and has reported out a bill, S. 1245, the Homeland Security Grant Enhancement Act, to deal with domestic preparedness grants and how they are distributed. That is the legislation that is the appropriate vehicle for further debate and amendments if Senators want to offer amendments dealing with the formula for distributing State and local first responder grant funding.

This should not be done on an appropriation bill, on this bill, as the Senator seeks to do with her amendment. Therefore, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. COCHRAN. Mr. President, I think we are at a point now where the Senator from Massachusetts has an amendment, which is the only one left under the agreed-upon process for finalizing the handling of the bill.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

AMENDMENT NO. 3626

Mr. KENNEDY. Mr. President, I understand we have 2½ minutes. I yield myself 1 minute 15 seconds. I will yield the remaining time to my friend and colleague, the Senator from Florida, Senator GRAHAM.

Mr. President, in May of 2001, President Bush appointed General Scowcroft to review the intelligence system to make recommendations about how it could be more effective for the President of the United States. General Scowcroft has been relied upon by Democratic and Republican Presidents. He is one of the distinguished generals and foreign policy experts and arms control individuals. He issued such a report 3 months after 9/11.

It seems to me the most important decision we are going to make in this body by the time we have adjournment is going to be intelligence reform. This particular amendment says we believe the Scowcroft Commission report ought to be made available to all the Members of the Senate. If there has to be a classified annex, so be it. Over the course of the last weeks, we have had Secretary Rumsfeld who commented on it. This is what he said in the Armed Services Committee:

> I have been briefed on the Scowcroft Commission record. I don't see any reason why there shouldn't be a process so it can be declassified.

I asked him a question:

> Was there anything in there that you thought could be declassified?

He said:

> No, I cannot recall anything that could not be declassified.

Senator WARNER, for the record, said the Scowcroft Commission has not been released by the White House. We are going to seek to see whether we can have greater access to it.

Senator ROBERTS said:

> I had talked to Scowcroft last Thursday. I begged on my hands and knees to release the report.

That is what we are doing, releasing the report.

Mr. GRAHAM of Florida. I strongly support the amendment. We have had

too much classification of material, which has had the result of making us less secure, not more secure. The expert opinion of people like General Scowcroft ought to be made available to the American people and the Congress so it can be used as we attempt to construct systems that will make us safer.

There is no reason for the extensive classification process used in this administration, ranging from the Scowcroft report to the classification of 27 pages of our Senate-House joint inquiry relating to the role of foreign governments in assisting the terrorists. This would be a good place to start. The American people will be safer by our actions.

Mr. COCHRAN. Mr. President, let me make a couple points I think are important before we vote on this amendment. This is a report—the subject of this amendment by Senator KENNEDY—that was prepared at the President's request to advise him on intelligence issues. The report constitutes privileged advice to the President from a confidential adviser.

In order to protect the ability of not only this President but future Presidents in their ability to receive advice as a matter of separation of powers, recognized previously by the courts, Presidents of both parties have long declined to turn over to Congress privileged advice that is prepared for them at their request. For this same reason, the President does not ask Members of Congress to turn over advisory information prepared for us by our staff members. We think this is a tradition that should be honored in this case.

I am prepared to move to table the amendment if no other Senator wants to be recognized. If others want to speak on the issue, I am happy to yield the floor.

Mr. President, I move to table the amendment of the Senator from Massachusetts and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Colorado (Mr. CAMPBELL), the Senator from Mississippi (Mr. LOTT), and the Senator from Alabama (Mr. SESSIONS), are necessarily absent.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the chamber desiring to vote?

The result was announced—yeas 49, nays 45, as follows:

[Rollcall Vote No. 180 Leg.]

YEAS—49

Alexander	Dole	Miller
Allard	Domenici	Murkowski
Allen	Ensign	Nickles
Bennett	Enzi	Roberts
Bond	Fitzgerald	Santorum
Brownback	Frist	Shelby
Bunning	Graham (SC)	Smith
Burns	Grassley	Snowe
Chafee	Gregg	Specter
Chambliss	Hagel	Stevens
Cochran	Hatch	Sununu
Coleman	Hutchison	Talent
Collins	Inhofe	Thomas
Cornyn	Kyl	Voinovich
Craig	Lugar	Warner
Crapo	McCain	
DeWine	McConnell	

NAYS—45

Baucus	Dorgan	Levin
Bayh	Durbin	Lieberman
Biden	Feingold	Lincoln
Bingaman	Feinstein	Mikulski
Boxer	Graham (FL)	Murray
Breaux	Harkin	Nelson (FL)
Byrd	Hollings	Nelson (NE)
Cantwell	Inouye	Pryor
Carper	Jeffords	Reed
Clinton	Johnson	Reid
Conrad	Kennedy	Rockefeller
Corzine	Kohl	Sarbanes
Daschle	Landrieu	Schumer
Dayton	Lautenberg	Stabenow
Dodd	Leahy	Wyden

NOT VOTING—6

Akaka	Edwards	Lott
Campbell	Kerry	Sessions

The motion was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. Mr. President, my understanding of the order is another vote will occur on an amendment without intervening debate under the order?

The PRESIDING OFFICER. The Senator is correct.

Mr. COCHRAN. This vote will be a 10-minute vote. Would the Chair state the question before the Senate?

Mr. REID. Will the Senator yield?

Mr. COCHRAN. I am happy to yield.

Mr. REID. Mr. President, I ask that the unanimous consent agreement be amended so that all succeeding votes be 10 minutes in duration.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I thank the Chair.

VOTE ON AMENDMENT NO. 3656

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act with respect to Schumer amendment No. 3656. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Colorado (Mr. CAMPBELL), the Senator from Mississippi (Mr. LOTT), and the Senator from Alabama (Mr. SESSIONS) are necessarily absent.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 43, nays 51, as follows:

[Rollcall Vote No. 181 Leg.]

