

I just received a press release from the leader's office, majority leader BILL FRIST's office. This is something we need to celebrate. This is from Senator BILL FRIST:

The Senate will take up the three stem cell bills on Monday, July 17, and will complete all action by Tuesday, July 18. There's tremendous promise in stem cell research . . .

That is really good news. I compliment and applaud the majority leader for allowing next week to go to stem cell research. To those people watching in America, it is good news. These people who have been hopeful—like the man who tapped me on the shoulder in church—we are going to do everything we can to get the 60 votes necessary to get this sent to the President's desk.

Mr. DURBIN. If the Senator from Nevada will yield, I address the comment and question to him.

Despite the fact we have been pushing for a year, even speaking to this issue in the Senate today, sending a letter to Senator FRIST tomorrow, I thank him and congratulate Senator FRIST. This is a bipartisan bill. It is critically important to our Nation to move forward on stem cell medical research.

When President Bush closed down this promising area of medical research almost 5 years ago, we left a void in terms of opportunity for finding cures for critical diseases.

It has never been a partisan issue. Former First Lady Nancy Reagan has pushed for stem cell research. Senator ORRIN HATCH, Senator ARLEN SPECTER—there have been so many who have stepped forward asking for stem cell research. In the spirit of this announcement from Senator FRIST, I hope we can move forward in a bipartisan fashion, pass the key bill, H.R. 810, by July 18, and send it to President Bush. I hope he will reconsider his promised veto of this bill.

I ask, if I might, of the Senator from Nevada, when it comes to the Voting Rights Act, another issue which the Senator raised, the Senator and I are from a common generation that recalls the civil rights struggle we lived through as we went through school and watched it unfold in America. The Voting Rights Act was passed to protect the rights of minorities to vote across the United States.

I ask the Senator from Nevada whether he is aware of a comment made by Jack Kemp, the former Republican Vice Presidential nominee, a former Republican Member of Congress, when speaking of the House Republicans' efforts to stop reauthorization of the Voting Rights Act—this has been occurring over the last few weeks—that former Vice Presidential nominee Jack Kemp said that his Republican Party had better get this thing passed; we need to get back on the right side of history.

I ask the Senator from Nevada, has this not been a bipartisan issue, the Voting Rights Act, where both parties tried to be on the right side of history

in moving toward more opportunity and striking down discrimination when it came to voting in elections in America?

Mr. REID. The Senator from Illinois and I served in the House with Jack Kemp. Jack Kemp was an all-star: a great quarterback in college, a great quarterback in the professional ranks, and a very good Member of Congress. He speaks the truth.

The Republicans need to get on the right side of history. Holding this up is not good for them. It is not good for our country.

Mr. DURBIN. I say to the Senator from Nevada in closing, there are Members in the Senate, and we are moving to the Homeland Security bill. That is a timely bill. I am glad we are considering it.

At another time, we will address the issue of increased cost of college education for working families and the failure of the Republican leadership to schedule opportunities for tax deductions and reductions in student loan costs for these students.

Of course, the energy issue is the issue I ran into all across Illinois. We have seen a doubling of gasoline prices under the Bush administration, there is a severe hardship on families and businesses, and still we have no energy policy to address this issue from this Republican-dominated Congress.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

STEM CELLS AND THE VOTING RIGHTS ACT

Mr. COBURN. Mr. President, I make a couple of points based on what we just heard.

The first has to do with stem cells. As the Presiding Officer knows, I am a practicing physician. I am still delivering babies on weekends and our breaks. I am concerned in our country because we are letting emotional issues far override what the science today says on stem cells.

We have a lot of people who have significant diseases who have been convinced that the only way those diseases will ever be solved is to use embryonic stem cells. The dishonesty in the debate is concerning to me as a physician because the real breakthroughs have not been with embryonic stem cells.

There are now 70 treatments being utilized every day in this country from stem cells derived from core blood and adult blood stem cells. There also is wonderful new research in the last year that says you can gain exactly the same pluripotent—a cell that will do anything—from germ cells, from altered nuclear transfer, from three different mechanisms to get the exact same ability to cure diseases and never destroy the first embryo.

We do not hear that in the debate. We do not hear the truth of what the science is showing us, and we do not recognize that even though the Federal Government is funding, in a limited

amount, embryonic stem cell research, the fact is, where the private money is going—it is not going to embryonic stem cell research, it is going to other pluripotent stem cell research that doesn't have anything to do with embryos.

This debate, as a physician and as a scientist, concerns me because it is not based on facts or on truth. For us to continue to belie the fact of what the science is showing us today creates a false impression based on politics and false hope. There is great hope for people with diabetes, there is great hope for people who have neurologic injury, but it is not coming from embryonic stem cell research; it is coming from pluripotent stem cell research outside of that. During the debate next week, I plan on making that point. I am going to counter every point that belies science and does not recognize the true facts out there today.

The final comment I will make is that the Voting Rights Act does not expire for a year and a half. We ought to get it right. We ought to make sure everyone is protected in this country in terms of the right to access. To say we have to do that right now, even though we are probably going to do it, to claim that we do not want to do it is a false claim. No. 2, we have plenty of time to do it even if we do not get it done this year. Those are important things for the American public to know and be aware of. No one in this Senate thinks we should not reauthorize the Voting Rights Act. But we ought to do it in a way that represents the principles on which this country is founded and not the politics of the next election.

I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2007

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 5441, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5441) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes.

Pending:

Feinstein amendment No. 4556, to amend chapter 27 of title 18, United States Code, to prohibit the unauthorized construction, financing, or, with reckless disregard, permitting the construction or use on one's land, of a tunnel or subterranean passageway between the United States and another country

and to direct the United States Sentencing Commission to modify the sentencing guidelines to account for such prohibition.

Cornyn amendment No. 4577 (to amendment No. 4556), to provide for immigration injunction reform.

Mr. GREGG. Mr. President, there was an understanding that the Senator from New Mexico would offer the first amendment this morning, and then we can go to the Senator from Oklahoma. He has five amendments.

How much time will that take to offer?

Mr. COBURN. I will get through them fairly quickly.

Mr. GREGG. We presume that after the Senator from New Mexico proceeds, we will go to the Senator from Oklahoma for his five amendments. If other Members have amendments they wish to offer, we would like to have them bring them to the floor.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

AMENDMENT NO. 4591

Mr. BINGAMAN. Mr. President, I thank my colleagues for their courtesy. I call up amendment No. 4591 and ask for its immediate consideration.

The PRESIDING OFFICER. The pending amendment is laid aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for himself, Mr. DOMENICI, Mr. CORNYN, and Mrs. HUTCHISON, proposes an amendment numbered 4591.

Mr. BINGAMAN. 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 financial aid to local law enforcement officials along the Nation's borders, and for other purposes)

On page 127, between lines 2 and 3, insert the following:

TITLE VI—BORDER LAW ENFORCEMENT RELIEF ACT

SEC. 601. SHORT TITLE.

This title may be cited as the "Border Law Enforcement Relief Act of 2006."

SEC. 602. FINDINGS.

Congress finds the following:

(1) It is the obligation of the Federal Government of the United States to adequately secure the Nation's borders and prevent the flow of undocumented persons and illegal drugs into the United States.

(2) Despite the fact that the United States Border Patrol apprehends over 1,000,000 people each year trying to illegally enter the United States, according to the Congressional Research Service, the net growth in the number of unauthorized aliens has increased by approximately 500,000 each year. The Southwest border accounts for approximately 94 percent of all migrant apprehensions each year. Currently, there are an estimated 11,000,000 unauthorized aliens in the United States.

(3) The border region is also a major corridor for the shipment of drugs. According to the El Paso Intelligence Center, 65 percent of the narcotics that are sold in the markets of the United States enter the country through the Southwest Border.

(4) Border communities continue to incur significant costs due to the lack of adequate

border security. A 2001 study by the United States-Mexico Border Counties Coalition found that law enforcement and criminal justice expenses associated with illegal immigration exceed \$89,000,000 annually for the Southwest border counties.

(5) In August 2005, the States of New Mexico and Arizona declared states of emergency in order to provide local law enforcement immediate assistance in addressing criminal activity along the Southwest border.

(6) While the Federal Government provides States and localities assistance in covering costs related to the detention of certain criminal aliens and the prosecution of Federal drug cases, local law enforcement along the border are provided no assistance in covering such expenses and must use their limited resources to combat drug trafficking, human smuggling, kidnappings, the destruction of private property, and other border-related crimes.

(7) The United States shares 5,525 miles of border with Canada and 1,989 miles with Mexico. Many of the local law enforcement agencies located along the border are small, rural departments charged with patrolling large areas of land. Counties along the Southwest United States-Mexico border are some of the poorest in the country and lack the financial resources to cover the additional costs associated with illegal immigration, drug trafficking, and other border-related crimes.

(8) Federal assistance is required to help local law enforcement operating along the border address the unique challenges that arise as a result of their proximity to an international border and the lack of overall border security in the region

SEC. 603. BORDER RELIEF GRANT PROGRAM.

(a) GRANTS AUTHORIZED.—

(1) IN GENERAL.—The Secretary is authorized to award grants, subject to the availability of appropriations, to an eligible law enforcement agency to provide assistance to such agency to address—

(A) criminal activity that occurs in the jurisdiction of such agency by virtue of such agency's proximity to the United States border; and

(B) the impact of any lack of security along the United States border.

(2) DURATION.—Grants may be awarded under this subsection during fiscal years 2007 through 2011.

(3) COMPETITIVE BASIS.—The Secretary shall award grants under this subsection on a competitive basis, except that the Secretary shall give priority to applications from any eligible law enforcement agency serving a community—

(A) with a population of less than 50,000; and

(B) located no more than 100 miles from a United States border with—

(i) Canada; or

(ii) Mexico.

(b) USE OF FUNDS.—Grants awarded pursuant to subsection (a) may only be used to provide additional resources for an eligible law enforcement agency to address criminal activity occurring along any such border, including—

(1) to obtain equipment;

(2) to hire additional personnel;

(3) to upgrade and maintain law enforcement technology;

(4) to cover operational costs, including overtime and transportation costs; and

(5) such other resources as are available to assist that agency.

(c) APPLICATION.—

(1) IN GENERAL.—Each eligible law enforcement agency seeking a grant under this section shall submit an application to the Secretary at such time, in such manner, and ac-

companied by such information as the Secretary may reasonably require.

(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

(A) describe the activities for which assistance under this section is sought; and

(B) provide such additional assurances as the Secretary determines to be essential to ensure compliance with the requirements of this section.

(d) DEFINITIONS.—For the purposes of this section:

(1) ELIGIBLE LAW ENFORCEMENT AGENCY.—The term "eligible law enforcement agency" means a tribal, State, or local law enforcement agency—

(A) located in a county no more than 100 miles from a United States border with—

(i) Canada; or

(ii) Mexico; or

(B) located in a county more than 100 miles from any such border, but where such county has been certified by the Secretary as a High Impact Area.

(2) HIGH IMPACT AREA.—The term "High Impact Area" means any county designated by the Secretary as such, taking into consideration—

(A) whether local law enforcement agencies in that county have the resources to protect the lives, property, safety, or welfare of the residents of that county;

(B) the relationship between any lack of security along the United States border and the rise, if any, of criminal activity in that county; and

(C) any other unique challenges that local law enforcement face due to a lack of security along the United States border.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Department of Homeland Security.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated \$50,000,000 for each of fiscal years 2007 through 2011 to carry out the provisions of this section.

(2) DIVISION OF AUTHORIZED FUNDS.—Of the amounts authorized under paragraph (1)—

(A) $\frac{2}{3}$ shall be set aside for eligible law enforcement agencies located in the 6 States with the largest number of undocumented alien apprehensions; and

(B) $\frac{1}{3}$ shall be set aside for areas designated as a High Impact Area under subsection (d).

(f) SUPPLEMENT NOT SUPPLANT.—Amounts appropriated for grants under this section shall be used to supplement and not supplant other State and local public funds obligated for the purposes provided under this title.

SEC. 604. ENFORCEMENT OF FEDERAL IMMIGRATION LAW.

Nothing in this title shall be construed to authorize State or local law enforcement agencies or their officers to exercise Federal immigration law enforcement authority.

Mr. BINGAMAN. Mr. President, this amendment is the Border Law Enforcement Relief Act which I have introduced before, along with Senators DOMENICI, CORNYN, and HUTCHISON. I offer this amendment on behalf of all of us again. It provides local law enforcement agencies in border communities with much-needed assistance in combatting border-related criminal activity.

During the debate on the immigration bill, this same legislation was proposed and agreed to by the Senate with a vote of 84 in favor and 6 against.

For far too long, law enforcement agencies that operate along the border have had to incur significant costs due

to the inability of the Federal Government to secure our Nation's borders. It is time the Federal Government recognize that border communities should not have to bear that burden alone.

Specifically, the amendment establishes a competitive grant program within the Department of Homeland Security to help local law enforcement agencies that are situated along the borders cover some of the costs they incur as a result of dealing with illegal immigration, drug trafficking, stolen vehicles, and other border-related crimes.

The amendment authorizes \$50 million a year and enables law enforcement within 100 miles of the border to hire additional personnel, to obtain necessary equipment, and to cover the cost of overtime and transportation costs. Law enforcement outside of this geographic limit, this 100-mile limit, would be eligible if the Secretary of Homeland Security certified they were located in what we designate as a "high impact area."

The United States shares 5,525 miles of border with Canada and 1,989 miles of border with Mexico. Many of the local law enforcement agencies that are located along the border are small. They are rural departments charged with patrolling large areas of land with few officers and with very limited resources. According to a 2001 study of the U.S.-Mexico Border Counties Coalition, criminal justice costs associated with illegal immigration exceed \$89 million every year. Counties along the southwest border are some of the poorest in the country and are not in a good position to cover these additional costs.

The States of Arizona and New Mexico have declared states of emergency in order to provide local law enforcement with immediate assistance in addressing criminal activity along the border. It is time, in my view, that the Federal Government step up and share some of that burden. So I urge my colleagues to support this important measure and to give law enforcement the resources they need to meet these challenges.

Mr. President, I met last week with sheriffs and local police chiefs in communities along the southern New Mexico border with Mexico and talked to them about the challenges they face and the need for additional personnel, the need for modern equipment. Clearly, they are faced with a very significant challenge because of the increased illegal activity going on along our U.S.-Mexico border. The assistance provided in this amendment is assistance that would be very important to them in carrying out their responsibilities to the citizens of those communities.

So I urge my colleagues again to support this amendment. I am informed this is an amendment the chairman has indicated might be acceptable. I am hoping we can have a vote, but I will at this point yield the floor until my colleague who is managing the bill can respond to the amendment.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. Mr. President, I ask unanimous consent that the pending amendment be set aside.

Mr. BINGAMAN. Mr. President, I object for just a minute. My understanding is we were going to dispose of my amendment before we—

Mr. COBURN. Mr. President, I withdraw my request.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I apologize.

Mr. President, I ask unanimous consent that the Senator's amendment be agreed to.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. The amendment is agreed to.

The amendment (No. 4591) was agreed to.

The PRESIDING OFFICER. The Senator from Oklahoma.

AMENDMENT NO. 4562

Mr. COBURN. Mr. President, if there is a pending amendment, I ask unanimous consent it be set aside, and I call up amendment No. 4562.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 4562.

Mr. COBURN. 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 require that any limitation, directive, or earmarking contained in either the House of Representatives or Senate report accompanying this bill be included in the conference report or joint statement accompanying the bill in order to be considered as having been approved by both Houses of Congress)

At the appropriate place, insert the following:

SEC. ____ . Any limitation, directive, or earmarking contained in either the House of Representatives or Senate report accompanying H.R. 5441 shall also be included in the conference report or joint statement accompanying H.R. 5441 in order to be considered as having been approved by both Houses of Congress.

Mr. COBURN. Mr. President, this is an amendment we have had several times on appropriations bills. It is about sunshine, pure and simple. What most Americans do not realize is that when conference reports come on appropriations bills, there are things that are added in the House that we in the Senate do not have any idea of what they are. They are not printed except in the report language. When we vote on the bill, we have no awareness whatsoever of what those things are.

This is a fairly simple amendment that just ensures that every earmark or directive must be included in the final Homeland Security appropria-

tions bill that is approved by both Chambers. The American people ought to get to see that, and we ought to be able to know, as Senators, what is in the bill.

This amendment is for transparency. It adds to the debate, and it provides the American taxpayers an additional safeguard that their money is not wasted on unnecessary projects that might jeopardize the Nation's fiscal health or lessen the impact of the Homeland Security bill.

The first time I offered this amendment, it was defeated. The second time I offered it, last year, we won it, and the third time we won it on separate appropriations bills. Thereafter, it was agreed to. That is all good and fine. But after it was done on every appropriations bill, it was dropped in conference, saying: We don't need to know what we are voting on. We don't need to have the information that we are having. The American people shouldn't know what we are voting on, and we shouldn't know what we are voting on.

I believe this is something that we ought to put into every appropriations bill. We ought to know what we are voting on. We ought to know who is responsible for what is in there. And we ought to be able to go home and defend it or object to it here on the floor. But nobody can make a case for us not knowing what is in the bill.

So my hope would be that the secrecy of the appropriations process or the sleight of hand in how things are written, so nobody can know where it is going or who put it there, would be eliminated. All this is is a sunshine amendment saying: We ought to know. My hope is we will accept this amendment, one, and then we will keep it in in conference so that when a conference bill comes back out, we can know what the House did on earmarks and directives, as well as knowing what we did.

I think it is a commonsense amendment. My hope would be the chairman and ranking member of this committee would accept this amendment.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I appreciate the efforts of the Senator from Oklahoma in the area of making sure the taxpayers know where their money is being spent. I think it has been constructive, and I will be happy to accept the amendment. But I do believe that at least relative to this appropriations bill there ought to be some recognition of the fact that this is probably the cleanest bill brought to the Senate in the history of the Senate relative to what would be deemed earmarks in the pejorative sense.

I am not one of these people who subscribes to the view that the Congress should not earmark. I happen to believe there are a lot of instances where the congressional prerogative of spending the money requires that we do earmark in order to make the case against the executive branch, which can earmark unilaterally, and basically in

true secrecy, by simply spending the money however they want to spend it once we give it to them. Often their direction is incorrect, and the purpose of the Congress should be to redirect it.

Now, there are other earmarks, particularly like the famous “bridge to nowhere,” and other things, that may and do have serious issues. I would take the entire highway bill that passed the Senate—of which I was one of four people who voted against it, which had \$24 billion of earmarks—as the most egregious example of when Congress got carried away with directing money inappropriately.

But there is a purpose for earmarks. And this bill is a classic example of that, quite honestly. The amendment, for example, that was offered yesterday by the Senator from West Virginia could be deemed an earmark amendment, I suppose, because he said specifically: Coast Guard, you shall purchase this plane; Customs, you shall refurbish this plane. You shall buy armament for these Coast Guard helicopters—all of which benefited some district in this country. And some Member of the Senate benefited from that by putting out a press release, I suspect, that we just bought an airplane for the Coast Guard, and it is going to be produced in someplace or other.

But the reason we had to do that was because the administration had not sent up the necessary capital improvements to make sure the Coast Guard had the aircraft, to make sure they had the armament on their helicopters, to make sure the helicopters were replaced, to make sure the vehicles were replaced because, for whatever reason, the Department of Homeland Security had not determined that those were priorities. We think they are priorities.

In this bill there are no, what you would call, district earmarks to speak of. There are a few probably in there somewhere, but nothing of any significance compared to what the average bill that comes through this place has. I do believe when we do our job right—which is the way I think this bill was done—when we do not use earmarks for the purposes of basically addressing an individual need that is maybe not within the context of the basic goal of the agency—although many things are that are deemed earmarks, that we rather use the earmark structure as a way of getting agencies to do what has to be done in order to complete their missions appropriately—that we should get credit for that.

This bill should be acknowledged as a bill that is a pretty good example of how this should be done right. So I appreciate the vigilance of the Senator from Oklahoma. He has become the watchdog of earmarks. And he is doing the Lord’s work in many ways. I am perfectly happy to have sunshine on this bill because I think this bill is a classic example of the way it should be done.

So has the amendment been reported, Mr. President?

The PRESIDING OFFICER. The amendment is pending.

Mr. GREGG. Mr. President, I ask unanimous consent it be agreed to.

Mr. COBURN. Mr. President, reserving the right to object for one moment, I want to make a point. The example used of the Senator from West Virginia is exactly the way it ought to be done. It is out in the open. There is direction. His name is tied to an amendment. And everybody in America who is watching this place knows who is doing what they are doing.

This amendment is to make sure that happens. The point is not what we are doing. This amendment is as to what the House is doing. And I would confirm with the Senator, the chairman, that this is a great bill in terms of earmarks. There are very few in it. We study every bill to see where it is and what the direction is. My hope is that an example will be set. There are a couple of earmarks, directives in this bill we will be talking about in amendments, but I will tell the Senator that I agree and I appreciate the fact that we are seeing a little bit of a change in culture in that regard.

My hope would be, also—I might ask the Senator—if he would agree to hold this in conference so we can see what the House does when we come to the conference report.

With that, I withdraw my objection.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I renew my unanimous consent request.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4562) was agreed to.

Mr. GREGG. In response to the Senator’s request that I hold this in conference, I have no problem in trying to hold this in conference. As the Senator knows, the House has a different approach to some of these issues. But I think this is a very reasonable request. People should tie their names to what they are willing to spend taxpayer dollars on. It should be public, as the Senator said. That is the way we should do it. I am perfectly happy to support that aggressively.

Mr. COBURN. I appreciate that.

The PRESIDING OFFICER. The Senator from Oklahoma.

AMENDMENT NO. 4561

Mr. COBURN. Mr. President, I ask unanimous consent that the pending amendment be set aside and that amendment No. 4561 be called up.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 4561.

Mr. COBURN. 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 require that reports required in the bill to be submitted to the Committees on Appropriations and the Department of Homeland Security’s annual justifications of the President’s budget request shall be posted on the Department of Homeland Security’s public website not later than 48 hours after such submission unless information in the report compromises national security)

At the appropriate place, insert the following:

SEC. ____ . Any reports required in this Act and accompanying reports to be submitted to the Committees on Appropriations and the Department of Homeland Security’s annual justifications of the President’s budget request shall be posted on the Department of Homeland Security’s public website not later than 48 hours after such submission unless information in the report compromises national security.

Mr. COBURN. Mr. President, this requires public disclosure of all reports delivered to the Appropriations Committee, including the President’s justification on his budget, with the exception of national security issues by the Department of Homeland Security, so that everybody can see what the request is, what the justification for the request is, and what the reports are.

Unfortunately, in this bill, there is a section that requires the opposite. There is a directive that says they are not to release it to the American public, that they are only to release it to the Appropriations Committee. A little bit of experience: This year, when the President’s budget request came up, and the justifications for it, as a U.S. Senator it was unavailable to me. It was unavailable to my staff. It was unavailable to any staff except Appropriations staff. They do a good job. But as to the justifications for the request, just like the Senator from New Hampshire said—we have the right of the purse strings. The House and the Senate have the right to say where the money goes. If we cannot have the justifications for why the President’s budget is so numbered and divided, then we will not have the ability to defend that—and that is those people outside of the Appropriations Committee.

In the committee report is this sentence:

The committee is deeply disappointed in the actions taken by the Department to combine the reporting requirements of this committee with other reports and then releasing the results of those reports publicly prior to submission to the committee. Reports to the committee are not expected to be turned into publicity events again in the future.

Well, whose business is this? It is the American people’s business; it is not just the Appropriations Committee’s business. And it is the other Senators’ business. And it is the other Congressmen’s business. It is not just one committee’s business. They have the authority and the obligation to bring it to the floor, but the knowledge of what the President requests and the knowledge of the reports required by bills that we all vote on coming back to the Congress should be shared with the American people.

All this amendment says is that 48 hours after they report it to the committee—and they should get it first; I adamantly agree they should see those reports first, since they are the ones who asked for them—it becomes on line and available to the rest of the Senators, the rest of the Congressmen, and, beyond that, the rest of the American people.

Why should they not see the President's budgetary request?

As a matter of fact, Josh Bolton, before becoming Chief of Staff for the President, was head of the OMB, and he agreed last year that this year they would put that all on line at the time they give it to the Appropriations Committee. This is simply another sunshine amendment.

Mr. DURBIN. Will the Senator yield for a question?

Mr. COBURN. I am happy to.

Mr. DURBIN. I would like to ask the Senator, in the spirit of full disclosure, when we considered the asbestos bill, which the Senator supported, there was one corporation that would have benefited to the tune of more than \$1 billion by that asbestos bill. In the interest of full disclosure of special interest groups and who is pushing legislation, would the Senator from Oklahoma also demand that kind of disclosure so we know if there is a change of a word or two, and one corporation, one lobbyist, or one special interest group is a big winner in a bill that is not an appropriations bill? Is the Senator from Oklahoma going to demand the same disclosure?

Mr. COBURN. Certainly, in answer to the Senator's question. On the trust fund, we never got to know who was going to give the money. It was same thing. So there are big problems everywhere. I believe in sunshine everywhere. You won't see me fighting sunshine. The people of this country deserve to know what is in the bills, what is in the reports, and what is in the requests and the justifications.

Mr. DURBIN. Will the Senator yield?

Mr. COBURN. I only have 45 minutes to get through three other amendments. I don't want to put this into a political game. What I want to do is talk about what the American people ought to be getting from us. This language ought to be changed so that we accept the Appropriations Committee getting the reports early, but then the Department of Homeland Security making it available to the rest of the American public, provided it doesn't have a security implication within it. It is a very straightforward amendment. I hope the committee will accept it and keep it in in conference.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from New Hampshire.

Mr. GREGG. Mr. President, we have no problem with this proposal. The Department will have a problem with it simply because if the Senator has followed the activities of this Department, their ability to produce the re-

ports requested is limited or at least their efforts have not been stellar. In any event, it is a reasonable request. I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4561) was agreed to.

AMENDMENT NO. 4585

Mr. COBURN. Mr. President, I ask unanimous consent that the pending amendment be set aside and amendment No. 4585 be called up.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 4585.

Mr. COBURN. 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 prohibit the use of funds available to the Coast Guard for operating expenses for the continuation of operations of Long Range Aids to Navigation stations nationwide)

After section 539, insert the following:

SEC. 540. None of the amounts available or otherwise available to the Coast Guard under title II of this Act under the heading "UNITED STATES COAST GUARD" under the heading "OPERATING EXPENSES" may be obligated or expended for the continuation of operations at Long Range Aids to Navigation (LORAN) stations nationwide.

Mr. COBURN. Mr. President, I know there is going to be a radical difference of opinion on this amendment. Let me explain. This is about the LORAN stations nationwide. This is an old-time aid to navigation that this bill has requested another study of. This has been studied. There are volumes of reports from every agency of the Federal Government that has anything to do with this. All of them say we don't need this system anymore.

LORAN stands for long-range aids to navigation. The original LORAN-A system was developed during World War II. LORAN-C, where we are today, was developed during the 1950s and 1960s. There are 24 LORAN stations across the United States. One of them is actually in my State.

These stations send out radio signals and LORAN receivers on board vessels and aircraft measure the differences in the time that it takes for a signal to come back and determine both the longitudinal and latitudinal positions. It is used rarely for some civilian navigation, but it is no longer a primary source for civilian navigation needs because it has been replaced with a far superior system called global positioning or a satellite-based system. That has been totally functioning since 1994.

The plan was released February 10, 2006. It was prepared by the Department of Defense, the Department of

Transportation, and the Department of Homeland Security. The Coast Guard requested to terminate this program. There is no longer a need for the Coast Guard for either primary or secondary. If GPS fails, there are other systems that back it up besides LORAN. And it is not needed for the Department of Transportation. The Department of Defense said they don't need it. The Department of Homeland Security, the Coast Guard, and the FAA said they do not need it. In this bill, it calls for DHS and DOT to submit a report to the Senate Appropriations Committee that requires them to come up with excuses to continue the LORAN operation. Here is the report.

I would like to submit for the RECORD the report and also the statement of administration policy on this.

The administration objects to this provision because it is going to postpone the inevitable. This is a program that we don't need. Every agency of the Federal Government that uses this program or has been involved with it says they don't need it anymore. There are special interests that might want it, but the country doesn't need it. The Government doesn't need it. You don't need it for navigational purposes.

I am quoting now:

The Department of Transportation has conducted numerous studies that make clear that the benefits of terminating the LORAN system far outweigh the costs. Furthermore, as discussed in the Subcommittee Report, the Global Positioning System is a far superior navigational aid, with sufficient backup capabilities in place to meet the Coast Guard's needs for the Maritime Transportation System [and to meet the FAA's need for air travel, and the Department of Homeland Security, as well as the Department of Transportation].

I ask unanimous consent to print that in the RECORD.

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

STATEMENT OF ADMINISTRATION POLICY, JULY 12, 2006

H.R. 5441—DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS BILL, FY 2007

The Administration supports Senate passage of the FY 2007 Department of Homeland Security Appropriations Bill, as reported by the Senate Appropriations Committee.

The President's FY 2007 Budget holds total discretionary spending to \$872.8 billion and cuts non-security discretionary spending below last year's level. The Budget funds priorities and meets these limits by proposing to reform, reduce, or terminate 141 lower-priority programs. The Administration urges Congress to fund priority needs while holding spending to these limits, and objects to the use of gimmicks to meet those limits. The Administration looks forward to working with Congress to adopt the President's proposals to cut wasteful spending in order to maintain fiscal discipline to protect the American taxpayer and sustain a strong economy.

Although the bill is largely supportive of the President's request, the Administration would like to take this opportunity to share additional views regarding the Committee's version of the bill.

Border and Transportation Security

The Administration appreciates the funding provided by the Committee for border

and immigration enforcement and strongly urges the Senate to fully fund 1,500 new Border Patrol agents and 6,700 additional detention beds and associated costs, as requested. On May 15th, the President outlined his five-part plan for comprehensive immigration reform. The Administration is committed to securing the resources necessary to gain control of the border through deployment of additional Border Patrol agents, as well as adding infrastructure and technology, such as access roads, fences, vehicle barriers, tactical communications, and aerial surveillance. These resources, coupled with additional legal authority from Congress, will end the practice of "catch and release" along the southern border by increasing detention and removal capabilities. The Administration is committed to working with Congress to implement an immigration enforcement strategy that will give our law enforcement authorities operational control of our Nation's borders as a part of the Administration's comprehensive immigration reform initiative.

The Administration is concerned that the Committee did not include the requested increase for aviation security passenger fees. The Senate is urged to include this provision to ensure that the direct beneficiaries of aviation security measures bear a greater share of the cost of implementing and maintaining a secure screening system.

The Administration strongly supports the provision to provide the Department with the flexibility to employ a risk-based strategy for focusing aviation screening resources on significant and emerging threats to aviation security. The Administration supports section 524 of the Committee's proposed bill that will provide additional direction to the Department and information to Congress on protection of Sensitive Security Information without compromising security.

State and Local Programs

While the Administration appreciates the Committee's commitment to State and local grant and training programs, the funding provided does not effectively target Department of Homeland Security (DHS) resources. Overall funding for programs administered by the Office of Grants and Training is \$504 million above the President's request, providing resources to lower priority programs that support individual infrastructure sectors or organizations and emphasize basic response equipment for local agencies. Resources should be shifted to fully fund programs that target high-risk targets and combine security efforts across the Nation's infrastructure sectors such as the Urban Areas Security Initiative and the proposed Targeted Infrastructure Protection Program. The Administration also urges the Senate to fully fund the Citizens Corps initiative, which helps to encourage greater citizen participation in local preparedness efforts.

Federal Emergency Management Agency (FEMA)

The Administration appreciates the Committee's support of FEMA's core operating expenses, flood map modernization, and the pre-disaster mitigation grant program. The funding provided for the pre-disaster mitigation grant program will protect people and buildings from flood damage, earthquakes, and wind damage from hurricanes and tornados. The Administration also strongly supports the transfer of the National Disaster Medical System to the Department of Health and Human Services, consistent with the recommendations of the White House Katrina 'Lessons Learned' report.

The Administration strongly urges the Senate to provide the full request level for FEMA's Disaster Relief Fund (DRF). The amount provided for the DRF is \$316 million

below the President's request. The requested funding is based on the five-year average of total disaster costs, excluding large one-time events such as Hurricanes Katrina and Rita. Full funding of the DRF is important to ensure that DHS is able to respond appropriately to the Nation's unforeseen events and natural disasters.

Management

The Administration strongly opposes any effort to reduce or eliminate funding for the DHS MAX HR initiative. This human resource management system is designed to meet the diverse personnel pay and benefit requirements of DHS.

The Administration is concerned that funding for the design and buildout of a new Coast Guard Headquarters at the St. Elizabeth's campus was not included in the bill and urges that it be restored. This facility has been identified by the General Services Administration as the only Federally-owned secure campus readily available in Washington, D.C. It is critical that the Coast Guard headquarters be constructed in a timely manner and these funds are needed to ensure the facility is constructed on schedule, address serious spatial needs of the agency, and support infrastructure development for eventual tenancy by other DHS components.

