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## Senate

The Senate met at 9:45 a.m. and was called to order by the Honorable JIM DEMINT, a Senator from the State of South Carolina.

### PRAYER

The PRESIDING OFFICER. Father Daniel Coughlin, Chaplain of the U.S. House of Representatives, will lead us in prayer.

The guest Chaplain offered the following prayer:

As one Nation, indivisible, constant in vigilance, seeking liberty and justice for all, we place all our fears, anxieties, problems, and concerns under Your protection, Almighty God.

We pray for our troops, first responders in times of emergency, peacekeepers, and all who fight the war against terrorism.

This Senate Chamber also seeks Your guidance in all decisionmaking today, that we may prove ourselves worthy of the noble sacrifice offered by the men and women in uniform. Motivated by their bravery and willingness to shed their blood for our life and liberty as a Nation, all Americans ask what is it You require of us that we may become the virtuous people responsible to uphold the sound principles that wrought this Nation into being.

May law and order not only be the words echoed in the halls of government and the courts of this land, but let us give firm evidence to our promise to uphold the Constitution of this Nation by deeds.

May the ways of justice and peace flow from the way we live and by the common practice of business and the daily discourse of its people.

Lord, may we be a people truthful in our words and committed to action that will exhibit justice and lead to peace—now and forever. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable JIM DEMINT led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, July 11, 2006.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JIM DEMINT, a Senator from the State of South Carolina, to perform the duties of the Chair.

TED STEVENS,  
President pro tempore.

Mr. DEMINT thereupon assumed the chair as Acting President pro tempore.

### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

### PROGRAM

Mr. FRIST. Mr. President, today we have the first 30 minutes of the session set aside for a period of morning business. Following that time, we will return to the consideration of the Homeland Security appropriations bill. As I announced yesterday, we will finish that bill this week. Therefore, if Senators have amendments, they should come to the floor and offer them. The two managers were here yesterday and will be on the Senate floor shortly and ready for business. Therefore, Senators can expect some votes today relative to the Homeland Security appropriations bill, and we will alert everyone when

we lock in a time certain. The Senate will also recess today from 12:30 p.m. to 2:15 p.m. for our weekly policy meetings.

### DEFICIT DECLINE

Mr. FRIST. Mr. President, I wish to take a few moments to comment on some very good news the administration is releasing right now as I speak.

As required by law, the administration today releases its updated estimates for this year's Federal budget. Compared to their estimate last winter that the Federal deficit would top \$423 billion, today's news that the deficit will decline to \$296 billion is a testament to a dynamic and growing U.S. economy. That is 30 percent less than what had been forecast in just February.

It is an economy that exceeds \$13 trillion today, the largest of any country in the world. It is an economy with an annual growth rate that has consistently exceeded that of the other advanced economies around the world—England, Japan, Germany, France, Italy, and, indeed, the entire Euro area. It is an economy that has grown \$3.2 trillion since the end of 2000. It is an economy battered by corporate scandals, the terrible devastation wrought by September 11, and the worst natural disaster in centuries to visit our shores. It is an economy that has grown despite the more than tripling of oil prices in less than 5 years.

All this while fighting an ongoing battle to defeat global terrorism.

It is an economy that has grown steadily for the last 4 years and 8 months. It is an economy that has experienced job growth every month for the last 34 consecutive months and added over 5.4 million jobs since September 2003. It is an economy that provided 151 million Americans jobs just last month—the largest ever in history. It is an economy with a 4.6 percent unemployment rate last month

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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which was below the average of the 1960s, below the average of the 1970s, below the average of the 1980s, and below the average of the 1990s.

In short, it is an economy that has grown because of the grit and spine of the American worker, whose productivity exceeds that of all others. It has also grown because of explicit policies designed to lower tax burdens on the American public, to reduce the burdens of unnecessary and costly Government regulations, to limit the growth of unnecessary Federal spending, and then to step back and let the American workers release their great entrepreneurial competitive spirit.

The result: For the first 9 months of this fiscal year, total Government receipts rose by nearly 13 percent compared to the same period last year. That increase represents the second highest rate of growth for that 9-month period in the past 25 years, surpassed only by last year's strong record. Corporate tax receipts have grown over 26 percent, and individual tax receipts have grown 14 percent the first 9 months of this year.

When this strong growth in tax receipts is laid alongside spending that has grown about half as fast, it is no wonder the estimates released today show the Federal deficit declining rapidly.

We are making progress to bring our spending and revenue into line. Despite the cost of the Global War on Terrorism, despite the drain to our Treasury from Hurricanes Katrina and Rita and increasing costs of our health care system, we are making progress.

More needs to be done, and we cannot rest on the progress made to date. We must continue to limit the growth of unnecessary, parochial spending in the Federal budget. We must continue to find ways to lower the cost of providing health care to our seniors and to workers and their families. We must find new sources of energy for the future. We must invest the taxpayers' dollars wisely in those areas which will continue to increase our competitive advantage in a growing, competitive global economy. We must continue to lower tax burdens on families and businesses so they can plan, invest, and continue to contribute to a growing economy in the years ahead. We must do all this and more while continuing to strive to achieve fiscal balance. Today's figures confirm for me that we can and we will achieve these blessings for future generations.

I yield the floor.

THE ACTING PRESIDENT pro tempore. The Senator from Nevada.

#### THE ECONOMY

Mr. REID. Mr. President, I was not planning on speaking today, but I must respond to the distinguished majority leader's comments about what is happening to our economy.

One need only look at a newspaper. It doesn't matter which newspaper one

picks up. The one I picked up in the cloakroom is the Washington Post business section. The headline of the Washington Post business section reads:

Tax Cuts Credited; Long-Term Outlook Still Seen as Bleak.

And you flip down through the article, it says, among other things:

But the favorable news about the money rolling into the Treasury stems largely from shifts in the economy, including fatter corporate profits, executive bonuses and stock market gains, that reflect growing inequality, the administration's critics contend. And even the White House acknowledges that in the long run, the nation's fiscal outlook [seems very] bleak.

We need only look on the next page where the story is carried over:

The administration's estimate was widely derided at the time; budget experts said aides to President Bush were overestimating the red ink so they could claim credit later when the actual figures came in below forecast.

This is what they did. Earlier in the year, they talked about how big the deficit would be, and they planned that because everyone knew the deficit would be smaller than that. Smaller? Mr. President, \$300 billion—is that anything to brag about? I think not.

The news article further says:

But revenue often soars or plummets unpredictably with the stock market, and a troubling story emerges from a look at the main sources of the latest revenue bonanza, according to the administration's critics.

"This all relates to the widening income disparities between high-income individuals and the rest of the population. . . ."

Our economy is not in good shape. The distinguished majority leader brags about 5.5 million jobs having been created. During the administration of President Clinton, 23 million jobs were created. We went months during this administration when no new jobs were created. During the years of President Clinton, 23 million new jobs were created, and they were high-quality jobs.

During the last 3 years of the Clinton administration, we didn't have a \$300 billion deficit that people are bragging about today on the Senate floor. We paid down the debt. We spent less money than we were taking in. We brought down the national debt by about a half trillion dollars.

So, please, let's not boast about a \$300 billion deficit. Any statistic one looks at recognizes the rich in America are getting richer, the poor are getting poorer, and the middle class is being squeezed. I hope some reality will come to the situation we find now on the Senate floor where the majority leader is bragging about how great it is that we have a \$300 billion deficit. I don't think that is good news. I think it is bad news.

#### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

#### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for up to 30 minutes, with the first half of the time under the control of the Democratic leader or his designee and the second half of the time under the control of the majority leader or his designee.

The Senator from Nevada.

Mr. REID. Mr. President, I yield whatever time he consumes to the distinguished Senator from Illinois.

#### GUANTANAMO BAY

Mr. DURBIN. Mr. President, I thank my leader on the Democratic side.

Yesterday I visited Guantanamo Bay, along with my colleague, Senator GEORGE ALLEN of Virginia. RADM Harry Harris, commander of the Joint Task Force in Guantanamo, spent most of his day giving us a very informative briefing and a tour of the facilities.

I thank the admiral, and I thank all the soldiers and sailors at Guantanamo for their service to our country. They are great Americans doing a difficult job in a dangerous place.

I met with several young men and women from Illinois. I had lunch with them. As I always do, I left with even greater respect for our men and women in uniform. They are truly our best. They deserve our gratitude every single day.

I am old enough to remember the Vietnam war. It was a divisive war politically, and our divisions were taken out on the soldiers. That should never happen again. We can debate the policies of the United States on the floor of the Senate, but we should never debate the courage and commitment of our men and women in uniform. It is beyond reproach.

For some time, I have been critical of the Bush administration's policies on interrogation and detention. I believe these policies are not true to American values. They have hurt our efforts in the war on terrorism. They put our brave men and women in uniform at even greater risk.

Let me be clear. My criticism of the administration's policies does not reflect in any way on the fine men and women in the military. In fact, I think the Bush administration's policies in many cases have done a disservice to our military. The men and women serving at Guantanamo have a difficult job. The administration's confusing, conflicting, and, according to the recent Supreme Court decision, illegal policies have made their job even more difficult.

After the September 11 terrorist attacks, the Bush administration unilaterally decided to set aside treaties which the Senate had ratified and which had been followed and honored by previous administrations of both political parties—treaties that have served us well for generations.

Alberto Gonzales, who was then White House Counsel to the President, recommended to him that the Geneva Conventions should not apply to the war on terrorism. But Colin Powell, who was then Secretary of State, objected to Mr. Gonzales's recommendation. He argued that we should comply with the Geneva Conventions and that we could do so and still effectively fight the war on terrorism. In a memo to White House Counsel Gonzales, Secretary Powell pointed out the Geneva Conventions do not limit our ability to hold and question a detainee. He also noted that the Geneva Conventions do not give Prisoner of War status to terrorists. That was Secretary Powell's opinion.