YEAS—43

Baucus	Feinstein	Mikulski
Bayh	Graham (FL)	Murray
Biden	Harkin	Nelson (FL)
Boxer	Hollings	Nelson (NE)
Breaux	Inouye	Pryor
Byrd	Jeffords	Reed
Cantwell	Johnson	Reid
Carper	Kennedy	Rockefeller
Clinton	Kohl	Sarbanes
Corzine	Landrieu	Schumer
Daschle	Lautenberg	Specter
Dayton	Leahy	Stabenow
Dodd	Levin	Wyden
Durbin	Lieberman	
Feingold	Lincoln	

NAYS—51

Alexander	Crapo	Lugar
Allard	DeWine	McCain
Allen	Dole	McConnell
Bennett	Domenici	Miller
Bingaman	Dorgan	Murkowski
Bond	Ensign	Nickles
Brownback	Enzi	Roberts
Bunning	Fitzgerald	Santorum
Burns	Frist	Shelby
Chafee	Graham (SC)	Smith
Chambliss	Grassley	Snowe
Cochran	Gregg	Stevens
Coleman	Hagel	Sununu
Collins	Hatch	Talent
Conrad	Hutchison	Thomas
Cornyn	Inhofe	Voinovich
Craig	Kyl	Warner

NOT VOTING—6

Akaka	Edwards	Lott
Campbell	Kerry	Sessions

The PRESIDING OFFICER. On this question, the yeas are 43, the nays are 51. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

Mr. COCHRAN. I move to reconsider the vote.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3655

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act with regard to amendment No. 3655 by the Senator from New York, Mr. SCHUMER.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Colorado (Mr. CAMPBELL), the Senator from New Mexico (Mr. DOMENICI), the Senator from Mississippi (Mr. LOTT), and the Senator from Alabama (Mr. SESSIONS) are necessarily absent.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 44, nays 49, as follows:

[Rollcall Vote No. 182 Leg.]

YEAS—44

Baucus	Graham (FL)	Lincoln
Bayh	Hagel	Mikulski
Biden	Harkin	Murray
Boxer	Hollings	Nelson (FL)
Breaux	Hutchison	Nelson (NE)
Byrd	Inouye	Pryor
Cantwell	Jeffords	Reed
Clinton	Johnson	Reid
Corzine	Kennedy	Rockefeller
Daschle	Kohl	Sarbanes
Dayton	Landrieu	Schumer
Dodd	Lautenberg	Specter
Durbin	Leahy	Stabenow
Feingold	Levin	Wyden
Feinstein	Lieberman	

NAYS—49

Alexander	Craig	McConnell
Allard	Crapo	Miller
Allen	DeWine	Murkowski
Bennett	Dole	Nickles
Bingaman	Dorgan	Roberts
Bond	Ensign	Santorum
Brownback	Enzi	Shelby
Bunning	Fitzgerald	Smith
Burns	Frist	Snowe
Carper	Graham (SC)	Stevens
Chafee	Grassley	Sununu
Chambliss	Gregg	Talent
Cochran	Hatch	Thomas
Coleman	Inhofe	Voinovich
Collins	Kyl	Warner
Conrad	Lugar	
Cornyn	McCain	

NOT VOTING—7

Akaka	Edwards	Sessions
Campbell	Kerry	
Domenici	Lott	

The PRESIDING OFFICER. On this vote, the yeas are 44, the nays are 49. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the point of order was sustained, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 3631

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the motion to table amendment No. 3631. The yeas and nays have previously been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Colorado (Mr. CAMPBELL), the Senator from New Mexico (Mr. DOMENICI), the Senator from Mississippi (Mr. LOTT), and the Senator from Alabama (Mr. SESSIONS) are necessarily absent.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 39, as follows:

[Rollcall Vote No. 183 Leg.]

YEAS—54

Alexander	Daschle	Lincoln
Allard	Dayton	Lugar
Baucus	Dole	McConnell
Bayh	Dorgan	Miller
Bennett	Enzi	Murkowski
Bond	Feingold	Nelson (NE)
Brownback	Fitzgerald	Pryor
Bunning	Frist	Roberts
Burns	Graham (SC)	Rockefeller
Carper	Grassley	Shelby
Chafee	Gregg	Smith
Chambliss	Hagel	Snowe
Cochran	Harkin	Stevens
Coleman	Hatch	Sununu
Collins	Inhofe	Talent
Conrad	Johnson	Thomas
Craig	Kohl	Voinovich
Crapo	Kyl	Wyden

NAYS—39

Allen	Ensign	McCain
Biden	Feinstein	Mikulski
Bingaman	Graham (FL)	Murray
Boxer	Hollings	Nelson (FL)
Breaux	Hutchison	Nickles
Byrd	Inouye	Reed
Cantwell	Jeffords	Reid
Clinton	Kennedy	Santorum
Cornyn	Landrieu	Sarbanes
Corzine	Lautenberg	Schumer
DeWine	Leahy	Specter
Dodd	Levin	Stabenow
Durbin	Lieberman	Warner

NOT VOTING—7

Akaka	Edwards	Sessions
Campbell	Kerry	
Domenici	Lott	

The motion was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3607

Mr. COCHRAN. Mr. President, under the previous order, the amendment of the Senator from Florida adding funds for the Red Cross is the pending business, which should be adopted by voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3607) was agreed to.

Mr. COCHRAN. I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 3614, 3643, 3644, 3646, 3647, AND 3648, EN BLOC

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Senate proceed to the en bloc consideration of the following amendments: amendment No. 3614 proposed by Ms. COLLINS and Mr. PRYOR; amendment No. 3647 proposed by Ms. STABENOW, Mr. CRAIG, Mr. LEVIN, Mr. CRAPO, Mr. JEFFORDS, Mr. BIDEN, and Mr. ROCKEFELLER; amendment No. 3648 proposed by Mr. SHELBY; amendment No. 3643 proposed by Mr. ROBERTS; amendment No. 3646 proposed by Mr. TALENT and Mr. BOND; and amendment No. 3644 proposed by Ms. MURKOWSKI, Mr. INOUYE, and Mr. STEVENS.