Coast Guard

The Administration strongly objects to the provision that would postpone decommissioning of the LORAN system and would require additional cost-benefit analysis. The Department of Transportation has conducted numerous studies that make clear that the benefits of terminating the LORAN system far outweigh the costs. Furthermore, as discussed in the Subcommittee Report, the Global Positioning System is a far superior navigational aid, with sufficient backup capabilities in place to meet the Coast Guard's needs for the Maritime Transportation System.

Secret Service

The Administration urges the Senate to include the establishment of a Special Event Fund to meet the unique security needs of the Secret Service to be prepared for special events. These funds have been requested in a separate account to ensure that resources are dedicated to meet special events overtime and travel needs.

Citizenship and Immigration Services

The Administration appreciates the funding provided for expansion and improvements to immigration verification systems to more effectively verify employment eligibility and benefit records. These resources support the Administration's comprehensive immigration reform initiative, and the Administration urges the Senate to fully fund efforts to automate U.S. Citizenship and Immigration Services' business processes and systems, which will improve its ability to collect, process, and provide immigration-related benefits.

Science and Technology

The Administration appreciates the funding provided by the Senate supporting the Department's research, development, test and evaluation (RDTE) requirements. However, the Administration strongly urges the Senate to restore the Management and Administration appropriation funding needed to ensure the necessary resources for the proper planning, prioritization, management, execution, and oversight of the RDTE programs.

The Administration is opposed to the transfer of the Transportation Security Laboratory (TSL) and explosives threat funding from Science and Technology (S&T) to the

Transportation Security Administration. S&T is best positioned to prioritize, develop, and execute the innovative research programs necessary to achieve significant results against explosive threats. S&T is also best suited to foster the research and development capabilities of the TSL and leverage these capabilities to support the entire Department.

Preparedness

The reduction in funding for the National Preparedness Integration Plan will limit the ability of the Preparedness Directorate to implement initiatives based on Katrina 'Lessons Learned' recommendations. At the funding level proposed by the Senate, the program will not be able to support needed improvements in telecommunications capabilities. DHS will work with Congress to better define the role of the proposed Federal Preparedness Coordinators, and avoid duplication of other DHS functions.

The Administration is also concerned about the aggregate reduction of \$24 million from the request for funding of Infrastructure Protection and Information Security activities. The \$20 million reduction in the National Security/Emergency Preparedness Telecommunications program will diminish the ability to provide priority wireless connectivity in disaster-affected areas and implement recommended improvements from the Administration and Congress to emergency communications infrastructure.

Domestic Nuclear Detection Office

The Administration appreciates the Committee's support for the Domestic Nuclear Detection Office (DNDO), but strongly recommends that the full funding requested be provided. This initiative is a priority of the Administration and failure to fully fund DNDO research and development programs will appreciably delay the availability of new technologies for detecting radiological and nuclear materials in cargo, at our borders, and elsewhere. Specific reductions in funding will delay the deployment of next-generation equipment for detecting nuclear devices; hinder efforts to leverage the research capabilities of our Nation's universities; and delay efforts to track the source of radioactive materials.

Competitive Sourcing

The Administration strongly opposes provisions that limit competitive sourcing. Section 516 imposes a legislative restriction on the use of competitive sourcing for work performed by the Immigration Information Officers at the U.S. Citizenship and Immigration Services, and section 537 overrides Executive Branch discretion to consider public-private competition by dictating that commercial classroom training performed at the Federal Law Enforcement Training Center is an inherently governmental activity. Precluding public-private competition for performance of these activities deprives the Department of the operational efficiencies to be gained by competition, and limits its ability to direct Federal resources to other priorities.

Management decisions about public-private competition, and accountability for results, should be vested with the Department. On a Government-wide basis, the improvements set in motion by competitions completed between FY 2003 and FY 2005 will generate an estimated savings that will grow to over \$5 billion over the next 10 years. The Senate is urged to strike these restrictions.

Reports and Penalties

While the Administration understands the need for prompt delivery of reports to Congress and makes every effort to do so, the Committee's requirement to deliver reports on complicated matters before receiving funding could inhibit the Department's efforts to carry out its mission.

Constitutional Concerns

Several provisions of the bill purport to require approval of the Committees prior to Executive Branch action. These provisions are found under the following headings: "United States Visitor and Immigrant Status Indicator Technology"; "Automation Modernization," "Technology Modernization," and "Air and Marine Interdiction, Operations, Maintenance, and Procurement," within Customs and Border Protection; "Automation Modernization" Immigration and Customs Enforcement; "Protection, Administration, and Training," United States Secret Service; "Management and Administration," Preparedness and Recovery Preparedness; "Management and Administration," Science and Technology; and section 509. Since these provisions would contradict the Supreme Court's ruling in *INS v. Chadha*, they should be changed to require only notification of Congress.

Section 521 of the bill, relating to privacy officer reports, should be stricken as inconsistent with the President's constitutional authority to supervise the unitary executive branch.

Mr. COBURN. I draw the attention of my colleagues to the formal report on the LORAN system as put forward by the three agencies.

We are going to hear debate that there is not sufficient backup. Let me answer that first. The 2005 Federal Radio Navigational Plan reported that the U.S. Coast Guard has determined that there are backups. LORAN is not needed for it. In case there is a GPS failure, conventional navigation is used, using all available equipment which includes GPS, DGPS, radar, lights, buoys, celestial navigation, daymarks, and dead reckoning. There are seven backups besides this.

Coast Guard Congressional Affairs has indicated that LORAN is one of many backups. It is not needed for aviation backup. They have very high-frequency omnidirectional beacons that give the same backup. Distance measuring equipment, the ILS systems, a backup to GPS, it is not going to be long when we won't even have ILS systems at airports. We will probably have somebody who wants to keep those in. The fact is, we need to recognize the technology. These dollars would be better spent somewhere else.

The Coast Guard is going to spend \$35 million in 2007 on operations and the maintenance of the LORAN system. The Federal Aviation Administration will spend between \$15 and \$25 million on recapitalization. The Coast Guard tried to start getting rid of this in 2000. The FAA at that time said they still needed it. They now no longer need it. It will take another 6 to 10 years and another \$300 million to complete the recapitalization that was mandated since 2000 for a program this isn't needed.

Here are the savings: \$500 million over the next 7 years if we go on and terminate a program that we don't need and nobody needs as a backup.

The Senate report on this bill and the proponents of LORAN will claim that GPS used along with LORAN provides the most accurate positioning. That is one of the claims. They aren't

even used in tandem anymore. If you are looking at GPS, you don't use the LORAN system. And GPS is far superior to anything that LORAN could give us. One of the claims will be that shutting down will adversely affect other Federal agencies that use LORAN. The navigational plan asked for by this Congress indicated that it is no longer a mission-essential device. It is not needed for either a primary or secondary source for positioning, navigation, or timing for the Department of Defense, the Department of Transportation, or the Department of Homeland Security. Who is that? That is the FAA, the Maritime Commission, the Coast Guard, all of them saying: We don't need this. Yet we are going to spend another \$500 million over the next 7 years if we don't get rid of it.

So it is simple. Somebody wants it, yes. Why? There are special interests that will want this to continue. But the fact is, a half a billion dollars is a lot of money that we don't have. We ought to eliminate this program. I know there are others who disagree with that. I look forward to the debate. I yield the floor at this time.

The PRESIDING OFFICER. Who yields time? The Senator from Washington.

Mrs. MURRAY. Mr. President, I rise to oppose the amendment. Certainly, I understand the intent of the amendment, which is to terminate the LORAN program. This is a program that affects a lot of our small airplanes, maritime safety, their ability to communicate in the Pacific Northwest waters. I know Senator STEVENS from Alaska has a deep concern about this as well.

We know that at some point the LORAN system is going to be changed. The problem is that the Coast Guard alone, which I have tremendous respect for, made a decision to terminate the LORAN system without talking to the FAA, without talking to DOD, and without talking to many of the other users of the LORAN system. This bill makes sure that as we move toward a new structure within the waters in the area of the Pacific Northwest and up into Alaska and other places along the coast, we do it in a way that makes sure that all of the users of the system are not impacted in a way that makes them unsafe or their travels unsafe.

It is unwise for us to terminate this program without the consent and the understanding of these other organizations. We had a debate about this in the Appropriations Committee. The committee agreed with us that as we move forward on the termination of the LORAN program, we need to make sure that the Department of Defense, the FAA, small maritime users, and everybody who relies on this for safety in the waters along coastal regions is on board and we move forward in a way that doesn't cause any harm to any of the users of the system.

I respect the Senator in trying to eliminate funding and trying to make

sure that we are making the best use of public resources. But it has to be done in a way that doesn't impact the safety of our many maritime and airline users.

I will oppose the amendment. I know Senator STEVENS from Alaska has been very involved in the debate. I believe he is on his way to the floor as well. I urge our colleagues to listen carefully to the safety and the use of many people in our coastal waters as we move forward on the matter of closure of the LORAN system.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, this language was added to the bill in committee. It did not arise out of the original mark. I opposed the addition of this language because I agree with the Senator from Oklahoma. I have a lot of confidence in the Coast Guard. In fact, within this agency, the Coast Guard is clearly one of the best run, most efficient and most professional groups in our entire Government. The Coast Guard has come to the conclusion they don't need the system, that it is ancillary to the basic needs of navigation.

It is a lot like maintaining a black-and-white television when everybody has gone to color—or high definition now. Hand-held GPSs are like little telephones. You can carry them anywhere. The accuracy and instantaneous locating of those devices is extraordinary, especially compared to LORAN.

There is no need to keep this black-and-white technology. We should phase it out. The Coast Guard has come up with a plan for doing that. We can save some money, and with that money we can put it into other things the Coast Guard does need. I support the amendment.

There are other Members who wish to speak. I don't think we should go to a vote until we have given people the time to come and put their 2 cents in. I support the amendment.

Mr. COBURN. Mr. President, I have a couple of comments to the Senator from Washington State. LORAN won't go away if this instruction for this study is taken out. There are still 4 years that LORAN will be there under the Coast Guard's plan. I also remind the Senator that the FAA has already said they don't need it. The Maritime Commission has said they don't need it. The Coast Guard has said they don't need it. Who needs it when we have other backups? It is true that in 2000 the FAA said we don't have sufficient backup to eliminate LORAN. They have since, in the report—the study that has already been made—said they don't need it. So this is a report to extend the life of LORAN, something that we don't need.

I know the Senator from Alaska will oppose this. I look forward to a vigorous debate with him.

I will soon ask unanimous consent again to submit the 2005 Federal radio navigational plan into the RECORD so everybody can see all the claims that

have been made by the groups that supposedly don't need it. The plan has already been done. It is not required as a navigational backup.

Now, will some people somewhere want to get a better navigational system? Yes. You can buy a GPS system for a boat now for about \$300 and you can have something far superior than LORAN ever was or you can use the VOR system or one of the myriad—seven other backups for maritime without using LORAN.

With that, I ask unanimous consent that this amendment be set aside, and I will call up another amendment.

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

Mr. COBURN. 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. COBURN. 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. 4589

Mr. COBURN. Mr. President, I ask that amendment No. 4589 be called up.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 4589.

Mr. COBURN. 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 is as follows:

(Purpose: To reduce appropriations available for certain training, exercises, technical assistance, and other programs)

At the appropriate place, add the following:

Notwithstanding any other provision of this Act, the amount made available in title III of this Act under the heading "Office for Domestic Preparedness, State and Local Programs" is reduced by \$25,000,000 and the amount made available under such heading for "training, exercises, technical assistance, and other programs" is reduced by \$25,000,000

Mr. COBURN. Mr. President, this is a very simple amendment. The Improper Payment Information Act was enacted in 2002. It was very specific, and Congress was very wise to do it. What it said is that the agencies have to make an assessment of improper payments.

Now, what the American people don't know is that at least \$65 billion in improper payments—payments made by the Federal Government to people who don't deserve to get them—are made every year. Think about that: \$1.6 billion in food stamps; \$20-some billion at the Pentagon; \$42 billion in Medicare improper payments; \$30 billion in Medicaid improper payments. So the \$60 billion number I quote is a very conservative estimate.

What we saw with Katrina is that tons of improper payments were made.

But we had the Department of Homeland Security say they didn't have any improper payments. That is what they asserted to this Congress in 2005. The fact is that they didn't do the studies which were necessary to assess whether they were at risk. The \$65 billion that I quote represents only 18 of 70 entities of the Federal Government, and it is only 18 out of 70 that are reporting.

The Department of Homeland Security, in its fiscal year 2004 performance and accountability report, said none of its programs or activities were deemed to be at significant risk for making improper payments. The OMB put some special definitions on what that is. It is \$10 million or 2.5 percent. We know of at least a billion dollars that has been wasted in Katrina that we can document right now. The Department has since admitted they are finding and reporting improper payments for 2005 that were not in full compliance with the law.

We are seeing that everywhere in my Subcommittee on Federal Financial Management, where we look at these agencies. They actually ignore the law and don't make a concerted effort. Senator OBAMA and I asked in September that a chief financial officer be set up in terms of the response in September of last year to Katrina. We never got that through, but had we gotten that through, we would be a billion dollars ahead of where we are today, just in terms of the funds for Katrina.

The price tag is going to be over \$200 billion in Federal money by the time we finish. If you take the rate of improper payments within DHS just in terms of Katrina, we are probably going to have \$2 billion or \$3 billion in improper payments.

For the record, I believe it is important that the American public know why we ought to be having an assessment of how we spend our money. Sixteen percent of the dollars and assistance initially spent after Katrina and Rita was spent on divorce, sex changes—bogus things—and \$1.5 million went to credit card waste, a 1-week Caribbean vacation, five season tickets to the New Orleans Saints, and Dom Perignon in San Antonio. A thousand credit cards were given to people with Social Security numbers belonging to State and Federal prisoners, and \$14,000 was given to an inmate in a Louisiana jail. Subcontracting—we were to pay, on average, \$32 per cubic yard for debris removal, but the actual cost was \$68. We had the rest taken up in layers of subcontractors. I could go on and on, but I will not.

This amendment gives a million dollars to the Chief Financial Officer of the Department of Homeland Security and says: Do improper payments reporting. I ask that this be accepted by the committee because it makes common sense and we have a real problem in Homeland Security with waste, fraud, and abuse. To start fixing that, we must know what the problem is.

Mr. GREGG. Mr. President, I could not agree more. As far as the million

dollars, I am happy to reallocate it toward this activity. This is a huge amount, but I don't think it should be understated how much effort is being made to try to figure out how much in the way of funds has been either mishandled, fraudulently handled, wasted, and the first cut just on the individual side is \$1.8 billion. As a result of Katrina, the number is going to be much higher when they get into the public area of rebuilding roads, schools, and hospitals. However, the Department is trying, and certainly the inspector general of the Department is trying very hard. He has a very highly structured task force—a series of them—to try to manage these dollars. The results are not too complete. We are starting to get hard information, but dollars have been wasted, and it is inexcusable. If this technical accounting process is something that should be followed, I have no problem with proceeding in this way.

I don't want to imply that this is going to resolve the problem. The problem is much bigger than this. The issue is whether the inspector general can get his arms around everything that has happened down there. You are not only dealing necessarily with the Federal folks who are giving us the issues; there are a lot of local and State issues about how Federal money is being spent here that is very questionable. Unfortunately, people took advantage of the American taxpayers' compassion for folks who have been devastated in that part of the country. Some people saw that as an opportunity to take advantage of the American taxpayers. We are very creative people sometimes in that area, and unfortunately it happened.

There is a genuine effort to try to make sure the money is spent effectively, and there is an equally genuine effort by the inspector general to follow up on money that has not been spent correctly. So I welcome this effort as part of the fight to make sure tax dollars are spent effectively.

I ask that the amendment be agreed to.

Mr. COBURN. Mr. President, I made an error in the number of the amendment I called up. I ask unanimous consent that the amendment be set aside and the true number be 4590 instead of 4589 and that the debate be considered with regard to No. 4590 rather than 4589.

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

Mr. COBURN. Mr. President, I wish to respond to the chairman for a minute. I know this isn't going to solve the problem. This takes away the excuse for not doing proper payment analysis at the Department of Homeland Security. I know they are working hard in that regard.

Mr. President, I note that the Senator from Alaska is here. I wonder if we might recall amendment No. 4585.

The PRESIDING OFFICER. Does the Senator wish to report 4590 first?

AMENDMENT NO. 4590

Mr. COBURN. Mr. President, I ask that amendment No. 4590 be reported.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 4590.

Mr. COBURN. 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 is as follows:

(Purpose: To make appropriations available for the Chief Financial Officer of the Department of Homeland Security to ensure compliance with the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note)

On page 127, between lines 2 and 3 insert the following:

SEC. _____. Notwithstanding any other provision of this Act, \$1,000,000 shall be made available from appropriations for training, exercises, technical assistance, and other programs under paragraph (4) under the subheading "STATE AND LOCAL PROGRAMS" under the heading "OFFICE FOR DOMESTIC PREPAREDNESS" under title III, for the Chief Financial Officer of the Department of Homeland Security to ensure compliance with the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note).

Mr. STEVENS. Reserving the right to object, is that the pending amendment?

The PRESIDING OFFICER. That was the amendment that was just brought up. That was the amendment that was the subject of the previous discussion.

Mrs. MURRAY. Mr. President, can I clarify? It is very confusing. The Senator from Oklahoma called up the wrong amendment. Would the Chair explain exactly what is the pending amendment?

Mr. COBURN. The pending amendment is exactly as I described. It is an amendment that moves \$1 million to the chief financial officer of Homeland Security so they will do the improper payments report.

Mr. GREGG. I believe that amendment has been agreed to and disposed of.

The PRESIDING OFFICER. I think the problem is the Senator mentioned the wrong number. It is not 4589; it is 4590, and the Senate agreed to 4590.

Mr. COBURN. That is correct.

Mr. GREGG. Mr. President, I ask unanimous consent that it be agreed to.

Mrs. MURRAY. Has that amendment been agreed to or set aside?

The PRESIDING OFFICER. The Senator sent up amendment No. 4589. It was his intent to send up amendment No. 4590. He asked that amendment No. 4589 be set aside, and we now reported amendment No. 4590.

Mr. GREGG. Has it been reported yet?

The PRESIDING OFFICER. It has been reported as the pending amendment.

Mr. GREGG. I ask unanimous consent that it be agreed to.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Reserving the right to object, what is this amendment?

Mr. GREGG. This deals with the transfer of \$1 million to the finance officer.

Mrs. MURRAY. Mr. President, reserving the right to object, simply to clarify, so we are all on the same page, the chairman of the committee is asking that we agree to the amendment that was just debated, that was called up, that the Senator had the wrong number; is that correct?

The PRESIDING OFFICER. Right.

Mr. GREGG. And this is the amendment dealing with the transfer of \$1 million to the finance officer.

Mrs. MURRAY. The Senator is asking us to agree to that amendment that was debated.

The PRESIDING OFFICER. That is the Chair's understanding.

Mr. GREGG. Now the pending amendment is the amendment on LORAN.

The PRESIDING OFFICER. Is there objection to amendment No. 4590 being agreed to, the \$1 million amendment? Without objection, the amendment is agreed to.

The amendment (No. 4590) was agreed to.

AMENDMENT NO. 4585

Mr. GREGG. And the pending business is the LORAN amendment.

The PRESIDING OFFICER. Now the pending question is amendment No. 4589.

Mr. GREGG. That is not the LORAN amendment. We set that one aside.

The PRESIDING OFFICER. Apparently amendment No. 4589 and amendment No. 4585 are both pending.

Mr. GREGG. Mr. President, I ask unanimous consent that amendment No. 4585 be called up at this time, which is, as I understand, the LORAN amendment.

The PRESIDING OFFICER. Is there objection? The clerk will report.

Mrs. MURRAY. Mr. President, may I clarify then that amendment No. 4585 is pending? From what I understand from the Chair, both amendments are pending. I ask unanimous consent that amendment No. 4589 be laid aside and that the pending amendment be amendment No. 4585.

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

Mr. GREGG. Just for the clarification of the Senate, we are now back on the LORAN amendment; is that correct, Mr. President?

The PRESIDING OFFICER. As far as I can tell.

The Senator from Alaska.

Mr. STEVENS. Mr. President, is there a time limit on the amendment?

The PRESIDING OFFICER. There is no time limit.

Mr. STEVENS. Mr. President, the amendment of the Senator from Oklahoma will delete an amendment I offered in committee. This is what it says:

The committee denies the request to terminate operations at LORAN stations nationwide and directs the Secretary to refrain from taking any steps to reduce operations at such stations. The committee further directs the Secretary, in consultation with the Secretary of Transportation, to submit a report to the Appropriations Committee and the Commerce Committee regarding the future of the LORAN system. The report shall include the cost benefits, the merits of maintaining the LORAN system as a backup navigational aid, and the benefits of using the LORAN system in conjunction with the global positions system. The report shall be submitted to the committee within 180 days of enactment of this act.

I did hear my good friend from Oklahoma indicate he would like to have some vigorous debate. I don't know how vigorous it is going to be. I do want to tell the Senate that this amendment means a great deal to my State, obviously, with half the coastline of the United States, with a number of areas that are affected by this LORAN system.

The LORAN system has not been modernized in my State, although it has been in all the rest of the country. In recent years, we have appropriated approximately \$160 million to the Federal Aviation Administration and the Coast Guard to modernize the LORAN structure through an existing inter-agency memorandum of agreement that existed between the two agencies. The recapitalization primarily came through the FAA budget, while the Coast Guard has provided resources to operate and maintain this system.

The proposal to terminate LORAN was not coordinated with the Department of Transportation or the FAA and certainly was not coordinated with my State. The decision to terminate this system should not unilaterally be controlled by the Coast Guard.

I am constrained to tell the Senate, this is just another example of the problems of representing the largest State in the Union with agencies that are not properly represented in our State.

The LORAN system was originally developed as a radio navigational service for coastal waters and was later expanded to include complete coverage of the Continental U.S., as well as all of Alaska. Originally, it really was designed for an area like the coastal waters off our State.

LORAN-C provides coverage for maritime navigation in the U.S. coastal areas, particularly in Alaska, and provides navigation, location, and timing services for civil and military air, land, and marine users.

We welcome the advent of the global positioning system. It is an invaluable navigational aid. The LORAN system uses a very strong wavelength and signal strength which enables it to penetrate areas where GPS has difficulty and will not work because of line-of-sight blockage.

The LORAN system is an independent system. It can serve as a backup for GPS. Until the people who have equipment to use LORAN are able

to switch to GPS and have it be shown that GPS will work in every area where it is necessary to navigate—I remind the Senate, 70 percent of the cities in my State can be reached only by air. We have the largest area and the largest involvement in fishing in the Nation. Over half of the fish consumed in the United States comes from Alaska.

This is an independent system and really it ought to be maintained as a backup to the GPS, in our opinion, at least until the complete modernization of the older vessels and the older airplanes that were designed to use LORAN.

The modernization of LORAN is almost complete. As I said, we spent \$160 million in the past few years to do that. It can be used as a backup to GPS to better produce an estimate of location than either system acting alone.

The LORAN system is a national asset. Again I say, it was not coordinated with the Department of Transportation, particularly the FAA, in terms of making this recommendation.

It just so happens that the first weekend of the last recess, just 10 days ago, I had occasion to travel with my son down one river and up another in Alaska in a vessel that had GPS. He is a qualified pilot for any vessel in the United States. At one point, at around 11 o'clock at night, we were traveling through a fog. We were talking about the navigational systems. The difficulty people have is they don't understand what it means to live in an area where it can be dark for several months and operating in a fog at night—all day long, as a matter of fact, in darkness in some instances.

The fisheries vessels and the systems off our State depend on LORAN for accurate positioning. It is true that GPS is a better system where it works better, but it has not had the findings and analysis that this committee amendment asks be prepared. That is, the Secretary of Commerce is asked to make a study, along with the Secretary of Transportation, and report to us the analysis of the cost-benefits of this LORAN system, the merits of maintaining it as a backup navigational aid, and give us that within 180 days.

In other words, for 180 days, we have a hiatus to determine whether we should follow the report made by the Coast Guard or whether we should listen to those involved in the fishing systems and in the aviation systems in a State such as mine.

Mrs. MURRAY. Mr. President, will the Senator from Alaska yield for a question?

Mr. STEVENS. Yes.

Mrs. MURRAY. Mr. President, the Senator from Alaska just made a point that I think is critical that we understand. During the debate prior to the Senator coming to the floor, the point was made by the Senator from Oklahoma that there are a number of other backup systems that are available to

users of the system in the coastal waters off Alaska and other States.

From what I just heard from the Senator from Alaska—and I want to clarify this—because of the mountainous regions, because of the inaccessibility and a lot of the difficult geographic locations that exist within his State, we are not positive that many of those backup systems work; is that correct?

Mr. STEVENS. Mr. President, it is my understanding that there are areas in our State where GPS does not provide the accuracy it does in other places because of the line-of-sight problem, whereas because of the very strong wavelength and signal strength LORAN puts out, particularly the modernized LORAN-C, it is an absolute necessity right now.

Mrs. MURRAY. Mr. President, I ask the Senator then, what he is saying to us is it could, indeed, put many people at risk because we do not know yet whether those systems are working in many of the geographic locations within his State?

Mr. STEVENS. The Senator is absolutely right. We just cannot terminate this system all at once. It is true it can be phased out in many places in the country without any harm to anybody. But the people who rely on the system right now as the sole source of their navigation should not be abandoned.

As a matter of fact, I have prepared a second-degree amendment which I will be glad to offer if the Senator from Oklahoma does not understand our situation. It is a second-degree amendment which would delete the amendment, as the Senator wishes, but substitute for it a complete indemnity by the United States of any harm that comes to any person who presently is relying on LORAN because they cannot have navigation capability.

We believe there is going to be substantial harm to a lot of people if this is not done right. The current system just says "terminate." If they did so by cost-benefit analysis on a nationwide basis, they did not do it on a cost-benefit analysis in the area where it is needed. "Where it is needed" is what makes a difference.

We do not say this program should exist forever. We believe in the final analysis that it probably will be terminated. But when it is terminated, it should be phased out on a geographical basis so it stays in effect in the areas where it is absolutely needed until it can be replaced by a system which would have to upgrade GPS, and that is not in the plan of the Department of Commerce at all.

I think this is wrong to take out our amendment. I believe the amendment is a reasonable one. All it says is we postpone the termination operations. We refrain from taking steps to reduce operations at these stations where they are needed. If that is not acceptable to the Senate, then I say, all right. If the Senate, in its wisdom, is going to take a total cost and benefit analysis on a nationwide basis and leave people who

depend on this system now completely without a navigation system they can rely on, then they should be indemnified for any harm that comes to them as a result of the premature termination of this system.

Mr. COBURN. Mr. President, I thank the Senator for his words. I want to clarify something which is just my understanding, and please correct me if I am wrong.

The GPS is never limited by line of sight. It is a satellite. It is the LORAN system that is limited by line of sight. The mountainous structures in Alaska limit the LORAN system. GPS is far superior to the LORAN system. That is accurate. Both as a pilot I know that and from what we have said.

The other point that I would make—Mr. STEVENS. Mr. President, if I could just answer that.

Mr. COBURN. I am happy to yield to the Senator.

Mr. STEVENS. The Senator is right, but at the same time, he is wrong. Satellites don't work everywhere in Alaska because of problems in updating their signal. The same is true for GPS. You must have a satellite signal that can reach for GPS.

Mr. COBURN. I would concede that.

Mr. STEVENS. Many places in our State did not have access to GPS because the satellite is not ubiquitous for the world. It does not come down in some places of our State.

Mr. COBURN. I would concede to the Senator that there are occasional times that the GPS cannot be utilized. I would concede that.

Mr. STEVENS. I want to make certain, Mr. President, that the Senator understands what I am saying. There are places where GPS cannot be accessed in Alaska.

Mr. COBURN. There are also places where LORAN cannot be accessed in Alaska today.

Mr. STEVENS. That is true, in some places. But where it has been operating, LORAN is relied upon in places where GPS cannot reach.

Mr. COBURN. I would concede to the Senator that LORAN can be used in places where GPS cannot be utilized. But I would also concede that the study that asked for this has already been done. Everything that this study asked for has already been put forward. The 2005 Federal Radionavigation Plan answers every question you have asked in this amendment.

What the Department of Transportation says, what the FAA says, what the Maritime Commission says, what the U.S. Coast Guard says is LORAN is not needed for a backup for a navigational system anywhere in this country. That is what they say, and that is what you are asking for. They have also done a cost-benefit analysis, and they have said, without question, the cost-benefit is on the side of eliminating LORAN.

Let's talk about what it will cost. The Government estimates it will cost \$300 million to upgrade the LORAN

system in Alaska over the next 6 to 7 years. And what they are certifying—and I understand the concern of the Senator from Alaska because some people might not have a system they are used to today. But when these agencies certified that LORAN is not needed as a secondary backup, that is what you are asking them for in the study, and they have already said it is not needed.

Mr. STEVENS. Will the Senator yield? That is not what I am asking for.

Mr. COBURN. I will finish my point, and then I will turn the time over to the Senator.

Mr. President, the Federal Radionavigation Plan is a 120-page report. Let me just go through it real quickly.

FAA has said: Sufficient alternative navigational aids exist in the event of a loss of GPS-based services. They have VOR, which they have in Alaska.

The Maritime Administration determined that there would not be significant disruption in the movement of vessels in and out of U.S. ports or affect commercial enterprises as traditional aids to navigation are still in use and capable.

The Department of Homeland Security has determined that LORAN-C is not needed as a backup for timing users, as adequate alternatives are already in place.

The Federal Railroad Administration said they have no need for LORAN.

The bottom line: The accuracy of LORAN in these areas can be equally degraded and compromised, and therefore, there would be no material degradation in navigational safety should GPS be the only RNAV source for Alaska. Traditional backups for maritime navigation would still be in place: VTSs, buoys, ranges, radar, light-houses, and fathometers. Since 1997, \$160 million has been appropriated to recapitalize LORAN. \$117.5 million of that has been transferred to the Coast Guard. It is estimated that it will take another 6 to 10 years and \$300-plus million to recapitalize that.

The point is, even without the amendment of the Senator from Alaska, his addition in committee, it is 4 years before this is decommissioned. So it gives 4 years for anybody who has any problem with it a chance to adjust to that problem.

I would offer to the Senator from Alaska that there might be a compromise that we could discuss in keeping LORAN working just for Alaska where there is a problem, rather than keeping LORAN working everywhere else there is not a problem. I would suggest there may be a compromise to address the issues of concern that the Senator from Alaska has, that would also save us a considerable amount of money and solve his problems with those who feel at risk without elimination of LORAN. I yield to the Senator.

Mr. STEVENS. Mr. President, the Senator is quite generous in his sugges-

tion, but I have to say that we heard on April 18 of this year from the Department of Transportation the following:

The Department of Transportation has not formulated a position regarding the future of LORAN. It is our hope, however, that it will be possible, consistent with the Federal Radionavigation Plan, for the administration to announce a final, fully considered decision before the end of the calendar year. That decision should be made collaboratively with due regard for the mandates in NSPD 39 relating to the identification of a backup for GPS.

In terms of where we live on the Pacific, the problem is we appropriated the money for modernization of LORAN but, unfortunately, it was improved in areas where it wasn't needed anymore, and in the area where it is still needed, it was not.

We are in a situation now where our people still rely upon LORAN. We were told that the Department of Transportation did not participate in this study. We now know that the Department of Transportation says that from a cost-benefit analysis, the whole system is not justified. That may well be. That may well be. All we are asking for is this analysis now to be made of the system, and the merits of maintaining LORAN as a backup navigational aid and the benefits of using it in conjunction with the Global Positioning System.

We believe that in areas where it doesn't work continually, GPS ought to be backed up by LORAN and vice versa. But particularly in terms of the long coastline of the Pacific coast—and we are part of the Pacific coast—we were not included in the study. This benefit-to-cost ratio is a national conclusion and not a conclusion based upon the areas where LORAN is currently used. In many areas of the country, it has been totally abandoned, and it ought to be abandoned. We don't have any problem with that. But steps to reduce operation at stations where this LORAN is still in use and is relied upon today is wrong. If there is to be some decision along that line, we will be happy to try and work that out in conference with the Senator. But maybe we should say the Secretary should refrain from taking any steps to reduce LORAN at certain stations but nationwide.

I will be happy to change that, so he should not be prevented from taking steps to reduce operations at any station where it is not currently relied upon for navigation, either directly or as a backup to GPS.

Now, that means the Pacific coast. I am led to believe the same thing exists off California, off Oregon, and Washington to a lesser extent than it does off my State. You have to remember that half of the coastline is off our State, as I said, and in the areas where small boats, small planes currently rely upon LORAN as a backup, or in some instances as the total system, it should not be eliminated without a study of that area.

Mrs. MURRAY. Mr. President, let me just add that I support the rec-

ommendation that Senator STEVENS has just made, and if we are able to work that agreement out, I think that would be good.