In his memo, Secretary Powell went on to say that setting aside the Geneva Conventions:

will reverse over a century of U.S. policy and practice . . . and undermine the protections of the law of war for our own troops. . . . It will undermine public support among critical allies, making military cooperation more difficult to sustain.

When you look at the negative publicity about Guantanamo today, Secretary Colin Powell's words a few years ago were clearly prophetic.

Unfortunately, President Bush rejected Secretary Powell's counsel and instead stood by White House Counsel Gonzales's conclusion. On February 7, 2002, the President issued a memo dictating that the Geneva Conventions would not apply to the war on terrorism.

After the President decided to ignore the Geneva Conventions, the administration unilaterally created its own new detention policy. They claimed the right to seize anyone, including an American citizen in the United States, and hold him until the end of the war on terrorism, whenever that might be.

They claimed that Americans and others who were detained have no legal rights. That means no right to challenge their detention, no right to see the evidence against them, and no right to even know why they are being held.

In August of 2002, the Justice Department issued its infamous torture memo. This memo narrowly redefined the meaning of torture. It said abuse only rises to the level of torture if it causes pain equivalent to organ failure or death. The memo also concluded the President had the authority to order the use of torture, even though torture is a crime under U.S. law. This became official administration policy for over 2 years before it was withdrawn under public pressure.

Relying on the President's Geneva Conventions determination and the Justice Department's torture memo, Defense Secretary Rumsfeld approved numerous abusive interrogation tactics for use against prisoners in Guantanamo Bay, including threatening detainees with dogs and forcing detainees into painful stress positions for long periods of time. The International

Committee for the Red Cross has concluded that the use of these techniques is torture.

What has been the impact of the Bush administration's detention and interrogation policies? As a result of these policies, and despite the fine service of our military, Guantanamo has become a divisive, negative symbol of America around the world. Even Great Britain, our closest ally in the war on terrorism, has called for Guantanamo to be closed. This is what Lord Goldsmith, the Attorney General of Great Britain, said:

Not only would it, in my personal opinion, be right to close Guantanamo as a matter of principle, I believe it would also help to remove what has become a symbol to many—right or wrong—of injustice. The historic tradition of the United States as a beacon of freedom, liberty, and of justice deserves the removal of this symbol.

Some people dismiss our allies' views on Guantanamo. They say it is up to the United States to decide how to fight terrorism and other countries should stay out of our business.

Of course, we need to do whatever it takes to protect America and keep us safe, whatever the international criticism. But look at the price we are paying for these administration policies. Our closest allies say it is more difficult to cooperate with the United States' efforts in the war on terrorism. As Lord Goldsmith said, Guantanamo is harming the image of the United States around the world.

It bears noting that in terms of lives committed to the cause, Great Britain was our strongest ally in the invasion of Iraq. Their judgment on Guantanamo deserves our respect.

And it is not just foreign governments that have criticized the administration's policies. It is also brave Americans who are fighting on the frontlines in the war on terrorism.

According to a publicly released FBI memo, at least 26 FBI agents have complained about abuses they witnessed at Guantanamo. According to the memo, during 2002 and 2003, 17 of these agents were complaining about "DOD [Department of Defense] approved interrogation techniques." In other words, these FBI agents were not complaining about the actions of bad apples or rogue soldiers; they were complaining about tactics that were approved by the administration and were used at that time, in 2002 and 2003, at Guantanamo. The concerns raised by the FBI are currently under investigation by the Justice Department's Inspector General.

When I raised these concerns yesterday at Guantanamo, before the men and women who are in charge of that facility, they understood what I was speaking of. They referred me to the Inspector General and said these matters are under investigation. One of the lead interrogators drew me aside and said privately to me: I don't want to ever be part of that kind of conduct. I believe him, and I respect him for what he said.

In addition to FBI agents, several military lawyers, known as Judge Advocate Generals, have also raised serious concerns about administration policies. Their concerns are found in the so-called JAG memos which have been made public. For instance, Major General Jack Rives in February 2003 said:

We have taken the legal and moral "high road" in the conduct of our military operations regardless of how others may operate. Our forces are trained in this legal and moral mindset beginning the day they enter active duty . . . We need to consider the overall impact of approving extreme interrogation techniques as giving official approval and legal sanction to the application of interrogation techniques that U.S. forces have consistently been trained are unlawful.

Of course, the Supreme Court has weighed in now. In 2004, in two landmark decisions, the Supreme Court rejected the administration's detention policies. The Court held, as Justice Sandra Day O'Connor famously wrote for the majority in the Hamdi case:

A state of war is not a blank check for the President when it comes to the rights of the Nation's citizens.

Unfortunately, the administration continued to implement policies for the treatment of detainees that violate the Constitution, treaties, and laws of the United States.

Two weeks ago in the Hamdan decision, the Supreme Court again rejected the administration's policies. The Court held that the Administration's military commissions are illegal and that the President is required to comply with the Uniform Code of Military Justice and the Geneva Conventions. The Supreme Court reminded the President that no man is above the law, even during a war.

In my estimation, the fine men and women at Guantanamo are working hard to overcome the damage done by the Administration's policies. For example, they no longer use abusive interrogation techniques that the administration approved. In fact, as the chief interrogator told me yesterday, the techniques currently being used at Guantanamo comply with the Geneva Conventions. He said the Geneva Conventions provide sufficient flexibility to interrogate detainees effectively.

I asked the chief interrogator yesterday in Cuba at Guantanamo: If you were told today that you had to follow the Geneva Conventions in the way that you interrogate all of the detainees at Guantanamo, what would you have to change? He said: Nothing. I said: Do you follow the McCain torture amendment which passed the Senate 90 to 9? He said: We do.

So to argue that respecting the Geneva Conventions would in any way diminish our ability to interrogate these detainees is not right, at least not in the mind of our chief interrogator at Guantanamo. This is what Secretary of State Colin Powell told the President 4 years ago. I wish the President had followed his counsel.

According to a report in this morning's Financial Times, in response to

the Hamdan decision, the Defense Department has finally acknowledged that Common Article 3 of the Geneva Conventions applies to all detainees in U.S. military custody. If this is true, it is a belated but necessary and welcome step in the right direction.

Our troops at Guantanamo are doing their best, but they have a heavy burden to carry. Every day they wake up, put on their uniforms and face the challenges of performing a very difficult job. Now they face the added burden of attempting to rehabilitate the image of Guantanamo.

Our young soldiers and sailors should not have to carry that burden alone. It is long past time for Congress to help. Congress must ask: Have we given our troops an impossible task?

I have come to the difficult conclusion that it is time to close Guantanamo. We should immediately begin phasing out the detention and interrogation operations at Guantanamo Bay, with the goal of closing the Guantanamo detention facilities before the end of this calendar year. Even President Bush has acknowledged that Guantanamo should be closed. Despite the valiant efforts of our troops, Guantanamo has become a powerful, negative symbol around the world for the failures of this administration.

As Admiral Harris told me yesterday, many of the detainees can be charged, transferred to other countries, or released. In addition, there may be a continuing need to detain a small number of individuals who cannot be charged with a crime, but who still pose a danger to our country. I do not believe that we should release anyone who is a danger to our country or a danger to our troops. It is right that we hold them, if they are such a danger, in the appropriate legal fashion.

Of course, closing Guantanamo is just the beginning of this process. There are still many serious flaws in the administration's interrogation and detention policies. An example is the signing statement the President added to the McCain torture amendment last year, which still raises questions about what the intent of the administration is when it comes to torture. The Senate spoke 90 to 9 in a bipartisan fashion. I was proud to be a cosponsor of the McCain amendment, which said that we will not engage in torture, cruel, inhuman or degrading treatment of prisoners. That should be a clear standard for the United States to follow unequivocally.

The Supreme Court, 2 weeks ago, made it clear: We are a Nation of laws, even during a war. No person in America is above the law, including the President.

It is time for Congress to make it clear to the President that he is bound by the treaties we ratify and the laws we pass, whether it is the Geneva Conventions, the Uniform Code of Military Justice or the McCain torture amendment.

It is time for us to fulfill our constitutional responsibilities. Our brave

men and women in uniform are doing their job. Now it is time for Congress to do its job.

Mr. President, this trip yesterday was an important trip for me, personally, to see Guantanamo firsthand and to meet the men and women who are doing such a great job for our country. My heart goes out to them because I know the sacrifice they are making to serve our Nation. My heart goes out to them as well because, for the last several years, they have been given conflicting messages and conflicting policies from this administration. These men and women in uniform are trained to follow the rule of law and the Geneva Conventions and the Uniform Code of Military Justice, but the conflicting policies of this administration on torture and detention have created an atmosphere which is unfair to the troops and inconsistent with the values of America.

It is clear now that we must close Guantanamo. It has become a negative symbol of the United States around the world. We must transfer those prisoners to new facilities to signal to the world that the decision of the Supreme Court has charted a new course and a new direction for America, that we have received this message and we must move forward, and we must make it clear to the world that despite the threat of terrorism, the United States will still follow the rule of law, we will follow the Geneva Conventions, we will follow the Uniform Code of Military Justice, and we will follow the bipartisan McCain torture amendment. We must make it clear that we will keep America safe, and we will also protect our values in the process.

Mr. President, I yield the floor.

The ACTING PRESIDENT Pro Tempore. The minority's time has expired.

The Senator from Colorado is recognized.

#### STATE OF THE ECONOMY

Mr. ALLARD. Mr. President, I have in my hand a report that has been released about 12 or so minutes ago. It is a report on the fiscal year 2007 mid-session review. It is on the budget of the U.S. Government, put out by the Office of Management and Budget. It says pretty much what the Congressional Budget Office has been telling us for the last 30 days: That our tax cuts are working, the economy is strong, revenues are up, and deficits are down. Let me talk a little bit about the tax cuts and how they are bringing in additional revenues.