These amendments have been agreed to on both sides of the aisle, and I ask they be adopted en bloc.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc and are adopted en bloc.

The amendments were agreed to, as follows:

AMENDMENT NO. 3614

(Purpose: To set aside $50,000,000 from the amount appropriated for law enforcement terrorism prevention grants to identify, acquire, and transfer homeland security technology, equipment, and information to State and local law enforcement agencies)

On page 19, line 22, strike the colon and insert the following: '', of which $50,000,000 shall be used for grants to identify, acquire, and transfer homeland security technology, equipment, and information to State and local law enforcement agencies:''

AMENDMENT NO. 3643

(Purpose: To express the sense of the Senate concerning the American Red Cross and Critical Biomedical Systems)

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE CONCERNING THE AMERICAN RED CROSS AND CRITICAL BIOMEDICAL SYSTEMS.

(a) FINDINGS.—The Senate finds that—

(1) the blood supply is a vital public health resource that must be readily available at all times, particularly in response to terrorist attacks and natural disasters;

(2) the provision of blood is an essential part of the critical infrastructure of the United States and must be protected from threats of terrorism;

(3) disruption of the blood supply or the compromising of its integrity could have wide-ranging implications on the ability of the United States to react in a crisis; and

(4) the need exists to ensure that blood collection facilities maintain adequate inventories to prepare for disasters at all times in all locations.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Department of Homeland Security's Information Analysis and Infrastructure Protection should consult with the American Red Cross to—

(1) identify critical assets and interdependencies;

(2) perform vulnerability assessments; and

(3) identify necessary resources to implement protective measures to ensure continuity of operations and security of information technology systems for blood and blood products.

AMENDMENT NO. 3644

(Purpose: To encourage the Secretary of Homeland Security to place special emphasis on the recruitment of American Indians, Alaska Natives, and Native Hawaiians into Disaster Assistance Employee cadres maintained by the Emergency Preparedness and Response Directorate)

At the appropriate place, insert the following:

SEC. ___. DISASTER ASSISTANCE EMPLOYEE CADRES OF EMERGENCY PREPAREDNESS AND RESPONSE DIRECTORATE.

(a) IN GENERAL.—The Secretary of Homeland Security is encouraged to place special emphasis on the recruitment of American Indians, Alaska Natives, and Native Hawaiians for positions within Disaster Assistance Employee cadres maintained by the Emergency Preparedness and Response Directorate.

(b) REPORT.—The Secretary of Homeland Security shall report periodically to the Senate and the House of Representatives with respect to—

(1) the representation of American Indians, Alaska Natives, and Native Hawaiians in the Disaster Assistance Employee cadres; and

(2) the efforts of the Secretary of Homeland Security to increase the representation of such individuals in the cadres.

AMENDMENT NO. 3646

(Purpose: To express the sense of the Senate that the Director of the Office for State and Local Government Coordination and Preparedness be given limited authority to approve requests from State Homeland Security Directors to reprogram Federal homeland security grant funds to address specific security requirements based on credible threat assessments)

On page 39, between lines 5 and 6, insert the following:

SEC. 515. It is the sense of the Senate that—

(1) the Director of the Office for State and Local Government Coordination and Preparedness be given limited authority to approve requests from the senior official responsible for emergency preparedness and response in each State to reprogram funds appropriated for the State Homeland Security Grant Program of the Office for State and Local Government Coordination and Preparedness to address specific security requirements that are based on credible threat assessments, particularly threats that arise after the State has submitted an application describing its intended use of such grant funds;

(2) for each State, the amount of funds reprogrammed under this section should not exceed 10 percent of the total annual allocation for such State under the State Homeland Security Grant Program; and

(3) before reprogramming funds under this section, a State official described in paragraph (1) should consult with relevant local officials.

AMENDMENT NO. 3647

(Purpose: To allow State Homeland Security Program grant funds to be used to pay costs associated with the attendance of part-time and volunteer first responders at terrorism response courses approved by the Office for State and Local Government Coordination and Preparedness)

On page 21, line 4, insert ''*Provided further*, That funds under this heading may be used to provide a reasonable stipend to part-time and volunteer first responders who are not otherwise compensated for travel to or participation in terrorism response courses approved by the Office for Domestic Preparedness, which stipend shall not be paid if such first responder is otherwise compensated by an employer for such time and shall not be considered compensation for purposes of rendering such first responder an employee under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.):'' after ''Homeland Security:''.

AMENDMENT NO. 3648

(To require the President's fiscal year 2006 budget to include an amount sufficient for funding a certain level of maritime patrol capability)

On page 16, line 4, before the period at the end, insert the following: '': *Provided, further*, That the budget for fiscal year 2006 that is submitted under section 1105(a) of title 31, United States Code, may include an amount for the Coast Guard that is sufficient to fund delivery of a long-term maritime patrol aircraft capability that is consistent with the original procurement plan for the CN–235 aircraft beyond the three aircraft already funded in previous fiscal years''.

AMENDMENT NO. 3653, AS MODIFIED

Mr. REID. Mr. President, amendment No. 3653 is at the desk. I send a modification to that amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], proposes an amendment numbered 3653, as modified.

Mr. REID. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, line 23, insert before the last period '': *Provided*, That not to exceed $53,000,000 may be provided for transportation worker identification credentialing and $2,000,000 for tracking trucks carrying hazardous material''.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, without objection, the amendment is agreed to.

The amendment (No. 3653), as modified, was agreed to.