I do want to amplify something quickly that I stated earlier in the debate, and it was repeated by my colleague from Alaska, and that is that DHS came to this decision without adequate consultation with other impacted Federal agencies. If there is any confusion over that question, I would like to put in the RECORD and ask unanimous consent to insert a letter from the Honorable Jeff Shane, Under Secretary of Transportation, to the Honorable Stewart Baker, the Assistant Secretary of Policy at DHS.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

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

DEPARTMENT OF TRANSPORTATION,
Washington, DC, April 12, 2006.

Hon. STEWART BAKER,
Assistant Secretary for Policy, Department of
Homeland Security, Washington, DC.

DEAR STEWART: The future of the Long Range Navigation (LORAN) system has been the subject of debate for many years. In 1994, the Clinton Administration announced plans to terminate the LORAN system based on its expectation that emerging Global Positioning System (GPS) technology would fully respond to the needs of LORAN users. In response to strong support from industry and the public as well as analyses showing key GPS vulnerabilities, however, Congress has continued to fund LORAN. That funding has gone to the United States Coast Guard for LORAN operations and to the Federal Aviation Administration (FAA) for LORAN modernization.

According to the 2005 Federal Radionavigation Plan, signed by the Secretaries of Homeland Security, Defense, and Transportation, "DOT, in coordination with DHS, will make a decision regarding the future of LORAN by the end of 2006." Related mandates are set forth in National Security Presidential Directive 39, establishing a U.S. space-based positioning, navigation, and timing policy. According to the unclassified fact sheet accompanying NSPD 39, the Secretary of Homeland Security shall, "[i]n coordination with the Secretaries of Defense, Transportation, and Commerce, develop and maintain capabilities, procedures, and techniques, and routinely exercise civil contingency responses to ensure continuity of operations in the event that access to the Global Positioning System is disrupted or denied. . . ." Elsewhere, the fact-sheet says that the Secretary of Transportation shall, "[i]n coordination with the Secretary of Homeland Security, develop, acquire, operate, and maintain backup position, navigation, and timing capabilities that can support critical transportation, homeland security, and other critical civil and commercial infrastructure applications within the United States, in the event of a disruption of the Global Positioning System. . . ." (Emphasis added.)

For some time now, the Coast Guard has indicated its desire to decommission the LORAN system. The FAA is similarly interested in being divested of LORAN responsibilities. Neither agency believes that LORAN is necessary today to support its respective mission. From the perspective of the two agencies, those assessments are undoubtedly correct. But the future of LORAN

should be determined by reference to the broader national interest. Might LORAN serve as the backup to GPS contemplated by the mandates of NSPD 39? Apart from its potential as a backup to GPS, does its robust, low-frequency, penetrating signal offer potential value in our effort to secure the international supply chain? Are there other possible backups to GPS that offer clear advantages over LORAN? If we decide that LORAN should be maintained, which agency should shoulder responsibility for maintaining it? If we decide that LORAN should not be maintained, what should we do to persuade Congress that continued funding of the system is no longer in the national interest?

DOT has not formulated a position regarding the future of LORAN. It is our hope, however, that it will be possible, consistent with the Federal Radionavigation Plan, for the Administration to announce a final, fully considered decision before the end of this calendar year. That decision should be made collaboratively with due regard for the mandates in NSPD 39 relating to the identification of a backup for GPS.

DOT looks forward to working together with DHS and with other interested agencies in the interest of bringing this issue to closure. I will be in further touch to discuss the best process for pursuing this important objective.

With best regards.

Sincerely,

JEFFREY N. SHANE,
Under Secretary for Policy.

Mrs. MURRAY. Mr. President, what this letter simply does is make it clear that DOT is willing and ready to discuss this matter, but it also makes clear that there are other issues, especially in aviation, as the Senator from Alaska has said, that really have to be worked through as we move toward this, and I ask that we have those considerations.

Again, I hope the language that Senator STEVENS has proposed is something that can be worked out because I think that would be amenable to all of us.

Mr. COBURN. Mr. President, I would just make a couple of points.

Norm Mineta of the Department of Transportation signed this report on October 21, 2005—the Secretary of the Department of Transportation—the Federal Radionavigation Plan. So for the Department of Transportation to claim now that they didn't agree with this report, when their Secretary and his staff signed off on the report, there is something amiss. There is some miscommunication.

What I would like to do is note the absence of a quorum in the hopes that I could work with the Senators from Alaska and Washington to come to a compromise on this amendment.

Mr. STEVENS. Mr. President, if the Senator will withhold, I would like to make one point with a letter I am quoting from, dated April 18, 2006. It was addressed to Assistant Secretary of Policy at Homeland Security, and it says:

The future of LORAN should be determined by reference to the broader national interest. Might LORAN serve as the backup to GPS contemplated by the mandates of NSPD 39? Apart from its potential as a backup to GPS, does its robust, low-frequency, penetrating

signal offer potential value in our effort to secure the international supply chain? Are there other possible backups to GPS that offer clear advantages over LORAN?

None of that has been answered.

Now, certainly, this is after the Secretary signed off on that plan, but the idea of abandoning LORAN prematurely was not signed off on by the Department, to my knowledge.

Mr. COBURN. Mr. President, I would note that in the report, the considerations for backups are very well and very explicitly listed, including Alaska's backup system. So I agree that there is some confusion and there certainly is some difference in what was signed off on the report and what we are hearing now.

I would ask to note the absence of a quorum.

Mr. GREGG. Mr. President, if the Senator will withhold, I would suggest that we move on to another amendment. Senator BIDEN is here, he could proceed with his amendment, and during that time Senators could perhaps work something out.

Mr. COBURN. I have no objection.

Mr. BIDEN. Mr. President, I ask unanimous consent that the pending amendment be set aside.

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

AMENDMENT NO. 4553

Mr. BIDEN. Mr. President, I call up amendment No. 4553.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN] proposes an amendment numbered 4553.

Mr. BIDEN. 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 is as follows:

(Purpose: To increase amounts for the rail and transit security grant programs, and for other purposes)

On page 91, line 6, strike "\$2,393,500,000" and insert "\$3,493,500,000".

On page 91, line 22, strike "\$1,172,000,000" and insert "\$2,272,000,000".

On page 92, line 13, strike "\$150,000,000" and insert "\$1,250,000,000".

On page 92, line 16, before the semicolon, insert the following: ", of which—

(i) \$670,000,000 shall be for tunnel upgrades along the Northeast corridor;

(ii) \$250,000,000 shall be for passenger and freight rail security grants;

(iii) \$100,000,000 shall be for research and development of bomb detection technology; and

(iv) \$65,000,000 shall be for intercity passenger rail security upgrades, of which \$25,000,000 shall be used—

(I) to provide a 25 percent salary increase for existing Amtrak Police personnel; and

(II) to expand the Amtrak police force by 200 officers

Mr. BIDEN. Mr. President, I realize that particularly the Presiding Officer and my friends from New Hampshire and Washington State are probably tired of hearing me stand up year after year since 9/11 and talk about rail secu-

rity or the lack thereof in the United States of America. This amendment is about rail security.

The funding made available in this amendment is, unfortunately, something that I have, with others, fought for without success since 9/11. In fact, immediately after 9/11, I introduced legislation that is very similar to the amendment I am offering today that would provide critical resources to enhance rail security and rail infrastructure. Almost 5 years later, after introducing the legislation in the 108th Congress and the 109th Congress, we have done virtually nothing.

In March of 2004, our allies in Spain suffered an attack on their rail system that killed 191 people. We did nothing. We did nothing at home. Just over 1 year ago, terrorists in London killed 52 people and injured over 700, mostly on rail. We did virtually nothing. The attack in London occurred just 1 week before we had a debate on the 2006 Homeland Security budget. Unbelievably, we approved only \$150 million for rail and transit, with only \$7 million going to Amtrak, which carries, by the way, 64,000 passengers per day—hardly, I would say, a serious effort.

Just yesterday, in Mumbai, India, there was another attack on rail. So far there are 190 confirmed dead, 714 people injured. To state the obvious, I am sure every one of my colleagues feels as I do, but our thoughts and prayers are with those who were harmed in yesterday's attack. As they described in today's New York Times and I am sure every other paper in the Nation, there was baggage and body parts strewn for hundreds and hundreds of yards around the site of the explosion. Coincidentally, here at home we are debating again the appropriations bill for Homeland Security.

I wonder how long we can dodge the bullet. I wonder how long it will be that we can avoid accountability for what we are not doing to protect our rail and transit system. I don't know what it is going to take for us to wake up and take this threat seriously. Certainly everyone understands here at home that the threat is real and it is at home. The FBI has warned us of the threat to our rails. In fact, the Central Intelligence Agency has found photos of rail stations and rail crossings in safe houses in Afghanistan. I am sure they weren't doing that for a geography project for their kids. It was about looking at targets in America.

Remember when we saw that they had taken photos of American buildings, what we did? We immediately mobilized our security forces around those buildings here in the United States, because we knew if they had photos of those buildings tacked up on the walls they must be thinking of them as targets. What do we need? Do we need someone from al-Qaida to write us a note and say: "By the way, folks, we are planning on attacking your rail system"? "We are not going to tell you when, but we are going to attack your

rail system." What do we need? What do we need to be able to jog the—"conscience," that may be the wrong word—jog this body into a sense of reality?

We have still done virtually nothing. Since 9/11 the administration invested over \$25 billion in aviation security, primarily to screen passengers. I voted for that, I agree with that—\$25 billion. During the same period, less than \$600 million has been allocated for rail and transit systems that carry a whole heck of a lot more passengers. This year's budget includes an additional \$6 billion for aviation security, which I support. Only \$150 million has been allocated for rail and transit security. Out of the \$150 million allocated for rail and transit funding this year, \$7 million went to Amtrak. I don't think that is a serious effort—again, 64,000 people a day.

I understand you can't protect every single inch of our vast rail structure but we can do some pretty common-sense things, some block-and-tackle things that we know will make us a lot safer. I can't stop anyone, nor are we likely to be able to stop anyone, from putting an IED that is fashioned in America on a track somewhere between here and Wilmington, DE, when I take the train every day. I am not asking for that. But I will tell you what we can do. What we can do is go to those areas we know are prime targets, where hundreds if not thousands of people could die if al-Qaida or any of their copycat organizations decided to move on rail and were successful.

Take a walk over to Union Station. Union Station is just down the street in that direction. I walk to it or drive to it every single night the Senate is in session. I come from it every day. It is the single most visited place in Washington. Do you hear me? The single most visited place in Washington, DC. More people are in and out of that station than are at any museum, than visit the Congress, the White House, the FBI. It is the single most visited place in Washington, DC.

Take a look. As I say to security people, get with me on an Amfleet train. Not an Acela, because they don't have the old kind of caboose on it. Stand in the last car and look out the window as you pull out of the train station. Tell me how many cameras you observe. Tell me how many cops you see. Tell me how many bits of protection—whether it is fencing or alarm systems—that are on the switching devices that are in that yard. Tell me how many folks you see wandering the yard where you see trains stacked up, where people can cross around just a plain old chain-link fence and put some C2 up underneath an existing train.

Or travel from Washington south. You go underneath the Supreme Court. You go underneath one of the House office buildings. Tell me what you see. Are there any guards patrolling that area? I am not going to say, because people will say to me, You are just giv-

ing terrorists information. I promise you, they already know it. You would be stunned how few law enforcement officers are on duty at any one time in that entire infrastructure.

My amendment simply makes the investment that the experts who have testified have repeatedly told us is needed. It would provide an additional \$1.1 billion for rail security upgrades. Out of this amount we would provide \$670 million to upgrade the tunnels along the Northeast corridor to add ventilation, lighting, escape routes, in some cases cameras, and the ability to be able to patrol those tunnels.

I will not take the time because my colleagues have heard me do it 1,000 times. The tunnel that goes from here heading to Boston—in fact, it goes through the State of Maryland, through Baltimore—it was built, I think, in 1869. Next time you ride through it, look and see if you see any ventilation. Tell me what you see in terms of lighting. Tell me what you see about any prospect of someone being able to escape from that tunnel. Tell me if you see any security going in and out of that tunnel.

It seems like a long time ago, I have been doing it so long, there was a fire in a tunnel. It was just a plain old fire, not a rail tunnel, another tunnel going into Baltimore. The fire shut down all the harbor, and it shut down all of south Baltimore.

If you go up into New York, you have six tunnels sitting under New York City without any appreciable work being done on any of them since, roughly, 1918. Ask any expert about ventilation. Why am I talking about ventilation? Drop sarin gas in that tunnel, drop another chemical in that tunnel, and tell me what happens without any ventilation to suck it out. Tell me what you see in those tunnels. Ask those experts what chance there is of escape. I will go back to that in a minute.

There is \$250 million to be allocated to general security upgrades for freight rail operations, including transport of hazardous material. I had an amendment here on another bill not long ago because I asked the Naval Research Institute, NRI, to answer a question for me. Again, I apologize to my colleagues from Washington and New Hampshire for continuing to repeat this, but I asked the question: What would happen if a chlorine gas tanker exploded in a metropolitan area?

Remember, I guess it was a year or year and a half ago, one exploded up in the Dakotas—not near any big city. They had to evacuate several towns in the region. I said, What would happen?

The standard chlorine gas tanker on rails is about 90 tons. What happens if one of those were exploded? They said it would kill or injure up to 100,000 people.

I had an amendment. Why don't we allow the cities to be able to divert these hazardous cars around the cities. It got voted down—I actually did get a

vote on it—because it would somehow increase the cost of doing business. It would increase the cost of doing business.

Maybe I am missing something here. The only thing I can believe is that most of my colleagues also think that this is not likely to happen, that these guys aren't going to go after transit, they are not going to go after freight rail, they are not going to go after passenger rail. They really don't mean it so we don't really have to worry.

It reminds me of that Calypso song that was popular about a decade go, "Don't worry, be happy."

Yet if we look around the world, bombings and attacks on rail systems are becoming increasingly sophisticated. They are carried out by terrorist groups. Before 9/11 when we saw these terrorist activities happening in Europe and other parts of the world, we just seemed impervious to it. "It can't happen here. It won't happen here."

I made a speech on September 10. I ask unanimous consent that a copy of it be printed in the RECORD.

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

U.S. FOREIGN POLICY IN THE 21ST CENTURY:
DEFINING OUR INTERESTS IN A CHANGING
WORLD

My mother wanted me to be a priest or a politician, and for the longest time I didn't think you could do both. But you can. Any rate, obviously not a lot of Irish-Catholics in this room.

Well, what I want to know before we begin is—Chestnut Hill Academy is here, I'm told, from Philadelphia. And what I want to know is, when I went to a Catholic boys' school in Claymont, Delaware, called Archmere, Chestnut Hill Academy used to occasionally beat us—more occasionally than was necessary. And I want to know, are you guys here in support or opposition? What's the deal?

Welcome, fellas. I don't know why you're here, but it's nice to see you all here. Thank you for being here.

It is true, I am now the chairman of the Foreign Relations Committee—through no fault of my own. My dad has an expression: It's better to be lucky than good. I am chairman because one man in Vermont decided he was going to leave one political party and giving my party the ability to organize the Senate. For that, I am grateful, but I want you to know I understand that this could change any day.

By the way, the president and I agree on a lot of things, and we sincerely do. I thought the president's first trip to Europe quelled a lot of concerns and nerves on the part of our European friends, who are always upset and always nervous with any transition in power in the United States. I think the president did an extremely good job in the incident relating to our, quote, "spy plane" being down. I think the president has done some very, very good things.

I do have a profound disagreement with the president's view of national missile defense and whether or not, at the end of the day, it would make us more or less secure.

At the end of the Cold War, when the wall came down, we found ourselves on the brink of extraordinary changes. All of us were wondering what it would mean and where this would lead. Was it the beginning of something or the end of something? And if it was

the beginning, were we, the United States, the only remaining superpower, going to get it right?

On that night, we were all idealists, but a new day dawned and a harsh reality came into focus. It became clear that long-standing ethnic, religious, tribal and nationalistic divisions had not changed, while America's place in the world had changed profoundly.

From that day on, we inherited a profound obligation of leadership, and an even more profound obligation to get it right in the Middle East, in the Balkans, in Europe and Asia, in our hemisphere, in our commitments, our treaties and in our defense policy—missile or otherwise.

Now, the spotlight remains on us and is brighter than ever. We're at a pivotal moment when American values and principles have taken center stage like no other time in our history in the global theater. How we perform on that stage is as much about our honor, our decency, our pride, as it is about our strategic policy.

So before we go raising the starting gun that will begin a new arm's race in the world, before we dip into the Social Security trust fund to satisfy the administration's almost theological allegiance to missile defense at the expense of more earth-bound military and international treaties, before we watch China build up its nuclear arsenal and see an arm's race in Asia and in the subcontinent, before we squander the best opportunity we've had in a generation to modernize our conventional nuclear forces, let's look at the real threats we face home and abroad. Let's re-engage and rethink and meet our obligations with a strength and resolve that befits our place in this new world.

American foreign policy should not be based primarily on the principle of national self-interest that defines strength as rigid adherence to inflexible theory, or positive results as emotionally satisfying unilateral action.

I don't believe our national interests can be furthered, let alone achieved, in splendid indifference to the rest of the world's views of our policies. Our interests are furthered when we meet our international obligations and when we keep our treaties. They're furthered when we maintain an unequal military, able to deter any threat at any place at any time and anywhere, when we keep our economy strong, when we make wise choices that solves real problems, when we stand bound together as democracies—multi-racial, multi-ethnic, multi-religious beacons of hope—not some dark house next door.

President Reagan's image of a "shining city on a hill" held out America as an ideal to millions and millions of people around the world, a nation that reaches out to its allies and adversaries alike, with undiluted, unequivocal message that democracy works, freedom is worth the fight, and that America will always be a reliable friend of those who take the risk of achieving the goals of democracy.

We can't forget or simply disregard the responsibilities that flow from our ideals. We can't lose sight of the fact that leadership requires engagement, and partnership demands inclusivity. Let there be no mistake, America must remain at the table because walking away comes at a price. Our European allies should never think that America ignores international opinion or that we're ready to go it alone when we feel like it. They should never think that our commitment to a vital multi-national institutions, or projects, which are built upon common values and common concerns—and that includes NATO—has diminished.

We became a European power in the 20th century, and out of our self-interest, we

must remain a European power in the 21st century. We've got to get it right in Europe. We have to stay engaged in the Balkans—as this administration appears to be doing—and bring them, the Balkans, into the European community. It's in our naked self-interest.

But let's understand that our foreign policy is as much about American values as it is about complex multinational treaties or arcane intricacies of strategic policy.

When I think of the moral imperative of American leadership, I think of an America founded upon the unshakable, bedrock democratic principles, but willing to accept the principal ideals and cultural dynamics and genuine concerns of our allies; a nation that has a powerful sense of place in the geopolitical scheme of things—one that is tough-minded when it comes to our own security, yet has broad enough vision and a strong enough will to contribute to peaceful solutions where age-old strains of nationalism and religious-based divisions wreak havoc; a government that doesn't abandon arms control treaties with the excuse that they are relics of the Cold War.

I might note parenthetically, I think many of those uttering that phrase are in fact themselves the relics of the Cold War. They have not come to understand the wall is down and the last time they were in power it was up. Half this city doesn't realize that.

And not abandon these agreements as relics of the Cold War because it's (inaudible) to honor them because we've negotiated them in good faith, we signed and ratified them, and because they have stood the test of time in serving our national interest and other nation's expect us to keep our promises; a unique and strong nation that isn't confused about its role and responsibilities and doesn't walk away from the table, but sits down, rolls up its sleeves and convinces the world of our position; a nation that thinks big and sees freedom in global economic growth as consensus ideals.

I think of America vastly different—so unburdened of the old Cold War fears and feelings that it's willing to do a little soul-searching. Are we a nation of our word or not? Do we keep our treaties or don't we? Are we willing to lead the hard way, because leadership isn't easy and requires us convincing others? Diplomacy isn't easy. Multilateral policy initiatives aren't easy.

Or are we willing to end four decades of arms control agreements to go it alone—a kind of bully nation sometimes a little wrong-headed, but ready to make unilateral decisions in what we perceive to be our self-interest, and to hell with our treaties, our commitments and the world?

Are we really prepared to raise the starting gun in the new arms race in a potentially more dangerous world? Because, make no mistakes about it, folks, if we deploy a missile defense system that's being contemplated, we could do just that.

Step back from the ABM Treaty, go full steam ahead and deploy a missile defense system, and we'll be raising the starting gun. If the president continues to go headlong, headstrong on this theological mission to develop his missile defense system, if he does what he says and drops objections to China's missile buildup, not only will we have raised the starting gun, we'll have pulled back the hammer.

Let's stop this nonsense before we end up pulling the trigger.

China now has about 20 intercontinental ballistic missiles, but according to press reports, the National Intelligence Council thinks that China might deploy up to 200 warheads, develop sophisticated decoys and perhaps move to multiple warheads in response to a missile defense system.

It seems to me it's absolute lunacy for us to invite China to expand its arsenal and re-

sume nuclear testing, not to mention that moving forward with missile defense could jeopardize Chinese cooperation on the Korean Peninsula.

Let me remind you all that there are two types of modernization they talk about. And there's no doubt the Chinese are going to modernize. But up to recently, what most people thought the modernization meant and our community thought it meant was moving, for example, from liquid fuel rockets to solid fuel rockets. Moving from systems that were not mobile at all to more mobile systems.

Not increasing, as the press has reported, 10-fold more than they would have if we build a national missile defense. Not MIRVing their missiles, meaning put more than one atom bomb or hydrogen bomb on top of an ICBM. The most destabilizing weapon that exists.

I found it interesting, on MacNeil-Lehrer, Secretary Rumsfeld saying that it wasn't the question of MIRVing that was important, it was a question of the total number of missiles.

Well, George—President Bush, the first President Bush—understood that it was more than that. We fought for years and years to do away with the big SS-18 Soviet missiles. Why? Because they're what we saw. I say to the gentleman from Chestnut Hill Academy, they're what we call a use-or-lose weapon.

Because they have such an incredible concentration of power, you assume that they will be struck first. Therefore, if there is a warning that you're under attack, which sometimes they're mistaken, they're on a hair trigger and you must launch them or lose them.

That's why we're so fearful that the Russians will keep their MIRVed systems, because they have such a porous defense system. They have such a porous early warning system. And as a nun I used to have would say, in a slightly different context, "the only nuclear war that's worse than one that is intended is one that wasn't intended."

In Seoul, I spoke with President Kim Dae-jung of South Korea about ways to bring North Korea, which is the new bogeyman that we're all looking at now, which is the justification for this pell-mell race to produce the international missile defense, how to bring them into the family of nations.

He urged me to encourage the administration to engage North Korea in senior-level dialogue and not allow a theological commitment to missile defense to blind us to the prospects of signing a verifiable agreement to end North Korea's development, deployment and export of long-range missiles.

Yesterday, Dr. Rice, on Meet the Press—she and I were on Meet the Press—she talked about how ubiquitous these long-range missile systems were. I don't know what she's talking about. We're getting briefed by two different groups of CIA people, I guess, because none of these rogue nations have that capacity yet. They may get it. It is maybe within their reach, but it does not exist now.

If we spur on an aggressive Chinese buildup, including the need to test—and you know why they will have to test. When you put more than one—I know most of you know this, but it's worth repeating—you put more than one atom or hydrogen weapon on top of a rocket, it requires more throw weight in that rocket. It has to be more powerful.

So practically what you have to do is you have to make smaller, more compact missile warheads. And in order to be able to be sure they work, you've got to test them. So if, in fact, the Chinese are going to move to a modernized system that requires—that's going to contemplate MIRVed ICBMs, they're going to have to test.

That's why I got so upset by the statement read by the press account that we appeared to be willing to trade off, in return for them not objecting to our building the national missile defense system, the possibility that we would look the other way when China tested and that we understood they were going to have a considerable buildup.

That's what I call a self-fulfilling prophesy.

And let me ask you the question: Consider what India is likely to do if China tests. Those of you who know the subcontinent know that there's been an incredible political tug to have another test of their, quote, "hydrogen weapon," because they believe the world does not believe that they successfully tested one, and they want the world to believe they have one.

And what do you think happens when India tests, if China tests?

What do you think happens in Pakistan? Pakistan, I believe, would ratchet up its production. And consider that Taiwan, the two Koreas or Japan or all of them could build their own nuclear weapons. Japan has the capacity within one year to become a nuclear power.

That greatest generation that Tom Brokaw speaks of, my mother and father's generation, did two incredibly good things, and I mean this as not an insult, to particularly my German friend. Germany is a non-nuclear power and Japan is a non-nuclear power. That's good for the world. I want to be no party to setting in motion a series of events that will cause the Japanese Diet to reconsider whether they should rely upon the nuclear umbrella of the United States.

And as the former chancellor of Germany, Helmut Schmidt, once said to me, sitting in his office 15 years ago, he said, "You don't understand, Joe, my son's generation does not feel the same sense of obligation or guilt that mine does."

Are we so dead set positive that a missile defense system furthers our national interest that we're willing to risk an arms race? So sure of the science that we're willing to weaponize space and nuclearize Asia?

Are we so sure of the feasibility that we'll divert potentially hundreds of billions of dollars from the real needs of our military?

Look, the fact is we could weaponize space or we could buy 339 F-22s to replace our aging F-15 fleet for \$62 billion. We could replace aging F-16s, A-10s, A-14s with a Joint Strike Fighter for the cost of \$223 billion. We could replace the Cobra and Kiowa warrior helicopters for \$39 billion. I could go on and on.

But in short, we could provide our Army, our Navy, Air Force and Marines virtually everything they need in the immediate future for a more stealth, more significant lift capacity military to deal with the real threats we face and still spend less on all of that than we will spend on the national missile defense system.

We're facing a difficult budget fight with a consequence of the turndown in the economy, the business cycle, the \$1.3 trillion tax cut, or all of the above, and we can't have our cake and eat it too. The administration would like us to think it's all possible, but it's not all possible.

According to the Congressional Budget Office, we may have already dipped into the Social Security trust fund, which we used to do regularly in years past, but which we all promised we wouldn't do anymore, we would have a lock box. And that \$21 billion or more will be consumed from that lock box in the next three years. This is a very different economic picture than projections of just a few months ago.

Missile defense has to be weighed carefully against all other spending and all other mili-

tary priorities, which we're not debating or doing right now. And in truth, our real security needs are much more earthbound and far less costly than national missile defense.

If you combine the \$1.3 trillion tax cut with what we've spent on a full-blown missile defense shield, we could start to modernize our conventional forces, build a stealthier, more mobile, more self-sufficient military that I believe is needed in the 21st century, and make significant impact on rectifying what is going to be a gigantic problem in 10 years in Social Security.

Let's be clear: When it comes to defense, it's not the president's missile defense or nothing, as the way it's being posed. We should improve military personnel retention and overall readiness; bring on the next generation of fighter aircraft, the next generation of helicopters, the next generation of destroyers; and be fully prepared for the next generation of engagement.

And while we're at it, we may fix the plumbing in the barracks at Taipei, which I just visited, which the night before I came, because they are so aged and we don't have the money to fix them, they had to bring in water hoses from outside to allow the women and men in there to be able to shave, to be able to use the bathrooms, let alone drink any water. Visit the conditions in which our active military are living now—two and three in a room. You think when you drop your kid off at a college dormitory and you're paying 30 grand to send him to a prestigious school is hard to take, take a look at the conditions they live in. And why are we not responding to it? We don't have the money, we are told.

My dad used to say, and still says, "Son, if everything is equally important to you, nothing is important to you." Our priorities, I think, are a little out of whack. I've said, and I'll say it again, we should be fully funding the military and defending ourselves at home and abroad against the more likely threats of short-range cruise missiles or biological terrorism.

Last week, the Foreign Relations Committee began hearings on how to build a so-called "homeland" defense and to protect our military from bioterrorism pathogens and chemical attacks; on how we can deploy a missile defense system that doesn't trade off conventional modernization of our military for a fantasy of some system that remains more flawed than feasible; on how we can jump-start the destruction of Russia's massive chemical weapons stockpile and secure all our nuclear materials.

The very day they send up a budget that tells they are going to increase by 8-point-some billion our missile defense initiative, they cut the program that exists between us and Russia to help them destroy their chemical weapons, keep their scientists from being for sale and destroy their nuclear weapons.

I've said, and I'll say it again, we should work with Russia and China and all of our allies to stem proliferation of weapons of mass destruction; we should try to rely on some mutual deterrence, rather than thinking we can replace it, because, in fact, deterrence works.

We should support research and development in boost phase interceptors that would avoid the countermeasures and would be more acceptable to Russia and China, limiting the possibility of ending Russia's adherence to START II and lessening the prospects of a new arms race in Asia than what we are now proposing.

We should strive through hard-nosed diplomacy to delay and eliminate the long-range ballistic threat by ending North Korea's program and its sale of long-range missile technology. We should build a combined offensive

and defensive system that we know works before we deploy it. And we should amend the ABM Treaty and not walk away from it.

Having said that, let's put the cost and the effectiveness of this missile defense system being discussed today in some context so that everyone understands exactly what we're talking about. The cheapest realistic system suggested, national missile defense system, limited national missile defense system suggested by this administration, which relies on the same midcourse interceptors the Clinton administration proposed, would cost at a minimum \$60 billion over 20 years and most suggest it would be closer to \$100 billion.

And remember, this is only for a system that's incapable of shooting down a missile carrying biological weapons, incapable of shooting down a missile carrying chemical weapons, at least for now incapable of shooting down a missile with an unsophisticated tumbling warhead that will look just like a tumbling trajectory.

In order to combat what are known as countermeasures, such as those decoys or the submunitions that carry biological weapons, the administration proposes a layered defense. That means, a missile defense that begins with a boost phase interceptor, that is, catching the rocket as it takes off from behind, at its slowest point and nearest point; continues with a midcourse interceptor, that is, getting it out there in the atmosphere and a bullet hitting a bullet; and finishes with a terminal defense as it's coming down.

Now, you think the midcourse system we're working on is expensive. Help me calculate the cost of a layered missile defense, where we haven't even begun some of the research.

One recent estimate for that system is a quarter trillion dollars, and I think that, too, is a conservative figure, because the truth is that the administration has yet to comprehend the full complexities and the technological challenges of a layered defense. If you doubt me, ask folks like General Welch and others who used to run the show.

In my view, that full-blown layered missile defense system, which doesn't address a single real issue on the ground, is more likely to cost a half a trillion dollars. And what will it get us? For half a trillion dollars we may get a layered defense system that's not been defined yet. If it includes space-based lasers, you've now weaponized outer space, which invites other countermeasures to attack the satellites on which we depend for information and communications.

But it still won't be 100 percent effective. Secretary Rumsfeld, speaking about our national missile defense system on the Lehrer NewsHour earlier this year, said that a system would not have to be 90 or even 80 percent effective, but only 70 percent effective. Secretary Rumsfeld, in referring to a, quote, "0.7 success rate," said, and I quote, "That's plenty."

Folks, 30 percent failure for any national defense system could be called plenty of things, but plenty successful is not one of them. Think about it.

(Applause)

Let's say President Richard Ryan becomes president of the United States. And the head of a rogue state tells him, which is how the scenario goes, "I'm invading my neighborhood today. And if you try to stop me, I'll fire my ICBMs at you." Never mind that he won't do that because he knows he'd be annihilated within a matter of 30 minutes. But President Ryan turns to his national security adviser, as I always do, Carl Wiser, and says, "Carl, what do I do?"

And Carl says, "Don't worry, we have a missile defense system. And unlike Rumsfeld's 0.7, ours is 0.9 effective."

President Ryan says, "Oh. There's a 10 percent chance then of losing Detroit?"

And Carl says, "Well that depends. If they fire seven missiles, the odds of losing at least one city will be 50-50. Because guess what: 0.9 means that not 90 percent fired will get through, 0.9 means that for every missile fired, that single missile has a nine out of 10 chance of getting through. You get to seven, it's about a 50-50 chance that one gets through. If you do the 0.7, you fire two missiles, there's an equal chance one is going to get through."

So now President Ryan says, "You know, these guys that designed this system are right. This enables me to not be blackmailed. I'm supposed to feel like I have freedom of action thanks to this defense."

And Carl says, "Hey look, Rumsfeld told Jim Lehrer that 70 percent effectiveness would be enough, at least initially. And with that system there's a 50-50 chance of losing at least one city if that rogue state fires two missiles. We're better off than we were."

And I assume that this scenario which they lay out means, where Ryan is president, he's going to say, "You know, I really have some flexibility now. I'm only going to lose Detroit or San Francisco or Cleveland or Dallas, so I can really move here with dispatch. I've got flexibility. I don't have upon deterrence."

Now, I know you think I'm being a wise guy here, but sometimes it's useful to reduce this complex nuclear theological discussion to reality. If I'm president, does that give me more flexibility?

Does that allow me to say, "I'm only going to lose one or two population centers, therefore I have more flexibility to do anything other than say, 'If you do, we will annihilate you'"?