The Republican progrowth tax policies enacted in 2003 have triggered 2½ years of economic growth, unprecedented tax revenue increases and job creation. Since the 2003 tax cuts, America has increased the size of its entire economy by 20 percent or \$2.2 trillion.

A remarkable observation was made by CNBC's Larry Kudlow over the weekend, which I think helps to put this in perspective:

This \$2.2 trillion expansion is roughly the same size as the total Chinese economy, and much larger than the total economic size of nations like India, Mexico, Ireland, and Belgium.

Pursuant to the extraordinary economic growth spawned by the 2003 tax cuts, Federal revenues have rebounded sharply following several years of decline. I would attribute most of this to the fact that we targeted reducing taxes on those industries that would create more jobs and create more revenue for the Government, particularly the small business sector. I think one of the greatest incentives for the economy to grow has been the expensing provisions that we directed toward small business which allowed the small business to write off a greater percent of their operations within 1 year. It was a huge tax benefit to small business which has resulted in a lot of increase in the number of jobs and a lot more productivity and innovation from the small business sector. It is the small business sector that drives the major portion of our economy.

Revenues grew by a dramatic 14.5 percent last year and are forecast this year to grow by \$245 billion or 11.4 percent.

Last week, the Congressional Budget Office reported corporate tax receipts for the first three quarters of this fiscal year hit \$250 billion, nearly 26 percent higher than the same time last year. Corporate tax receipts, the taxes that corporations are paying, increased nearly 26 percent higher than the same time last year. The deficit is down. The expanding economy is good news for the budget, specifically the budget deficit.

This morning, the White House Office of Management and Budget released its annual midyear budget update. This year's budget deficit is now forecast to be \$296 billion, 30 percent below the administration's February forecast of \$423 billion, or 3.2 percent of gross domestic product. This deficit represents 2.3 percent of our economy, equal to the historical average. Progrowth policies, combined with ongoing efforts to restrain spending, continue to reduce the deficit and have put us on track to cut the deficit in half in 2008, a year ahead of the President's goal.

Jobs are growing. Last Friday, the Department of Labor reported that job growth continued for the 34th consecutive month in June. The economy has created about 1.85 million jobs over the past 12 months and more than 5.4 million since August of 2003. Similarly, the unemployment rate dropped from its peak of 6.3 percent in June of 2003 to 4.6 percent today. To put that in perspective domestically, at 4.6 percent, today's unemployment rate is lower than the average of the 1960s, 1970s, 1980s, and 1990s.

Let me repeat: Today's unemployment rate is lower than the average of the last four decades.

To put that in perspective globally, since 2004, the United States has created nearly twice the number of jobs as

the rest of the G7 countries combined. This job growth is not isolated to just one part of the country. Employment increased in 48 States over the past 12 months, ending in May.

Not only is the number of jobs on the rise, so, too, are wages. Hourly compensation has risen 3.9 percent over the past year, while average weekly earnings have grown to 4.5 percent.

The economy is strong, strong and poised to stay strong. The gross domestic product, a broad measure of the economy, grew at an annual rate of 5.6 percent for the first quarter of this year. This is the fastest growth in 2½ years and even stronger than previous estimates. It follows economic growth of 3.5 percent in 2005, the fastest rate of any major industrialized nation.

This remarkable growth has come on the heels of the burst of the technology bubble, the devastating attacks of 9/11, corporate scandals and destructive natural disasters. Similar to the American people, the economy has weathered the storm. The economy has done so due, in large part, to the Republican tax cuts and progrowth policies instituted since 2001.

On restraining spending, the question becomes, What can we do to continue these positive trends? I believe the answer includes keeping taxes low and restraining spending. We need to work harder in holding down our excessive spending. With respect to the latter, I remain gravely concerned about the runaway growth of mandatory spending. For example, 20 years ago entitlements, or mandatory spending, comprised 45 percent of the budget. Today they comprise nearly 60 percent of our \$2.8 trillion budget. If left unchecked, spending on just three entitlement programs—Medicaid, Medicare and Social Security—will consume 20 percent of our gross domestic product in just 30 years. To put that in perspective, the entire Government consumes 20 percent of gross domestic product today. Clearly, the growth is unsustainable and threatens our economic well-being, as well as that of our children and grandchildren.

I commend the Budget Committee chairman, Chairman GREGG, for his leadership on this issue and for introducing, along with myself and 24 other cosponsors, the Stop Overspending Act of 2006. This bill proposes tough measures to force Congress and the administration to adhere to a disciplined budget process.

The bill includes a line-item veto, or expedited rescission process, to allow the President to identify items of wasteful spending and send them to Congress for an up-or-down vote. It creates a new mechanism to essentially balance the budget by 2012. It reinstates discretionary spending caps in law, and it creates a bipartisan commission to identify and eliminate agency duplication and programs that have outlived their usefulness, as well as a commission to ensure the solvency of entitlement programs. It ensures a

budgeting process to allow Congress to have more oversight, and it addresses the shadow budget that has developed due to emergency spending by building reasonable assumptions of emergency spending into the discretionary caps.

In conclusion, the economy is strong, progrowth economic policies have fueled robust expansion which has, in turn, increased revenues at a rapid pace. As a result, the deficit is on target to be cut in half by 2008, a year earlier than the President's schedule. To continue these positive economic trends, we need to keep taxes low and further restrain spending.

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

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

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. AL-LARD). Without objection, it is so ordered.

#### GOP TAX POLICIES

Mr. DEMINT. Mr. President, I come to the floor amazed that our Democratic colleagues still claim that tax cuts are to blame for the budget deficit. In criticizing the President, they fail to mention that the previous administration handed this President a recession, corporate scandals, and a worldwide terror network that had gone unchallenged for 8 years. Now, similar to President Clinton, the Democrats say we need to raise taxes.

This is the same, tired argument they have used since the 1980s. Ronald Reagan answered them ably in his own humorous way when he said doing away with tax cuts in order to balance the budget was "like trying to pull a game out in the fourth quarter by punting on third down."

Now the new midsession review is answering these tax cut critics again. When we cut taxes, we invest in economic growth, which not only creates jobs but brings in new tax receipts, and that helps balance the budget. It also puts more money in the pockets of the American people.

Last year, we were happily surprised to see that the budget deficit for 2005 came in at \$108 billion less than anticipated due to the unexpected rise in tax receipts stemming from economic growth. This year, we see the same trend. The midsession review states that tax receipts have produced another \$127 billion in new revenues. This is exactly the opposite of what Democrats claimed would happen when we passed the jobs and growth tax cut packages in 2001 and 2003. One of my Democratic colleagues from Michigan said at the time that this bill would "create fewer jobs than what is needed" and "dramatically increase the deficit and national debt. . . ."

Another Democratic colleague from Wisconsin justified his vote against the

jobs and growth package saying: "I am still looking for the part of the package that will result in jobs and economic growth."

Senators, look no further. In addition to the \$235 billion total in new revenues, we have created 5.4 million jobs since August of 2003. And the Democrats still say that we can't afford tax cuts.

Republicans and the American people know better. A shrinking deficit and more Americans at work are proving we can't afford to raise taxes. I encourage my Democratic colleagues to remember what President John F. Kennedy—John F. Kennedy, one of their own—said, that "the soundest way to raise revenues in the long run is to cut tax rates now."

President Kennedy's words still ring true today. Cutting taxes allows working American families to keep more of their hard-earned dollars and encourages businesses to be competitive and invest in future growth.

Both Presidents Kennedy and Reagan understood it is business, not Government, that creates jobs and prosperity. This is why Republicans will continue to fight to stop future Democratic tax increases, to make Republican tax relief permanent, and push for comprehensive tax reform.

I am pleased that this midsession review offers yet more proof that the Republican's agenda to secure American jobs and balance the budget is working. We are making progress. It is third down and time for us to run the ball for a touchdown—not punt it away.

I yield the floor.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is 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.

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

Mr. GREGG. Mr. President, we are now back on the Homeland Security bill, which is an important piece of legislation as it addresses the issues of how we protect our Nation and how we deal with border security and threats involving potential weapons of mass destruction. It also addresses the issue of the management of the Department of Homeland Security, especially in areas where there have been issues, primarily—well, almost every function of

the Department has had some issues, but the ones that have been highlighted, of course, are those dealing with the Katrina catastrophe and FEMA's response to that. It is an important piece of legislation for a variety of issues, but I want to carry on a little bit with the discussion—and then I want to yield to the Senator from Louisiana, who has an amendment, but I want to continue the discussion on the issue which has been raised relative to the report that was put out today, the midsession review.

It is important for people to understand we are functioning in a Government that has fairly significant fiscal issues. We came out of the 1990s with the largest bubble in the history of this Nation, the Internet bubble—in the history of the world, honestly. And that bubble burst. That was a bubble in the tradition of the tulip bubble and the South Seas bubble, where basically people were printing money without any support behind it—called stocks. Stocks were being issued that had no value behind them. The stock value ran up, through exuberance, as Chairman Greenspan called it, irrational exuberance. When that burst, it basically took out of the economy huge amounts of liquidity. That was followed, of course, by the attack of 9/11, which was not only a catastrophic event from the loss of life and impact on our culture but also was a catastrophic event economically.

The President had the good sense to come forward with proposals which basically tried to address the economic side of the problems which we were confronting. We were headed into a very severe recession as a result of those two events. He proposed tax cuts which have been, I think vilified would be a kind word, from the other side of the aisle. He proposed those tax cuts basically on the theory that if you reduce the tax burden on the American worker to something that is fair, it will generate income because you basically create more incentive for people to be productive. It is human nature. Somebody is going to be able to take action which generates income. If they pay a very high tax on that action, they are going to have very little incentive to take that action. If they pay a reasonable and fair tax on that action, then they will take that action. The capital gains cuts is a classic example of that, where by cutting the capital gains rate we have seen massive amounts of economic activity that would not have occurred before when people would have sat on those assets, stocks, and real estate, or corporate assets. But because there was a lower and more reasonable capital gains rate, people have turned those assets over, which has had two effects.