Mr. REID. I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I call to the attention of the members of the Appropriations Committee that there will be a markup in our committee of three bills at 10:30. We will also consider appropriations bills on the floor tomorrow morning.

The PRESIDING OFFICER. The Senator from Mississippi.

AMENDMENTS NOS. 3657, 3658, AND 3659, EN BLOC

Mr. COCHRAN. Mr. President, I send three amendments to the desk: one on behalf of Senators DURBIN and AKAKA; one on behalf of Senator DOMENICI; and one on behalf of Senator TALENT. I understand these amendments have been cleared on both sides of the aisle. I ask unanimous consent that they be adopted en bloc.

The PRESIDING OFFICER. Without objection, the amendments are adopted en bloc.

The amendments were agreed to, as follows:

AMENDMENT NO. 3657

(Purpose: To provide for reporting by the Chief Financial Officer and the Chief Information Officer of the Department of Homeland Security)

On page 39, between lines 5 and 6, insert the following:

SEC. 515. Sections 702 and 703 of the Homeland Security Act of 2002 (6 U.S.C. 342 and 343) are amended by striking '', or to another official of the Department, as the Secretary may direct'' each place it appears.

AMENDMENT NO. 3658

At the appropriate place, insert the following:

SEC. .

Section 208(a) of Public Law 108–137; 117 Stat. 1849 is amended by striking ''current'' and inserting ''2005''.

AMENDMENT NO. 3659

(Purpose: To require the Secretary of Agriculture to deploy disaster liaisons when requested by a Governor or appropriate State agency in a federally declared disaster area)

At the appropriate place, insert the following:

SEC. ___. LIAISON FOR DISASTER EMERGENCIES.

(a) DEPLOYMENT OF DISASTER LIAISON.—If requested by the Governor or the appropriate State agency of the affected State, the Secretary of Agriculture may deploy disaster liaisons to State and local Department of Agriculture Service Centers in a federally declared disaster area whenever Federal Emergency Management Agency Personnel are deployed in that area, to coordinate Department programs with the appropriate disaster agencies designated under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(b) QUALIFICATIONS.—A disaster liaison shall be selected from among Department employees who have experience providing emergency disaster relief in federally declared disaster areas.

(c) DUTIES.—A disaster liaison shall—

(1) serve as a liaison to State and Federal Emergency Services;

(2) be deployed to a federally declared disaster area to coordinate Department interagency programs in assistance to agricultural producers in the declared disaster area;

(3) facilitate the claims and applications of agricultural producers who are victims of the disaster that are forwarded to the Department by the appropriate State Department of Agriculture agency director; and

(4) coordinate with the Director of the State office of the appropriate Department agency to assist with the application for and distribution of economic assistance.

(d) DURATION OF DEPLOYMENT.—The deployment of a disaster liaison under subsection (a) may not exceed 30 days.

(e) DEFINITION.—In this section, the term ''federally declared disaster area'' means—

(1) an area covered by a Presidential declaration of major disaster, including a disaster caused by a wildfire, issued under section 301 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170); or

(2) determined to be a disaster area, including a disaster caused by a wildfire, by the Secretary under subpart A of part 1945 of title 7, Code of Federal Regulations.

MODIFICATION TO AMENDMENT NO. 3589

Mr. COCHRAN. Mr. President, notwithstanding the adoption of amendment No. 3589, I ask unanimous consent that the amendment be modified with the following change: On line 7 of the amendment, insert ''and the Committee on Environment and Public Works of the Senate'' after ''Governmental Affairs.''

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is so modified.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the three amendments adopted previously were agreed to.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Will the Senator yield?

Mr. COCHRAN. I will be happy to yield to my friend.

Mr. REID. Mr. President, we worked real hard today. It is my understanding we will have no votes tomorrow.

Mr. COCHRAN. Mr. President, I yield the floor.

DUGWAY PROVING GROUND'S FIRST RESPONDER CLASSES

Mr. HATCH. Mr. President, I would like to compliment my friend, Senator

COCHRAN. He has been a tireless advocate for defending the homeland. His subcommittee has made impressive strides in helping to prepare first responders for a day that we all hope will never come. Therefore, I rise to share my thoughts about the First Responder Classes that are taught at Dugway Proving Ground.

These Ph.D driven courses focus on agent characteristics, sampling, protection, detection, decontamination and chemical/biological production recognition, such as the difference between clandestine drug laboratories, industrial accidents or chemical/biological production capabilities. Additionally, Dugway, as part of its effort to provide innovative training capabilities, has also built a ''training town'' in order for students to assess a situation and determine the proper course of action. The high quality of these classes is reflected in the comments from the Chief of the HAZMAT Unit of one of our largest cities who has categorized the program as ''one that all first responders should attend'' and many other students that have stated it was the best training they had experienced.

Mr. COCHRAN. I thank my colleague for his kind words. Identifying the very best in first responder training programs is a priority for the subcommittee. Accordingly, the subcommittee has created a system in which the Department of Homeland Security distributes funding through a competitive grant program. I appreciate the Senator's comments on the quality of classes conducted at Dugway Proving Ground. I look forward to hearing about the program's continued progress in the future.

Mr. HATCH. Mr. President, I appreciate my colleague's comments.

PORT SECURITY GRANTS

Mr. AKAKA. Mr. President, I rise today to engage in a colloquy concerning language in the Senate version of H.R. 4567, the Department of Homeland Security Appropriations Act, regarding the distribution of the port security grant program.

Under current policy, any port designated as a critical national seaport terminal may apply for a port security grant even though the grants are funded through the Urban Area Security Initiative, UASI, grant program. I would like to clarify that it is the intent of Congress that the port security grant program continue to be administered in this manner, and not limited to ports in UASI cities, as such a policy would deprive many American ports of crucial security funding.