I also find it fascinating, this whole premise is based upon the notion that defense no longer works. Deterrence no longer works.

Now, I say this, and there's a television audience listening: Help educate me. Name me a time in the last 500 years when the leader of a nation-state has said, "I know I face virtual annihilation if I take the following action, but I'm going ahead, and I'm going to do it anyway."

Saddam Hussein, the certifiable maniac—when George I said to him, "If you do we will take you out," what did he do with 500,000 forces marching on Baghdad? He had those Scud missiles everybody talks about as a justification for building the system. He had chemical weapons. He had biological weapons. Why did he not use them if deterrence does not work?

I just find the basic premise upon which this whole argument rests and the sense of urgency a little wanting. Think about it. We will have spent potentially up to a half a trillion dollars for a system that might work nine out of 10 times, assuming the administration knows how to build it, that, one, won't give the president the freedom of action.

One, that won't give the Pentagon what it really needs, won't modernize our conventional forces, and without being able to say, "Yes, we've saved Social Security for even one more day." That's the system we're going to build.

Remember now, folks, they don't know what it looks like, they don't even have it on paper, they have tested a system in one mode that, God bless our incredible technology, it worked, and I vote to pay for them to continue to do that research. But they're willing to pull out of an ABM Treaty that sends the signal to the rest of the world the end of arms control has arrived. And what protection do we have in the near term, let alone down the road?

Sure, we'll do all we can to defend ourselves against any threat, nobody denies that, but even the Joint Chiefs says that a strategic nuclear attack is less likely than a regional conflict, a major theater war, terrorist attacks at home or abroad, or any number of other real issues. We'll have diverted all that money to address the least likely threat, while the real threat comes to this country in the hold of a ship, the belly of a plane, or smuggled into a city in the middle of the night in a vial in a backpack.

And I ask you, you want to do us damage, are you more likely to send a missile you're not sure can reach us with a biological or chemical weapon because you don't have the throw weight to put a nuclear weapon on it and no one's anticipating that in the near term, with a return address saying, "It came from us, here's where we are?" Or are you more likely to put somebody with a backpack crossing the border from Vancouver down to Seattle, or coming up the New York Harbor with a rusty old ship with an atom bomb sitting in the hull? Which are you more likely to do? And what defense do we have against those other things?

Watch these hearings we're about to have. We don't have, as the testimony showed, a public health infrastructure to deal with the existing pathogens that are around now. We don't have the investment, the capability to identify or deal with an anthrax attack. We do not have, as Ambassador to Japan now, Howard Baker, and his committee said, the ability to curtail the availability of chemical weapons lying around the Soviet Union, the former Soviet Union and Russia, because they don't know what to do with it.

They showed us a report where they showed us photographs of things that look like large outhouses, clapboard buildings, with no windows and padlocks on the door, that have as many chemical weapons in that building to destroy the bulk of the East Coast—and we're not spending the money to help them corral and destroy that in the name of this search? The cost estimate was \$30 billion over 10 years in this bipartisan commission, and it was listed as the most urgent threat to the United States of America.

The truth is, technology will keep outpacing our capacity to build an effective system, which may well be obsolete or penetrable by the time it's done. And that means we'll continually increase our capability, and in turn, so will those who are trying to penetrate it. And so the new arms race begins.

Forty-nine Nobel Prize-winning scientists sent a letter to President Clinton last year opposing the deployment of the limited antiballistic missile system the president was contemplating, and I'll quote from the letter. Quote: "The system would offer little protection, would do grave harm to this nation's core security interest," end of quote.

They went on to say, and I quote—these are now, we're talking about 49 Nobel laureates—"We and other independent scientists have long argued that antiballistic missile systems, particularly those attempting to intercept reentry vehicles in space, will inevitably lose in an arms race of improvements in offensive capability."

That night in 1989 when the wall came down and we wondered where it would lead, another arms race was the furthest thing from any of our minds. The idea that our allies would question our commitment and our resolve, even our motives, was unthinkable.

Our place in the world seemed secure. The world was looking to us to demonstrate leadership, and it still is.

Let's think about how we felt that night. The feeling that something good was happening and something even better was on the horizon. It was as if the world had awoken

from a long, bad dream into a new era in which old values and old prejudices would no longer prevail, and new values and new ideals, wherever they were to be found, would be found and make us all more secure.

Folks, let's not now raise the starting gun on a new arm's race that is sure, I promise you, to make my children and my grandchildren and these students assembled here feel less secure than we feel today.

Thank you very much for listening.

Mr. BIDEN. On September 10, the day before the attacks on the towers, I made a speech to the National Press Club where I warned about a massive attack on the United States of America from terrorists; why I thought it would happen and why I thought our priorities were misplaced—the day before 9/11. I had no knowledge of 9/11, but I have been working in this field, like my colleagues on the floor, for 30 years. There was an inevitability to it. But we did nothing.

I feel like we are in that same "Alice in Wonderland" suspension when it comes to rail. It is either it is so big you can't protect everything so don't protect anything—like it was before. Our country is so big and so open there is nothing much we can do about terror. And the second subparagraph before 9/11 was: By the way, it is not likely to happen here.

Why? Why is it not likely to happen here?

There is \$250 million to be allocated to general security upgrades for freight rail operations. That includes things like putting cameras in freight yards so you have somebody watching who is wandering around those yards and maybe sticking something up underneath 90-ton chlorine gas tanker cars or putting in a boxcar a dirty bomb, a home-made weapon.

It also provides \$65 million to go specifically to Amtrak security upgrades for hiring officers. We had an interesting thing. We have a relatively small number of officers on Amtrak. If you go from here to fly out of Reagan Airport, if you go out of Dulles or Reagan Airport or the Philadelphia airport or LaGuardia or Newark or L.A. or O'Hare or Atlanta, you are going to go through, en route to your gate, probably as many security officers, including the folks inspecting your bags, as exist in all of Amtrak.

Did you hear me? Let me say that again.

I guarantee you that going through the screening area you are going to run into not just the people looking at you in the area you go through, but you are likely to run into more TSA screeners than exist in any one station in the United States of America.

I received a note indicating that I am needed urgently. If I could suspend for a minute and come back and pick up where I left off, I suggest the absence of a quorum.

(Ms. MURKOWSKI assumed the Chair.)

Mr. GREGG. Madam President, rather than suggesting a quorum, I will protect the Senator's position.

Does the Senator have a modification to his amendment?

AMENDMENT NO. 4585, AS MODIFIED

Mr. COBURN. I do. I have a modification of amendment No. 4585.

The amendment will remain intact with the following added at the bottom which says "except in Alaska, far Northwest, and far Northeast Continental United States of America."

I want to be clear that the RECORD show what that means; that is, they can dismantle LORAN everywhere except there. And that would protect specifically Nantucket, Caribou, George, and all six in Alaska. The study would still go forward for those areas only, not for the rest of the country. The dismantling of these areas that are not used would be able to continue as the administration and the Federal Radio Navigational Plan suggests.

I ask unanimous consent that the amendment be accepted.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 4585), as modified, is as follows:

After section 539, insert the following:

SEC. 540. None of the amounts available or otherwise available to the Coast Guard under title II of this Act under the heading "UNITED STATES COAST GUARD" under the heading "OPERATING EXPENSES" may be obligated or expended for the continuation of operations at Long Range Aids to Navigation (LORAN) stations nationwide, except in Alaska, far northwest, and far northeast continental United States of America.

Mr. STEVENS. Madam President, I say to my friend, I do support his amendment now as amended to preserve the rights of people who currently rely on the LORAN-C—the LORAN system, not just the LORAN-C.

Thank you very much.

Mr. GREGG. Madam President, is that amendment pending?

The PRESIDING OFFICER. The amendment is not pending.

Mr. GREGG. Madam President, I ask unanimous consent that the amendment offered by the Senator from Delaware be set aside and the amendment which has just been modified be pending.

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

Mr. GREGG. Unless there is objection, I ask unanimous consent that amendment be agreed to.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment (No. 4585), as modified, was agreed to.

Mr. COBURN. Madam American, I thank the chairman and ranking member for the acceptance of the amendments today and the cordial way in which they have worked with us. I appreciate it very much.

Mr. GREGG. I thank the Senator.

AMENDMENT NO. 4553

Madam President, is the regular order the amendment proposed by the Senator from Delaware?

The PRESIDING OFFICER. The Biden amendment.

Mr. BIDEN. Madam President, I thank my colleagues. I apologize. It

was an unusual request—an urgent message which turned out not to be urgent. I apologize.

The point I was making is \$65 million goes specifically to Amtrak security upgrades. Specifically, things such as hiring officers, increasing K9 patrols, increasing fencing, lighting, and cameras in areas where the security experts indicate they are badly needed.

There is \$100 million for R&D. I will not take the time of the Senate to go into any of the ways in which to deal with tunnels and innovative ways to deal with detection of chemicals, et cetera, and biological agents.

Before I close, I would like to point out a very troubling problem relating to rail police which this amendment addresses. We are all aware of the problems that this agency faces due to budget shortfalls. In particular, the police force is woefully inadequate for the job it is assigned to do. The amendment would add 200 Amtrak police officers and will provide a 25-percent salary increase for existing officers.

You ask: Why is that the case? This funding is critical because the Amtrak police department cannot pay anything remotely approaching the competitive wage rate of other police officers. This contributes to an incredibly high turnover.

An entry-level Amtrak police officer makes only \$31,000 with a maximum, no matter how long he or she stays on the force and no matter what responsibility, of \$51,000. By contrast, a Boston police department entry-level officer makes \$49,000, and a U.S. Capitol Police officer entry level makes \$46,746.

This presents a problem with recruiting and turnover.

Between 1997 and 2003, Amtrak lost 190 of its officers, with only 20 percent to retirement, and hired only 184. As a result, Amtrak has only 300 officers in the entire system nationwide, 20 percent below its inadequate authorized level.

I have been working with the Amtrak police department and the Fraternal Order of Police for some time to address the disparity.

This amendment sets aside \$25 million to add 200 police officers and gives existing officers a 25-percent pay raise. And still they will not be competitive enough relative to other agencies.

This funding is critical. We have neglected rail security since 9/11, and we have had wake-up call after wake-up call.

This year, just as last year, our strong ally has experienced a deadly attack at the same time we are addressing homeland security appropriations at home. I pray to God that next year, as we address this, we are not responding to what might happen to our rail system.

When are we going to wake up?

I would like to draw attention to the 9/11 Commission's report card issued this past December.

I think it was December 5. Don't hold me to that exactly, but it was in De-

ember. It found, in respect to our Nation's critical infrastructure, the following:

No risk and vulnerability assessments have actually been made, no national priorities established, no recommendations made on the allocation of scarce resources, and all key decisions are at least 1 year away.

It is time that we stop talking about priorities and actually set them.

With this amendment, we establish rail security as a priority.

I urge my colleagues to finally, for Lord's sake, deal with this. At any one moment today in New York City, there will be, in an aluminum tube in a tunnel underneath that city or standing on a platform, over 20,000 people. How many people are on a 747—500, 600? I don't know the number, but 20,000 people in a relatively confined space at any one time sitting in aluminum tubes in tunnels where there is virtually no protection—and standing on platforms. We all go to New York. Go on up there and look at Penn Station. Get off the train. Walk around and tell me how many police officers you identify. You will find more in your hometown.

We have to do something.

I thank my colleagues for listening to me once again. I hope I will not make this speech again next year as a consequence of another serious rail attack. I pray to God it is not at home.

I yield the floor. I thank the Chair.

Mr. GREGG. Madam President, the Senator from Delaware makes a strong and effective case for the need of stronger rail security. He puts it in the context of what is happening in other nations, what has happened in England or what happened yesterday in India. There is no question—and the most recent instance that was potentially here in the United States involving New York. There can be no question but that rail is a threatened infrastructure and a target of opportunity.

The problem with his amendment is, as he knows, we are constricted by certain rules that we have in allocation. We funded rail security at more than we funded last year—not a lot more and certainly nowhere near what the Senator from Delaware has asked for.

But we have used up all the allocation to take care of what we consider to be appropriate needs that have to be addressed—threat issues, mass destruction, border security, and things we have already discussed.

His amendment, as it is structured, would add \$1 billion on top of what we have received as an annual allocation, which means that it would break other allocations, exceed the agreed-to number, and that is something we can't do.

As much as I recognize the legitimacy of many of the points he makes, I think it is, however, important to put in context what is happening in rail.

The number in this bill—and we have about \$187 million for rail security—is not the only commitment to rail. In fact, if you look at the amendment that the Senator from Delaware has

put forward, a big chunk of the money, I think, goes to tunnel security or other construction. We talked about it quite a bit. Amtrak and the northeast corridor, which is Amtrak, gets its funding through another subcommittee. That subcommittee has, in its appropriation, a lot of money for Amtrak. In fact, it has \$770 million for capital improvement which can be used for tunnel security.

It has \$440 million, I believe, for operating costs which can be used for security. That comes through a different committee. And it is available for many of the things which these dollars would be used for.

In addition, I think it is important to note how our priorities are set by States and communities which have a large amount of rail and get the funds which we give them with great flexibility to be used to address threat. We distribute billions of dollars under this bill and the prior homeland security bills to major urban areas, especially along the northeast corridor. Those funds go out on the basis of threat. And communities such as New York, Washington, Baltimore, Boston, and Philadelphia have the opportunity to use those funds for rail security, if they wish to. But what we have seen from these communities is that they don't prioritize rail security at that level. They use it for other things.

For example, in 2005, of the grants that went to States and to communities, they spent only 2 percent of their discretionary pool on rail security; in New York, a little more, 12 percent. But on average, it was 2 percent.

The State of Washington actually was the most aggressive. They spent 29 percent of theirs on transportation security. In the largest urban areas, the average has been around 8 percent. Communities which have the opportunity to make the choice, do we put it into our subway systems and bus systems or do we put it into some other area where we see threat, we have decided that their commitment will be at this fairly small level of the overall dollars that are available. But the dollars are there in rather large sums—literally billions of dollars—and \$5 billion approximately is still in the pipeline which could be used in these areas. There are other resources that can go toward rail.

Those that are specific, such as the Amtrak funding that will come through for capital improvement, \$770 million out of the Transportation bill or the operating account, which is \$440 million, or those which are more general but could be reallocated toward rail, which are the city and State discretionary funds. So there is money and a lot of it that is available to move in this direction and address these needs.

Assume for the moment there is not enough, which is the argument of the Senator from Delaware. I am willing to accept that more money could certainly be used in this area. What is the

way we should approach this? It is not to break the cap. It is, rather, to tie it to a fee system, much as we have done with the airlines.

The Senator from Delaware mentioned the airlines. We have a transportation fee in the airline system, which essentially funds the TSA activities which involve a lot of capital activities in the area of airport security and obviously all the personnel. There are 22 million people who ride Amtrak. If you put a \$5 transportation fee on their tickets, which is about the same as the airline fee, that would generate almost exactly the amount of money the Senator from Delaware is requesting.

If the Senator wanted to bring his amendment back with that type of a fee system which would allow for the extra money and then allocate it the way he is suggesting it be allocated, rather than these other sources of revenue, I could agree to that, potentially. But in its present form as a cap buster, as a budget buster—because it takes the top off the appropriations bill—we cannot agree to this.

It is not that we do not feel there aren't needs there. There are needs there, but we feel there are other sources to fund those needs. We feel we make a strong commitment, relative to rail in this bill in the context of what has been done historically, and to the extent the Senator from Delaware feels an even stronger commitment has to be made beyond what Amtrak and cities and towns have as discretionary funds and beyond the \$187 million in this bill, should do it the same way we are doing it with TSA, which is to use a fee system. Those are our thoughts.

It is subject to a point of order because it is \$1 billion over the budget and would essentially blow the 302(b) cap. At the proper time, I will make that point of order, unless it is amended.

Mr. BIDEN. Will the Senator permit me to respond, briefly?

Mr. GREGG. The floor is the Senator's.

Mr. BIDEN. I ask unanimous consent Senator CLINTON be added as a cosponsor.

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

Mr. BIDEN. Madam President, let me deal with a piece at a time, to the cogent arguments my friend from New Hampshire has made and thank him for the acknowledgment that there may be a need to do more on rail.

First of all, I find the whole debate about homeland security, which is beyond the purview of this debate, somewhat fascinating. The 9/11 Commission tells us we should be spending over \$42 billion over the next 5 years to deal with what they believe and identify as serious threats which are woefully inadequate, where they give the mark to the Congress and the Senate of a D or an F, in terms of how they grade the area of concern. We are \$42 billion behind the curve to begin with.

I find the argument, by the way, a little akin to the argument my friend

from New Hampshire just made, a little akin to the false argument about whether, of \$740 million allocated in the last round, there should be a 40-percent cut in money for New York and Washington to be sent to St. Louis and Omaha. The question isn't whether it should have been cut to be sent to Omaha, the money is needed in New York and Omaha and in St. Louis.

The debate should be, why are we only spending, in that allocation, \$740 million? The single most primary and primitive function of Government is to protect its citizens, to physically protect them. In my view, it comes before civil rights, civil liberties. It comes before education. It comes before health care. If you are not safe in your home, safe in your street, safe in your Nation, the rest of it does not matter a whole lot.

So we get into a false debate. Take Amtrak, all the money in Amtrak, \$740 million for capital expenditures. That \$740 million for capital expenditures still leaves Amtrak about \$4.5 billion behind on capital needs. What are we talking about? Rail maintenance, rail improvement, the catenary wire above it, the actual cars, the actual engines that have to be upgraded. We have forced Amtrak, by underfunding so badly for so long, to cannibalize its own system in order to be able to pay salaries to keep the trains operating. There is no money.

It is a little bit similar to my saying, in the education budget, there is a whole lot of money there in order to be able to provide for eliminating the additional cost of the loans to college students because the education budget has X number of dollars. That means you have to go cut something out of education that is already underfunded.

I find it to be a false argument.

The point about the basis of the threat, I know of no other area where there has been as many consistent, specific threat assessments made by the FBI, by the CIA, by our intelligence agencies than rail. I may be mistaken, but I am happy to stand corrected if I am wrong. The threat is there.

Lastly, TSA does not pay for the doors on the aircraft. We still spend billions and billions of direct dollars in taxpayers' money. Again, it sounds good but irrelevant.

The arguments are very well made and very irrelevant. We are still only spending about \$150 million.

You say: Well, the States have this money. What have they chosen to do? Guess what. How much money have the States had to spend on airport security when they choose that? The Federal Government has come in and taken on the lion's share of that responsibility. I am confused. Why does Reagan Airport, which has fewer people visiting every day, have a higher priority than Union Station? I don't get that. I don't understand that.

The bottom line is, we do not have the commitment to deal with this. I acknowledge, as the chairman of the subcommittee, my friend gets an allocation. But, again, that is a false argument. It is true he gets an allocation. Why is the allocation not bigger? The allocation is not bigger because our priorities in this country are backward.

Let me give one example, and I realize it is just one. About a month ago, we had the six major oil companies before the Judiciary Committee. During that time, the chairman, Republican Chairman Senator SPECTER—and the issue was price gouging—swore all six CEOs in under oath. Everyone asked about price gouging.

It got my turn in the order of asking questions, and I said I would like to not ask about price gouging, I would like to ask you about tax breaks. You have an Energy bill last year that I voted against, that, at a minimum, there are \$2.5 billion worth of tax breaks to encourage you to explore. I looked at the chairman of the board of ExxonMobil. I am paraphrasing, and I will later in the day come back with the actual record of that exchange and ask it be printed in the RECORD at that time. I said: You made \$35 billion in profits. My mother would say: God love you, that is wonderful. I am not arguing about your profit. That is great. Do you need any of the \$2.5 billion per year you are going to get? He put his head down, if you take a look at the film. I said: Sir, you are under oath. And he looked up and he said: No, we don't need it. I said: Good. And I went down the list of the other five oil executives. Do you need it? No, no, no, no, no.

Then I asked another question. I'm going to propose to eliminate that tax cut, and I am going to use it for homeland security. Do you object to that? Would you support it? I said: You are under oath. The CEO of ExxonMobil said: I would support it. They all supported it.

So \$2.5 billion we are wasting—wasting—in giving energy breaks to oil companies.

I say to my colleagues, parenthetically, you do not hear me stand up here and demagog. I am happy they are making all that money. But they acknowledge they do not need it. For \$2.5 billion, we could restore my entire COPS Program, which we have eliminated. We could add 1,000 more FBI agents to deal with homegrown terrorism. We could fund every penny of this.

I realize, as the joke goes, that is above my friend's pay grade. It is not his responsibility. But we get put in these positions where guys such as me vote against budget priorities that are set, allocations are limited, and, understandably, under the rule, we are then put in a position of points of order.

I respectfully suggest that if anyone said: What should be the priorities of this Nation and how much money

should we be spending to protect the American people, my guess is a whole lot of things, including some social programs, would come after a basic fundamental requirement to protect the American people from what we are told is a reasonable probability that it will happen.

I accept everything my friend said in terms of the caps, et cetera. I acknowledge this, in fact, would be subject to a point of order. I find it frustrating I am consistently left in the position of having to argue. It is a little bit similar to what we used to do in local office. You cut the budget, and we would make the hearing impaired compete with the physically impaired, who compete with the blind, for the limited amount of money we gave them. We would say: We cannot use more money for the hearing impaired because within this allocation we do not have enough money. We will have to cut it from someone else or go find it somewhere else. That is how I feel.

I apologize for my frustration. The record will show, although when I speak in the Senate someone suggests I am mildly energized about what I speak about, I don't often rise in the Senate to speak.

Folks, we are going to regret this. We are going to regret this.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Madam President, I ask unanimous consent at 2 p.m. today the Senate proceed to a vote on the motion to waive the budget with respect to the Biden amendment No. 4553, with no amendments in order to the amendment prior to the vote.

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

AMENDMENT NO. 4589 WITHDRAWN

Mr. GREGG. I ask unanimous consent the amendment of Senator COBURN, No. 4589, be withdrawn.

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

Mr. GREGG. Madam President, I now understand that the Senator from South Dakota has an amendment he wishes to offer, and we will proceed to that. If there are other people who wish to bring amendments over prior to the 2 o'clock vote, we would be happy to hear from them.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Madam President, maybe this has already been done, but I ask unanimous consent that the pending amendment be set aside.

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

AMENDMENT NO. 4610

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

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. THUNE], for himself, and Mr. TALENT, proposes an amendment numbered 4610.

Mr. THUNE. Madam 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 establish a program to use amounts collected from violations of the corporate average fuel economy program to expand infrastructure necessary to increase the availability of alternative fuels)

On page 127, between lines 2 and 3, insert the following:

SEC. 5. ALTERNATIVE ENERGY REFUELING SYSTEMS.

(a) ESTABLISHMENT OF FUND.—

(1) IN GENERAL.—There is established in the Treasury a fund, to be known as the "Energy Security Fund" (referred to in this section as the "Fund"), consisting of—

(A) amounts transferred to the Fund under paragraph (2); and

(B) amounts credited to the Fund under paragraph (3)(C).

(2) TRANSFERS TO FUND.—For fiscal year 2006 and each fiscal year thereafter, there is appropriated to the Fund an amount determined by the Secretary of the Treasury to be equal to the total amount deposited in the general fund of the Treasury for the preceding fiscal year from fines, penalties, and other funds obtained through enforcement actions conducted pursuant to section 32912 of title 49, United States Code (including funds obtained under consent decrees).

(3) INVESTMENT OF AMOUNTS.—

(A) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals.

(B) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

(C) CREDITS TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to, and form a part of, the Fund in accordance with section 9602 of the Internal Revenue Code of 1986.

(4) USE OF AMOUNTS IN THE FUND.—Amounts in the Fund shall be made available to the Administrator of the Environmental Protection Agency for use in carrying out the reimbursement program for alternative energy refueling under section 9003(h)(13) of the Solid Waste Disposal Act.

(b) ALTERNATIVE ENERGY REFUELING.—Section 9003(h) of the Solid Waste Disposal Act (42 U.S.C. 6991b(h)) is amended by adding at the end the following:

"(13) ALTERNATIVE ENERGY REFUELING SYSTEMS.—

"(A) DEFINITIONS.—In this paragraph:

"(i) ALTERNATIVE ENERGY REFUELING SYSTEM.—The term 'alternative energy refueling system' means a system composed of 1 or more underground storage tanks, pumps, and pump fittings or other related infrastructure that is used to refuel motor vehicles with—

"(I) compressed natural gas;

"(II) E-85 ethanol;

"(III) a fuel described in section 30C(c)(1) of the Internal Revenue Code of 1986; or

"(IV) any other alternative fuel, as determined by the Administrator.

"(ii) ELIGIBLE ENTITY.—The term 'eligible entity' means a refueling vendor or other person that is an owner or operator of a service station or other facility at which an alternative energy refueling system is located or proposed to be located.

"(iii) ENERGY SECURITY FUND.—The term 'Energy Security Fund' means the Energy Security Fund established by section

5 (a)(1) of the Department of Homeland Security Appropriations Act, 2007.

“(B) REIMBURSEMENT PROGRAM.—

“(i) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this paragraph, the Administrator shall establish a program to provide to eligible entities, for each of fiscal years 2007 through 2011, reimbursement from the Energy Security Fund of a portion of the costs of purchasing and installing 1 or more alternative energy refueling systems, including any alternative energy refueling system intended to replace a petroleum refueling tank or system.

“(ii) APPLICATION.—An eligible entity that seeks to receive reimbursement described in clause (i) shall submit to the Administrator an application by such time, in such form, and containing such information as the Administrator shall prescribe.

“(iii) TIMING OF REIMBURSEMENT.—Not later than 30 days after the date on which the Administrator, in consultation with the appropriate State agency, verifies that an alternative energy refueling system for which reimbursement is requested by an eligible entity under this paragraph has been installed and is operational, the Administrator shall provide the reimbursement to the eligible entity.

“(iv) LIMITATIONS.—

“(I) PROHIBITION ON RECEIPT OF DUAL BENEFITS.—An eligible entity that receives a tax credit under section 30C of the Internal Revenue Code of 1986 for placing in service a qualified alternative fuel vehicle refueling property (as defined in that section) may not receive any reimbursement under this paragraph for an alternative energy refueling system on the property if the cost of the alternative energy refueling system was taken into consideration in calculating the tax credit.

“(II) NUMBER OF SYSTEMS.—An eligible entity may not receive reimbursement under this paragraph for more than 2 alternative energy refueling systems for each facility owned or operated by the eligible entity.

“(III) AMOUNT.—The amount of reimbursement provided for an alternative energy refueling system under this paragraph shall not exceed the lesser of—

“(aa) the amount that is 30 percent of the cost of the alternative energy refueling system; or

“(bb) \$30,000.

“(C) FURTHER APPROPRIATION.—Reimbursement authorized under this paragraph shall be provided by the Administrator without further appropriation.

“(D) NO EFFECT ON OTHER RESPONSIBILITIES.—Nothing in this paragraph affects any obligation of an owner or operator to comply with other provisions of this subtitle.”

Mr. THUNE. Madam President, the amendment I offer is something I feel very strongly about. A threat to America's energy security is a threat to our national security. Our dependence upon OPEC and foreign oil entangles us in the Middle East and makes us dependent on countries that are hostile to America and to American interests. The greater America's dependence upon foreign energy, the greater the threat to American national security.

Two decades ago, America alone drove the world's economy. We had Western Europe as competitors, but our economy was clearly on top and unchallenged. But things have changed. Right now, China is growing at about 10 percent a year in GDP. That is almost three times the rate of growth here in America. They do not

have 300 million citizens; they have over a billion. People in that growth rate create an incredibly strong economy with serious economic demands; and one of those demands is oil.

China is not alone. India is also growing at a double-digit rate. They, too, are a huge economy. And both countries are expanding their manufacturing, expanding their technology, and, therefore, expanding their demand for oil.

The challenge for American consumers and, frankly, for American industry is that the supply of oil has not kept up with the demand for oil. When you have an essential economic commodity, and you are not producing a sufficient supply, then prices tend to go up, which is what we see happening across the country today. We are all fighting for the same gallon of oil. Until that changes, either we will need to increase supply or we are going to face higher prices.

In my view, the long-term strategy and solution is to power our automobiles with something other than gasoline. Technology is the way to help change America for the better. Years of investment in fuels such as ethanol have put us on the threshold of major breakthroughs. Those breakthroughs are becoming a reality for consumers here in this country.

In my home State, the community of Aberdeen, SD, is, right now, selling E85 fuel for under \$2 a gallon when other fuel prices are going for \$3 a gallon and sometimes higher because they have an abundant supply of ethanol. It is produced locally, and the fuel retailers have made the investment to install the tanks. That is the very thing we want to see happen in other places across this country because American consumers and Congress realize we have to do more to reduce our dependence upon foreign sources of energy.

The amendment I am offering would significantly help in providing alternatives for the American consumer while lessening our dependence upon foreign oil. This amendment, very simply, would allow station owners around this country to be reimbursed for 30 percent—not exceeding \$30,000—of the expenses related to the purchase and installation of alternative refueling systems.

This amendment provides partial reimbursement for eligible alternative refueling systems, such as E85—which, I mentioned, is something we are starting to see more of in my State—bio-diesel, natural gas, compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, and other alternative fuels as defined by the Environmental Protection Agency. This amendment utilized penalties that are primarily paid by foreign automakers who violate CAFE standards. Last year, these penalties generated about \$20 million. It will complement the growing number of alternative fueled vehicles across our country, protect the environment, and allow our coun-

try to reduce its dependence upon foreign sources of oil.

The car companies in this country have announced recently they are going to double the number of flex-fuel vehicles they are going to put on the roads here in the future. If you look at already what we have on the roads today, there are more than 5 million flexible-fuel vehicles on the road that can run on either E85 or regular gasoline. However, the problem is that we have 180,000 gas stations across this country and only 800 currently offer E85 ethanol. In short, this means that less than 1 percent of all stations in America today offer E85 as an alternative.

The average cost of purchasing and installing an E85 refueling system is approximately \$40,000 to \$200,000, depending on the geographic area and the size of the tank. Ethanol production is at an all-time high of 4.5 billion gallons per year. Nationwide, there are currently 103 plants producing ethanol, with 35 more under construction. Those 35 additional plants will add an additional 2.3 billion gallons of ethanol production by next year. The Energy Policy Act, passed last year, requires the annual use of 7.5 billion gallons of alternative fuel by the year 2012.

The amendment is very straightforward. It acknowledges the fact we have auto manufacturers who are producing more and more automobiles that are capable of using alternative sources of fuel such as E85. It acknowledges the fact that we have production in this country going, with 2.3 billion additional gallons becoming available this year of ethanol. And it also acknowledges there is a consumer out there in the country today who is looking not only to get the very best possible price per gallon for the fuel they put in their vehicle, but also to do something about the long-term problem that faces this country; that is, this enormous appetite for oil that furthers our dependence upon foreign sources of energy.

What we need in this country is American energy and American independence so we do not have to worry about getting all that fuel, all that oil, from places outside the United States that are hostile to this country and to American interests.

This is about energy independence. It is about closing that distribution gap, so that now that we have the supply, we have the demand for ethanol, that we have the fuel retailers in this country moving in a way, putting policies in place, that would make it possible for them economically to install the very pumps that would provide the fuel that is being increasingly demanded by American consumers and which those in the ethanol industry in this country are continually gearing up, in terms of production, to meet.

So this is a very straightforward amendment. It applies to this particular piece of legislation, I believe, for a lot of reasons, one of which is, as

I said earlier, it is a very, very clear and established connection that a threat to America's energy security is a threat to our national security.

We talk about protecting our homeland and making sure America is safe and secure going forward for future generations. A key component in that debate ought to be: What steps are we taking as a nation, what policies are we putting in place that will enable our country to become energy independent, to have American energy meet the needs and the demands that our economy has to grow in this country?

So, Madam President, I offer this amendment to this legislation. There are others who I believe are interested in this issue. I introduced a bill that is very similar to this amendment. I have made some slight modifications to it, which was cosponsored by Members on both sides of the aisle, Republicans and Democrats. A similar bill is calendared for action in the House of Representatives.

I believe it is high time as a nation, as a U.S. Senate, that we put as a priority getting away from that dependence upon foreign sources of energy, having an abundant supply of an American energy, so we can provide the supply that is necessary to fuel our economy, keep it growing, keep it strong, and make sure that it is affordable for American consumers.

Madam President, at this point I ask unanimous consent that the amendment be laid aside, and I yield back the remainder of my time.

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

Mrs. MURRAY. Madam 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. GREGG. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. GREGG. Madam President, I ask unanimous consent that the Senator from North Dakota be recognized for up to 10 minutes as in morning business, and upon completion of his statement the Senator from Louisiana be recognized to offer an amendment.

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

The Senator from North Dakota. (The remarks of Mr. DORGAN are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER. The Senator from Louisiana.

AMENDMENT NO. 4615

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

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

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. VITTER] proposes an amendment numbered 4615.