First, it generated a taxable event which generated huge amounts of revenue to our Nation. In fact, the capital gains events have exceeded the expected baseline for those receipts by a factor of almost \$100 billion over the

last 2 to 3 years. Not only did they create those receipts, but it also took the assets which had been locked up in maybe productive assets but not as productive as they should have been and turned those dollars and those resources and capital investment into things which would be even more productively used because when people sell the assets, they take what they gain and reinvest it in a way which is going to produce even more income.

The practical effect of that is the dollars are working more effectively, the economy becomes more lean and more productive, and the result is even more revenue.

So the practical event is we have seen a huge increase as a result of the tax cuts which the President put in place with the support of this Congress—the Republican Congress, obviously, and not from the other side of the aisle—we have seen a huge increase in the rate of revenue growth in this country. During the last 2 years, revenue jumped 14 percent last year, and it is up almost another 13 percent in the first part of this year.

The effect of that has been that we have seen receipts coming into the Federal Treasury which have reduced the deficit dramatically from what was expected, down from \$423 billion to below \$300 billion. We are still continuing on that path. It is an extraordinarily positive path.

Most of those receipts, ironically, come from corporate America and the higher income quadrant of taxpayers in the American economic system. Those are the folks who are paying more in taxes today—from whom we are getting more tax receipts. We are back to basically the historical level of tax burden in this country—around 18 percent gross domestic product being raised through revenue. The problem we have today is not that we are undertaxed. In fact, we are generating a lot of revenue through overspending. What we need is control of spending.

This President has tried to do that on the nondefense discretionary side, but we still need to address the entitlement side of the picture and we need to address, obviously, how we manage catastrophes such as Katrina.

That brings me to the second point I wanted to make, and that is the Democratic response to this has traditionally been to get rid of these tax cuts. It is pretty hard to take that position any longer because tax reductions are generating so much revenue. Now their position is they are going to bring up Social Security, and they are going to talk just about Social Security. What a tired prescription that is. What a reflection of bankrupt ideas that is. They are once again trying to scare senior citizens over the issue of Social Security. That has been going on for 40 years.

When I was first elected to office, I talked to Tip O'Neill, who was Speaker of the House at that time, about what the Republicans who were serving in

the House in the early 1980s were going to hear during the next campaign. He said we are going to hear about three things: Social Security and Social Security and Social Security.

That appears to be the new tactic which has been gone back to—bring out the bloody shirt of Social Security and wave it at the Republican Party while ignoring, for example, the fact that we have a very serious problem in the out-years with Social Security and other retirement benefits. The Social Security system has an unfunded liability of approximately \$12 trillion over its actuarial life. That is because there are many senior citizens who are going to be taking down Social Security as the baby boom generation retires.

What is the reaction on the other side of the aisle? Before any discussion can be pursued on the issue of Social Security, they immediately bring out the bloody shirt: Republicans are going to destroy Social Security; they are going to privatize Social Security; they are going to try to eliminate—"savage" was the term used by the Democratic leader—savage Social Security. Where are their proposals to address Social Security? Where are their proposals to address any entitlement reform other than to suggest that we raise taxes through their "paygo" proposal, which is actually "taxgo." They have no proposal. You can't tax your way out of this problem.

In fact, we have the right tax policy in place because we are generating huge revenue. What you need to do is aggressively address the spending side of the ledger. Therefore, I put forward a proposal which is supported by a large number—30 cosponsors—of my colleagues on this side of the aisle which sets out eight different initiatives called "SOS"—stop overspending—the purpose of which is to get our long-term fiscal house in order. Even though the deficit is coming down probably below even what would be a balanced budget for all intents and purposes if we weren't confronted with a war which we have to fight and the Katrina situation which we are confronted with—in fact, if you took the cost of the war out, which we have to spend because we are confronted with a war on terror, which is for our survival, if we took the cost of Katrina out, we would essentially have a balanced budget next year. That is the fact.

But we also have to face the fact that in the outyears when the baby boom generation retires, that is not going to be the case. There will be a huge amount of pressure on us because the cost of sustaining the retirement benefits is going to overwhelm the younger generation's ability to pay for it. We have to put forward an aggressive program to resolve that issue, to make the cost of Government affordable for our children while still delivering quality services to those who retire.

We can do it if we think about it and start soon to address it. That is what SOS does. There are eight different proposals to try to accomplish that.



I hope that we will take it up and at least aggressively debate it because it is an idea that basically uses the process to push policy, and the policy is what we need. We need to get on that case.

At this time, I yield the floor. I understand the Senator from Louisiana has an amendment to offer. We look forward to proceeding with the amendment process relative to the homeland security matter.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana.

AMENDMENT NO. 4548

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

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. VITTER], for himself, Mr. NELSON of Florida, and Mr. COBURN, proposes an amendment numbered 4548.

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

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

The amendment is as follows:

(Purpose: To prohibit the United States Customs and Border Protection from preventing an individual not in the business of importing a prescription drug from importing an FDA-approved prescription drug)

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

SEC. 540. None of the funds made available in this Act for United States Customs and Border Protection may be used to prevent an individual not in the business of importing a prescription drug (within the meaning of section 801(g) of the Federal Food, Drug, and Cosmetic Act) from importing a prescription drug that complies with sections 501, 502, and 505 of such Act.

Mr. VITTER. Mr. President, the goal of this amendment is very straightforward. It is about breaking down the artificial barrier that prevents many Americans, including many seniors, from obtaining safe, FDA-approved, and affordable prescription drugs.

It is no secret that Americans pay more for their medicine than any other citizen in the world, of any other industrialized country. Yet our country is the biggest marketplace for these drugs in the world. Our seniors are buying their medicine in Canada as a result of that and in some other countries simply because it is cheaper. There is no other reason. Yet we see an increasing ratcheting up by Customs and protection agents in an effort to seize these personal legal medicines from Americans who are crossing from Canada back to the United States.

That is why I bring my amendment to the floor—to stop this idiocy and lunacy. My amendment is simple. Stop that escalating practice by the Customs and Border Protection of seizing personally used, FDA-approved medicines from American citizens reentering the country. My amendment would do this by simply prohibiting

funds from being used for this Customs and Border Protection activity.

Let me reiterate some very important things about this amendment.

First of all, it would do nothing more and nothing less than allow our own citizens who are reentering our own country to be able to possess FDA-approved prescription medicines for their own personal use with a legitimate doctor's prescription.

That brings up a second very important point. When we talk about prescription drug imports, there are really two types that we often talk about and deal with: commercial imports by wholesalers, huge quantities brought in for the purpose of resale in this country, and personal imports by consumers.

My amendment is simply about personal imports by consumers. We are not talking about huge quantities. We are not talking about resale within the United States.

Third, my amendment is limited to FDA-approved drugs. There is this erroneous notion that sometimes comes up in this reimportation debate that somehow we are bypassing the entire FDA approval process, that somehow we are throwing out the window that entire process by which the FDA approves certain drugs after rigorous testing and analysis. None of that is true, particularly with regard to my amendment, because, again, my amendment only applies to FDA-approved drugs.

Fourth and finally, my amendment only applies to citizens who have a valid doctor's prescription to obtain these drugs. What could be simpler and make more sense than simply allowing American citizens who possess these legal drugs that they obtain with a doctor's prescription, FDA-approved for their own personal use, not huge quantities, to allow them to possess these legal drugs as they reenter their own country, the United States of America?

This amendment would not legalize reimportation full-scale. It would not legalize wholesale reimportation. It would not get into so many of the more controversial aspects of the issue. It would simply say we are not going to allow Customs and Border Patrol to ratchet up this activity by taking away seniors' drugs as they come into our country.

I think it is very significant and noteworthy that this sort of reimportation measure has enormous support certainly in this country but also in the Congress.

I want to point out some specific legislative history that demonstrates this support.

Congress has shown support for this in numerous ways, including very recently. First of all, my amendment was passed in the House. A nearly identical version of the amendment was offered by Representative EMERSON of Missouri. That amendment was attached to this very same appropriations bill in

subcommittee, and it survived the entire process going through the committee process and the floor.

That amendment is identical to the amendment which I am presenting on the Senate floor today. It passed through the entire House process with very strong support.

There are other instances that show very strong bipartisan support for this sort of measure. Recently, the House passed an Agriculture appropriations bill. There was also a significant reimportation provision put on that bill and included on the bill in the committee process, at the committee stage of consideration of the bill. That underlying bill, including that very important reimportation amendment, was passed overwhelmingly in the full Chamber by the full House by a vote of 378 to 46. I thank my House colleagues, Representative EMERSON and Representative GUTKNECHT and many others for their leadership in this regard.

Finally, an entire freestanding bill has been passed through the House before on this issue, the Pharmaceutical Market Access Act. That was in 2003, and by a vote of 243 to 186 after, I might add, the most intense lobbying in the House that I ever experienced because I was a Member of the House at that time—lobbying by the pharmaceutical companies against this bill. That freestanding bill passed the House by a very significant vote, 243 to 186.

I note that bill was far broader than the personal reimportation amendment which we have on the floor today. Again, it demonstrates the significant bipartisan support all of these reimportation measures have, certainly in the country at large, including in the Congress.

Finally, I note another victory we had not too long ago with regard to trade language. There was the very worrisome practice up until recently that the administration's U.S. Trade Representative would negotiate into many bilateral trade deals language which effectively barred reimportation from the other country—the trading partner. This was very unfortunate because it was closing the door to reimportation before it even had been opened by the Congress through trade negotiation.