I would like to ask my distinguished colleague from Mississippi if he agrees that it is the intent of Congress to continue the distribution of port security grants to all national critical seaports as has been done in the past?

Mr. COCHRAN. Mr. President, the Senator from Hawaii is correct. I appreciate the opportunity to clarify this point. It is not the intent of the Appropriations Committee to limit the recipients of port security grants to only UASI cities but rather to maintain the distribution criteria utilized in the fiscal year 2003 wartime supplemental.

Mr. INOUYE. Mr. President, will the distinguished Senator from Mississippi yield for a clarification?

Mr. COCHRAN. I yield to the senior Senator from Hawaii.

Mr. INOUYE. Mr. President, it is my understanding that the House version of the Homeland Security appropriations bill has language that clarifies this point. I would like to express my hope that the House language be preserved in the final version of the bill.

FLOOD ASSISTANCE

Mr. CARPER. Mr. President, I thank Senator COCHRAN and Senator BYRD for working with Senator BIDEN and me to try and assist the community of Glenville, in New Castle County, DE. About 1 year ago, on September 16, 2003, Tropical Storm Henri dropped between 8 and 10 inches of rain on the northern part of our State over a 14-hour period. Glenville was hardest hit. Every street in that development, home to 200 families, was flooded. Many resident's had to be rescued from their homes by boat. Hurricane Isabel hit just days later, causing further damage. Virtually the entire community is now uninhabitable.

Mr. BIDEN. Mr. President, Delaware Governor Ruth Ann Minner's requests for Federal disaster relief following Henri and Isabel was approved and FEMA was on the ground in Glenville immediately to assist. Since last September, however, we have come to the realization that more help is needed. Repairs to flood-damaged homes would be difficult because Glenville, hit hard in 1994 by Hurricane Floyd, is certain to suffer repeated flooding. The State of Delaware and New Castle County have now stepped in with $15 million each to purchase and destroy flood-damaged homes.

Mr. COCHRAN. I appreciate the Senators' comments regarding the disaster situation in Delaware last September. There are two programs at the Federal Emergency Management Agency to address a portion of this problem. The first program is the Hazard Mitigation Grant Program which is available to States such as the Senators' which have been declared disaster areas by the President. I am informed by FEMA that funds are available to assist the Glenville community with home buyouts. The other program available to the State is the Pre-Disaster Mitigation Program which is a Federal grant program which accepts competitive applications. However, I understand that these programs do not provide the resources to fully buy out the Glenville community at one time.

Mr. CARPER. I appreciate the Senator's comments. Delaware is now facing the beginning of another hurricane season. With the amount of money the State and the county have put into the mitigation effort in Glenville, we are concerned that they may be hard pressed to respond effectively to another storm like Henri or Isabel.

Mr. BIDEN. I know that no existing FEMA program was intended to buy out an entire community but $30 million is a lot of money in a State like mine. I believe additional Federal assistance for Glenville will help the State and the county finish their work there while maintaining sufficient emergency response capacity to deal with future storms.

Mr. COCHRAN. I thank the Senators from Delaware for this discussion and assure them that I will continue to assist them in their effort to work with FEMA on additional Federal funding.

Mr. DORGAN. Mr. President, I thank the managers of the Homeland Security Appropriations bill, Senators COCHRAN and BYRD, for agreeing to accept an amendment that I cosponsored. This amendment will ensure prompt funding for the accelerated deployment of Northern Border Air Wing run by the Department of Homeland Security.

In the wake of the September 11 attacks, Congress mandated the establishment of a Northern Border Air Wing. The Department of Homeland Security, which is responsible for implementing this initiative, intends to have 5 bases, in Washington, Montana, North Dakota, Michigan, and New York, from which planes can be dispatched to track, identify, and intercept any unauthorized aircraft detected on the northern border.

I have been working with Department officials in particular on their plan to base one of those air wings in Grand Forks, ND, which is a major aerospace center, and would be an invaluable base in this effort.

Despite the urgency of this initiative, the dollars were simply lacking for its prompt implementation. At the funding levels called for in the administration's budget and the original appropriations bill, the Northern Border Air Wing would not have been fully established, staffed, and equipped until 2008.

This amendment will allow the Department of Homeland Security to procure aircraft for, and begin operations at, all 5 air bases on the northern border in fiscal year 2005.

I believe that this is an essential step, and I thank my colleagues for accepting our amendment.

Mr. BIDEN. Mr. President, I will vote in favor of this Homeland Security Appropriations bill today, but I do so with great reservation and with the knowledge that its funding levels are woefully inadequate for the job of providing an effective defensive front in the war on terror.

Our highest priorities, as a Congress and as a Nation, have to be the security of the homeland and prevailing in the fight against terrorism. I fear that the bill before us does not provide the resources necessary to meet these priorities.

This bill does not reflect my priorities, nor does it represent a homeland

security budget I would write. I voted against the President's budget when it was before the Senate earlier this year. One of the main reasons I gave then for my opposition to the majority's budget resolution was its low level of funding for homeland security. Today, unfortunately, we are seeing the results of that budget.

The President's priorities seem to be along the lines of tax cuts for the wealthy and a missile defense system. Those are not my priorities. My priorities are the safety and security of my constituents and of the Nation. This bill reflects the President's priorities, as his tax cuts have left us with too few dollars to adequately secure the homeland.

Let me give just a few examples of where this bill is deficient. Senator BYRD offered an amendment to add $2 billion to this $33 billion Homeland Security Appropriations bill. I voted in favor of this proposal; yet, the majority voted in lock-step against it. Senator BYRD included in his amendment funds to double the amounts allocated to deploy radiation monitors at our ports. The Department of Homeland Security estimates it will cost $496 million to deploy enough radiation monitors to screen all inbound containerized cargo at the Nation's busiest ports; yet, the Department has insisted upon deploying this technology over a 5-year period. I do not believe we have 5 years to wait, and Senator BYRD would have doubled the pace of this effort. How can opponents justify voting against these funds?