Mr. VITTER. 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 prohibit the confiscation of a firearm during an emergency or major disaster if the possession of such firearm is not prohibited under Federal or State law)

On page 127, between lines 2 and 3, insert the following:

SEC. 540. PROHIBITION ON CONFISCATION OF FIREARMS.

None of the funds appropriated by this Act may be used to temporarily or permanently seize any firearm during an emergency or major disaster (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)) if the possession of such firearm is not prohibited under Federal or State law, other than for forfeiture in compliance with Federal or State law or as evidence in a criminal investigation.

Mr. VITTER. Madam President, this involves gun confiscation during major disasters or emergencies. My amendment is very simple and straightforward. It would prevent any sort of confiscation of legally held guns protected by the second amendment during major disasters or emergencies.

In the wake of Hurricanes Katrina and Rita, local and Federal law enforcement officials were overwhelmed in many ways by the tragedy that unfolded. That is understandable. During the chaos, a criminal element took advantage of the tragedy and started to commit serious crimes against persons and property. In many cases, law-abiding citizens took action and defended their property and themselves through the constitutionally guaranteed second amendment right to bear arms.

There is probably no more important or significant moment in normal, everyday American life where that second amendment right meant something. In some cases, it was literally the difference between a law-abiding citizen's life or death and between that citizen's ability to protect his property or have it completely taken away. Yet in the midst of that situation, where that constitutionally guaranteed right was so important, even far more important than in an everyday situation—although it is certainly crucial then—certain law enforcement authorities confiscated legally held firearms by law-abiding citizens. Not a few, not a dozen, not two dozen, but literally thousands were confiscated by law enforcement officials.

In fact, even well after the hurricanes, the Federal court ordered the city of New Orleans to return all guns unlawfully seized during Hurricane Katrina. Even after all that, the New Orleans police superintendent, Warren Riley, stated in a June 6 radio interview that his officers would confiscate guns again if another similar disaster should strike New Orleans.

This is ridiculous and should not be tolerated. We are talking about a con-

stitutionally protected second amendment right. And even more so, we are talking about a situation where those rights are vitally important for the law-abiding citizen when the police are not there and are unavailable, when there is no phone service, and literally that citizen's second amendment right is the key to protecting his own life, his family, and their property.

I am proud to say that in Louisiana, our State legislature acted on this issue, as I am attempting to do today. In June of this year, in time for the new hurricane season, a law was passed to clarify that the emergency powers granted to the Governor and to local officials "do not authorize the seizure or confiscation of a firearm, weapon or ammunition from any individual if the firearm, weapon or ammunition is being possessed or used lawfully."

I am supportive of that action by the State legislature. It was signed into law by the Governor. Unfortunately, there is still room for Federal authorities to act inconsistent with that. That is the problem and the issue and challenge I want to solve. My amendment is very simple and straightforward. It is a limitation of funds saying that no Federal funds in this act can be used to temporarily or permanently seize any firearm during an emergency or major disaster, if the possession of such firearm is not prohibited under Federal or State law. The amendment also allows for the forfeiture of firearms in compliance with Federal or State law or as evidence in a criminal investigation.

I hope this will be noncontroversial, that all Senators will accept the amendment as an important, common-sense clarification of the law and what the law certainly should be.

I understand our law enforcement officers are under intense pressure in these extreme situations following a major disaster or a major emergency. But particularly in those situations, when their services, quite frankly, are unavailable to the populace as under normal times, when all communication is shut down, officers should not be confiscating legal firearms from law-abiding citizens protected under the second amendment.

That is the nature of my amendment. I ask unanimous consent that the following Senators be added as cosponsors of the amendment: Senators INHOFE, ENZI, THUNE, BURNS, BROWNBACK, MARTINEZ, DOMENICI, and GREGG.

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

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

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

AMENDMENT NO. 4553

Mr. GREGG. Mr. President, I ask for the regular order with respect to the Biden amendment.

The PRESIDING OFFICER. The Biden amendment is now the pending amendment.

Mr. GREGG. I will raise a point of order against the pending amendment. The amendment would cause the bill to violate section 302 of the Budget Act.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I move to waive the relevant sections of the Budget Act on this amendment 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

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

[Rollcall Vote No. 194 Leg.]

YEAS—50

| | | |
|----------|------------|-------------|
| Akaka | Feinstein | Murray |
| Allen | Harkin | Nelson (FL) |
| Baucus | Hutchison | Obama |
| Bayh | Inouye | Pryor |
| Biden | Jeffords | Reed |
| Bingaman | Johnson | Reid |
| Boxer | Kennedy | Rockefeller |
| Byrd | Kerry | Salazar |
| Cantwell | Kohl | Santorum |
| Carper | Landrieu | Sarbanes |
| Clinton | Lautenberg | Schumer |
| Dayton | Leahy | Snowe |
| DeWine | Levin | Specter |
| Dodd | Lieberman | Stabenow |
| Dorgan | Lincoln | Talent |
| Durbin | Menendez | Talent |
| Feingold | Mikulski | Wyden |

NAYS—50

| | | |
|-----------|----------|-------------|
| Alexander | Crapo | Martinez |
| Allard | DeMint | McCain |
| Bennett | Dole | McConnell |
| Bond | Domenici | Murkowski |
| Brownback | Ensign | Nelson (NE) |
| Bunning | Enzi | Roberts |
| Burns | Frist | Sessions |
| Burr | Graham | Shelby |
| Chafee | Grassley | Smith |
| Chambliss | Gregg | Stevens |
| Coburn | Hagel | Sununu |
| Cochran | Hatch | Thomas |
| Coleman | Inhofe | Thune |
| Collins | Isakson | Vitter |
| Conrad | Kyl | Voinovich |
| Cornyn | Lott | Warner |
| Craig | Lugar | |

The PRESIDING OFFICER. On this question, the yeas are 50, 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. The amendment falls.

The PRESIDING OFFICER. The Senator from New Hampshire.

AMENDMENTS NOS. 4558, 4554, 4552, AND 4569, EN BLOC

Mr. GREGG. I have four amendments—by Senators LAUTENBERG, SALAZAR, KERRY, and FEINGOLD—all of which have been cleared on the other side. I ask unanimous consent they be considered en bloc and agreed to.

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

The amendments were agreed to, as follows

AMENDMENT NO. 4558

(Purpose: To prohibit the expenditure of appropriated funds to enforce or comply with the limitation on the number of Transportation Security Administration employees, and for other purposes)

At the appropriate place, insert the following:

CERTAIN TSA PERSONNEL LIMITATIONS NOT TO APPLY

SEC. ____ No amount appropriated by this or any other Act may be used to enforce or comply with any statutory limitation on the number of employees in the Transportation Security Administration, before or after its transfer to the Department of Homeland Security from the Department of Transportation, and no amount appropriated by this or any other Act may be used to enforce or comply with any administrative rule or regulation imposing a limitation on the recruiting or hiring of personnel into the Transportation Security Administration to a maximum number of permanent positions, except to the extent that enforcement or compliance with that limitation does not prevent the Secretary of Homeland Security from recruiting and hiring such personnel into the Administration as may be necessary—

(1) to provide appropriate levels of aviation security; and

(2) to accomplish that goal in such a manner that the average aviation security-related delay experienced by airline passengers is reduced to a level of 10 minutes.

AMENDMENT NO. 4554

(Purpose: To require the Secretary of Homeland Security to prepare a report on the conduct of activities to achieve communications interoperability)

At the appropriate place, insert the following:

SEC. ____ Not later than 6 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 with an assessment of short-term (defined as within 2 years after the date of enactment of this Act), intermediate-term (defined as between 2 years and 4 years after such date of enactment), and long-term (defined as more than 4 years after such date of enactment) actions necessary for the Department of Homeland Security to take in order to assist Federal, State, and local governments achieve communications interoperability, including equipment acquisition, changes in governance structure, and training.

AMENDMENT NO. 4552

(Purpose: To repeal TSA's exemption from Federal procurement law)

At the appropriate place, insert the following:

SEC. ____ TSA ACQUISITION MANAGEMENT POLICY.

(a) IN GENERAL.—Section 114 of title 49, United States Code, is amended by striking subsection (o) and redesignating subsections (p) through (t) as subsections (o) through (s), respectively.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 180 days after the date of enactment of this Act.

AMENDMENT NO. 4569

(Purpose: To require reports to Congress on Department of Homeland Security use of data-mining)

On page 127, between lines 2 and 3, insert the following:

SEC. 540. DATA-MINING.

(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, whereas—

(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 for purposes other than intelligence or law enforcement;

(B) 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 predictive pattern indicating terrorist or criminal activity; and

(C) the search does not use a specific individual's personal identifiers to acquire information concerning that individual.

(2) DATABASE.—The term “database” does not include telephone directories, news reporting, 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 BY THE DEPARTMENT OF HOMELAND SECURITY.—

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

(2) CONTENT OF REPORT.—Each 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 and the data that is being or will be used.

(B) A thorough description of the goals and plans for the use or development of such technology and, where appropriate, the target dates for the deployment of the data-mining technology.

(C) An assessment of the efficacy or likely efficacy of the data-mining technology in providing accurate information consistent with and valuable to the stated goals and plans for the use or development of the technology.

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

(E) A list and analysis of the laws and regulations that govern the information being or to be collected, reviewed, gathered, analyzed, or used with the data-mining technology.

(F) A thorough discussion of the policies, procedures, and guidelines that are in place or 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, reviewed, gathered, analyzed, or used.

(G) Any necessary classified information in an annex that shall be available to the Committee on Homeland Security and 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 2007.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I ask unanimous consent my name be added as a cosponsor to Senator VITTER's amendment No. 4615.

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

AMENDMENT NO. 4620

Mr. BYRD. Mr. President, I shall offer an amendment to strengthen chemical facility security.

As Yogi Berra once said, "this is like déjà vu all over again." This is the fourth appropriations bill for the Department of Homeland Security, and every summer, I have offered an amendment to provide incentives to the chemical sector to secure their facilities by establishing a chemical security grant program.

Unfortunately, at every turn, the administration opposed my amendments and those amendments were defeated. The administration claimed that it was partnering with the chemical sector and that they were doing enough to secure their facilities.

In my State of West Virginia, there are 73 chemical manufacturing plants and 100 chemical distribution plants. If there were an attack on one or more of those facilities, the potential loss of human life and damage to the local and national economy would be devastating. The same can be said for facilities in New Jersey, New York, Texas, Michigan, California, Pennsylvania, and many other States.

The Department of Homeland Security's National Strategy for Securing the Chemical Sector states that "the value of the sector to the Nation, as well as the potentially high consequences associated with some chemical facilities, make the Chemical Sector a potentially attractive target for terrorists."

Despite the multitude of warnings that the chemical sector is vulnerable to attack, including its own warnings, the administration has shown a great reluctance to make security at chemical facilities a priority.

Last year, the Government Accountability Office concluded that for 93 percent of the chemical industry, it is uncertain whether facilities are improving security at all. Only 1,100 of the 15,000 chemical facilities identified by the Department of Homeland Security are known to adhere to voluntary industry security procedures.

The Environmental Protection Agency reports that 123 chemical plants located throughout the Nation could each potentially expose more than a million people if a chemical release were to occur.

I was encouraged last summer when the DHS Assistant Secretary for Infrastructure Protection and Information Security testified before Congress that a system to enforce and audit security standards must be put in place for the chemical sector. Unfortunately, no action has been taken since his testimony.

This year, in its National Strategy to Secure the Chemical Sector, DHS says, "legislation that would provide the De-

partment of Homeland Security with overarching regulatory authority for the Chemical Sector security should be enacted." If the administration were serious about chemical security, it would have submitted legislation to back up this tough talk. Yet, the administration has not submitted such legislation. Nor has it played an active role in encouraging the congressional leadership to work with the various committees with an interest in this matter to resolve their differences and bring a bill to the floor. This morning, the administration submitted its statement of administration policy on the bill that is before the Senate, and once again the administration is silent on this matter. For the life of me, I do not understand why this administration does not take securing our chemical facilities seriously.

I applaud the Homeland Security and Governmental Affairs Committee for reporting legislation on this matter, and I thank Senator JOE LIEBERMAN for cosponsoring this amendment.

My amendment requires the Secretary of Homeland Security to issue interim final regulations for chemical facilities that he determines present the greatest security risk. The substance of the regulations would be established by the Secretary.

I believe this is a strong first step. Any regulations issued by the Secretary under this authority would only be applicable until final regulations issued under other laws are established.

We have waited too long. The potential devastation—the terrible loss of life, the huge hit to the Nation's economy, the irreparable harm to our air and water—the potential devastation demands that we take steps now to secure these chemical facilities. There has been enough talk; it is time to act. I urge all colleagues to support this amendment.

I send the amendment to the desk.

The PRESIDING OFFICER. The pending amendments are set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself, Mr. LIEBERMAN, Mr. ROCKEFELLER, and Mrs. CLINTON, proposes an amendment numbered 4620.

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

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

The amendment is as follows:

(Purpose: To ensure adequate safety at high-risk chemical facilities)

On page 127, between lines 2 and 3, insert the following:

SEC. 540. (a) Not later than 6 months after the date of enactment of this Act, the Secretary of Homeland Security shall hereafter issue interim final regulations that establish homeland security requirements, including minimum standards and required submission of facility security plans to the Secretary, for chemical facilities that the Secretary determines present the greatest security risk

and that are not currently regulated under Federal law for homeland security purposes.

(b) Interim regulations under this section shall apply to a chemical facility until the effective date of final regulations issued under other laws by the Secretary, that establish requirements and standards referred to in subsection (a) that apply with respect to that facility.

(c) Any person that violates an interim regulation issued under this section shall be liable for a civil penalty under section 70117 of title 46, United States Code.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I support the Senator's amendment. I understand there may be some Members who wish to speak to it, so I suggest we lay it aside and move on to the amendment of the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana.

AMENDMENT NO. 4621

Mr. BAUCUS. Mr. President, I ask the pending amendments be set aside.

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

Mr. BAUCUS. Mr. President, I send my amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS] proposes an amendment numbered 4621.

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

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

The amendment is as follows:

(Purpose: To require the Secretary of Homeland Security to conduct tests of unmanned aerial vehicles for border surveillance along the border between Canada and the United States)

On page 127, between lines 2 and 3, insert the following:

SEC. 540. Not later than 1 year after the date of the enactment of this Act, the Secretary of Homeland Security shall establish and conduct a pilot program at the Northern Border Air Wing bases of the Office of CBP Air and Marine, United States Customs and Border Protection, to test unmanned aerial vehicles for border surveillance along the international marine and land border between Canada and the United States.

Mr. BAUCUS. Mr. President, I rise to offer an amendment to the Homeland Security appropriations bill to address an area that needs more attention, the northern border. We have 5,526 miles of border between the United States and Canada. That is about double the length of our southern border with Mexico. Along that border, about 560 miles of it is in the State of Montana. The terrain is remote in many cases. It is mountainous. Passage is somewhat difficult in some areas. In others it is easy; it is wide open.

This amendment will help our Border Patrol cover this vast area by requiring the Department of Homeland Security to conduct a pilot program using unmanned aerial vehicles along that border.

In addition to personnel training, we must also employ the latest technologies. The border patrol has already

conducted successful tests using UAVs along the southwestern border in Arizona for aliens and detection of those attempting to enter our country illegally. It requires some of the UAVs already provided for in this bill be used to run a pilot program on the northern border similar to that conducted on the southern border.

We do not want to compete with our friends in the Southern States, but we want to make it clear that the northern border also needs increased attention. As you can imagine, as the southern border of the United States is tightened, our northern border, which used to be America's back door, is quickly becoming a front door.

Customs and Border Patrol report that their No. 1 concern on the southern border is illegal immigration. What is the No. 1 concern on the northern border? Terrorism. Border gangs are going international and admit having ties to al-Qaida and smuggling al-Qaida members into the United States.

In Montana, markings from these gangs have been found in the correctional systems, within the walls of our jails, in our detention facilities.

Surveillance of our ports is happening daily by nefarious people. It appears that our procedures for checking out vehicles both leaving and entering our country are being looked at by criminals, and it has been reported that these "dry runs" are being conducted near Glacier National Park. All of these activities are made easy due to the wide open space and insufficient numbers of law enforcement personnel along our northern border.

The ability of our Border Patrol to successfully carry out their daily duties is of critical importance, obviously, to the safety of all Americans. This amendment will give us the tools we need to protect our borders. UAVs are a safe alternative to placing civilians in harm's way, and by introducing a pilot program that helps us patrol our northern border, we are getting on the right track to fighting the war on terrorism and keeping our home front safe.

For these reasons, I urge my colleagues to support this amendment.

Mr. President, I ask unanimous consent to add Senators CANTWELL and MURRAY as cosponsors to the amendment.

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

The Senator from Washington.

Ms. CANTWELL. Mr. President, I rise to speak in support of this amendment offered by my colleague from a northern border State, and want to emphasize that homeland security along our northern border is of the utmost importance.

I think the amendment offered by the Senator from Montana is a very important amendment for us to add to this legislation because of both its efficiency and effectiveness in helping us secure our northern border. For us, with great transportation crossings as

we have in Washington State, including ferry transportation crossings, there was the instance in the Northwest where a terrorist was caught coming across from Canada into Port Angeles who was detained.

But we are here today to talk about the vastness of the northern border that sometimes is penetrated by people who are not checking in at various checkpoints but try to sneak into the country along the vast, rugged areas of our Northwest terrain.

So it is very important we get tough on border security by passing this amendment, which has cutting-edge technology that will actually help save this country dollars and provide greater border security.

The unmanned aerial vehicles, as Senator BAUCUS has talked about, are already being deployed on dangerous patrols in the Middle East and in some places along our borders here at home. But the UAVs, I believe, are already in limited use on the southern border, and they have proven their effectiveness. To me, it is something we ought to expand on for our overall capability to help respond to incidents.

With their extended range, these UAVs can conduct prolonged surveillance, sweep over remote border areas, relaying information to border agents on the ground. As has been described by some of the people I have met with on this issue, they literally create a communications network from the air to the ground that can get vital information to those who are involved in border security who can more effectively, then, do their job.

This process provides critical intelligence about the areas that have previously gone unsecured for so long, and it allows our agents to better prepare and respond to incidents involving both illegal immigrants and drug smugglers.

Now, I know there has been the Insitu Group from our State that has provided this technology in our Operation Iraqi Freedom and the global war on terror. They have flown many hours and been very effective with that technology. So I believe it is important for us to now get aggressive about using this same technology—that has been proven so successful—on our northern border and to have the continuation of its use on our southern border so we can modernize the patrol capabilities and reach hundreds of miles that have previously been unguarded.

As I said, we do this at a much more effective rate than could possibly be done with any other tools and technology or manned efforts. So we will be giving our agents the best technology possible for them to guard our southern and northern borders, using improved intelligence. That is why I am so happy to work with Senator BAUCUS to direct the Department of Homeland Security to do a pilot on this UAV surveillance along the northern border.

I will continue to work with him and many of my other colleagues to encourage Homeland Security to run this

pilot program in affected areas throughout the Northwest and making sure that the investment here is realized so we can continue the expansion of this operation.

As I said, the technology will help law enforcement at every level do their job, and it will help us in fighting this influx of drug problems we are also facing in the Northwest as well. And it will certainly give our citizens at home more security.

We cannot turn our backs on the needs of the northern border while we are looking at some of the issues on the southern border. So let's make sure we are effective in covering both areas of our country and giving law enforcement the broadest tools possible to do their job.

Mr. President, I yield the floor

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I advise Members and their staff who are listening that we have put out a request for anybody who wishes to address the amendment from Senator BYRD to get in touch with us, and if they have an objection to get in touch with us. Otherwise, at 3 o'clock, I intend to move to accept that amendment—just so people are aware of that, unless we hear an objection.

The Senators from Montana are working on making sure the language of this pending amendment—I understand Senators BURNS and BAUCUS from Montana are working to make sure the amendment is correctly drafted. Once they work out the correct drafting of the amendment, then I would expect we would accept that amendment also.

Pending that, 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. GREGG. 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. GREGG. Mr. President, I ask unanimous consent that the pending amendment be set aside.

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

AMENDMENT NO. 4614

Mr. GREGG. Mr. President, I call up Senator BYRD's amendment No. 4614.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG], for Mr. BYRD, proposes an amendment numbered 4614.

Mr. GREGG. 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 establish procedures for grants for State and local programs)

On page 93, line 4, before the period insert the following: "": *Provided further*, That for

grants under subparagraphs (B) through (F), the applications for such grants shall be made available to eligible applicants not later than 75 days after the date of enactment of this Act, eligible applicants shall submit applications not later than 45 days after the date of the grant announcement, and the Office for Domestic Preparedness shall act on such applications not later than 45 days after the date on which such an application is received”.

Mr. LIEBERMAN. Mr. President, I am pleased to join my colleague, Senator BYRD, in offering an amendment to the Homeland Security appropriations bill for fiscal year 2007 that would require the Department of Homeland Security to issue interim regulations to help secure the most dangerous chemical facilities around the country.

Since 9/11 opened our eyes to the threats we face on U.S. soil from Islamist terrorist groups, we have moved to improve security for many of the critical elements of our society and economy. But somehow we have not yet protected one of our greatest vulnerabilities—the chemical sector.

Chemicals are vital to many of the processes that feed us, heal us, and power our economy. Yet the very pervasiveness of the chemical sector makes it vulnerable to terrorism. Thousands of facilities throughout the country use or store potentially lethal materials, often near large population centers.

We know that terrorists are interested in targeting these facilities. The Congressional Research Service reports that during the 1990s both international and domestic terrorists attempted to use explosives to release chemicals from manufacturing and storage facilities close to population centers. The Justice Department in 2002 described the threat posed by terrorists to chemical facilities as “both real and credible,” for the foreseeable future.

When homeland security expert Richard Falkenrath testified before our committee last year, he said that one asset above all others stands out as being acutely vulnerable and uniquely dangerous: toxic-by-inhalation chemicals. He said the Federal Government had done virtually nothing to secure the facilities manufacturing and storing these chemicals and called on the 109th Congress to give the executive branch the authority to mandate and enforce security enhancements for these facilities.

I think Congress has the responsibility to enact a strong and comprehensive chemical security program, and I believe we have started down the right road to do so. Last month, the Homeland Security and Governmental Affairs Committee unanimously approved the Chemical Facility Anti-Terrorism Act of 2006, which Senator COLLINS and I introduced last December. I think this legislation—which was crafted and approved on a bipartisan basis after four hearings and extensive input—is the best way to address the vulnerability posed by chemical sites.

The bill would authorize DHS to issue final regulations to help secure the Nation’s most at-risk chemical facilities.

I urge the administration—which has said it wants legislative authority to regulate chemical security—to actively support this strong, bipartisan legislation and the majority leader to give it with immediate consideration on the Senate floor.

But we cannot afford to take chances where chemical security is concerned and every day of additional delay on chemical site security places the American people at unacceptable risk. So while it is my great hope that we will enact the Chemical Facility Anti-Terrorism Act of 2006 soon to establish a permanent chemical security program, this amendment is critical to ending the long drought of inaction on chemical security by the Federal Government and ensuring we will move swiftly to begin to close this critical homeland security gap.

Mr. GREGG. Mr. President, I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 4614) was agreed to.

Mr. GREGG. Mr. President, the regular order is the Baucus amendment; is that correct?

The PRESIDING OFFICER. The Baucus amendment is now pending.

AMENDMENT NO. 4620

Mr. GREGG. Mr. President, I ask unanimous consent that the Baucus amendment be set aside and that the Byrd amendment be returned as the regular order. It is amendment No. 4620.

The PRESIDING OFFICER. Without objection, amendment No. 4620 will be made the regular order.

Mr. GREGG. Mr. President, I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 4620) was agreed to.

Mr. GREGG. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

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

The assistant legislative clerk proceeded to call the roll.

Mr. SUNUNU. 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. SUNUNU. Mr. President, I rise today to speak in favor of an extremely important provision in the pending bill. That funding provision is the \$40 million to support the Counter-MANPAD program. This is a program

initiated by Congress to develop technology to protect commercial aircraft from man-portable air defense systems or MANPADS, known to many as shoulder-fired missiles or portable anti-aircraft weapons. Congress originally included \$110 million in funding for this program in the fiscal year 2006 budget and there is currently \$40 million in the pending fiscal year 2007 Homeland Security Appropriations bill. This funding will allow for the completion of Phase III of this important program. This phase includes testing of the technology in real-world operations, a final report on the findings to Congress and the termination of the program.

Unfortunately, the Department of Homeland Security has decided to complete the program and report its findings based on Phase III flight testing on cargo aircraft only. This is a decision that I question because it runs counter to the program’s original objective of developing a system that would protect primarily passenger aircraft, but also protect cargo aircraft.

Operations in the cargo and commercial aviation industries are very different and I believe that any final reporting or evaluation must include an assessment of the potential deployment of a Counter-MANPAD system on passenger aircraft as well as cargo aircraft. Without the actual flight testing of the Counter-MANPAD system on passenger aircraft, it is impossible to accurately evaluate the system.

Moreover, future policy decisions on aircraft protection would be based on findings that many could argue are incomplete. Prior funding has already gone a long way towards approving this important technology, and adding a passenger aircraft study would validate the original objective set forth by DHS and Congress, and in no way delay any final reports from the program office.

I commend the work of the subcommittee for including this funding as well as those who participated in the program through the Department of Homeland Security, phases 1, 2, and 3. I also commend the many participants in the private sector: from the scientists, engineers, to those who test the equipment to ensure that it is the strongest, most competitive, most viable system.

I thank the committee for its work and yield the floor.

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. BAUCUS. 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. BAUCUS. What is the regular order, Mr. President?

The PRESIDING OFFICER. The Senator’s amendment is the pending question.

AMENDMENT NO. 4621, AS MODIFIED

Mr. BAUCUS. Mr. President, I send a modification to the desk.

The PRESIDING OFFICER. The Senator has a right to modify the amendment. The amendment is so modified.

The amendment (No. 4621), as modified, is as follows:

(Purpose: To require the Secretary of Homeland Security to conduct tests of unmanned aerial vehicles for border surveillance along the border between Canada and the United States)

On page 127, between lines 2 and 3, insert the following:

SEC. 540. Not later than 1 year after the date of the enactment of this Act, the Secretary of Homeland Security shall establish and conduct a pilot program at the Northern Border Air Wing bases of the Office of CBP Air and Marine, United States Customs and Border Protection, working expeditiously with the Administrator of the Federal Aviation Administration to test unmanned aerial vehicles for border surveillance along the international marine and land border between Canada and the United States.

Mr. BAUCUS. Mr. President, the modification to the amendment I offered is including the phrase, "working expeditiously with the Administrator of the Federal Aviation Administration."

The purpose is to make sure that the Department of Homeland Security's efforts in operating the pilot program along the northern border is one that can work with the FAA because the FAA will probably have to give clearance for air traffic taking off. In addition, the FAA will need to, it is my understanding, offer a waiver for these types of aircraft as they have at the southern border. It is my hope, in working with Senator BURNS, that this will clear up potential problems that may arise. I urge adoption of the amendment.

I have already spoken about this and why I think it is important. The efforts on the southern border are to combat illegal immigration, and on the northern border they are more to combat terrorism. There are many more reports of potential terrorist casing and transporting of people into the United States from the northern border. It is becoming quite alarming.

It is our hope that this will help control the northern border and help with the additional personnel really needed on the northern border. We don't have that personnel. I think this will help make our country more secure. I thank my colleague from Montana, Senator BURNS, for making this suggestion. This is a good suggestion. It will strengthen this amendment. I hope it will be agreed to.

Mr. BURNS. Mr. President, I thank my friend and colleague from Montana. The reason we filed that amendment on Monday was for this particular reason: The FAA controls all air space. Just like we found out a little while ago, they only have one area where a waiver has been granted, and this instructs that the Secretary of Homeland Security will work with the FAA, and the FAA will work with the other agency in order to allow this pilot program to move forward. It has already been es-

tablished in Great Falls. That northern border security that we already have there and this pilot program can move forward with the UAV.

So I thank my colleague for including that language. That is the reason we filed the amendment in the first place. He already put language in the immigration bill, but we needed that language that still recognizes the FAA as controller of our air space and is probably key in this pilot program moving forward.

I urge adoption of the amendment.

Mr. BAUCUS. I ask unanimous consent that Senators CRAIG and COLEMAN also be cosponsors of this amendment.

The PRESIDING OFFICER. Without objection. Is there further debate?

Mr. GREGG. Mr. President, the unmanned aerial vehicle program is something the subcommittee is supportive of. This concept of having one on the northern border is something we also support. The Senators have a good amendment. I think the addition of language on the FAA makes it an operable amendment. If FAA were not engaged, it would not be an operable amendment. It merges well with the initiative in the bill which is to stand up the northern airway, which initiative Senators BURNS, DORGAN, CONRAD, and BAUCUS asked be started. This bill funds two aircraft out of North Dakota to make sure that we have manned aircraft on the border.

So this is an attempt to tool up the northern border. It is something that is going to take a lot more work. Certainly in the long run there is going to have to be more than one unmanned vehicle on the northern border. There will have to be quite a few.

As was mentioned by Senator BAUCUS, the northern border appears to have a high risk of terrorists coming across it. We know numerous instances now of the northern border being used for potential terrorist crossings. Therefore, we cannot ignore that border; we are not ignoring the border. But the issues there are a lot different than the southern border because of the length of the border. In fact, it is heavily wooded wilderness and difficult terrain to surveil. So I believe these unmanned vehicles will be critical in the long run.

I congratulate the Senators for bringing this amendment forward. I ask unanimous consent that the amendment be accepted.

The PRESIDING OFFICER. Without objection, the amendment, as modified, is agreed to.

The amendment (No. 4621), as modified, was agreed to.

Mr. GREGG. Mr. President, we await further amendments. The Senator from Illinois wishes to speak as in morning business.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I ask unanimous consent that I be recognized to speak as in morning business.

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

(The remarks of Mr. DURBIN are printed in today's RECORD under "Morning Business.")

Mr. DURBIN. Mr. President, I yield the floor. 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. REED. 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. REED. Mr. President, I ask unanimous consent to speak as in morning business.

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

(The remarks of Mr. REED are printed in today's RECORD under "Morning Business.")

Mr. REED. Mr. President, 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. GREGG. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mr. GREGG. Mr. President, it is my understanding that the Senator from New York is going to offer an amendment at this time. I ask unanimous consent that the time between now and 5 o'clock be divided as follows: The Senator from New York have 40 minutes and that I have 15 minutes in opposition. I think that adds up to the right time—actually, now, it doesn't—that I have 20 minutes in opposition. Whatever is left after 40 minutes, that is what I have in opposition, and at 5 o'clock we proceed to a vote on the amendment of the Senator.

There will be 40 minutes for the Senator from New York, 20 minutes will be reserved to myself, and at the conclusion of that time we will proceed to a vote, or earlier should the time be yielded back on the time of the Senator from New York.

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

The Senator from New York is recognized.

AMENDMENT NO. 4576

Mrs. CLINTON. Mr. President, I call up amendment No. 4576 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows: The Senator from New York [Mrs. CLINTON], for herself, Mr. SCHUMER, Ms. MIKULSKI, Mr. MENENDEZ, Ms. CANTWELL, Mr. KENNEDY, Mr. KERRY, Mr. LIEBERMAN, Mr. REED, Mr. LAUTENBERG, Mr. OBAMA, and Mr. AKAKA, proposes an amendment numbered 4576.

Mrs. CLINTON. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To restore funding to States and local governments for terrorism prevention activities in the Homeland Security Grant Program to fiscal year 2005 levels)

On page 91, line 6, strike "\$2,393,500,000" and insert "\$3,183,500,000, of which \$790,000,000 is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 83 (109th Congress), the concurrent resolution on the budget for fiscal year 2007, as made applicable in the Senate by section 7035 of Public Law 109-234".

On page 91, line 8, strike "\$500,000,000" and insert "\$1,100,000,000".

On page 91, line 9, strike "\$350,000,000" and insert "\$400,000,000".

On page 91, line 22, strike "\$1,172,000,000" and insert "\$1,312,000,000".

On page 92, line 1, strike "\$745,000,000" and insert "\$885,000,000".

Mrs. CLINTON. Mr. President, I ask unanimous consent that Senators OBAMA and AKAKA be added as original cosponsors to the amendment.

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

Mrs. CLINTON. Mr. President, nearly 5 years ago, as we all remember, on September 11, 2001, terrorists murdered 2,819 Americans, including 2,752 in New York; 343 firefighters and paramedics and 608 police officers lost their lives. It was the single deadliest attack on American soil in our history.

We are here debating how much money our country is ready, willing, and able to spend to protect our homeland. What is clear, what has been clear, is that the threat posed by terrorism requires a great mobilization of American might, muscle, resources, and ingenuity. I do not believe that mobilization has yet occurred.

Just in last December, the 9/11 Commission, a bipartisan commission, reported that we should get failing grades for how we are responding to the challenges of homeland security. Governor Tim Kaine said when it comes to protecting America, it is not a priority for the Government right now. The urgency may have faded, but the threat has not. We only need to look at the news and see what happened in Mumbai, India, yesterday to be reminded that terrorists strike anywhere, at any time, at innocent people.