Because of this very unfortunate practice, many of us in Congress, the House and the Senate, went to the administration and expressed our concern. Even more importantly, we brought language in the form of an amendment and attached it to an appropriations bill. That language said: Stop doing this; you cannot do it; it is ridiculous to negotiate free-trade agreement barriers to reimportation. We passed that language into law. I worked with my Senate colleague from Michigan on that issue. Many like-minded House colleagues worked on it in the House. We passed that into law. Most recently, the administration has acknowledged they will end this practice once and for all of negotiating this

antireimportation language in trade agreements.

There is enormous support for this type of measure in the country. There is also significant bipartisan support for this in the Congress, as has been demonstrated many previous times.

In this discussion, we should focus on the individuals—particularly the seniors—who are compelled to cross the border in many instances to get affordable prescription drugs. We should not focus on the wishes, the pleas, and the intense lobbying by the drug companies. Seniors face enormous hurdles as they face their declining years with the escalating costs of prescription drugs. We should not add this additional hurdle to the list, with Customs and Border Patrol agents forcibly seizing legal, FDA-approved medicines procured with a doctor's prescription as seniors come back across the border.

Finally, in closing, as we think about this amendment, we should also consider what the true priorities of the Customs and Border Patrol should be. We are at war. It is a different type of war than we have ever faced before—a war on terror. That war has been brought to our own shores by very evil-focused people who came into this country illegally. We face new escalating threats, including potential threats from weapons of mass destruction. Our borders are a very important battleground in that war on terror. Yet in this new post-September 11 context, we will devote significant resources, significant focus on stripping seniors of prescription drugs they have gotten with a doctor's prescription, FDA-approved drugs, for their own personal use, with no wholesalers and no resale. That is a ridiculous policy for the Customs and Border Patrol to continue.

In the post-September 11 world, we should demand that Customs and Border Patrol focus on the true priorities we face in the war on terror. Stripping these small amounts of prescription drugs from the hands of seniors, which are attained with a prescription, which are FDA approved, which are for personal use, which are not for resale, not for wholesale, not obtained by wholesalers, should not be a priority of the Customs and Border Patrol.

In closing, let me again thank my colleague from Florida, Senator NELSON, who will speak in a few minutes. Also, I thank the Senator from Oklahoma, Mr. COBURN, for cosponsoring this amendment with me, and all of my colleagues who have worked on this issue, including many House Members.

Each year, millions of Americans who cannot otherwise afford their prescription drugs go into Canada with a doctor's prescription, buy FDA-approved drugs, and take them back into our country. We should not sick the police, the Customs and Border Protection agents on them, particularly in a post-September 11 world when that agency in particular has far more important priorities.

I urge all of our colleagues in the Senate to support this simple, straight-

forward amendment. It is the right thing to do on this issue. It is the right thing to do with regard to setting the right priorities of Customs and Border Patrol.

Mr. GREGG. Will the Senator yield?

Mr. VITTER. I am happy to yield.

Mr. GREGG. To understand the amendment, would this amendment cover purchases over the Internet or purchases by mail order?

Mr. VITTER. It would cover any purchases which are subject to seizure by Customs and Border Patrol. I don't off-hand know if those purchases are ordinarily subject to that seizure. I believe most of what we are talking about is personal seizure at border checkpoints when individuals are crossing back into the country, but the amendment would cover any potential seizure by Customs and Border Patrol.

Mr. GREGG. If the Senator will yield further, I think he may have answered the question. As I understand it, it does cover Internet purchases and purchases by mail order. Customs has jurisdiction over those should they come across the border.

Mr. VITTER. If they are subject to that seizure, yes, as I stated, the amendment would cover that.

Mr. GREGG. Mr. President, if the Senator will further yield, it would also apply to purchases that could come from any country—we are not just talking about Canada? For example, purchases from England, they could come from India, they could come from Cuba, they could come from Libya, they could come from even states that have been identified as terrorist states?

Mr. VITTER. In its present form, the amendment would cover any country. We have a change in the amendment we are submitting to the desk to exclude a certain list of countries, including most of the countries the Senator mentioned.

Mr. GREGG. I ask further, would it exclude India?

Mr. VITTER. No, it would not.

Mr. GREGG. Would it exclude Pakistan?

Mr. VITTER. No, it would not.

Mr. GREGG. Would it exclude Brazil?

Mr. VITTER. No, it would not.

Mr. GREGG. If I could ask further, the FDA position, as I understand it, is that drugs which are unapproved for sale which come across the border violate the FDA approval. The Senator, in his statement, referred many times to "FDA-approved drugs." As I understand the process today, the FDA views any drug purchased outside the United States, distributed outside the United States, as being unapproved for sale and therefore not meeting FDA standards. Is that not a correct analysis of the FDA view of how it views drugs that come into this country?

Mr. VITTER. I think it is an exactly correct analysis of the FDA view based on the fact that the FDA, at least in this administration, is completely against reimportation, so they have de-

fined FDA approval to specifically exclude reimportation.

Mr. GREGG. That is correct. But if the Senator would yield further, the Senator is making a point in his statement that these would be FDA-approved drugs the people are purchasing when, in fact, they are not FDA-approved drugs because no drug that is imported into the United States, distributed outside the United States, can receive FDA approval under their rules because the FDA decided they cannot certify the efficacy and safety of those drugs. Isn't that the FDA position today?

Mr. VITTER. The FDA position is exactly as the Senator says. They are against reimportation, so they have defined FDA approval on technical grounds to exclude by definition anything that comes in from other countries. The point of my remarks is that these are exactly the same as FDA-approved drugs.

Mr. GREGG. If I could inquire further, that is the essence of the difference. The FDA does not deem them to be exactly the same because the FDA cannot certify their efficacy and safety. That is why the FDA has said that because they are not manufactured here, because they do not have control over the manufacturing process, because they do not know how they have been adulterated or may or may not have been adulterated or how they have been synthesized, they are not going to approve drugs coming into this country. So there is a significant difference between what someone buys overseas and what someone buys in America.

Mr. VITTER. If I could respond, in claiming my time, I disagree with that wholeheartedly.

Yes, the FDA has refused to take any action to do that. Can they? Absolutely, they can. Is it possible to do that, particularly in the modern age of packaging technology? Absolutely.

Most of the drugs we are talking about, in fact, are manufactured either in this country or in the same manufacturing points as the drugs that are bought in this country. So I disagree with the premise the Senator has laid out. But that is certainly the FDA's position, not to attempt to do any of that and to be completely, 1,000 percent opposed to reimportation.

Mr. NELSON of Florida. If the Senator will yield.

Mr. GREGG. If I could ask the Senator a few more questions, then I am happy to yield the floor.

Assuming your hypothetical is correct, that the FDA could reach beyond our borders and could effectively review these drugs, which the FDA claims it cannot do, which is why they said they will not approve this, your amendment says that Customs and Border Patrol shall not be able to stop these drugs from coming across the border.

Customs and Border Patrol does not have any control over the efficacy or



safety of these drugs. This amendment should really be directed at the FDA because to put Customs and Border Patrol in this position means they have to release drugs which the FDA today is saying it does not approve. Yet there is no process for having the FDA come in and be required to approve them under the Senator's amendment.

Mr. NELSON of Florida. Will the Senator yield so this Senator can get in on this conversation?

Mr. VITTER. I am happy to yield to the Senator from Florida, and I am happy to respond to the other points at some future time.

Mr. NELSON of Florida. If I may, this is a matter which can easily be worked out. The questions the Senator from New Hampshire are raising are very legitimate questions. It is a matter that can easily be worked out if the administration is given some direction.

For example, approximately a year and a half, 2 years ago, the Acting Director of the Food and Drug Administration, Mr. Crawford, made it clear to this Senator that the FDA was not going to object to private prescriptions for Americans coming from Canada for a limited supply—such as 90 days for personal use—which is the biggest part of the objection the Senator from Louisiana and this Senator from Florida have, that senior citizens are being prohibited from getting the great discounts they can get either by ordering them from the Internet, by mail, or personally going over to Canada.

If there were an intention to work out this problem, it could be done between all of these agencies that the Senator from New Hampshire is raising.

Mr. GREGG. Mr. President, if I might renew my question, the Senator from Florida may not have been in the Senate when I asked, Does this apply to Internet purchases, and the answer is yes; does it apply to mail order purchases, and the answer is yes; does it apply to countries such as India, Brazil, Pakistan, and the answer is yes. I understand the Senator from Louisiana will modify the amendment to take off a list of countries that it would not apply to, terrorist nations such as Sudan and I guess Cuba.

I renew my question because I am not sure the Senator from Florida was dispositive on it, which is, Shouldn't this amendment be directed at the FDA because to direct it at Customs and Border Patrol means that Customs and Border Patrol will be stopped from basically taking the drug which comes into this country, which FDA has now declared it cannot certify the efficacy and safety of, taking that drug, sending it over to FDA, and having the FDA evaluate it? Customs and Border Patrol has no expertise in evaluating efficacy and safety of drugs. For all we know, the drug that is being ordered over the Internet under the Senator's amendment could be anything. It could be claimed to be Lipitor, but it could be rat poisoning. In fact, recent anecdotal studies have shown something

like 80 percent of the drugs coming in through the Internet do not meet the standards they claim they do meet.

So why would you amend this bill to put Customs and Border Protection in the untenable position of having to basically release drugs to come into this country, which the FDA says it cannot claim are safe, when you have not put in the higher regime requirements of having the FDA come in and determine whether those drugs are safe?

Mr. VITTER. Mr. President, I would respond to the chairman by saying that amendment after amendment after amendment has been directed at the FDA to do the right thing and create a sensible regime with regard to this issue, and the FDA is flatout opposed to this and has made no effort in that regard, even though there is clearly the technical capability to do that through packaging technology and the like. So this is an effort to make the entire administration—all aspects that need to be involved—do the right thing.