Also included in this $2 billion amendment was an additional $100 million to beef up passenger security screening at airports. One of the portions of the 9/11 Commission's Report that leapt out at me dealt with the security vulnerabilities that remain in our airports. According to the Commission, ''[t]he TSA and the Congress must give priority attention to improving the ability of screening checkpoints to detect explosives on passengers. As a start, each individual selected for special screening should be screened for explosives.''

I expect it would surprise many of my constituents to know that the long lines we all go through at airports do not result in passengers being screened only for metal objects. When Russian airplanes are being blown out of the sky, likely by Chechen terrorists carrying explosives, and when the so-called ''shoe bomber,'' Richard Reid, tries to blow up a Miami-bound plane with carried-on explosives, we know we need to do a better job. But this bill provides only $75 million to continue to test for chemical and explosive material. Industry representatives have reported to me that these systems are ready to be deployed now, and that we need merely to spend the resources necessary to deploy them around the country. The $100 million proposed by Senator BYRD would have started us down that road, and I do not know how those who voted against these funds justify their position.

How can my friends on the other side of the aisle vote against additional resources to secure our seaport and railway systems? The $2 billion I referenced earlier also included an additional $350 million for transit and rail security grants, along with an additional $125 million for port security grants.

Not once since the attacks of 9/11 has the administration asked for an additional dollar of funding to protect passengers on our Nation's rails. More people pass through Penn Station in New York City every day than pass through all 3 of that city's major airports, to take just one example. But not a dime of new money has been requested by the President to protect those passengers.

The Commerce committee, under the leadership of Senator MCCAIN and Senator HOLLINGS, has reported legislation authorizing over $1.1 billion to enhance rail security. As my good friend from California has said, that legislation has not passed the Senate. In fact, since the attacks of 9/11 the Congress has refused to authorize additional security resources for Amtrak. Anonymous holds on the other side of the aisle have blocked action for 2 Congresses. The administration has done nothing to get that legislation—bipartisan bills—moving. That ought to be a scandal.

I am pleased that the amendment offered by Senator CARPER and Senator BOXER has been accepted. That will give Amtrak a fighting chance to get some of the funding this bill makes available for rail and transit security. But this will not feed the bulldog, Mr. President. This will not close the obvious gaps in our rail security. Given the low priority that rail security has been given, despite known and announced threats, I can only hope that Amtrak will get its share of the funds. I hope that when we revisit rail security in the next Congress, we will not regret the delay and penny-pinching that we have displayed on this issue.

This bill is underfunded and shortsighted, and I regret that the amendments I supported to add needed homeland security dollars were not included. While the bill before us today does not reflect my priorities, I will vote for it so that funds can continue to flow to our States, our critical infrastructures, and for the day-to-day operations of the Department of Homeland Security. But I look forward to debating appropriations bills that do reflect my priorities, and that truly do all we should do to secure the homeland and wage an effective war on terror.

Mr. BOND. Mr. President, I lend my support to a very important issue that would provide funding for the permanent installation of explosive detection system, EDS, equipment in airports. This amendment would increase the overall amount of money of EDS installation from $250 million to $325 million. I have been joined by Senator JOHN ENSIGN of Nevada and a bipartisan group of Senators in this very important effort to enhance security and convenience for our Nation's air travelers.

As passengers traveling through St. Louis, Kansas City, and other airports across the country have surely noticed, a number of bulky baggage screening machines sit in crowded terminal buildings where they were temporarily placed in the aftermath of 9/11.

I am concerned that the current situation creates safety and security risks and unduly inconveniences the traveling public since passengers are forced to work their way around these obtrusive machines. Additionally, the current in-lobby configuration unnecessarily wastes Federal resources since in-lobby equipment requires additional screening personnel to operate, transfer bags, and the like.

The goal of our amendment is to provide additional resources to move EDS equipment from airport lobbies out of the way and behind the scenes as part of an airport's baggage system. This is a costly undertaking requiring extensive construction at airports. The project cost estimate at St. Louis, for example, is $90 million, and $34 million at Kansas City. Nationwide, estimates to permanently install EDS equipment in airports run from $4 billion to $5 billion.

While costly, it is clear that EDS installation should be a high priority for the Federal Government. I made that point in a March letter to the Senate subcommittee responsible for drafting the DHS spending bill. Additionally, I would note that the 9/11 Commission Report, which Congress is in the midst of considering, also calls for expediting the ''installation of advanced (in-line) baggage screening equipment as part of its aviation-related recommendations.''

Our amendment is fully offset through a reduction of $75 million in an account aimed at establishing information technology connectivity between TSA and airports. While IT connectivity is certainly an important goal, that account has been increased by $154 million over last year's level under the current bill, and a $75 million reduction still leaves $218 million available for that purpose.

Given the difficulties that airports around the country are beginning to face with increasing wait times at screening checkpoints as air traffic continues to rebound, it is critical that we act now to move forward with EDS installation projects as quickly as possible. Adoption of this amendment is critical if we are to make any real progress in that regard.

Mr. MCCAIN. Mr. President, as we debate the Department of Homeland Security appropriations bill for fiscal year 2005, threats against our country and our way of life continue to mount. The reality of the world in which we live today is that terrorists are plotting ways to destroy our way of life

and seek to destroy the freedoms and liberties we cherish.

The recently released 9/11 Commission report outlines the failures that lead to the September 11 terrorist attacks and poses 41 recommendations on how to address identified failures and deter future terrorist attacks. Senators LIEBERMAN, SPECTER, BAYH and others have joined with me introducing legislation that encompasses all of the Commission recommendations. A number of the Commission's recommendations relate directly to the Department of Homeland Security and merit discussion today.