There are many problems with the strategy, or lack thereof, that we have been pursuing on behalf of homeland security. I regret that we have not done more, we have not had a comprehensive strategy, we have not put the money to work in smart, effective ways, and we have witnessed dangerous incompetence with respect to the failed response to Hurricanes Katrina and Rita. We have gotten a lot of tough talk, but I would take tough action anytime. We got a lot of rhetoric, but I would take resources. We have had campaign slogans, but I would rather have real security.

What has been the No. 1 recommendation by every independent group, every expert who has analyzed the threats we face and the challenges

we confront when it comes to homeland security? Threat-based funding, that was one of the key recommendations of the 9/11 Commission. Sadly, all too often funding decisions have been based on politics as usual.

I have been championing threat-based funding ever since 9/11. I introduced the Homeland Security block grant bill as well as the Domestic Defense Fund Act, both of which provided direct and threat-based homeland security funding to our communities and our first responders. I have personally made the case for threat-based funding to Secretary Chertoff and Secretary Ridge before him. Even funds supposedly distributed based on risk have been administered incompetently. We just saw an inspector general's report from the Department of Homeland Security listing all of the alleged threats around the country. With all due respect, you can read that list and it just causes your head to shake in bewilderment.

In May, the Department of Homeland Security announced its 2006 Homeland Security grants. Cities and States facing high terrorist threats suffered considerable funding cuts, a decision that can be largely attributed to a series of highly questionable risk assessments. New York City and Washington, DC, remain at the top of any intelligence that we get with respect to threats. Yet they were given drastic reductions. Funding under the Urban Area Security Initiative alone was slashed in New York City by more than 40 percent, and in Washington, DC, by 43 percent. New York State has been struggling since 9/11 to come up with a comprehensive State plan and has been trying to scrape together funds for what are shortfalls from the Federal Government.

Today, I am joining my colleague, Senator MIKULSKI, and my partner, Senator SCHUMER, in introducing an amendment to the fiscal year 2007 Homeland Security appropriations bill to restore the Homeland Security Grant Program funding. This amendment provides an additional \$790 million in Homeland Security funds so that next year's levels of funding will match those of 2005. That is all this asks for—bring back the funding to what it was 2 years ago.

We have already heard eloquent statements on the floor about port security. We have already heard about how difficult it is to get the kind of inspections and screenings we need at our ports. That is why I cosponsored Senator BYRD's port security amendment, and I am delighted that it actually passed by unanimous consent. I only hope that we will fight for that when this goes to conference and that the administration will listen and support this extra funding for port security.

We are still fighting for border security. We know that we have not done enough. We have had weeks of debates about immigration that are really

about border security. What are we going to do to keep our borders secure? Not enough. Under this administration, despite the 9/11 attacks, our borders have become less secure.

According to a May 2006 report by the nonpartisan Congressional Research Service, the U.S. Border Patrol grew at a faster rate and apprehended more undocumented immigrants each year under President Clinton than it has under President Bush. We have the technology and the tools. Americans are certainly telling us they want us to make our borders secure. So let's get serious. Let's employ new surveillance equipment, like detection centers, unmanned ground and infrared cameras. Let's enlist and deploy the manpower we need.

We just voted on, unfortunately unsuccessfully, putting more money into securing our mass transit systems: our roads, our rails, our tunnels. We know how important that is. I cosponsored Senator BIDEN's rail security amendment which would have provided an additional \$1.1 billion to enhance rail security, upgrade tunnels, provide for more Amtrak police. But it failed.

Today I am joining Senator SCHUMER to submit an amendment to provide an additional \$300 million for transit security nationwide. I hope it succeeds. Anybody who rides mass transit should know we are doing everything we possibly can to take care of and eliminate the vulnerabilities that our mass transit systems have.

Beyond our financial investments, we also need new strategies and creative ideas. We have been talking about an interoperable communications system since 9/11. The 9/11 Commission recognized the essential critical nature of such a system. But year after year we don't do it. We bring amendments to the floor, we make speeches, it doesn't happen.

In May of this year, I introduced legislation to set up a Federal interoperable communications and safety system to create a national emergency communications strategy, to make sure that when police and fire departments respond they can talk to each other; when the Federal Government sends help through the Coast Guard or the military or FEMA, they can talk to each other, and they can talk to State and local officials as well.

I have also been fighting for several years to make sure that we have a nationwide emergency 9-1-1 system so that when you call from a cell phone people will know where you are.

Can you imagine being caught in a terrorist attack or a natural disaster and calling for help and people can't hear you, can't know where you are, can't send help to you? It happens all the time.

I was at an event this morning where an emergency response director made two horrifying calls that went unanswered in one case and a late answer in another because the cell phone couldn't be tracked.

We have a lot to do. We can just stand here and list the problems. It is not just all about terrorism. Are we truly ready for a pandemic flu? Do we have adequate security at our chemical and nuclear facilities? Are we prepared for the potential of a dirty bomb attack in a major population center?

I was encouraged that legislation I authored to create a national system to track radiological materials that could be used to make a dirty bomb was finally passed. I thought: OK. Great. I can check that off my worry list, which is a pretty long list being a Senator from New York.

Then I find out that the administration announced a national plan, which was the whole idea behind tracking radiological materials. They wanted to have a State-by-State approach. In a nutshell, that is what is wrong. It is a national problem. The attacks of 9/11 may have happened in Washington, in New York, and in a field in Pennsylvania, but they were attacks on every single American, on our way of life, on our values, on our freedom. I don't think we want State-by-State responses. Do you think terrorists are going to stop at a State border or a county border? I don't.

We have to restore confidence and competence as we approach this problem of homeland security. We have made some progress but not nearly enough. Sadly, I think we have put different priorities ahead of securing our country. I regret that. I hope we make amends. I hope we get back on the right track with a comprehensive plan, with the right strategies, with the appropriations we need, and with the distribution of those taxpayer dollars in a smart and effective manner, not politics as usual.

I see on the Senate floor my colleague and friend, one of the great leaders on homeland security, the Senator from Maryland. I yield to her whatever time she needs.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Thank you very much.

Mr. President, once again I rise with great pride to support the amendment offered by the Senator from New York, Mrs. CLINTON, as she has so often in the past stood for the fact that funding to fight terrorists and to be ready for any kind of major disaster should be based on risk. In other words, money should go to where there is the greatest risk. The Senator from New York has been a longstanding advocate of this from September 12 to standing here today.

I support this amendment, as I, too, have done in the past. I am so frustrated with the Department of Homeland Security. It can't get its act together. It can't get the job done. It makes poor decisions on allocation, and it is saturated with waste and fraud.

The last straw was when I opened the paper and saw that the Department of Homeland Security was slashing funds

for high-threat urban areas. The money was leaving the Capital region and New York to go to States such as Nebraska. I respect the people of Nebraska. If they are in danger, I want them protected. I don't know about the threats of Montana and Minnesota, but I sure do know about the threats in Maryland. We are part of the Capital region, the home of the President of the United States, the home of the Congress of the United States, the home of the Cabinet that runs Government, the home of the Supreme Court, and the FBI.

In the Capital region we have the Pentagon, we have the Central Intelligence Agency. In Maryland, we have three intelligence agencies gathering technical information—and they say we are not a high threat?

On September 11, we lost 60 Marylanders at the Pentagon, mostly African American, mostly who worked in the clerical positions. And we said a grateful nation would never forget. Just like the other Marylanders who died at the World Trade Center, we said a grateful nation would never forget. And the way that we are never going to forget is to make sure it doesn't happen again—to protect against attacks and, second, that we were going to do whatever we could to be able to be ready and respond to any of these attacks.

When we saw that smoke here at the Capitol that day, it just wasn't on television. I was so proud of the fact that it was Maryland first responders who were first on the scene because they work together in the Capital region. Rescue One out of Chevy Chase, MD, dashed across the Potomac to be first on site at the Pentagon. They were worried in northern Virginia because they didn't know what else would happen.

I visited that site. Again, on a bipartisan basis, I and OLYMPIA SNOWE toured the site together. We saw the rubble of the Pentagon. We saw them working to save lives. We saw how they had worked together in the Capital region. Obviously, Homeland Security, its agencies, and its database doesn't get it. They don't get it. They do not get the fact that the 9/11 Commission recognized the threats facing our urban areas and said target the resources at the areas of greatest need.

The Senate recognized the threat facing the Capital region when they worked with Senators WARNER, ALLEN, SARBANES, and myself to establish an Office of the National Capital Region so we could coordinate in the most effective way. It enabled the Capital region and also New York and other major areas to receive extra resources. However, the Department of Homeland Security that gave us the Katrina aftermath ignored Congress and ignored the Commission, and they slashed the resources for New York and the Capital region by 40 percent. They said we had gotten money. Oh. Right.

They said: Our database shows you don't deserve it. Thank God for the De-

partment of Homeland Security's IG. There they go again over there at Homeland Security. They can't get it right. Their own inspector general said the Department's ability to assess risk is seriously flawed.

Guess what. They count an insect zoo and a bourbon festival as critical infrastructure.

When you listen to the fact that an insect zoo ranks up there with the Supreme Court, doesn't that bug you?

Earlier this year, the Department of Homeland Security failed to list the Statue of Liberty and the Empire State Building.

They do not know the difference between a bourbon festival and the Statue of Liberty. They don't seem to know the difference.

This is the data that the Department of Homeland Security used to allocate the funding for Homeland Security grants.

There were in the State of Indiana over 8,000 assets listed, and in New York over 5,000. Just come with me down the Baltimore-Washington corridor as you pass these agencies that are helping people. There are the threats. We have high-threat targets because of what they do in national security, such as the National Security Agency.

We have threats of the heart, like the National Institutes of Health. Can you imagine the blow to research if something happened to NIH? Then come with me over there to Calvert Cliffs where we have a nuclear power plant, and then come up along the bay and see the U.S. Naval Academy.

How does that rank? That is Maryland. Then, of course, there is New York. We all know that New York showed up on every single list.

I commend the Senator from New York for offering this amendment. I believe that as we have organizational reform for Homeland Security, as the Collins' amendment did, and the Clinton amendment made such a strong point, we should have resource funding reform, and the heart and soul of that is the resource funding should follow risk.

The Department of Homeland Security along with FEMA should be operating on a risk-based strategy with confident professional people who have to learn the difference between an insect zoo, the Supreme Court, and the White House. If they can't get that straight and they didn't know how to build lessons, and they say: Don't worry "Brownie," you are doing a good job, there they go again. I am fed up with it.

If I could vote one more time to dissolve the Department of Homeland Security, I would. I can't quite do that. But what I can do is make sure that the right resources go to the areas with the greatest risk. Baltimore would benefit. The Capital region would benefit. New York would benefit. But it is not about money. It is about saving lives and saving people.

I want to enthusiastically support the Clinton amendment and know that we are here to try to do this, to save lives, to save communities, and to protect the United States of America. If they do not know how to be the Department of Homeland Security, let us in Congress be the ones who understand it and properly fund it.

In conclusion, I thank the Senator from New Hampshire because under his leadership the Commerce-Justice Subcommittee was the first committee to hold comprehensive hearings on terrorism. He remembers the questions and who was in charge. Obviously, you can see that the Department of Homeland Security is not.

I support the Clinton amendment and am happy to be a cosponsor.

Mrs. CLINTON. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. There is 18 minutes and 38 seconds.

Mrs. CLINTON. I yield 6 minutes to the Senator from New Jersey, to be followed by the Senator from New York, Mr. SCHUMER.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 6 minutes.

Mr. LAUTENBERG. Mr. President, I thank the Senator from New York for yielding time.

What the Senator is attempting to do is make sure we react appropriately to the threats we face. We talk about making sure our citizens are safe. We want to make sure they are safe from terrorist attacks around the world, but it has to be focused on protecting our homeland from yet another terrorist attack. Unfortunately, the amounts dedicated to State and local Homeland Security grants in this bill fall far short of that goal.

Senator CLINTON's amendment is crucial because it restores \$790 million that has been slashed from Homeland Security grant programs over the past 2 years. This amendment will help ensure our high-risk States and cities get what they need to protect their citizens and to defend our country.

How can we justify cutting Federal Homeland Security funds at this time? The administration has been warning us about terrorist plots targeting the passenger rail tunnels between New York and New Jersey. They have broken up another plot that targeted the Sears Tower in Chicago, areas that are under considerable risk. How do we justify cutting funds?

We are going to spend some \$500 billion on the war in Iraq and Afghanistan before this year is out. We should be making sure we protect ourselves from an attack from abroad. But how about attacks within our boundaries? Almost 3,000 people lost their lives on September 11. Nothing could have been worse than to see the consequences of that, as we did from the State of New Jersey. We could see the smoke from the towers. We could see the disappearing World Trade Center facilities.

The Clinton amendment restores funding for the State Homeland Security Grant Program, the Law Enforcement Terrorism Prevention Program, and the urban area security initiative to the fiscal year 2005 levels.

New York and New Jersey bore the brunt of the attacks on September 11 and continue to be the most at risk. Just recently, a Lebanese citizen was taken into custody with two other individuals for plotting to bomb the PATH railway tunnels under the Hudson River that connect New Jersey and New York.

We have seen terror strikes all over the world. Just yesterday, bombs went off on 7 different trains during rush hour in India, killing 160 people and wounding over 460. We do not yet know who is responsible for that atrocity, but coming on the heels of the London and Madrid transit system bombings and the two attacks on the World Trade Center, it is clear that terrorists strike in places that are vulnerable, where they can maximize the number of innocent civilians who will be killed or wounded.

The FBI has identified the 2-mile strip between the Port of Newark and the Newark Liberty International Airport in New Jersey as the most at risk area in the entire Nation for a terrorist attack. Yet my State's Homeland Security funding was cut by \$4.6 million when the fiscal year 2006 grants were allocated. And New Jersey got off relatively well, with an 8 percent cut, compared to New York, which lost 37 percent of its funds, or Texas, which lost 31 percent of its funds.

Are we truly protecting our citizens if we keep cutting homeland security funding? No, we are not. Have we already won the war on terror? Has the mission been accomplished?

We are fighting terrorists in Afghanistan and Iraq. We want to make sure our troops on the front lines there have everything they need to do the job. But the other front line is the home front line. We have to make sure our States and our cities and particularly those places most at risk have everything they need to do the job.

What are our priorities in the Senate? Reducing inheritance tax for multimillionaires or providing our communities with Homeland Security funds? This is the choice we face on this amendment.

We may disagree on whether it is appropriate to have nonrisk-based formulas apply to Homeland Security grants, but we can all agree that cutting overall funding year after year is not making anyone safer.

I urge my colleagues to support Senator CLINTON's amendment. I proudly support it. We desperately need this restoration of funding for homeland security. I urge my colleagues to support this amendment.

I yield the floor.

Mr. LIEBERMAN. Mr. President, I am pleased to speak on behalf of this amendment to strengthen our home-

land security efforts—specifically the ability of first responders to prevent, prepare for, respond to, and recover from terrorist attacks or catastrophic natural disasters. I commend my colleagues, Senators CLINTON, SCHUMER and MIKULSKI, for authoring this critical amendment and am proud to join them as a cosponsor.

September 11, 2001, changed our lives forever. We face new and dangerous threats from our enemies that we must be prepared to deal with. Furthermore, the Federal response to Hurricane Katrina proved beyond a shadow of a doubt that we are still a nation unprepared for catastrophe. We know our first responders lack the training, equipment, and frequently the manpower they need to do their jobs. Most don't even have the basic capability to communicate with one another across jurisdictional and service lines, and Hurricane Katrina demonstrated that sometimes during a major catastrophe they can't communicate at all.

Yet the Bush administration seems to have turned its back on the lessons of September 11, 2001, and of August 29, 2005, the day Hurricane Katrina made landfall. The President's budget proposal did nothing to indicate otherwise. That proposal eliminates a number of first responder programs and cuts others, leaving those on the frontlines of the war against terror or on the frontlines of a hurricane, struggling to make do with less. It was the latest chapter in an ongoing assault on these vital programs: this is the third straight year the administration has sought dramatic cuts in first responder funding, down from \$3.95 billion in fiscal year 2004 to just \$1.97 billion in this year's request.

The appropriators have done what they could to restore the worst of the proposed administration cuts, but their bill still leaves some programs below current levels. We simply cannot continue to shrink these accounts that form the backbone of our homeland defense. This amendment calls a halt to this dangerous slide. It would provide \$790 million to restore the key first responder accounts to fiscal year 2005 levels. Specifically, the amendment would: Add \$600 million for the State Homeland Security Grant Program, SHSGP, the fundamental building block of States' homeland security efforts, to bring it to \$1.1 billion; add \$50 million for the Law Enforcement Terrorist Prevention Program, LETPP, to restore it to \$400 million. This program helps empower our first responders to prevent terrorist attacks, not simply respond after the fact. Add \$140 million for the urban areas security initiative, UASI, to restore the program to the FY 2005 total of \$885 million. This program targets additional resources to urban centers that bear particular risk of terrorist attacks.

Frankly, we can and should do more. Interoperability—the ability for our first responders to talk to each other—is an urgent need and one that will cost

far more than even this amendment will provide. In 1993, an expert task force chaired by our former colleague Senator Warren Rudman concluded that the Nation needed to invest nearly \$100 billion more in equipping and training our first responders. Instead of heeding that call, this administration has instead led us down a path of shrinking resources for first responder programs. This amendment would be an important step to reverse the erosion of these critical accounts.

Our enemies are ruthless and choose their own battlefields in the communities where we live and work. Nature, too, can be ruthless and will strike in unpredictable ways year after year. We must have first responders who are trained and equipped not just to prepare for and respond to catastrophes but to work to prevent them, as well.

We worked with a real sense of urgency after September 11, 2001, to secure our nation. We must summon that same sense of urgency now to close the security gaps that remain. I wish there was a cheap way to do that. But there isn't. It takes money—more money than the administration's budget offers and more money than this appropriations bill currently provides. I urge my colleagues to support this amendment so that we can make additional headway toward our goal of being better able to prevent, prepare for, respond to, and recover from the terrorist attacks and natural disasters that are sure to come.

Mrs. CLINTON. How much time remains?

The PRESIDING OFFICER. The Senator has 12 minutes and 53 seconds.

Mrs. CLINTON. I yield 10 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized.

AMENDMENT NO. 4587

Mr. SCHUMER. I ask unanimous consent the pending amendment be set aside.

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

Mr. SCHUMER. I call up my amendment No. 4587.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER], for himself, Mr. MENENDEZ, Mrs. CLINTON, and Mrs. BOXER, proposes an amendment numbered 4587.

Mr. SCHUMER. I ask unanimous consent 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 the amount appropriated for transit security grants by \$300,000,000)

On page 91, line 6, strike "\$2,393,500,000" and insert "\$2,693,500,000".

On page 91, line 22, strike "\$1,172,000,000" and insert "\$1,472,000,000".

On page 92, line 13, strike "\$150,000,000" and insert "\$450,000,000".

On page 92, line 16, insert "": *Provided*, That not less than \$50,000,000 shall be made available for grants for transit and intercity passenger rail security research and development: *Provided further*, That not less than \$50,000,000 shall be made available for grants for overtime compensation in high threat areas" after "transit security grants: *Provided further*, That the amount provided under this subparagraph is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 83 (109th Congress), the concurrent resolution on the budget for fiscal year 2007, as made applicable in the Senate by section 7035 of Public Law 109-234" after "security grants".

Mr. SCHUMER. Mr. President, I am proud to join with my colleagues from New York and New Jersey. We are doing three amendments together. One, Senator CLINTON's amendment, increases the threat money. The second, the amendment of Senator MENENDEZ, which I believe will be offered within the hour or shortly thereafter, will change the wording in the formula. My amendment increases money for transit homeland Security by \$300 million. All of these amendments are important to our New York-New Jersey area.

We have seen, in the last few months, two things. First, the New York-New Jersey area, of course, continues to be, unfortunately, a target of choice. When terrorists talk about creating devastation to our homeland, unfortunately, New York comes first to their minds. It means that our city has to be extra vigilant. Our State has to be extra vigilant. Our friends across the river have to be extra vigilant.

Frankly, while there are threats everywhere, New York has to be more vigilant than anywhere else. Yet in a deep disappointment that still wounds us, the Homeland Security Department dramatically cut back on our funding.

The amendment Senator CLINTON is offering with which I am proud to be her partner, along with Senator MENENDEZ and Senator MIKULSKI, basically increases the overall pot because we have two problems. The pie is not large enough, and the way the pie is distributed, maldistributes the money. Senator MENENDEZ' amendment deals with how the money is distributed.

It is an outrage that the Secretary of Homeland Security, who promised Congress before he was nominated that he would be fair to New York, has cut back so dramatically. He has used the most foolish of formulas. He had a peer review process. I have great respect for the sheriff of a small town in the Rocky Mountain States, but in all due respect to that sheriff, he should not be the judge of how New York needs money.

Today we saw the list of terrorist sites. It reaches the point of absurdity. The Old McDonald Petting Zoo is a target for terrorists. I have been to petting zoos when I was a kid. I took my children to petting zoos, but I never saw a terrorist hiding behind one of the sheep in Little Bo' Peep's flock. Then they have the Amish Popcorn Factory as a terrorist site.

Why did this happen? It is because of the careless and sloppy attitude at

Homeland Security that reflected itself in the formula by which our city and our State were dramatically cut.

The amendments we are talking about would both increase the size of the pie desperately needed when we know the war on terror is real and the threat to our homeland is not subsiding. It is desperately needed because we are one Nation. Just as the mayor of New York City is not on some peer review panel to determine whether New York City should get corn subsidies, the small town officials, who are very good people in defending their city, are not the folks to determine how much New York needs and where it needs it. We will be having other amendments later that deal with some of the specific issues.

My amendment is the third leg of this stool. New York has been targeted repeatedly, whether it is releasing cyanide on a New York City subway car or trying to blow up the PATH that Senator LAUTENBERG talked about that brings millions of commuters during the course of each year across the river from New Jersey to New York.

The terrorists know what we are doing. The Internet allows them to know it. They look for our weakest pressure point.

We have done virtually nothing on rail security. Nothing. We spend a couple of pennies for each mass transit rider while we spend \$7 or \$8 on each person who flies. And I am glad we spend the \$7 or \$8 on the people who fly. But mark my words, the terrorists know if air travel is pretty well protected they will look somewhere else.

The most logical place they look, unfortunately, is to the rails, where millions of people are in unguarded entrances, coming together. We saw it in Madrid. We saw it in London. Unfortunately, once again, we saw it in Mumbai yesterday. We will see it again. I wish that were not true. God forbid, but it will happen.

This is a modest amendment. My colleague, Senator BIDEN, asked for a large amount of money. This is just \$300 million, but it will go a long way. Right now we only spend \$150 million. What we would do in our amendment is double, add \$200 million, grants on rail security, the personnel, the dogs. Talk to terrorist experts. They say dogs that can smell explosives or biological or chemical weapons are the best anecdote. This would pay for things like that.

We also put aside \$50 million to develop detection devices. Technology allowed terrorism to occur. Technology can protect us. But we are not availing ourselves of that technology. One of the things I have been pushing for for years is the money to develop a detection device, much like a smoke detector, that could sit on the ceiling of a subway car or in the entrance of a railroad station. When someone came by with a great deal of explosives or biological or chemical or nuclear material on their bodies, it would go "beep,

beep, beep," and the police would be able to make an arrest before damage was done.

This amendment sets aside a modest \$50 million to begin that research.

Finally, the amendment provides \$50 million for overtime reimbursement. Every time we hear of a threat in a different part of the world, the New York City police department must put men and women on overtime to guard the subways and the dog squads and everyone else. This is a Federal responsibility.

The bottom line is, the soft underbelly of subways, buses, and tunnels are highly vulnerable to the kinds of terrorist attacks we have seen in London and Madrid and Mumbai. Unless we take real steps to beef up mass transit security immediately, the bottom line is, we spend more than \$7 per airline passenger on air security but little more than a penny per mass transit rider.

In the wake of these most recent threats and yesterday's tragic attacks in India, we need to be doing a lot more to even the score. This week, we have increased funding for border security and port security. I ask my colleagues to do the same for rail systems. I will ask for the yeas and nays on this amendment at an appropriate time.

I yield back the remainder of my time to my friend and colleague from New York.

Mr. MENENDEZ. Mr. President, I rise in strong support of the amendment offered by my friend and colleague from New York. Sadly, today is an all too appropriate day to be offering an amendment to increase transit funding. Yesterday, the savage bombing of eight commuter trains in Mumbai—densely packed during the evening rush hour by people just trying to make their way home—showed once again that terrorists find public transportation to be an extremely attractive target. Currently, the Indian government reports that over 200 people died in the blasts, and the death toll is rising. And so our thoughts and prayers are with the people of Mumbai, and our minds should be riveted back here in the United States.

Two years ago, we saw tragic bombings in Madrid; last year, in London; yesterday, Mumbai. Each of these should have served as a wake-up call to this country, a call to action for Congress to act to secure the over 14 million Americans who use public transportation to get to work each day. The recently disclosed plot against the tunnels under the Hudson River highlights the need for action. One of the targets was the PATH subway tunnel that carries over two hundred thousand people a day back and forth between New York and New Jersey. And yet, we continue to spend a virtual pittance on transit security. The Federal Government spends about \$9 on security for each airline passenger, but only about 1 cent for each bus or train rider. While we need to secure our airways, we also

need to secure our streets, our rails, and our subways.

According to the American Public Transportation Association, our Nation's transit systems need over \$5 billion in capital equipment and \$800 million per year in annual operating expenses in order to adequately meet security needs. One hundred and fifty million dollars a year is not going to get us there. The Schumer/Menendez amendment provides \$300 million—not the entire amount we need but a crucial increase over what we are currently providing. In addition to adding \$200 million for additional transit security grants, the amendment also provides money for research into new security technologies for transit and intercity rail. We all know that airport-style screening of everyone boarding a train isn't going to work. But that doesn't mean we can simply give up. New technologies offer the promise of being able to detect explosives and chemical weapons far quicker and less obtrusively than we do now, but we need to put the money into researching those technologies. This amendment will do that. This amendment also provides money to help local law enforcement authorities out with overtime when their region is declared to be a high threat area, which is sorely needed in high-risk areas such as the New York and New Jersey metropolitan region.

I never want to be standing here and discussing an attack that happened a day earlier on an American subway system, on American trains, or on American buses. It is bad enough that I have to stand here today and discuss yesterday's tragic events in India. But this is one more wake-up call to a Congress that has continued to hit the snooze button when it comes to transit security. I want my colleagues to ask themselves what they would be willing to do, what commitment they would be willing to make, if yesterday's news had been about trains in New York, Chicago, Los Angeles, Atlanta, Denver, Houston, Buffalo, or any other American city. Well, we don't need to wait for an attack on American soil. We can make that commitment now, we can provide the resources now so we don't look back some day and ask ourselves, "Why didn't we do then what we need to do today?" And we should ask ourselves now, "How much more would we be willing to spend after the fact?" It is far more expensive to respond to an attack than to try to prevent one. The Schumer/Menendez amendment is not the final step, but it is a necessary step, and I urge my colleagues to support it.

Mr. President, I ask unanimous consent to set aside my amendment.

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

AMENDMENT NO. 4576

Mrs. CLINTON. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. Three minutes 12 seconds.

Mrs. CLINTON. Mr. President, I ask unanimous consent that Senator BOXER be added as a cosponsor of my amendment.

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

Mrs. CLINTON. Mr. President, I think this debate must be very confusing to people around our country who might be tuning in or sitting in the galleries because we should be spending an appropriate amount of money, not wasting it. We should have it focused. We should not be thinking of funding places and institutions like those referred to by both Senators SCHUMER and MIKULSKI. And I think it is bewildering for us even on the floor.

It has been so difficult to get a straight story out of the Department of Homeland Security, to get any kind of clear sense of what the strategy is. What is it we have to do to make a case based on threats and risks? And why is money being cut from the places that are at the top of the terrorists' hit list?

I do not have an explanation. The closest I can come is that we have other priorities in this Congress and on the other end of Pennsylvania Avenue. We would rather spend money on tax cuts for the wealthiest among us. I just do not get it.

But we have a chance to send a very clear message with this amendment, to say: Look, there is not anything more important. Let's do it right. Let's require the highest level of competence from this administration and particularly the Department of Homeland Security. Let's not spend money wastefully, but let's spend money where we know it will give us the best results to protect our country.

I make a special plea on behalf of New York. We have spent billions of dollars in New York City and New York State. It is not like we have been waiting around. We have created a 1,000-person intelligence unit with the NYPD, with detectives all over the country. We have spent a lot of money beefing up the personnel and putting in equipment. But we need help. We cannot take a 40-percent cut and protect everything that needs to be protected in New York City—from the mass transit system, to the Statute of liberty, to the United Nations, to the ports, to bridges, to the tunnels; you name it.

So I hope we will have a bipartisan vote in favor of going back to the amount of money we spent in 2005, and making sure we spend it in accordance with threat and risk.

Mr. President, I ask for the yeas and nays on amendment No. 4576, and yield back the remainder of my time.

The PRESIDING OFFICER. The Senator yields back her time.

Is there a sufficient second for the yeas and nays?

There appears to be a sufficient second.

Mr. GREGG. This is on the Clinton amendment?

The PRESIDING OFFICER. On the Clinton amendment.

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from New Hampshire controls 20 minutes.

Who yields time?

Mr. GREGG. 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. GREGG. 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. GREGG. Mr. President, let me begin by saying that when I read the article that was in the paper about the decision to basically transfer a significant amount of dollars from New York and Washington, I was surprised and quite shocked. I said to myself: That doesn't make a whole lot of sense. Because I think most of us understand that New York, Washington, Los Angeles, Chicago, and a couple of other spots which are probably better not to mention, are truly the No. 1 targets. Certainly, New York is at the top of every list, as is the city of Washington. So I thought: Why are we doing that? Or why was the Department doing that? They did not advise us, obviously.

I looked into it, and they have a peer-review process for the application of these funds. All these funds go out under a threat-based concept. This has been the insistence of this committee. There are funds that do go out under the formula. I do not happen to be a big fan of the formula. It is not a lot of funds compared to the entire block of funds. But the vast majority of the funds flow out on the basis of threat-based decisions.

Now, what happened was, of the 46 cities that were in competition for these funds, New York came in 44th and the District of Columbia came in 42nd in evaluation of their proposals. And their proposals, in fact, were just plain poorly written; not only poorly written, they were poorly structured, and they did not have behind them the backup that was necessary to make them viable proposals.

In that context, the decision was made to take these funds and move them over to other applicants who had put in better proposals. I guess if I had been managing the Department, what I would have said is: Listen, we know that Washington and New York are the primary targets. We also know these proposals, as they came forward, were just not very good proposals and really did not accomplish the goals we are seeking in the issue of addressing threat and effectiveness. And effectiveness should be part of this. We should not take effectiveness out because there is no point sending money out if we are not going to get results for it.

Probably, if I had been in charge, had the magic wand, I would have said, es-

crow this money until we can work with these two cities, and regions in the case of New York and Washington, and get the plans in order. But that is not the decision that was made. The decision was made to move the dollars to other locales. So there are equities, in my opinion, in the arguments made by the Senators from New York and the Senators from Maryland and New Jersey. And the equities are strong enough that we actually put language in our report that requests that the Department place a higher priority on risk and that they focus on dealing with this type of a situation. And I am certainly expecting it will not happen again the way it happened this year.

But that is not the essence of this amendment. The essence of this amendment offered by the Senator from New York is to increase funding above our allocation—I guess it claims it as an emergency—and to basically put additional dollars on the table for the purposes of these types of threat-based grants.

Now, I think it is important to understand that since we started this program we have put \$14.6 billion into the pipeline to try to assist the cities and areas of highest risk, and that in this bill we have \$2.4 billion to accomplish that. That is a lot of money. And of that money, only \$6.1 billion has actually been taken down. In other words, there is still literally close to \$9 billion when you consider this year of money available to address these issues. And to put another big chunk of money on top of that, really, I do not think is going to improve the situation from the standpoint of what New York and Washington are concerned about, because I think there is enough money in the pipeline to accomplish much of what they desire.

The right way to correct this problem relative to New York and Washington is to have the Department understand these are the priority sites, and that if the proposals coming in from these two regions are not of a quality that give the Department confidence that the money is going to go out and be used effectively, then they should sit down with these two regions and work out the process so we do it right—escrow the money, sit down, work out the problem, figure out how the money can be used so everybody knows it is being used effectively. So that would be the way I would resolve this issue.

To simply put more money in the pipeline, when we have this much money in the pipeline, I do not think is going to resolve it. For all we know, they might still not get the money if they went through this same approval process they had this year. Hopefully, they won't. I did note comments by the mayor of New York—and I respect him for this—where he said he recognized the proposal they sent down here was not up to snuff. That is my characterization, but that is the way I read it. And he is right. It was not. But that

did not mean they should not have gotten the money. It should have meant the Department should have sat down with them and figured out how to get it right. However, that is, as they say, history.