But to say we have not asked the FDA to do this is ludicrous. We have been trying to drag them—kicking and screaming—to do the right thing for several years now. In fact, while they hide behind these safety arguments, I am afraid they are allowing safety issues to go by unaddressed.

In fact, this practice is common. Whether this amendment goes on this bill, whether this activity of Customs and Border Protection continues, one thing is certain: Seniors will import, for personal use, prescription drugs from Canada and elsewhere. That will go on, to a very significant extent.

Even if this amendment does not pass, Customs and Border Protection will never round up all of those drugs. This is a common and a growing practice because of the price issue.

So the question is: When is the FDA going to wake up and truly address these concerns that the chairman brings up with some sensible regime? This amendment is designed to force them in that direction.

But to suggest we have not asked them to do this, that we are going to the wrong agency, is a little silly because we have been asking them to do this for several years now. And we renew that request now.

Mr. GREGG. If the Senator will yield for one last question, and then, obviously, the Senator from Florida wants to be heard on the subject. But it is not silly because basically the fact pattern that is going to be created—were this amendment adopted and if it became law, without any directive to the FDA they have to step forward and actually evaluate these drugs to see if they meet safety and efficacy standards—the practical effect of this amendment would be that Customs and Border Protection could not stop any drugs coming into this country from other countries. That would include countries such as Pakistan and India and other countries which have some serious

issues as to the efficacy and safety of those drugs.

In fact, if I were a creative terrorist, I would say to myself: Hey, listen, all I have to do is produce a can here that says "Lipitor" on it, make it look like the original Lipitor bottle—which is not too hard to do—fill it with anthrax and have a bunch of people from the United States order it who might be affiliated with me and import it that way into this country—or anything else they want to use in a biological way.

Here we are telling Customs and Border Protection that their job is to ratchet down on the capacity of terrorists to use entry ports into this country. And what you are saying in this amendment is: You, Customs and Border Protection, are not going to be allowed to evaluate anything that comes into this country which has a seal which makes it look like it is an FDA-type of drug. And the FDA will not have reviewed it. So nobody will have reviewed it.

So I think what you are creating—in your attempt to push FDA into doing something you feel they are not doing that they should do, you have targeted the wrong agency, and you are actually creating a massive hole in our capacity to secure our borders and protect ourselves.

Mr. VITTER. Mr. President, reclaiming my time, let me respond to the chairman's remarks with two comments. First of all, the FDA—right now, today, this hour, as we speak—has all the authority it needs to take any of the actions the chairman has described. It does not need any additional directive or authority. It has that authority. So the suggestion that somehow we need to act toward the FDA to give it that authority before it can move is absolutely not the case. In fact, we have been trying to get the FDA to act in this regard for several years because there are legitimate safety issues that should be met.

Secondly, I compliment the chairman for trying to figure out a scenario in which this is a true top priority of Customs and Border Protection in a post 9/11 world. I just do not think it adds up, though. I do not think, with all the border security and terrorist threats we face as a nation, allowing the Customs and Border Protection agents to continue—to even escalate—their practice of taking away small amounts of prescription drugs from seniors crossing back from Canada, et cetera, is the right thing to do, is a right priority for Customs and Border Protection.

With that, Mr. President, I yield back my time and look forward to the comments from my amendment cosponsor, the Senator from Florida.

The PRESIDING OFFICER (Mr. BURR). The Senator from Florida.

Mr. NELSON of Florida. Mr. President, here is an example. If we want to

solve this problem, the different agencies of the Government can come together and solve this problem. We already have it on the record, in correspondence and telephone conversation between this Senator from Florida and the FDA, that they have no objection to an up-to-90-day supply coming from Canada, ordered by American citizens, either by the Internet, by mail, or by personally going to Canada.

And what about the safety the Senator from New Hampshire has raised? Safety: It is coming from the same drug manufacturers we presently have in America; the very same drug, very same packaging, very same pharmaceutical laboratories. The big difference is our citizens—and particularly this applies to our senior citizens—can get these prescription drugs at a much lower price.

Now, I would encourage the Senator from Louisiana, in order to avoid the attacks on the amendment, as have been raised by the Senator from New Hampshire, to pare down the amendment so that those attacks cannot apply.

The safety issue of prescription drugs coming from Canada cannot be assailed because those drugs come from the very same manufacturers, in the very same places, as those prescription drugs that are, in fact, provided to our American citizens.

Mr. VITTER. Will the Senator yield on that?

Mr. NELSON of Florida. Of course.

Mr. VITTER. I appreciate the suggestion. In fact, we have been talking to the chairman's staff about additional language, which we would ask be added to the amendment by unanimous consent, to create a list of countries to which this cannot apply and would specifically ask the chairman's staff for the appropriate list of countries for us to consider, a list from their point of view.

So we will be happy to work on that and wrap this up before we end this floor debate.

Mr. NELSON of Florida. I thank the Senator.

Upon further examination, with the Senator's staff, I think they will find that in most cases we are talking about citizens from Louisiana, as well as citizens from Florida and any other State, who are ordering these prescription drugs at hugely discounted prices from Canada. So that is the major source. That clearly is the interest of this Senator, as we are looking out for our citizens.

Now, what, in fact, is happening—and this Senator sees it in great abundance because it is no secret the State of Florida has a considerably larger percentage of senior citizens than most States. We like to call it the land called paradise. It is where a lot of people come to retire. Naturally, in their retirement years, they are looking at trying to make ends meet and their budget work.

They thought they were going to get a considerable break on their prescrip-

tion drugs under the Medicare prescription drug plan. And now a lot of senior citizens are suddenly finding out the drugs are costing them more than they thought they were. And those who are hitting the so-called doughnut hole—that part, once they and the Government have expended \$2,250 on drugs in any one calendar year—there is no reimbursement from Medicare all the way up to \$5,100.

So our senior citizens are additionally having this concern that they cannot afford the drugs. Therefore, if they want to turn to another source, where they can get prescription drugs considerably discounted, then why should the Government policy not be to allow them to do that? That is the essence of the intent of this amendment.

The Senator from Louisiana has heard from his constituents, as has this Senator. Over the last several months, our offices in Florida have received numerous calls from people who say the cheaper prescription drugs they bought from Canada have simply vanished in shipment.

For example, Mrs. Jacqueline Flick—she is from Coral Gables—relies on Lipitor to help lower her risk of heart disease. She is living on a moderate income. She cannot afford to pay the full price that she would pay at a Walgreens or a CVS. She can get it from Canada and has been. She and her husband have been getting Lipitor for years by ordering it over the Internet from Canada, and she gets it at less than half the price.

Naturally, she was outraged last month when she got a letter from Customs and Border Protection notifying her that they had confiscated her Lipitor. By the way, that letter stated reasons that had nothing to do with her particular case.

I will give you another example. Alex Zeligson is from my home county of Brevard. He is from Palm Bay. He is a patient with emphysema. He requires oxygen. He requires 13 different medications every day, including medication for his heart. A bunch of his prescription drugs from Canada were seized in February.

Naturally, with this going on—and that is just two of many examples. And it has not just happened in the last few months. This has been going on in the State of Florida for the last year and a half. Naturally, these folks are upset.

Over the years, the Government has permitted personal supplies of prescription drugs to be imported from Canada. But without adequately informing the Congress, Customs and Border Protection, last November, implemented a new and stricter policy on personal prescription drug importation.

Last November, this new policy, without informing the Congress, was quietly implemented, until hundreds of complaints from constituents across the country, press reports, and actions by various congressional offices uncovered this shift in policy.

I can tell you that 900 prescription drugs were intercepted in the city of

Miami alone. The reason behind this shift remains unknown, but according to documents filed in a court case in Minnesota, there has been illegal and collusive activity to block the imports of cheaper prescription drugs from Canada. Our office has discovered that this new policy resulted in tens of thousands of prescription drug shipments being detained by Customs officials. Customs has admitted to 25,000 prescription drug shipments intercepted; 900 of those were in Miami alone.

Silently implementing a stricter policy without adequately informing the public puts the health of those who have relied on the prompt delivery of prescription drugs at risk. In response to these stepped-up seizures, this Senator from Florida requested the Department of Homeland Security Inspector General to investigate the change in policy. The Inspector General rejected my request. I have asked the Senate Homeland Security and Governmental Affairs Committee to investigate.

Meanwhile, Americans who rely on low-cost prescription drugs from Canada in order to avoid having to make a choice between prescriptions and food are kept waiting. That is why I have joined the Senator from Louisiana in this amendment. I hope he can perfect the amendment so that it meets the objections the Senator from New Hampshire raised. The intent is simply to prohibit Customs from utilizing funds to stop the importation of FDA-approved prescription drugs by American citizens. A similar provision has already passed the House in the Homeland Security appropriations bill. This amendment, as perfected, is going to ensure that Americans, especially the frail elderly or those with debilitating conditions, are going to be able to at least have a chance of affording the medications they need. It is also going to send a clear message to Customs to explain their dramatic change in policy last November. I hope we will get consensus on this, stop fighting this bureaucratic game, and get some relief for our citizens.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I come to support the amendment, recognizing that it is not perfect, but recognizing that it has been offered only because another piece of legislation, which is more comprehensive, dealing only with FDA-approved drugs, bipartisan, a broader group of Senators supporting it, has been blocked consistently. Senator VITTER offers this because it is the only way to get this subject to the floor of the Senate.

It is pretty unbelievable to hear the spirited defense of the pharmaceutical industry. After we passed a prescription drug benefit in the Medicare bill in the first quarter of this year, the pharmaceutical industry increased the cost of brand-name drugs triple the rate of inflation.