Obviously, one of the best ways to prevent terrorists from attacking our country is to prevent them from entering in the first place. The Commission urges the Government to integrate watch lists, speed up the full implementation of USVISIT, which is an automated biometric exit and entry program, and work with our allies to better coordinate terrorist travel intelligence. Actions must be taken to close current gaps in our security that allow people to travel into the United States without passports or other identification. Though challenging, it will be possible to tighten security and implement needed changes as recommended by the Commission without unnecessarily impeding the flow of people in and out of our country.

The Commission also was clear that ''[h]omeland security assistance should be based strictly on an assessment of risks and vulnerabilities'' and that ''Congress should not use this money as a pork barrel.'' As the Commission reported, ''[p]opulation density, vulnerability and critical infrastructure should be the criteria by which homeland security assistance is based. I whole-heartedly agree. We must continue to resist any urge to earmark homeland security funds and I am pleased by the restraint the Appropriations Committee has once again shown while considering this homeland security funding legislation.

Just 2 years ago, we created the third largest Government agency, the Department of Homeland Security, bringing 21 distinct Federal agencies under the direction of one Department. Since that time, considerable progress has been made in protecting our country. However, as succinctly stated in the Commission's report, we are still not safe. We have yet to adequately develop strong measures to protect our air, land, and sea ports of entry. Our borders remain porous. We need to develop more efficient ways for states and localities to receive much needed funding to increase their preparedness for a terrorist attack. I also remain very concerned at the continuing problems surrounding interoperability.

I commend the chairman of the DHS Subcommittee, Senator COCHRAN, for developing an appropriations bill with minimal earmarks or unrequested spending. Although this is only the second Homeland Security Appropriations bill, I remain encouraged that the Appropriations Committee has resisted the urge to load its DHS appropriations legislation with unrequested spending. I urge my colleagues to hold strong as the bill continues through the legislative process.

I would be remiss if I did not point out that the few earmarks contained in this bill are targeted, as usual, to the home States of appropriators. Examples of earmarks and directive language include:

The bill provides $15.4 million for the Coast Guard's bridge alteration program, despite the fact that the President requested no funds for this program. The report then earmarks the funds as follows: $4.4 million for the Florida Avenue Bridge, New Orleans, LA; $3 million for the EJ&E Railroad Bridge, Morris, IL; $5 million for the Fourteen Mile CSX Railroad Bridge, Mobile, AL; $3 million for the Burlington Northern Santa Fe Bridge, Burlington, IA.

The bill provides $5 million above the President's request for identified perimeter security and firearms range needs, and the report specifies that the extra funds are to be spent at the Federal Law Enforcement Training Center in Artesia, NM;

Agricultural pests: citing Hawaii's ''globally significant natural environment,'' the Committee report states that DHS should work with the U.S. Department of Agriculture and the Hawaii Department of Agriculture in sharing information and expertise to ensure protection against agricultural pests. In this time of heightened security and exploding federal budgets, one should question the need for such a provision. I, for one, had not been unaware of an impending scourge of agricultural pests—pests that obviously have the good sense to live in a state that is popular travel destiny—pose a threat to the security of the homeland.

Out of the acquisition, construction, improvements and related expenses account provided for the Federal Law Enforcement Training Center, the committee report specifically identifies alterations and maintenance funding for buildings at four locations three of which happen to be represented by appropriators. The locations are Artesia, NM; Cheltenham, MD; Charleston, SC; and Glynco, GA.

Mr. President, the role of our Department of Homeland Security is perhaps most vital when it comes to protecting our Nation's borders. I am pleased that the committee has continued to fund improvements in the technology available for the Department of Homeland Security to protect our borders. However, money alone will not solve this problem. We must reform our immigration laws while we work to improve border security.

Historians will judge the 108th Congress by the way we address international terrorism and respond to the attacks of September 11. While much work remains to be done to secure our homeland, including action on 9/11 Commission recommendations, we can take another important step by passing this legislation.

Mr. President, once again, I thank the appropriators for their efforts to move a relatively clean homeland security appropriations bill. I yield the floor.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time.

Mr. COCHRAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The bill having been read the third time, the question is, Shall the bill pass? The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Colorado (Mr. CAMPBELL), the Senator from New Mexico (Mr. DOMENICI), the Senator from Mississippi (Mr. LOTT), and the Senator from Alabama (Mr. SESSIONS) are necessarily absent.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 93, nays 0, as follows:

[Rollcall Vote No. 184 Leg.]

YEAS—93

Alexander	Dodd	Lincoln
Allard	Dole	Lugar
Allen	Dorgan	McCain
Baucus	Durbin	McConnell
Bayh	Ensign	Mikulski
Bennett	Enzi	Miller
Biden	Feingold	Murkowski
Bingaman	Feinstein	Murray
Bond	Fitzgerald	Nelson (FL)
Boxer	Frist	Nelson (NE)
Breaux	Graham (FL)	Nickles
Brownback	Graham (SC)	Pryor
Bunning	Grassley	Reed
Burns	Gregg	Reid
Byrd	Hagel	Roberts
Cantwell	Harkin	Rockefeller
Carper	Hatch	Santorum
Chafee	Hollings	Sarbanes
Chambliss	Hutchison	Schumer
Clinton	Inhofe	Shelby
Cochran	Inouye	Smith
Coleman	Jeffords	Snowe
Collins	Johnson	Specter
Conrad	Kennedy	Stabenow
Cornyn	Kohl	Stevens
Corzine	Kyl	Sununu
Craig	Landrieu	Talent
Crapo	Lautenberg	Thomas
Daschle	Leahy	Voinovich
Dayton	Levin	Warner
DeWine	Lieberman	Wyden

NOT VOTING—7

Akaka	Edwards	Sessions
Campbell	Kerry	
Domenici	Lott	

The bill (H.R. 4567), as amended, was passed.