As we have moved forward, I believe we have put in adequate language to make it clear. And certainly this floor discussion, I hope, illuminates the issue further, that we expect these two regions to receive the resources which are in the pipeline, and to receive them in a robust way, but under the condition that the various programs which they send down here have been worked through so both sides have confidence the money is going to be used effectively.

I will, however, have to make a point of order against this amendment from the Senator from New York because I do not believe the best approach at this time is to simply bust the budget, put more money in the pipeline, declaring an emergency, in order to address what was really a programmatic issue and a failure of communication, to be quite honest—a massive failure—between the city of New York and the city of Washington and the Department of Homeland Security as to how they should have handled the funds which were in the pipeline.

So when the proper time comes, I will make a point of order that this amendment busts the budget and is not an appropriate use of the emergency designation.

AMENDMENT NO. 4587

As to Senator SCHUMER's amendment, which is a follow-on to Senator BIDEN's amendment, I would just renew the comments I made under Senator BIDEN's amendment. We have again increased the funding for rail. It is not anywhere near where I would like to be able to put it, but it is an increase. But, more importantly, there is a large amount of money again in the pipeline coming through the funding for Amtrak—\$770 million, which is available for capital improvement.

On top of that, it is very interesting, if this is such a high priority, why has the discretionary money which we are sending to these major metropolitan communities been used in such a minor way to address rail security?

The average, I believe I said earlier, was like 2 percent, and in New York's case they are using 8 percent of their discretionary money for rail security. They get a huge amount of money. In fact, New York—and I think this should be mentioned for part of the Record—gets dramatically more money; even when they lost the funds in this competitive grant process, they still get, I think, about twice what any other community gets, twice what any other community in the country gets. And they deserve it, quite honestly. They are where the basic threat is. So I do not begrudge them that.

But the fact is, they get a large amount of resources, and they could take much more than 8 percent of

those resources and put them toward rail, if they wanted to. But they do not. And to simply put more money on top of this, and, thus, once again go well beyond our allocation, is a mistake and not the fiscally prudent thing to do, nor is it the best way to approach the threat in the context of the dollars which are coming from other areas and can be used to address the threat—such as the underlying Amtrak funding, such as the grants program, which is billions of dollars, and the basic funding in this bill for rail security.

So I will also make a point of order against that amendment.

I have suggested—and I suggested it to Senator BIDEN and to Senator SCHUMER—if rail really feels it needs a significant increase in resources, they could do it the same way the airlines have done it, by assessing a fee on passengers. That is how we pay for the airlines. That is how we are paying, basically, for TSA. A \$5 fee would generate, essentially, the number that Senator BIDEN wanted. About a third of that would generate the number that Senator SCHUMER feels is necessary. And that is one way they could redress their issue and still stay within the budget, if they felt it was that important a question.

AMENDMENT NO. 4576

So at this point, Mr. President, I yield back the remainder of my time, unless the Senator from New York—she used up all her time. I didn't know if the Senator wanted to respond to anything I said.

The PRESIDING OFFICER. The Senator from New York has yielded back her time.

Mr. GREGG. Does the Senator want any of my time to respond or is the Senator all set?

Mrs. CLINTON. Two minutes if I could.

Mr. GREGG. I yield the Senator 2 minutes of my time.

The PRESIDING OFFICER. The Senator from New York is recognized for 2 minutes.

Mrs. CLINTON. It is my understanding that a point of order has been made against my amendment.

The PRESIDING OFFICER. The point of order has not yet been made against the amendment. The Senator from New Hampshire suggested he would make a point of order but has not made such a point of order. The Chair has not heard a point of order formally put to the Chair against the amendment.

Mr. GREGG. I inform the Chair that pursuant to the deeming language of Public Law 109-234, I raise a point of order against the emergency designation of the pending amendment.

The PRESIDING OFFICER. The Chair advises the Senator, a point of order is made appropriately at the end of the debate. The Senator from New York was asking a question whether a point of order had yet been made.

Mrs. CLINTON. Mr. President, I hear a point of order that I will then respond to.

Mr. GREGG. I yield back the balance of my time, unless the Senator from New York wants 2 minutes. I renew the point of order.

Mrs. CLINTON. Mr. President, pursuant to section 402 of House Concurrent Resolution 95, the concurrent resolution on the budget for fiscal year 2006, I move to waive section 402 of that concurrent resolution for purposes of the pending amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

The yeas and nays resulted—yeas 47, nays 53, as follows:

[Rollcall Vote No. 195 Leg.]

YEAS—47

| | | |
|----------|------------|-------------|
| Akaka | Feinstein | Murray |
| Baucus | Harkin | Nelson (FL) |
| Bayh | Inouye | Obama |
| Biden | Jeffords | Pryor |
| Bingaman | Johnson | Reed |
| Boxer | Kennedy | Reid |
| Byrd | Kerry | Rockefeller |
| Cantwell | Kohl | Salazar |
| Carper | Landrieu | Sarbanes |
| Clinton | Lautenberg | Schumer |
| Collins | Leahy | Snowe |
| Dayton | Levin | Specter |
| DeWine | Lieberman | Stabenow |
| Dodd | Lincoln | Talent |
| Durbin | Menendez | Talent |
| Feingold | Mikulski | Wyden |

NAYS—53

| | | |
|-----------|-----------|-------------|
| Alexander | DeMint | Martinez |
| Allard | Dole | McCain |
| Allen | Domenici | McConnell |
| Bennett | Dorgan | Murkowski |
| Bond | Ensign | Nelson (NE) |
| Brownback | Enzi | Roberts |
| Bunning | Frist | Santorum |
| Burns | Graham | Sessions |
| Burr | Grassley | Shelby |
| Chafee | Gregg | Smith |
| Chambliss | Hagel | Stevens |
| Coburn | Hatch | Sununu |
| Cochran | Hutchison | Thomas |
| Coleman | Inhofe | Thune |
| Conrad | Isakson | Vitter |
| Cornyn | Kyl | Voinovich |
| Craig | Lott | Warner |
| Crapo | Lugar | |

The PRESIDING OFFICER. On this vote, the yeas are 47, the nays are 53. 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. The emergency designation is removed.

Mr. GREGG. Mr. President, I raise a point of order against the pending amendment because it would cause the bill to violate section 302(f) of the Budget Act.

The PRESIDING OFFICER. The point of order is sustained. The amendment falls.

AMENDMENT NO. 4587

Mr. GREGG. Mr. President, we now move to the Schumer amendment. At the conclusion of the debate, I reserve the right to make a point of order against the Schumer amendment.

I ask unanimous consent that there be 2 minutes equally divided.

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

The Senator from New York is recognized for 1 minute.

Mr. SCHUMER. Mr. President, this amendment is simple. It adds \$300 million to probably the most woefully neglected area of homeland security, and that is security on the rails, whether it be mass transit, whether it be long-term passenger rail, or freight.

We have seen in the last year that transit rails are a target of choice for terrorists. We saw it in London, we saw it in Madrid, and we saw it just yesterday, unfortunately, once again in Mumbai. Our rails are very vulnerable. We spend over \$7 per air traveler for homeland security; we spend about a penny for mass transit. And the terrorists always look for our vulnerability. Transit is vulnerable. Passenger rail is vulnerable. Freight rail is vulnerable. There are miles and miles of unguarded track and thousands of people entering unguarded entrances. If there were ever a place we needed help, this is it.

There are, obviously, things we are doing on port security. The amendment of the Senator from West Virginia increased that funding. It makes no sense, given that the rails have been the target of the last three major terrorist attacks around the world, to have a paltry \$150 million for rail security.

Mr. GREGG. Will the Senator from New York yield? I believe we had a 1-minute agreement.

Mr. SCHUMER. I thought it was 2. How much time do I have remaining, Mr. President?

The PRESIDING OFFICER. The Senator has 34 seconds remaining.

Mr. SCHUMER. Thirty-four seconds. In the interest of moving things along, I yield back the remainder of my time and urge an "aye" vote on this important amendment.

Mr. GREGG. Mr. President, also in the interest of moving things along, the debate in opposition to this amendment has been made relative to the Biden amendment. It is basically a "little Biden," and it is in excess of the ability of this committee to fund it at the levels being suggested.

Pursuant to the deeming language in Public Law 109-234, I raise a point of order against the emergency designation in the pending amendment.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, pursuant to section 402 of H. Con. Res. 95, the concurrent resolution on the budget for fiscal year 2006, I move to waive section 402 of that concurrent resolution 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 question is on agreeing to the motion. The clerk will call the roll.

The assistant legislative clerk called the roll.

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

[Rollcall Vote No. 196 Leg.]

YEAS—50

| | | |
|----------|------------|-------------|
| Akaka | Feingold | Murray |
| Allen | Feinstein | Nelson (FL) |
| Baucus | Harkin | Obama |
| Bayh | Inouye | Pryor |
| Biden | Jeffords | Reed |
| Bingaman | Johnson | Reid |
| Boxer | Kennedy | Rockefeller |
| Byrd | Kerry | Salazar |
| Cantwell | Kohl | Santorum |
| Carper | Landrieu | Sarbanes |
| Clinton | Lautenberg | Schumer |
| Conrad | Leahy | Snowe |
| Dayton | Levin | Specter |
| DeWine | Lieberman | Stabenow |
| Dodd | Lincoln | Talent |
| Dorgan | Menendez | Wyden |
| Durbin | Mikulski | |

NAYS—50

| | | |
|-----------|-----------|-------------|
| Alexander | DeMint | Martinez |
| Allard | Dole | McCain |
| Bennett | Domenici | McConnell |
| Bond | Ensign | Murkowski |
| Brownback | Enzi | Nelson (NE) |
| Bunning | Frist | Roberts |
| Burns | Graham | Sessions |
| Burr | Grassley | Shelby |
| Chafee | Gregg | Smith |
| Chambliss | Hagel | Stevens |
| Coburn | Hatch | Sununu |
| Cochran | Hutchison | Thomas |
| Coleman | Inhofe | Thune |
| Collins | Isakson | Vitter |
| Cornyn | Kyl | Voinovich |
| Craig | Lott | Warner |
| Crapo | Lugar | |

The PRESIDING OFFICER. On this vote, the yeas are 50, 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 emergency designation is removed.

Mr. GREGG. Mr. President, I raise a point of order against the pending amendment. The amendment would cause the bill to violate section 302 of the Budget Act.

Mrs. FEINSTEIN. We can't hear, Mr. President.

The PRESIDING OFFICER. Will the Senator repeat the motion.

Mr. GREGG. I raise a point of order the amendment would cause the bill to violate section 302 of the Budget Act.

The PRESIDING OFFICER. The point of order is sustained. The amendment falls.

AMENDMENT NO. 4556

Mr. REID. I ask for the regular order with respect to the Feinstein amendment.

The PRESIDING OFFICER. The amendment is now pending.

AMENDMENT NO. 4557

Mr. REID. I make a point of order against the Cornyn amendment. It is legislation on an appropriations bill.

The PRESIDING OFFICER. The point of order is sustained. The amendment falls.

Mrs. FEINSTEIN. Is this the second-degree amendment?

The PRESIDING OFFICER. The second-degree amendment falls on the point of order.

The Feinstein amendment is now pending.

AMENDMENT NO. 4556

Mr. GREGG. Mr. President, I ask the pending amendment be set aside.

The PRESIDING OFFICER. Is there objection to setting aside the pending

amendment? Without objection, it is so ordered.

Mr. GREGG. Mr. President, the game plan now is to recognize the Senator from New Jersey to speak on his amendment. Then we will go to the Senator from Alabama to speak on amendments which he is going to offer. There will not be any more votes tonight. Those will be the only amendments offered this evening. I will formally ask unanimous consent to that point. Then tomorrow morning we hope to structure it so we begin voting around 10 or 10:30, initially on the amendment of the Senator from New Jersey and potentially, or hopefully, on the amendment of the Senator from Arizona and the Senator from Pennsylvania, which they will have a chance to debate in the morning prior to the amendments. Then, around 12 o'clock, we know we are going to have an amendment offered by the Senator from Ohio and we will go to that amendment. In the interim, there will also be an issue of the amendments of the Senator from Alabama and other amendments which people may wish to bring forward.

At this time I ask unanimous consent the Senator from New Jersey be recognized, followed by the Senator from Alabama, to offer their amendments, and that those be the only amendments offered this evening, and at the conclusion of the debate on their amendments we go to a period of morning business.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from New Jersey is recognized.

Mr. MENENDEZ. Mr. President, I ask unanimous consent to set aside the pending amendment.

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

The Senator from New Jersey is recognized.

AMENDMENT NO. 4634, AS MODIFIED

Mr. MENENDEZ. Mr. President, I call up amendment No. 4634, as modified.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Jersey (Mr. MENENDEZ) proposes an amendment numbered 4634, as modified.

The amendment is as follows:

(Purpose: To provide that appropriations under this Act may not be used for the purpose of providing certain grants, unless all such grants meet certain conditions for allocation)

On page 127, between lines 2 and 3 insert the following:

SEC. ____ . Notwithstanding any other provision of this Act, appropriations under this Act may not be used for the purpose of providing—

(1) formula-based grants or law enforcement terrorism prevention grants, unless all such grants are allocated based on an assessment of threat, vulnerability, and consequence, to the maximum extent practicable,

with no State receiving less than 0.25 percent of the funds available for each such grant program, and American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands, each receiving 0.08 of the funds available for each such grant program;

(2) discretionary grants for use in high-threat, high-density urban areas, unless all such grants are allocated based on an assessment of threat, vulnerability, and consequence, to the maximum extent practicable.

Mr. MENENDEZ. Mr. President, on July 7, just last Friday, media outlets across the Nation reported the news that the FBI had apparently foiled a plot to bomb the transit systems that connect New York and New Jersey.

The revelation of this latest plot paints a clear picture of where the terrorists intend to target their actions. Clearly, they want to strike where they can create the greatest loss of life and economic damage. Time and time again, we see that areas like New York, New Jersey, Washington State, California, Chicago, and others are high on the target lists of terrorists.

These most recent threats against New York and New Jersey are only one example of this in one key area.

Why had the terrorists chosen to attack the tunnels and rail system that connect the city of New York with the citizens of New Jersey?

Because they wanted to inflict great damage, not only to the tunnels and the trains and the people on them, not only to the city of New York and the citizens of New Jersey, not only to the metropolitan area that encompasses New York, New Jersey, and Connecticut—no, the terrorists chose to plan their attack on the New York-New Jersey transit system because they wanted to inflict great damage on the entire country.

More than 100,000 people use the Holland Tunnel everyday. More than 200,000 people ride the PATH trains every day.

Mr. President, 18.7 million people live in the New York/New Jersey metropolitan area, nearly 6.5 million of whom come from New Jersey. New York is home to the financial heart of our country, with key financial institutions housed right across the river in New Jersey. Imagine what would happen to the Nation, not just New York or New Jersey, if these financial institutions were shut down.

The port in New Jersey, the largest container seaport on the east coast, the third largest in the Nation, handled more than \$132 billion in goods in 2005 and creates over 200,000 jobs. Imagine what would happen to the Nation, not just New York or New Jersey, if commerce were shut down in this port.

The greatest "zone of vulnerability" in the U.S. is in South Kearney, NJ, where 12 million people live in proximity to a chlorine chemical plant. An explosion at the facility would endanger the life and health of people caught in the path of the prevailing winds to that great extent.

The FBI has placed more than a dozen New Jersey sites on the "National Critical Infrastructure List" and has called the area between Port Elizabeth and Newark International Airport the "most dangerous two miles in the United States when it comes to terrorism." An article in the New York Times pointed out that this 2-mile area provides "a convenient way to cripple the economy by disrupting major portions of the country's rail lines, oil storage tanks and refineries, pipelines, air traffic, communications networks and highway system." Imagine what would happen to the Nation, not just New York and New Jersey, if the most dangerous 2 miles in America was attacked.

Clearly, as we saw last Friday, the terrorists can imagine exactly what would happen if they attacked New York and New Jersey.

If the terrorists understand that New York and New Jersey are targets, why can't the Department of Homeland Security?

The recent inspector general report on Homeland Security's National Database shows that we have it wrong. Certainly the Department of Homeland Security has it wrong, once again.

According to a recent article by the New York Times, the report "reads like a tally of terrorist targets that a child might have written: Old MacDonald's Petting Zoo, the Amish Country Popcorn factory, the Mule Day Parade."

The inspector general found that the list included items "whose criticality is not readily apparent" but are still included in the Federal antiterrorism database and that "the presence of large numbers of out-of-place assets taints the credibility of the data."

The fact that this database is being used to help determine risk-based funding simply makes no sense.

The bottom-line is that States and municipalities across the country that actually are under the greatest risk should receive the greatest number of homeland security dollars based on that risk. I cannot understand why the Department of Homeland Security would not use a truly risk-based formula when awarding their grants.

That is why I am offering the Menendez-Lautenberg amendment today. The amendment states that no funds in this bill should go to homeland security grants unless they are based on an "assessment of threat, vulnerability, and consequence, to the maximum extent practicable." Not exclusively, but "to the maximum extent possible."

The amendment also allows, in specific cases, for each State to receive a minimum of .25 percent of the grants. Let me be clear; while I would prefer to give all funds based on risk, I believe that this compromise which makes this amendment different than previous amendments based on risk, will allow more support for this amendment.

It also moves in the direction of where the White House has said they

want to see us go on the question of homeland security funds. This is also the same minimum percentage included in the House legislation recently endorsed by the former Chairman and former Vice Chairman of the 9/11 Commission.

I certainly hope with this minimum percentage guarantee that our Senate delegation will be able to support this amendment.

Since we only have a finite amount of money, this is not a place where revenue sharing should be the policy. Just as Senators from agricultural areas of the country call on those of us who may not have much agriculture for our support, just as the Senators from ravaged flood areas call on us for our support, just as Senators from areas hit by hurricanes call on us for our support, those of us who come from high-target areas across the country call on the rest of the Senate for equal treatment when it comes to risk-based funding.

Many of us in the Senate have been fighting for risk-based funding for years. I know Senators LAUTENBERG, CLINTON, SCHUMER, and others have led the fight in the Senate. I know our senior Senator from New Jersey has been a leader over and over again. We are thankful to him for his leadership. I fought for risk-based funding as a former Member of the House of Representatives. I included risk-based funding in the Menendez substitute to the intelligence reform bill in 2004 which was, unfortunately, voted down by my Republican colleagues. I fought for risk-based funding in the conference report on that legislation. I continued to fight for risk-based funding when I introduced the risk-based Homeland Security Funding Act in the House, which Senator LAUTENBERG also introduced in the Senate. Most recently here in the Senate, we have introduced legislation to make sure we fully and finally implement the recommendations of the 9/11 Commission, which includes risk-based funding. But today we are here to fight the next round of this battle.

I am proud to have Senators LAUTENBERG, CLINTON, and SCHUMER as cosponsors of this amendment.

It is important when we talk about homeland security. We have seen the votes on a host of these funding issues. You can't have the administration talking tough on homeland security and then acting weak. Cutting funds to homeland security grants simply makes no sense.

For those from New York and New Jersey and from other parts of the country—Pennsylvania or Washington, DC—for those from those areas where loved ones were killed on September 11 of 2001, this is not an abstract policy discussion. This is not an abstract policy discussion for us. This is personal. Over 700 people from the State of New Jersey were killed. My former congressional district looks directly at the site where the Twin Towers once stood. In New York and New Jersey, we still live

with the aftermath of these attacks on a daily basis. Just today, we learned in a Quinnipiac poll that 77 percent of New Jerseyans expect a terrorist attack in the United States in the next 6 months.

The No. 1 role of our Government is to keep us safe. That is what Americans expect. That is what the people of New Jersey have been saying to me all along. They believe—and we can see from the nature of these revelations of the plots—they are going to be attacked, and they need the Government to meet its No. 1 responsibility to them; that is, to keep them safe.

How can we keep them safe if we allow the funding for homeland security grants to be underfunded? How can we keep them safe if we aren't making sure that the places at greatest risk of attack get the most money to protect against those attacks? And how can we come to a conclusion that we don't assign—even with this compromise amendment which still provides 2.5 to all of the States but still takes the majority of that money to where the greatest risks are, how do we not hold the view that this is one country and these attacks, in fact, would affect the entire Nation?

The Senate has both an obligation and a moral responsibility to protect the people of the United States. The only way to do that is to take all possible steps to prevent terrorist attacks.

One of the critical ways is to follow the 9/11 Commission's report, a unanimous and bipartisan conclusion that homeland security funding should be based strictly on risk. We have taken that as a foundation, amended it somewhat to create, hopefully, a greater groundswell of support but still with the fundamental principle that ultimately the majority of our homeland security funding should go to where the greatest risks in our country are and the greatest risk that ultimately would affect the Nation in its commerce, in its security, and in its ability to sustain itself.

That is why I urge my colleagues to support the Menendez amendment.

Mr. GREGG. Mr. President, will the Senator yield?

Mr. MENENDEZ. I would be happy to yield to the distinguished chairman.

Mr. GREGG. I am intrigued by the amendment. We have worked very hard on the committee to have a threat-based funding formula, so that is my goal. I have no problem with the reduction to 2.5 even though it would prejudice my own State. But my view is that the target should be where the funding goes.

I just wanted to be sure that when the Senator uses those terms of art here, that it is not his intention to undermine the capacity of peer review groups to look at the issue. The Senator used the term "unless all such grants are allocated based on threat, vulnerability, and consequence to the maximum extent practical," which seem to be pretty good words of art.

For the record, I would like to make it clear that the Senator is not trying to adjust the peer review process which looks at threat and effectiveness of the plan. Is that correct?

Mr. MENENDEZ. That is correct. We are silent on effectiveness because we think effectiveness is very important as part of that equation.

Mr. GREGG. In light of that, I probably will support the amendment, although I suspect there are others who will oppose the reduction of 2.5. In any event, I think the amendment is a good amendment.

Mr. MENENDEZ. I thank the distinguished chairman.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, first I commend my colleague, Senator MENENDEZ, for his persistence on this issue. We both come from the northern part of the State of New Jersey, which is the most dense portion of the most densely populated State in the country.

Seven hundred of our fellow New Jerseyans lost their lives on September 11, 2001. It would be hard to find people whose lives were not touched by the events of that day—whether immediate neighbors, friends, family, all of us knew someone who was killed or injured on that fateful day. From our part of New Jersey, you could see the smoke rising from the World Trade Center where many of our friends, neighbors, and loved ones worked.

The New York-New Jersey region bore the brunt of the attack on 9/11, and to this day it remains the area of our country that is most at risk of another attack. We were reminded of this just last week when authorities disrupted a plot by eight terrorists to blow up commuter train tunnels connecting New Jersey and New York. Each day, nearly 200,000 people travel through these tunnels.

Since we don't have unlimited resources for homeland security, homeland security must be targeted to those parts of the country most at risk of another terrorist attack. But that isn't currently the case. Why? Because this Congress is treating homeland security funding as just another pork project rather than sending the resources based solely on risk, as has been recommended by the 9/11 Commission. And in section 25:

Homeland security assistance should be based strictly on assessments of risks and vulnerabilities.

[F]ederal homeland security assistance should not remain a program for general revenue sharing.

This is by the authors of this Commission report which was adopted wholeheartedly in this place.

Because each State gets a minimum guarantee of funding regardless of risk or population density, we take resources from States known as major terrorist targets and give them to low-risk areas.

Politics rears its ugly head.

I saw the prevailing view on the Homeland Security Committee on which I sit—the committee of jurisdiction. I called the attention of the committee to the report of the 9/11 Commission very specifically and asked the committee to endorse fully the risk-based distribution mechanisms for funding. Perhaps my argument wasn't persuasive, but the vote was 15 to 1 against it, solely basing this distribution of grants on risk. It was painful for me to see that.

I want to give you an example. In fiscal year 2006, New Jersey received \$1.92 per capita spending for State homeland security and law enforcement terrorism prevention grants. Wyoming received \$14.73. New Jersey, the most densely populated State in the country, received \$1.92 in per capita spending; and Wyoming—a beautiful State, though I think it is fair to say that their risk of a terrorist attack is substantially different or not even this in terms of what terrorist planning is typically doing—Wyoming, \$14.73. Are the people of Wyoming seven times more likely to be the victims of a terrorist attack than the people of New Jersey? I don't think so.

The FBI has identified the 2-mile strip between the Port of New York and Newark-Liberty International Airport in New Jersey as the most inviting target in the entire Nation for a terrorist attack because of the huge amount of damage that could be inflicted. It is believed—this isn't secret, it has been published many times in many places—it is believed that a terrorist attack in this area could kill or injure more than 10 million people because of the density of population there and the presence of so many chemical facilities.

The way we fund homeland security flies in the face of the 9/11 Commission recommendations. We see it on this placard. It is a stark reminder of what we ought to be doing and how much it differs from what we are arguing.

Today, nearly 5 years after 9/11, nearly 40 percent of the State Homeland Security Grant Program is given out as "general revenue sharing" to each and every State and territory regardless of the danger they face from terrorism. The system is broken. We have to fix it. I have been trying to reform this grant program for several years.

In February 2005, I introduced a bill called the Risk-Based Homeland Security Funding Act, which would require that all homeland security grants be based strictly on risk, threat, and vulnerability. My colleague, Senator MENENDEZ, did similarly when he was a Member of the House of Representatives. The amendment offered by my colleague today moves us in that direction. That is why I so strongly support it.

Under the Menendez-Lautenberg amendment, the Senate minimums will be reduced from .75 percent of Homeland Security funding to .25 percent.

That lower amount, .25 percent, is the same as the allocation President Bush recommends. Even the Bush administration confirms the .75 minimum is inappropriate and puts our security at risk. Secretary Chertoff has consistently advocated Homeland Security funding be risk-based.

By reducing these State minimums, we can better protect the Nation by getting more funding to areas that are actually under threat and risk. If Congress will not eliminate State minimums, the best way to proceed is to reduce the State minimums so that as much money as possible is directed toward the highest risk areas.

If we review past terrorist attacks, it is clear terrorists want to attack densely populated areas, areas where they can inflict the most damage. We heard my colleague, Senator MENENDEZ, talk about the damage it could do to our national economy if we have a major attack in this very sensitive area. They want to kill as many people as they can, disrupt economic life as it exists.

I urge our colleagues to support the Menendez-Lautenberg amendment. A vote for this amendment is a vote in support of the administration's position, the 9/11 Commission position, and plain common sense.

I yield the floor and 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. SESSIONS. 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. SESSIONS. Mr. President, I will be offering some amendments to the Homeland Security bill that I think are important. I thank Senator GREGG for his leadership and his interest and his hard work in meeting some of the demands of this Nation with regard to homeland security. Unfortunately, we have not been able to meet all of those demands.

America, we have a problem, a very real problem.

This Senate and its action concerning immigration with relation to the bill that just passed this Senate is beginning to create a circumstance that in every respect looks like 1986, the year we passed the last immigration bill. We must not allow a repeat of 1986. This Senator will do all that he can to see that does not happen.

It goes to the very heart of our service in this Senate. It goes to the integrity of the Senate. It goes to the respect with which we want to be held by our constituents around this country. We must not repeat what happened in 1986. We must not allow a repeat of the 1986 immigration bill.

Back when the immigration bill started moving through the Judiciary Committee, I raised this very point. It came about in an interesting way. I offered an amendment in the committee

to expand bed space. It was accepted. I offered another amendment, and it was accepted. I began to think: It is easy to authorize, isn't it? It is very easy to pass a bill that authorizes more bed space. It is very easy to pass a bill that authorizes a fence to be built along the border to improve our security. It is easy to authorize more Federal agents to be hired, more workplace enforcement to be put in place. It is easy to authorize the expansion of the US-VISIT Program, which is central to an entry-and-exit system. It is easy to authorize interior enforcement agents around the country.

But an authorization is merely an authorization. Those agents do not get hired, they will not be paid, the VISIT system will not be in place, the fences will not be built until money is appropriated. This is the bill we would expect that appropriation to take place.

That is the problem we have. The bill does provide some additional expenditures for Homeland Security and for border enforcement and for other things. For that we are grateful. But the big matters that go to the heart of whether we are going to have a lawful system have not been funded adequately. It is something we have to confront and deal with in an effective way.

In 1986, we promised we would just have amnesty one time. It was the amnesty to end all amnesties, unlike today, when we deny we are offering amnesty. In fact, the proposal we passed in the Senate does just that. It is very similar to 1986.

What was the promise? The promise is we will have enforcement in the future and we will not need another amnesty. They said in 1986 it was an amnesty to end all amnesties. That was the argument. That is what we tried to do. That is what they tried to do at the time.

What happened? The promises that were made about enhanced enforcement did not occur. I point out, 2 million people were expected to claim amnesty; 1.5 million people were expected to claim amnesty. When it concluded, 3 million people had claims. Almost double the number of people came forward to claim the amnesty, many of them with fraudulent documents and inadequate proof. But they got it because it could not be disproved, and the numbers were so large.

That system did not work well, but the amnesty was part of the immigration bill. It became law. Everyone entitled to that amnesty got it. It openly was called amnesty. I note for the record that Black's Law Dictionary, in its definition of the word "amnesty," lists the 1986 immigration bill as one of its definitions.

These people got their legal status, their citizenship track, the benefits of welfare, earned-income tax credit, and all the other benefits that accrue for people in the United States, but the enforcement never came.

Remember, we said it was not going to happen again not too long ago, just

20 years ago. Where are we today? We now have an estimated 11 million people in our country illegally. We say we have to do something about this, but we cannot call it amnesty. But we will create this little system where they pay \$1,000 or \$2,000 and they are on a track to full citizenship—but it is not amnesty. Mind you, there is hardly any difference between what we did in 1986, but this year it is not popular to talk about amnesty because people have been around the country listening to their constituents, and the people of America are not happy with amnesty. They do not like it.

Many Members of this Senate have promised not to vote for amnesty. So all they do when they vote for this bill is redefine the meaning of words and say it is not amnesty. They just say it is not amnesty. They vote for it and say: I didn't vote for amnesty.

They have to wait a while before they get citizenship. They have to pay \$1,000. And if they held back taxes for 5 years, if they pay taxes for 3 of those years—and they pick the 3—then they have paid the price. They have paid the penalty. They earned their amnesty by paying back taxes. Yet American citizens pay their taxes all 5 years. How are you going to prove the back taxes anyway?

This is nothing more than amnesty. I drive this point home. What is the point? The point is, that has been put into law by the bill we passed in this Senate. Now they say: We will have enforcement this time; we are going to do the things that are necessary to have enforcement.

A lot of people say we really do not like a fence, but after they talk to their constituents back home—and I offered the amendment to have 350 miles of fences and 500 miles of barriers, and we had a vote. It passed 83 to 13—we passed an amendment to build the 350 miles of fences, 500 miles of barriers. We have authorized it, colleagues. That is all we did was authorize it.

I have heard the comments: I voted for the Sessions amendment. I voted to build a fence. I am for enforcing immigration laws. When do we build this fence? Where do we get the money to build this fence? What bill is it that the money has to come out of? It is a Homeland Security bill. That is the one in the Senate. We have been looking through the bill, reading the fine print, and it is not in there. The money to build the fence is not included.

We should be ashamed. We trumpeted this. The majority leader said he was supportive of this. Everyone was supportive of building a fence. When it comes time to pay up and actually buy the bricks or buy the wire and pay the people to do it, where are we?

I raised this in the Judiciary Committee. I offered an amendment sort of like the Isakson amendment at that time. Senator ISAKSON offered his amendment in the Senate that said: We see this problem coming, colleagues.

This has been the pattern. We authorize things, we make promises, but we do not follow through, so let's do the Isakson amendment which says none of this amnesty takes place until the enforcement takes place at the border and we follow through on the things we promised to do.

That is a pretty clever little amendment. Why would anybody object to that? Why would anybody who voted and promised to build fences, to add detention beds, to add agents—why in the world would you vote for those kinds of things and then not want to follow through on them?

I think it was troubling to me—troubling to a lot of Americans; I know troubling to Senator COBURN, the Presiding Officer—when Senator ISAKSON's amendment did not pass. Why? Why did Senator ISAKSON's amendment not pass? Well, the American people are pretty cynical now about our commitment and our integrity when it comes to matters involving immigration. And I suggested at the time and worried at the time that the reason the Isakson amendment did not pass was there was never any intention to fund the fence, to fund increased bed space, and fund the increased agents, make the US-VISIT program work—never any intention.

Now, wouldn't that be a bad thing? Wouldn't that reflect badly on the integrity of the U.S. Senate, when the whole Nation is looking at us? They are frustrated with us. They have not forgotten 1986. People remember that. They remember that. And they are looking at us: Are we going to do this again? And the first bill that comes up, we don't have money in it to fund the fence that we voted 83 to 16 to build. That is just breathtaking when you think about it.

It was a highly debated issue. It was probably one of the more noteworthy amendments in the entire debate. People thought it might be a close vote. As it turned out, it was an overwhelming vote. But it is easy to vote to authorize, isn't it, if you never intend to fund. That is an easy vote. I see the young people and the pages and those around here. Learn something about the U.S. Senate. It erodes public confidence in the integrity of the Government when you brag and speak glowingly about taking aggressive action to improve enforcement of immigration laws in America and then do not do it.