I have been before committees on this subject. Senator SNOWE and I appeared before our committee. There was a spirited defense of the pharmaceutical industry there. This is an industry that has some of the highest profits in the world. They produce miracle, lifesaving drugs, yes, but they also produce something else. They produce a pricing pattern that says the American people should pay the highest price in the world for prescription drugs. It is unfair.

The issue is, can American citizens import FDA-approved prescription drugs, some of them made in this country and then sent to Canada or sent to some other country, can U.S. citizens have access to those drugs, drugs that are safe? The only difference between those drugs and the drugs sold here under the same name is those drugs are priced at a much less expensive price.

I ask unanimous consent to show two pill bottles. This is the issue. This is Lipitor.

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

Mr. DORGAN. The same pill, put in the same bottle, made by the same company. One is marketed in the United States; one is sent to Canada. What is the difference? The difference is, the U.S. consumer is told to pay 65 percent more for the same medicine. The same pill made by the same company, FDA approved, sent two places, to U.S. consumers and to Canadian consumers, and the U.S. consumers are told, you pay 65 percent more. Why? Because the drug industry says so.

Myself, Senator VITTER, and others propose that you ought to be able to access those lower priced, FDA-approved drugs from Canada. The pharmaceutical industry doesn't like that. I understand. I understand why they want to maximize profits. The fact is, they say: If you do that and in any way diminish our profits, we will reduce the amount of research we do on new drugs. Isn't it interesting that they spend more on marketing and promotion than they do on research? Maybe they could cut back a little bit on that advertising on television that says: Ask your doctor whether the purple pill is right for you. I don't have the foggiest idea what the purple pill does, but every time I am shaving in the morning I see the commercial: Ask your doctor whether the purple pill is right for you. Maybe we could cut back the bid on that advertising.

We have had commitments to bring this issue to the floor of the Senate. It was midnight when I believed the majority leader gave me a commitment to bring our comprehensive bill to the Senate. We put a provision in the Senate RECORD. The majority leader says he didn't make a commitment. That is not what the words say. I went to a small school, a class of nine in a small town. All of us should be able to read words and understand what they mean. I believed the majority leader. In exchange for my releasing a hold on a

nominee, the majority leader made a commitment to bring prescription drug reimportation to the floor of the Senate. He says he didn't.

The fact is, the administration and the majority in the Congress have blocked this. When I say we have a bipartisan bill, I come today to support a piece of legislation offered by Senator VITTER. That is bipartisan. But there are people who have determined they will block legislation that deals with the reimportation of prescription drugs. That is why this is offered to an appropriations bill which is a funding limitation. It is perfectly appropriate to offer this to an appropriations bill.

My colleague asked Senator VITTER a wide range of questions. My colleague has been opposed to reimportation of prescription drugs. He gives as spirited a defense of the pharmaceutical industry as anybody I have heard. I believe we ought to give a spirited defense on behalf of the consumers. Why should American consumers pay double, triple, nine times as much for prescription drugs?

I had a guy sitting on a hay bale at a farmstead meeting we had. He was in his 80s. He said: My wife has been fighting breast cancer for 3 years. We have been driving back and forth to Canada to buy Tamoxifen. That is a medicine he could purchase in Canada for 80 percent less than it costs in the United States. He lived in North Dakota, so they could drive to Canada and bring it back because Immigration has traditionally allowed a limited amount for personal use to come back across the border. But now the FDA, and under Dr. McClellan some years ago and under Dr. Crawford and others, has made it their mission to describe that somehow there is a terrorist threat or there is a contamination of prescription drugs. These are FDA-approved drugs, many of them made in this country and then shipped outside. And the American people are told: You can't have access to them because they are cheaper than the drugs you have to purchase in the drugstore in the United States. That makes no sense.

I am wondering when there will be a critical mass in the Senate to stand up and give a spirited defense of the American consumer. When will that happen? Not soon, I am afraid. That is unfortunate. Perhaps we can ask once again whether we will get a commitment to bring a bill to the floor of the Senate that is bipartisan, that has broad sponsorship. The legislation that I and many others have introduced is legislation that will allow, under a broader range of circumstances, the reimportation of prescription drugs and do so without any safety issues. Perhaps the amendment offered today will stimulate and require that agreement.

No one wants to, in any way, diminish the safety of our prescription drugs. There is nothing in the reimportation of FDA-approved drugs that would, in any way, cause someone to legitimately claim there is a safety issue.

That is a specious issue. There is no safety involved here. This is about pricing. It is about whether the American people will continue to be stuck by being charged the highest prices in the world for prescription drugs. Miracle drugs offer no miracles to those who cannot afford them. All of us have heard the stories. I have heard plenty of people going to the grocery store who decide that first they have to go to the pharmaceutical counter to figure out what their prescription drugs are going to cost before they can decide how much they can buy in groceries. We have all heard those stories.

This country has a lot of senior citizens. We are a country of people living longer. That is wonderful. In one sense, we have increased the lifespan by 30 years. Life expectancy has increased by 30 years this century. That means we have more older people. Senior citizens are roughly 12 percent of the population and consume one-third of all the prescription drugs, and they are the least likely to be able to afford them. We have them walking into pharmacies now paying the highest prices in the world. It is not the fault of the local pharmacist. This is the pricing practice of the pharmaceutical industry.

They get all upset when people would tarnish their industry. I am not doing that. Good for them. They produce lifesaving drugs, a fair amount of it with research paid for by the American taxpayer at the National Institutes of Health. We have every right to be tarnishing the pricing policy of an industry that says they are going to charge the highest prices in the world to the American consumer.

My colleague from Louisiana talks about reimportation with his amendment. Let me talk about what they do in Europe. In Europe they have something called parallel trading. We have actually Europeans testify on that. If you are in France and want to buy a prescription drug from Spain, that is not a problem. They have parallel trading. If you are in Germany and want to buy a prescription drug from Italy, that is not a problem. They have run that for a couple of decades, and there are not any safety issues involved. This spirited defense of the pharmaceutical industry, by raising this specious, nonsense issue of safety, is almost unbelievable. It is a Trojan horse for those who want to keep prices high for the American consumer.

Let's have a real debate on the floor, not with a funding limitation. I will support this because it is probably the only way to pry the lid off this issue. But let's have a real debate with the larger bill that we thought had been promised to be debated. Let's decide to stop blocking the ability of the American people to access FDA-approved drugs at lower prices. Let's have the market system work. If the market system works for the big interests, what about the little interests? What about the little guy?

Bob Wills of the Texas Playboys back in the 1930s had a line that applies to

much of what goes on around here: The little bee sucks the blossom and the big bee gets the honey. The little guy plucks the cotton and the big guy gets the money. Isn't that always the way it goes? And doesn't that apply to this issue of charging the highest prices in the world for prescription drugs to the American people?

It is wrong. Everybody in here ought to understand it is wrong. We ought to begin to pry the lid off this issue and fix it. My colleague from Louisiana has offered an amendment. It would not be my first choice, but I will support it. He has offered it, I assume, because it is the only way to get into this issue—this issue being reimportation of prescription drugs—by using a funding limitation to get there. He can do that without requiring 60 votes on this bill.

That is the purpose, I assume, of my colleagues from Louisiana and Florida offering this amendment. I think they, too, would probably prefer that we would get an agreement from the majority leader to schedule a time for debate on a larger bill, but that has not been the case. As a result, we will consider this issue and debate this issue now for some while.

I will at some point during the deliberations on this appropriations bill ask by unanimous consent that we bring up S. 334 before the August recess and debate that bill. In the meantime, I will be here to offer support to those who are trying to pry the lid off this issue by offering a funding limitation bill, and between coming over to the floor of the Senate, I will watch the proceedings of the Senate on a television set and be entertained by the spirited defense of the pharmaceutical industry by some of my colleagues offering excuses for supporting the highest prices in the world for prescription drugs being charged to the American people, a position that is highly unsupportable, in my judgment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, the Senator from North Dakota raised a few issues, some of which are actually subject to rule XIX. I did not make the point, but I probably should have.

The fact that under this regime one would be able to set up a process where people could ship drugs into this country which would not be reviewed by the FDA and would not be stopped by Customs and Border Patrol is not an issue of defending the drug industry. It is an issue of making sure that the person who gets that drug is actually getting what they paid for, is getting something that is safe, and that this process has not blown a gaping hole in our capacity to develop adequate security for people who might want to ship into this country biological agents which could kill thousands of Americans.

This amendment, as it was originally offered—and I just asked reasonable questions. I didn't make allegations of purpose, as was the representation of

the Senator from North Dakota. This amendment, as it was originally offered, would have allowed drugs to come into this country through the Internet which would not have been reviewed by the FDA. We wouldn't know where they were manufactured, whether the label that claimed it was one drug was accurate to what was in them. It would have simply said that Customs and Border Patrol could not stop those drugs from coming into this country.

It is pretty obvious that under this amendment as it was originally drafted, there were serious health risks for the people who were receiving those drugs. FDA wasn't going to review them, and Customs and Border Patrol was not going to be able to stop them. Think about that. A drug produced in some kitchen in Indonesia could be put in a bottle that was made to look like an American product, purchased over the Internet on an alleged Canadian site, and shipped into the United States, and the person who got those drugs would take them. There was a lot of anecdotal evidence when we had this bill before our committee that said most of the drugs that were coming in over the Internet were not as represented and some of them were actually poison.

In addition, of course, there is the very serious concern of national security. Maybe the Senator from North Dakota doesn't believe it is a concern. Maybe he only thinks big drug companies are the people who are being protected when the FDA determines whether a bottle of Lipitor is really Lipitor coming from Pakistan or Afghanistan. I don't. I happen to think the people who are being protected when that bottle comes into this country are the people who are getting it and the public at large if it has an agent in it which would basically kill people.