(The bill will be printed in a future edition of the RECORD.)

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendment and requests a conference with the House of Representatives on the disagreeing votes of the two Houses.

The Presiding Officer appointed Mr. COCHRAN, Mr. STEVENS, Mr. SPECTER, Mr. DOMENICI, Mr. MCCONNELL, Mr. SHELBY, Mr. GREGG, Mr. CAMPBELL, Mr. CRAIG, Mr. BYRD, Mr. INOUYE, Mr. HOLLINGS, Mr. LEAHY, Mr. HARKIN, Ms. MIKULSKI, Mr. KOHL, and Mrs. MURRAY conferees on the part of the Senate.

Mr. SANTORUM. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be a period of morning business for debate only with Senators speaking up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO KATIE ILG

Mr. DEWINE. Mr. President, I come to the Senate today with mixed emotions. A very important, very trusted member of my staff—Katie Ilg—is leaving our office to embark on a host of new adventures in Chicago. While I am happy for her and proud of her as she begins this new chapter in her life, I am also sad to see her go. Katie has become a central figure in our office. As my executive assistant, she has been my right hand for the last year and a half. She has been my friend.

I take a few minutes today to talk about Katie and the impact she has had on my office and me and to thank her for all she has done for us.

Katie first came to us in April 2000, after graduating from John Carroll University near Cleveland. Her first job in my office was as a staff assistant, where she answered phones, dealt with flag requests, and gave tours of the Capitol. The thing that most impressed me about Katie was that she would always go the extra mile for Ohio constituents—or anyone who wandered into my office, for that matter. She would listen to them with great compassion and concern. She was patient and understanding and a great ambassador for my office.

Of course, this is not surprising to anyone who knows Katie. The fact is that people are drawn to her. She endears herself to people. She is kind to people. She goes out of her way for others. She isn't showy or elaborate or judgmental. She just cares about people—constituents, colleagues, strangers. She reads people, and she worries about them.

It is also not surprising that Katie moved up in my office quickly. By December 2000, she took a position as my personal assistant. Though, after a year and a half, she left our office briefly to work for JP Morgan, she came back in February 2003—this time as my executive assistant, a management position that put her in charge of my personal assistant and scheduler.

Katie has thrived in this job. She is an excellent manager and role model. She works so hard and is so dedicated. She is always looking out for me—always taking care of me, always putting up with me—which, some would say is certainly not an easy thing to do. I've called her at all hours, and she's always there to help—always there with the same enthusiasm and good nature. Katie never complains, or makes excuses, or passes the buck to someone else. No job is ever too small—or too big.

Indeed, Katie Ilg is a very special young woman. No one knows that better than the people Katie has worked with in my office. I'd like to share some of the words that my staff has used to describe Katie. I think they paint a very accurate picture of exactly who she is.

Katie is ''thoughtful and thorough.'' She is ''sweet, bubbly, ebullient, compassionate, generous, warm, steady—a calming influence.''

''She is willing to do anything for others. She is always there for you when you need her—whether in a work environment or on a personal level. She is the person everyone goes to for support, a good job done, a laugh, a joke. . . . She keeps the office alive!''

''Katie is cute, perky, friendly, positive, upbeat.''

And, no matter who you ask, there are four words that everyone uses to describe her:

Katie is caring, selfless, genuine—and short! She makes me look tall! Though Katie is a tiny little thing in body, she is a giant in spirit. She is a powerful, positive force, who is smart, quick, and intuitive. She makes good decisions—good choices. She follows her heart and trusts her instincts. Above all else, Katie makes a difference each day—not in big splashy ways, necessarily, but in just a touch on the shoulder or through a kind word.

Katie is a good person. And, there is goodness in everything that she does.

As her dear friend Matt said, ''Whether comforting a family member in a time of loss or discomfort, counseling a friend through a difficult life challenge or affliction, celebrating a success with a co-worker or classmate, or orienting an old friend to a new city, Katie is always there with genuine and heartfelt words, actions, and deeds no matter the occasion and regardless of the other personal commitments she has at the time. . . . She has the ability to be a friend and confidant to all, whether you have known her for 8 years or 8 days.''

In conclusion, I'd like to say a word to Katie's parents, Tim and Mimi Ilg. Thank you. Katie is solid in her values and beliefs. She is grounded. She is ethical. She has a great sense of right and wrong. And, she loves her family more than anything else in the world. She is a good daughter to you; granddaughter to Lois; sister to Julie; companion to that boy in Detroit, we know as Mert; and friend to countless others.

Every once in a while, we are fortunate enough to have a Katie Ilg come into our lives. Without question, Katie has been one of the best things to happen to my office since I have been here in the Senate. While my wife, Fran, and I are sad to see her go, we know it is time for her to move on, as she has many more lives to touch and people to help.

We know she will just be a phone call or an e-mail away. And, I'm sure we'll see her at a few OSU football games this fall. Nevertheless, we're going to miss you, Katie Ilg. God bless you, and thank you for everything. You are certainly one of a kind.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

On May 30, 2000 in Salt Lake City, UT, a man armed with a pellet gun stormed into a gym, fired several shots, and made threatening comments to the gay people in the gym. The club's manager said the gym is a health and social club for gay and straight men.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

TRIBUTE TO NANCY KASSEBAUM BAKER AND AMBASSADOR HOWARD BAKER

Mr. KENNEDY. Mr. President, I welcome this opportunity to pay tribute to our former Senate colleagues, Nancy Kassebaum Baker and Ambassador Howard Baker, for their leadership in organizing a regional conference in Tokyo on ''strategies for combating human trafficking in Asia.'' Together, they led the U.S. Embassy's effort to bring together government officials, nongovernmental organizations and multilateral organizations in a 2-day