That is not good. That is just not good. The matter is not a little one. This is not a little matter. The American people know that immigration is important to our country. They know it is deeply important to our country. They care about it. They have been watching it. They watch it nightly on television. They write letters to their editor. They call my office. They call other people's offices. They complain about what is going on and how we have done our business.

They have every right to complain. They have every right to complain.

Why in the world would we ever suggest that somehow the American people are not generous and fair and decent when it comes to immigration? They really are. We are a nation that believes in immigrants. We are a nation of immigrants. We believe in immigration.

But people are frustrated. Some people say things that are harsh maybe about immigrants, but when you listen to most people, the anger that they are expressing is not at the immigrants, it is at those of us in Washington. It is at a string of Presidents, it is at a series of Congresses that have failed, refused to do what they asked them to do.

And what have the American people asked? They have asked that we create a lawful system of immigration and we create a policy of immigration that is in the national interest of the United States of America, that we allow a number of people to come in every year, that we make a rational judgment about how many that should be. People should not come in illegally. They should come in in accordance with law. And if they come in illegally, they expect the Government to stop them or apprehend them and deport them.

What is wrong with that? Is that harsh? Is it mean-spirited to say that we need to have a legitimate legal system involving immigration in this country? I suggest not. I have been looking at the numbers. I think it is adversely impacting the wages of working Americans. And I am prepared to debate it. But regardless, this is a matter we need to deal with. We are going to maintain a flow of legal immigrants into our country, and we should. We should set up a system that identifies people who are most worthy of coming into our country and approve them in a meritorious way, in an effective system.

We do not have that today. The bill we have passed pretends to be a comprehensive bill for immigration reform, and it is an utter failure. It should never, ever, ever become law. It is a total disaster. They say: Well, we will just send it over to the House. The same people who may well vote against funding this amendment say: We will just send this bill now over to the House, the House of Representatives, who they made fun of a few months ago for passing a border enforcement bill first. We will send it over there, and maybe we will fix all this.

How does it work in conference? The majority leader of the Senate appoints a group of conferees, the Speaker of the House does, the Democratic leaders in the House and the Senate appoint conferees, and this group of hand-picked Senators and Congressmen meet. They go meet someplace, and they work it all out, basically in secret, without any real input from the American people.

We have a bill from the Senate that has comprehensive review and reform, so-called, of the entire immigration policy of the United States of America

and the House of Representatives has a law enforcement security bill only. And these are going to be just written out of thin air by these hand-picked people in secret? I don't think that is healthy, not on a matter this important.

Let me ask you, do the American people have a right to expect that this Senate and the House of Representatives are going to protect their interests and do what they have been asking them to do for 30 years. Or do they have a right to be cynical and expect that they will meet, plot out some sort of immigration bill, trumpet it as solving all our problems, bring it on the floor of this Senate, not subject to amendment, and drive it through and pass it? And it will not work again just like 1986.

How can you test what we do here? How can the American people have a test of this Senate? I submit to you, one way is to watch the vote on the funding of the enforcement issues that are dealt with in the amendments I have offered.

So let's see. Are we going to pass a fence amendment or not? If we pass it, maybe we are beginning to get serious over here. But even that can be fixed in conference. That is not the final passage of the bill. They can still go into conference and take it out. But it would be a step.

I say this to my colleagues: If we vote down funding the agents, the fencing, the detention beds that we have authorized in this bill, why shouldn't the American people really look at us askance? Why shouldn't they say: they just authorized it, and they are not even going to fund this fence? They are not even going to add the agents? They are not going to even add the bed spaces? I think that is what the American people are going to ask. And the truth is, they are correct.

Now, some will say: Well, we don't have the money. We don't have the money? We spend over \$2 trillion a year in this country. What do you mean we don't have the money? We could do a "Cadillac" program for \$2 billion or \$3 billion. That is a lot of money. We are spending \$100 billion on hurricane relief, \$85 billion, in the supplemental, on the war.

Let me tell you some other things we spend money on in this country, when people say we don't have the money to do what the American people are demanding that we do: According to the Congressional Budget Office—this is from March 2006—spending for Social Security, Medicare, and Medicaid alone is expected to increase by \$106 billion from 2006 to 2007, a 9.5-percent increase. It is a 9.5-percent increase in Social Security, Medicare, and Medicaid alone, with the increase totaling \$106 billion. And we can't find \$1 billion or \$2 billion to make the border secure? Give me a break.

Defense spending: We spent \$76.8 billion in 2005 on that. How about \$32 billion to fund this Department, the

whole Department of Homeland Security? The bill budget for the Department of Homeland Security is \$32 billion. We cannot find another \$1 billion or \$2 billion to follow through on the commitments we made to make the immigration system in this country lawful? And within that Department of Homeland Security money is all the funding they will get. It is all the money we are going to get to increase immigration enforcement efforts. It is just not there. In this appropriations, the money has not been funded to meet the authorizations we passed and made a commitment to.

I am not here to break the budget. I am tired of that. I know the Presiding Officer is. He has fought harder than anybody I know in this Senate to bring integrity to spending, and I have been pleased to support him. But I will tell you, he has been a breath of fresh air and a great addition to the Senate. He has called our attention to the wasteful spending we carry on in this body on a regular basis. We cannot afford everything. We are paid to set priorities.

Has anybody ever listened to the people in their States about what they want us to do? I am telling you, they want us to make the immigration system a legal one, not a lawless one. They want us to spend the money that is necessary—no more but they want to spend whatever it takes. That is a priority with the American people. It should be a priority of those of us who are here because they are right. In the scheme of things, the money we spend is not that great, but it is important for us to do it correctly.

I will be offering amendments that will deal with five different areas. Those amendments will be offset, will not add additional spending to the budget or increase the debt in any way. We will set some priorities. We will set some choices. That is what the people pay us to do.

What do we need? We need strategic fencing and vehicle barriers at the border. We need an interior investigative agent increase—that is for the ICE agents, the Immigration and Customs Enforcement agents—to increase work-site enforcement. We need to increase the detention bed spaces.

Detention beds are critical. The reason is, we still are carrying out a catch-and-release policy. What do you mean "catch-and-release"? This is what happens: Someone comes into the country from a country, say, other than Mexico. They are referred to as OTMs, other than Mexicans—Brazil, Central America, South America, Asia—and they are apprehended here illegally.

What happens then? Well, you say: They try them and deport them. Wrong. Not really. What has been happening is, these particular people who are apprehended in this country illegally are not from Mexico, so they cannot be readily taken back across the border. They are then detained and then given a trial date. Since there are

no bed spaces, they do not have a place to keep them. What do they do? They release them on bail. They catch them and they release them on bail. They sign their name because they do not have any money to put up for the bail. They just allow them a signature bond, and they are asked to come back at a certain date to have their trial on whether or not they are going to be deported.

How many do you think come back? They have already entered the country illegally. They are apprehended and released. They do not come back for trial. One reporter did an interesting article that showed that 95 percent did not show up. What a joke that is. The only way to end the catch-and-release problem is to have enough detention beds so they could be detained until they could be deported from the country.

Secretary Chertoff is making some progress in this regard but not enough. We will never get there without some more beds. So if we are serious about making a legal system here work, then we need more bed spaces.

Everybody says we need worksite enforcement. We have a pilot program that has been played with for a number of years that is supposed to work. It really has the potential to work, but it is not working today. We need some more money for that to make that system work. If you don't want the workplace enforcement system to work and you are President of the United States, you don't ask for funding for a program that will work, and if you are a Member of Congress, you don't vote for the money to make the program work. If you are part of Homeland Security, you don't come and demand money so you can make it work. Everybody's hands are dirty on workplace enforcement. We know that. Let's be frank about it.

We need agents. You have to have law enforcement agents. Those law enforcement agents can have a tremendous impact on the worksite. It does not take that many prosecutions, frankly, to have a complete change in behavior. I strongly say we need that.

We need to protect the funds that were already appropriated for section 287(g). The 287(g) program is the cooperative immigration enforcement effort with State and local law enforcement. The Department of Homeland Security has this program. They train local law enforcement. They set up abilities to work together. If they apprehend someone for speeding and find out they are here illegally, then they call the agents and they can transfer them for processing and deportation. Wouldn't we want to see that happen? Wouldn't we want to take the help of State and local law enforcement agencies? Well, we don't have the money for that. We put the money in. It was in there for a while. Now they have spent it on something else. It is a bargain, a real bargain to do that.

Finally, we need to fully implement the exit portion of the US-VISIT sys-

tem to track visitors who leave the country as well as when they come in. That is what the system was set up to do. We have been working on it for 10 years. It has not been completed, they say, because of various problems.

Let's be frank. It hasn't been completed because Congress and the President over the last 10 or 15 years have not wanted it completed. There has been plenty of time to complete it. Agencies hadn't come forward and demanded the money necessary. They haven't told us what they needed. The President hasn't put it in his budget, and Congress hasn't spent the money. So it hasn't been completed. That is just it. I don't know any other way to say it.

We now can track people when they come in the country, and we need a good biometric card so people can enter really easily. If they have a legal right to come, they present their card. It clears immediately. They come right on through. If they work in the United States a week, they can go home and see their family, come back on Sunday or Monday, travel back and forth. They can do all those things.

We would like to see this system work. It can work. We are close to it, but we don't have the exit system working. Unless the exit system works, you have no idea of who is in the country and who has stayed, who did not go home when they were supposed to.

That is where we are. We will have some of those votes tomorrow. I don't mean to be unfair in my comments or unduly harsh, but the truth is the American people are watching us this time. They saw what happened in 1986. They don't want that to happen again. We should not want that to happen again. We should do what we promised to do. We should follow through and fund the projects that we have authorized. When we authorized these projects, we knew they were necessary to make this system move from a lawless system, a system that makes a mockery of law, to a lawful, decent system. It can be done. It actually can be done. It will not take an excessive amount of money, but it will take a significant amount of money.

Then there will be a tipping point. When people find out that the way to come in and work in the United States is to have a biometric card to come lawfully, that will be successful. If they wait in line, they can work. When they find out they can't get a job and it is very hard to get across the border, maybe impossible almost to come illegally across the border, they will quit coming illegally. When they can't get a job and it is too hard to get across the border, they will decide then to wait in line and get their card and come and work in due course lawfully. Right now the system is a mockery of the law. It is not working. Let's fix that.

When we vote tomorrow, we will send a signal to all those people back home that we are committed now to creating a lawful system of immigration. We are

going to follow through and put up the money, a significant amount of money, but in the scheme of the size of the United States budget, it is a very small amount to make this system work.

If you went back home and asked the American people, do you want to see us follow through, do you want to spend a few more billion dollars, \$2 to \$3 billion—that would be super; maybe we could do it for less than that—a couple billion dollars more than what we are spending today to make us move from a lawless system to a lawful system, they would say: Do it—in a heartbeat.

That is where we are headed. I thank the Presiding Officer for his leadership and commitment to creating a lawful system of immigration for the United States.

Ms. MIKULSKI. Mr. President, I supported Senator CLINTON's amendment to restore FEMA to Cabinet-level rank and establish it once again as an independent agency. In the early 1990s, as the chair of the Appropriations Subcommittee on VA-HUD, we funded FEMA. Senator Garn, my wonderful colleague, was my ranking member. We found that FEMA was a Cold War relic, and we went to work on a bipartisan basis, transforming it from a relic of the Cold War into a professional, prepared, all-hazards agency.

Hurricane Katrina was the storm we all feared. In the hours and days after Hurricane Katrina, like all of you I watched in disbelief and absolute frustration. Why? At the Federal Government's befuddled and boondoggled response blowing it. The people in our Gulf Coast States were doubly victimized first by the hurricane, second by the slow and sluggish response of our Government. And I thought: How like Hugo. How like Andrew. I didn't know about Betsy.

So this, of course, has prompted reform. Well, back in 1989 when we took a look at this, what did I see? What I found out as I took over the chairmanship of that subcommittee was that FEMA was a Cold War agency. It focused only on worrying about if we were hit with a nuclear attack. It was out of date, out of touch, and riddled with political hacks. If you had to give someone a favor job, whether it was at the Federal level or the State level, put them in civil defense. It was called civil defense. And many of us in my generation remember where we used to practice by hiding under those desks if war came. Well that is the way the bureaucrats were. Any time there was a question, they hid under their desk. So we set about reform. They were focused on something called continuity of Government. It was incompetent leadership. They had ridiculous ideas. In the event of a nuclear war—stop first at the post office and leave your forwarding address to these three shelters. So you get a sense of what it was like.

But Senator Garn and I looked at it. And then what happened was Hurricane Hugo hit the Carolinas, particularly

South Carolina. FEMA's response was very poor. The military had to come in to get power back up in Charleston. The people went for over a week without basic functions. Sound familiar? Our former colleague Senator Hollings had to call the President's Chief of Staff, John Sununu, to get help and call the head of the Joint Chiefs, then General Colin Powell, just to get generators from the Army. It was like cats and charmer cops. Are you in charge? No, I am not in charge. They had the generators but didn't ask. It was all of that. In the meantime, there was no water, no utilities in Charleston. We began then to begin to examine what steps to take in reform.

Then along the way we were hit with Andrew. Andrew, again, was the worst disaster. Yet FEMA's response was so bad and they were so inept that President Bush I sent Andy Card, then Secretary of Transportation, to take over. I remember seeing a woman named Katie Hale saying, "Where the hell is the cavalry on this one? We need food. We need water. We need people."

Having said all that, it was very clear to Senator Garn and me. Our job was to protect lives, protect people, and now of course protect the homeland. Working with Garn, and then Senator BOND, we worked to change it. We commissioned three studies, and I ask you to go take a look at them. One was a GAO study, the other was a National Academy of Public Administration, and then FEMA's own inspector general.

We looked at all of this, and we wanted to be able to prevent, do all we could for prevention, and do what we could to respond. Our goals then were: First of all, FEMA has to be professionalized. They need a professional director and a professional staff. Whoever runs FEMA has to have a background in crisis management, either to come from emergency response at the State level, the way James Lee Witt or Joe Allbaugh did, or from the military or private sector where they have done crisis management and know how to organize large numbers of people. But not only professionalized Washington but insist there be professionals at each State level. And I would emphasize reform must also be directed at the States. No matter how good James Lee Witt was, no matter how dedicated Joe Allbaugh was, if they didn't have the State functioning well, it wouldn't work. As we know, the genius of our system is that each State will have a different type of threat. The terrain is different, the threat is different. And they need to be ready. So the professionalization and the way was that each State submit a plan. If you don't do the right plan and do table-tops, you are not going to get the money. I think you have to have a muscular way to have State plans in place with professional people and where there are benchmarks for measurement and then use the ultimate withholding. That is tough, but let me

tell you, it works. So that is why we go for the professionalization of FEMA.

We focused on it being a risk-based agency—that means prepared for any risk that affects the risk base—because we thought then that the threat of the Cold War was coming to an end. The wall was coming down in Berlin, but the wall wasn't coming down in the Federal bureaucracy. So we said, what are the risks? The threat is natural disasters. And our States—we are coastal Senators, I share a coast with my colleague from Delaware—we are threatened by hurricanes. Soon as June comes, we are on our hurricanes readiness again—regardless of what the threat is. And now it is even more important because it could be an earthquake in California, a tornado in the Midwest, or, of course, a terrorist attack.

Next, be ready for all hazards. And again, it is the States that get ready with Washington offering the command and control and the ultimate backup of sending in the cavalry should the States collapse. All hazards need to be prepared like when we had a fire in the Baltimore tunnel—we didn't know if it was predatory or not. A hazardous chemical spill, a hurricane, a tornado or even a dirty bomb.

If we practice the three R's, of readiness, meaning if we are ready, and we are ready at the State level, then we can respond where the threat occurs and then you have the infrastructure ready for recovery. We were able to put the State plans, professionalize the agency, in place.

What was never really ultimately addressed, though, is the Federal backup if there is a complete collapse. That is something I believe needs to be very carefully examined because of two things: No. 1, I recall Governor Giles of Florida when Andrew hit. He said: We need NASA satellites to tell me what my coast line looks like. We can't even call the first responders. The firehouses are underwater. And you know all of the great tragedies that you have heard. There does come a time when there is only the Federal Government that can bring in, under some kind of doctrine of mutual aid, really come in and provide the resources necessary. We lost cities—we have never lost an entire city, except back to Betsy.

That has to be dealt with. The other is the role of the Vice President in our earlier recommendation. The Vice President always backs the President up, but in a big disaster, like when the big ones hit, the Vice President should move to the Situation Room and really take charge, to make sure the Governors can handle the job, that the Governors next to the States affected can provide mutual aid, and so on, because it is also an appropriate role for the Vice President should the President be out of the country. The Vice President would be prepared and also, should the Vice President ever have to take over for any reason, would know the complete working of the FEMA dis-

aster plans and how it should work. There are those other questions, too, of legal authority when the Government takes over. Our three R's have to be readiness, response, recovery. To do that we have to have professionalization, risk-based, all hazards.

You know, hurricanes are predictable. Terrorist attacks are not. And we have to be ready. Colleagues, I am concerned that whether it is avian flu or another hurricane getting ready for the season or something else, we don't know the answer, Who is in charge? That question has never been answered. Who manages the disaster? And most of all, who manages the panic around that? And who speaks? Your health committee members have just done a tabletop on bioterrorism. It is the same.

So I believe, No. 1, FEMA ought to be an independent agency. No. 2, maybe we need a disaster response agency, which handles this. But I also think we need to take a look at what would be our response and how we would handle these others, like avian flu. Are we going to call FEMA in? Is FEMA going to be avian flu? I don't know if we have to respond, but I don't think so. I would hope not. But should we have a new framework for that? What are the legal authorities? Can a President supersede a Governor if necessary? These are the big questions. But I believe we can create the right infrastructure. We can be ready for the natural disasters, and so on.

I am going to conclude by saying that when we work together, and I don't mean just us, but really work—we know how we have worked with Delaware. Just a couple of months ago, there was a terrible accident in a factory in West Virginia. The closest search and rescue team with helicopters was in Maryland with our State police. But because they had worked together, because they had trained together, because they knew each other, could talk to each other, trusted each other, my wonderful Maryland State troopers were able to go fly that 90 miles. The Coast Guard was too far away, this up near our Appalachian region. In the pitch blackness, with power lines around them when they couldn't see, they went down and were able to rescue two, and for the third they weren't sure whether he was going to get in the little basket that they have, but they stayed to make sure they were going to leave no one behind. Our State troopers did it, but they did it because they were professional, they were trained, they had worked together, they had trusted.

That is what they did that terrible night in West Virginia. It should be a model of what we need. Let's work together, train together, and trust each other. And that is why I supported this amendment to restore FEMA to Cabinet-level rank and establish it again as an independent agency

NORTHERN BORDER AIR WING INITIATIVE

Mr. LEVIN. Mr. President, I would like to enter into a colloquy with my

friend from West Virginia, Senator BYRD, regarding funds that have been included in Senator BYRD's amendment for Customs and Border Protection, CBP, air and marine interdiction, operations, maintenance, and procurement.

The northern border air wing, NBAW, initiative was launched by the Department of Homeland Security, DHS, 2004 to provide air and marine interdiction and enforcement capabilities along the northern border. Original plans called for DHS to open five NBAW sites in New York, Washington, North Dakota, Montana, and Michigan.

The New York and Washington NBAW sites have been operational since 2004. Unfortunately, not all of the sites have yet been established, leaving large portions of our northern border unpatrolled from the air and, in the case of my home State, the water. In the conference report accompanying the fiscal year 2006 DHS appropriations bill, the conferees noted that these remaining gaps in our air patrol coverage of the northern border should be closed as quickly as possible.

Given that the threat from terrorists, drug traffickers, and others who seek to enter our country illegally has not diminished, I believe approximately \$12 million of the funds included in Senator BYRD's amendment for air and marine interdiction, operations, maintenance, and procurement should be used by Customs and Border Protection to complete the remaining activities necessary to prepare, equip, and establish the Michigan NBAW site as Secretary Chertoff has indicated he would like to be able to do.

In an April 11, 2006, letter to me, Secretary Chertoff indicated that it was his Department's plan to open the Michigan site during the 2007 fiscal year, and the Byrd amendment will enable the Department to stick to its schedule. Mr. President, I will ask that Secretary Chertoff's letter and enclosures, my letter to the Secretary, and a colloquy from earlier this year be printed in the RECORD.

Mr. BYRD. I agree with my friend from Michigan. I understand that Secretary Chertoff has said that the establishment of the final northern border air wings will be completed in fiscal year 2007. These funds will help the Secretary meet his goal. My amendment, which was cosponsored by the chairman of our subcommittee and adopted unanimously by the Senate yesterday, provides \$105 million for air and marine interdiction, operations, maintenance, and procurement. Certainly, \$12 million of those funds could go to Michigan for the establishment of this important and final northern border air wing. I will work with the chairman in conference to ensure that the border security funds are retained in conference.

Mr. President, I ask unanimous consent that the aforementioned materials be printed in the RECORD.

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

DEPARTMENT OF HOMELAND SECURITY,
Washington, DC, April 11, 2006.

Hon. CARL LEVIN,
U.S. Senate, Russell Senate Office Building,
Washington, DC.

DEAR SENATOR LEVIN: Thank you for your letter from March 10, 2006 in which you requested clarification on the Department of Homeland Security's plan for the opening of additional Northern Border Air Wing sites in Fiscal Years 2006 and 2007. The Department is committed to enhancing our Northern Border security through the establishment of the needed air wings just as soon as the ground infrastructure, air assets, and experienced personnel can be made available. Consistent with my earlier testimony, the activation of the Montana air wing at Great Falls is well underway and should be completed by the end of this fiscal year. In Fiscal Year 2007, our objective remains the activation of the Michigan site and the initiation of activity on the site in North Dakota. This will give us a limited presence at all five of the primary Northern Border Air Wing sites by the year's end.

Based on the operational experience gained on the Northern Border and our continuing evaluation of available intelligence, we will add or relocate air assets and personnel among the five sites to provide the most comprehensive patrol coverage and to support ground interdiction operations. We may also establish a series of secondary air sites and/or deploy unmanned aerial vehicles along our border to enhance air coverage.

We have developed a fully integrated aviation plan that is undergoing review within the Department. The plan details our long-range objectives for enhancing border security through the use of our air force and how we intend to achieve the objectives over time. We look forward to sharing the plan with Congress as soon as the review is complete. I believe that the plan will underscore both the extensive work accomplished to date and the challenges that face us. For now, please find enclosed our responses to your specific questions.

Thank you for your continuing support of our efforts to secure our borders. If we may be of further assistance, please contact the Department's Office of Legislative and Intergovernmental Affairs at (202) 205-4412.

Sincerely,

MICHAEL CHERTOFF,
Secretary.

Questions to Secretary Michael Chertoff from the Honorable Carl Levin, United States Senate, dated March 10, 2006:

1. Will new Northern Border Air Wing Sites be established in Michigan and North Dakota during FY07?

a. When will specific sites in Michigan and North Dakota be selected?

b. When do you predict step sisters will be operational?

Response: Yes, the Department will begin the activation process for new air sites in both Detroit, Michigan and the Grand Forks area of North Dakota in FY 2007. The site survey for Detroit has been completed and preliminary work to assess hangar, maintenance, and support facility requirements is ongoing. Air assets are being identified for transfer to the site and staffing plans are being compiled. The FY 2006 appropriation provided \$2 million for the North Dakota site assessment, which is in progress and should be completed in late May 2006. The relocation of air assets and experienced personnel for both sites remains a challenge, and the Department will have to close smaller, less valuable, interior sites to support the Northern Border site activations. This should enable the Department to establish initial presence at both sites by the end of FY 2007.

2. Does the President's FY07 budget request for DHS include funding for the opening of Northern Border Air Wing sites in Michigan and North Dakota?

a. If so, how much money has been budgeted for the opening of the sites?

Response: The current cost to fully activate a single air wing site is approximately \$17 million (\$12 million for infrastructure, operations, and maintenance; \$5 million for staffing salaries and relocations), depending on specific site requirements and other factors. The Department is currently developing funding options to support the site activations.

3. What criteria were used to determine the order of Northern Border Air Wing sites to be opened?

Response: The order in which the border sites are activated was based on the known level of aviation, marine, and ground activity in each geographical area, combined with available intelligence on the threat. This resulted in Bellingham, WA and Plattsburgh, NY being activated first, with Great Falls, MT and Detroit, MI to be activated second. Grand Forks, ND was identified as the last of the primary sites to be established.

U.S. SENATE,

Washington DC, March 10, 2006.

Hon. MICHAEL CHERTOFF,
Secretary, U.S. Department of Homeland Security,
Washington, DC.

DEAR MR. SECRETARY: I am writing to request clarification of the Department of Homeland Security's plans for opening additional Northern Border Air Wing sites to complement the current sites in Bellingham, Washington and Plattsburgh, New York. You have testified before the Senate Homeland Security and Governmental Affairs Committee on several occasions that the Department plans to open sites in Michigan, Montana, and North Dakota in Fiscal Years (FY) 2006 and 2007. I strongly support the Northern Border Air Wing initiative and look forward to all five Northern Border Air Wing sites becoming operational in the coming years.

During your testimony before the Senate Homeland Security and Governmental Affairs Committee on March 1, 2006, you indicated to the Committee that the Northern Border Air Wing site in Montana would open in FY06, followed by the North Dakota and Michigan sites in FY07. However, an analysis of the President's FY07 budget request for DHS does not seem to support your testimony since there are no funds designated for the establishment of Northern Border Air Wing sites in either North Dakota or Michigan.

In light of these discrepancies, I would appreciate your response to the following questions:

(1.) Will new Northern Border Air Wing sites be established in Michigan and North Dakota during FY07?

a. When will specific sites in Michigan and North Dakota be selected?

b. When do you predict these sites will be operational?

(2.) Does the President's FY07 budget request for DHS include funding for the opening of Northern Border Air Wing sites in Michigan and North Dakota?

a. If so, how much money has been budgeted for the opening of these sites?

(3.) What criteria were used to determine the order of Northern Border Air Wing sites to be opened?

A Northern Border Air Wing site in Michigan will provide an additional layer of air and marine border security along a critical section of our Northern Border. The region for which the Michigan site will be responsible encompasses at least three of our Great

Lakes and several major ports along the St. Lawrence Seaway including Detroit, Cleveland, Chicago, Milwaukee, and Green Bay. In addition, Southeast Michigan is home to three of our nation's busiest border crossings and an unparalleled industrial base vital to our economy and national security. I hope you agree that the establishment of a Northern Border Air Wing site in Michigan is a national priority and I would appreciate your timely response to the above questions.

Should your staff have any questions, please feel free to have them contact Michael Noblet of my staff at (202) 224-3999.

Sincerely,

CARL LEVIN.

CUSTOMS AND BORDER PROTECTION

Mr. LEVIN. I would like to enter into a colloquy with my friend from New Hampshire, Senator GREGG, and my friend from North Dakota, Senator CONRAD, regarding funds that have been included in this bill for customs and border protection, CBP, air and marine interdiction, operations, maintenance, and procurement.

The Northern Border Air Wing, NBAW, initiative was launched by the Department of Homeland Security, DHS, in 2004 to provide air and marine interdiction and enforcement capabilities along the Northern Border. Original plans called for DHS to open five NBAW sites in New York, Washington, North Dakota, Montana, and Michigan.

The New York and Washington NBAW sites have been operational since 2004. Unfortunately, none of the other three sites have yet been stood up, leaving large portions of our Northern Border unpatrolled from the air. In the conference report accompanying the fiscal year 2006 DHS appropriations bill, the conferees noted that these remaining gaps in our air patrol coverage of the northern border should be closed as quickly as possible.

Given that the threat from terrorists, drug traffickers, and others who seek to enter our country illegally has not diminished, I believe an adequate portion of the funds included in this bill for air and marine interdiction, operations, maintenance, and procurement should be used by customs and border protection to complete the remaining assessments, evaluations, and other activities necessary to prepare and equip the Michigan, North Dakota, and Montana NBAW sites with appropriate CBP air and marine assets.

This bill requires that DHS submit an expenditure plan to the appropriations committee before any of the funds may be obligated. I urge DHS to include in their plan the funds necessary to stand up, equip, and begin operations at the three remaining northern border air wing sites in Michigan, North Dakota, and Montana.

Mr. CONRAD. I agree with my friend from Michigan. The fiscal year 2006 DHS appropriations bill included a small amount of funds to begin initial preparations for a NBAW site in my home state of North Dakota, but more funds are needed for the site to become operational. Secretary Chertoff has told us that the establishment of the three additional northern border air wings will be complete in fiscal year 2007.

A small portion of the air and marine interdiction funds in this bill would go a long way toward meeting this deadline and the goal of securing our long and currently porous northern border. I join Senator LEVIN in encouraging the DHS to include funds sufficient to stand up and equip the North Dakota, Michigan, and Montana sites.

Mr. GREGG. My friends from Michigan and North Dakota raise important points. I agree the establishment and equipping of the three remaining northern border air wings is a priority. The northern border has long been ne-

glected compared to the southern border. As my colleagues are aware, funds were appropriated in the fiscal year 2006 Department of Homeland Security Appropriations Act to initiate funding of the third northern border air wing in North Dakota. I am committed to seeing that the establishment of the remaining northern border air wings is accomplished as expeditiously as possible.

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

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

The legislative clerk proceeded to call the roll.

Mr. MCCONNELL. I ask unanimous consent that the order for the quorum call be rescinded.

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

MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that there now be period of morning business with Senators permitted to speak for up to 10 minutes each.

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

SOLE-SOURCE CONTRACTS AND IRAQ

Mr. DORGAN. Mr. President, this morning in the Washington Post there was an article announcing a decision by the Defense Department that relates to something I have held a good many hearings on through the Democratic Policy Committee in the past several years. We have been holding hearings on waste, fraud, and abuse with respect to the very large sole-source contracts that have been given to certain companies to do business in Iraq and provide food and fuel and logistics support for our troops. What we have discovered is very substantial waste, fraud and abuse.

This morning, finally, the Washington Post says: "The Army to End Expansive, Exclusive Halliburton Deal. Logistics Contract to be Open for Bidding." One of the side bars of the story talks about: "Whistle-blowers told how the company charged \$45 per case of soda, double-billed on meals, and allowed troops to bathe in contaminated water." All of these were issues given us to us by whistle-blowers who came to our Committee to testify because there was virtually no oversight on these issues by the other Committees.

The decision to terminate these sole-source contracts is long overdue. Sole-source contracts are contracts that are, in my judgment, invitations for abuse. The bill that I introduced some months ago, along with 30 other Senators, called S. 2361, the Honest Leadership and Accountability in Contracting Act of 2006, is a piece of legislation that insists on this exact provision, but goes much, much further—the provision that says we ought to break up these contracts and have them competed for so that the competition for contracts will give the taxpayers some feeling they are not being cheated.

A fellow named Henry Bunting testified at a hearing we held. He was a whistle-blower. He actually worked for Halliburton in Kuwait. His job in Kuwait was to purchase hand towels for American soldiers. So he got a requisition to buy hand towels for American soldiers, and he would order the hand towels. But then he was told: No, we don't want you to order those hand towels; we want you to order new hand towels. He brought a sample of the hand towels with him. The reason they wanted him to order different hand towels is they wanted the company name to be embroidered on the hand towels, which tripled the cost of the towels for the taxpayers.

No one would have believed that soldiers need to have hand towels with the embroidered name of the contractor providing the hand towels. That is exactly what happened. And it is exactly what the whistle-blowers told us was happening with respect to procurement.

This whistle-blower, who worked with the company, said: This is something my supervisor said we are going to do, and we did it. He said: We saw \$8,500-a-month SUV rentals. We saw \$40, \$45 a case for Coca-Cola.

It is pretty unbelievable when you hear all of the stories. Those stories come from giving billions of dollars of contracts to one company. That is what has happened on contracts called LOGCAP and RIO, and finally the Pentagon suggests maybe it is going to shut these down and require competition.

Looking forward, I am going to ask the Pentagon to consider all of the information that we have uncovered in these hearings, because provisions in defense contracting require that you hold companies accountable for actions they have taken in the past, when you consider new bids for the future.

It is interesting that this also relates to something that is now happening in the Pentagon. The woman who testified before the committee—there has been a great deal of discussion about her—was Bunny Greenhouse, the top civilian contracting official in the Corps of Engineers at the Pentagon. She rose to the top. Every performance evaluation said she was the best. People outside the Government who had dealt with her said she was the best, professional, knew what she was doing. She said:

I can unequivocally state that the abuse related to contracts awarded to KBR—

That is Halliburton—

represents the most blatant and improper contract abuse I have witnessed during the course of my professional career.

This woman was honest and public about what she saw. She was demoted. She lost her job. That job has now been filled by someone else, someone who has 40 years experience with the Government but has no contracting experience. A person with 20 years contracting experience, the highest civilian official in the Corps of Engineers