There is no question at all but that if I were a creative terrorist—I wouldn't even have to be all that creative—I could fill hundreds, thousands of alleged prescriptions with anthrax, ship them to my cohorts in the United States, and then let my cohorts do with that anthrax as they wished, or other agents which would be even more violent and more communicable.

There is a reason why we have the safest drug delivery system in the world, why people, when they go into the local drugstore, have absolute confidence that what they are buying is what is on that label. It is because we have the FDA policing the industry and making sure that as it is manufactured, labeled, and delivered, it is what it says it is. This amendment, as it was originally offered, did not accomplish that. For the Senator from North Dakota to come down here and allege people who might oppose it do so because they simply wish to carry the water of big drug companies is a discredit to those of us who are trying to address the issue of safety for the American

people, not only on specific drugs that are delivered to them but as this bill is supposed to do on our homeland security.

So let's move on to the specifics. I understand the Senator from Louisiana has a modification to the amendment that is going to basically limit it to Canada, and it is going to make sure it is structured in a way that conforms with the Cosmetic Act. I congratulate him for that modification. I appreciate him being responsive on that point. It will dramatically improve this amendment.

There is still the issue out there that has to be addressed of, if Customs and Border Patrol is charged with not looking at this stuff which is going to come in from Canada, who is going to look at it?

I have a bill which actually accomplishes this, by the way. It says FDA will have the authority to go into these foreign countries—and if you limit it to Canada, it will be very manageable—and will have the money and resources—it is more a resource issue, the Senator from Louisiana is correct. It is not really an authority issue. What they need is money to review the distribution process.

Under my bill, what would happen is a Web site would have to have FDA-certifiable approval. In other words, if you went to a site from which you can allegedly buy Canadian drugs, FDA would have reviewed that Web site, reviewed the people who are selling through that Web site, reviewed the product coming through that Web site, and the Web site would receive something like a Good Housekeeping seal on it which couldn't be forged and which would basically be monitored, so that when you were buying off a Web site from Canada or directly from Canada by mail order or going into a Canadian pharmacy, you would know that the product was what it said it was and FDA had actually reviewed it.

That is a very doable event. It takes a regime. It takes money. All that is actually going to have to be grafted on top of this amendment to make the amendment work. It is too complex to do at this level. However, if the Senator from Louisiana is going to modify his amendment, my representation would be that when we get to conference we will not take the amendment or, alternatively—which would be my druthers—put this modification on top of it which is the language I developed relative to giving FDA the regime authority and the financial authority to monitor Canadian-delivered drugs.

I understand the Senator may move in that direction. If he does move in that direction, I congratulate him and thank him for making such a constructive change in his amendment. I appreciate it. We will proceed from there.

The PRESIDING OFFICER. The Senator from Louisiana.

AMENDMENT NO. 4548, AS MODIFIED

Mr. VITTER. Mr. President, at this point I would like to revise my amendment with the language which is at the desk.

The PRESIDING OFFICER. The Senator has the right to modify his amendment.

The amendment (No. 4548), as modified, is as follows:

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

SEC. 540. None of the funds made available in this Act for United States Customs and Border Protection may be used to prevent an individual not in the business of importing a prescription drug (within the meaning of section 801(g) of the Federal Food, Drug, and Cosmetic Act) from importing a prescription drug from Canada that complies with the Food, Drug, and Cosmetic Act.

Mr. VITTER. Mr. President, as modified, as the subcommittee chairman indicated, this will limit the effect of the amendment to transactions involving Canada only.

Having done that, let me close with a few remarks. First, I appreciate the offer and the commitment of the Senator from New Hampshire to work on this issue because, in fact, if he truly has these safety concerns he was outlining—I tend to think the nature of some of these scenarios he outlined were overly dramatic and not very well grounded in reality, but if he thinks these scenarios are accurate, then we need to act. The FDA needs to act today because even if my amendment is defeated—and I am very hopeful it will not be; I am very hopeful it will get a resounding vote on the Senate floor—even if it is defeated, these transactions are going on every day in the thousands.

The Senator knows that Customs and Border Patrol will never stop all of these personal-use medicines from coming into the country. So this is going on every day, thousands upon thousands of cases a day. Therefore, if there are safety issues involved—and there are some—the FDA needs to act now and we need to act now to put a regime in place.

Unfortunately, many of us, including myself, including the Senator from North Dakota and others, have tried over and over and have been blocked procedurally from moving that type of legislation to the Senate floor. That, as the Senator from North Dakota indicated, is what provoked this amendment. But I welcome the offer and the commitment of the Senator from New Hampshire to work in conference to put a full-blown regime together with regard to reimportation, and I welcome us bringing, either through this vehicle or through a stand-alone measure, this important debate to the Senate floor.

There are some safety issues, but those issues exist even if my amendment is defeated. Those issues exist because those transactions are going on every day, and they are growing in number because of the huge price disparity between the cost of drugs in the United States and the cost of those

same FDA-approved equivalent drugs in places such as Canada.

Defeat of this amendment will not take care of those issues. The only thing that will take care of those issues is action, long overdue action by the FDA—and they have the authority now—or action by us in the Congress to put together an entire reimportation regime. I look forward to doing that. It is long overdue. It is important because of the very safety issues the Senator from New Hampshire outlines. It is also important because of the tremendous price pressure our constituents are under because we, unfortunately, labor under the highest prescription drug prices in the world, even though we offer the manufacturers the largest marketplace for those very same drugs in the world.

I yield back my time and look forward to the adoption of this amendment.

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

Mr. VITTER. Absolutely.

Mr. GREGG. We are checking with the Democratic side, but if the Senator is agreeable, the Senator from North Dakota is going to speak for half an hour, and at the conclusion of his speech, I suggest we go to a vote, if the Senator from Louisiana wishes to have a recorded vote, or we can accept the amendment.

Mr. VITTER. I do wish to have a recorded vote.

Mr. KENNEDY. Mr. President, I support the Vitter amendment to stop the Customs and Border Protection agency from using its funds to block the personal importation of prescription drugs from Canada that comply with requirements of the Federal Food, Drug, and Cosmetic Act. We all know that drugs distributed in Canada are as safe and effective as drugs distributed in the United States.

Each of us has constituents who obtain prescription drugs from Canada. The reason is obvious. They are tired of being gouged by exorbitant U.S. prices for their medicines, when the identical drugs are available in Canada at half the price and are just as safe. Drugs from Canada are certainly a better choice for hard-pressed patients than cutting their U.S. pills in half or taking them every other day to make them more affordable or not taking needed drugs at all.

Innovative senior citizens first alerted the Nation several years ago to the opportunity available in Canada by organizing bus trips across the border from many of our Northern States.

In Massachusetts, the city of Springfield began using Canadian pharmacies to provide drugs for its city employees and retirees. Springfield's example led the way for other city and State governments across the country to do the same. The Internet revolution vastly expanded the opportunity by enabling patients across America to go to Canada on the internet and save thousands of dollars a year on their prescriptions.

The administration should not be using the Customs agency to block patients from getting safe drugs from Canada. Yet recently it has been using the Customs agency to avoid a current requirement that the Food and Drug Administration give special notice to a patient if it detains the patient's imported drug at the border. This amendment should stop that abuse, but this amendment is not the real answer on importation. It is time for Congress to allow safe imports from Canada—and from other developed countries, too.

S. 334, the Dorgan-Snowe drug importation bill, will do this, and the Senate needs to act on this bill. Patients will be able to import drugs from exporters in Canada who are registered with FDA and regularly inspected by FDA. Wholesalers and pharmacies will be able to import drugs from other developed countries if they register with FDA and agree to regular inspections by FDA. The imported drugs will fully meet FDA standards for approval and will have FDA-approved labeling.

S. 334 also prevents drug companies from blocking imports, as several major drug companies have been doing to shut down the rising tide from Canada.

The high price Americans pay today for prescription drugs is unacceptable and unfair. The bipartisan Dorgan-Snowe importation bill is a practical solution to bring drug prices down for patients at no risk to the safety of our drug supply. That is the measure we should have voted on today, but our Republican leadership keeps denying us a debate and a vote on that needed bill.

Mr. GRASSLEY. Mr. President, I wanted to take a moment to note my vote for the amendment offered to H.R. 5441 by Senator VITTER. Senator VITTER's amendment would prohibit the U.S. Customs and Border Protection from using funds to prevent individuals from importing a prescription drug from Canada that complies with the Federal Food, Drug, and Cosmetic Act, FDCA.

The strong support demonstrated today for Senator VITTER's amendment reemphasizes the importance of the issue of allowing Americans to import prescription drugs.

I have long advocated allowing American consumers access to safe drugs from other countries. In 2000, 2002 and 2003 I supported amendments permitting reimportation of prescription drugs from Canada. In 2004, Senator KENNEDY and I offered bipartisan legislation to authorize reimportation. And, last year, I introduced a reimportation bill with Senators SNOWE, KENNEDY, DORGAN and others. Our bill, S. 334, the Pharmaceutical Market Access and Drug Safety Act, permits the importation of prescription drugs and includes very important safeguards to help ensure that those drugs are safe and obtained from legitimate pharmacies. I look forward to continuing to pursue Senate passage of our comprehensive,

bipartisan bill. Allowing importation will increase competition and keep the domestic pharmaceutical industry more responsive to consumers.

Senate approval of the Vitter amendment represents another development in an ongoing effort to help reduce the cost of life-saving drugs for American consumers. We need to do more to foster competition by allowing imported medicine and to make sure that those prescription drugs are safe. S.334 should be the next step on this issue.

Mr. BUNNING. I would like to explain my opposition to amendment No. 4548 to the fiscal year 2007 Homeland Security appropriations bill. This amendment would prohibit the U.S. Customs and Border Protection from preventing an individual not in the business of importing prescription drugs from importing an FDA-approved prescription drug. I oppose allowing uninspected pharmaceuticals to be imported into the country.

I understand some prescription drugs are expensive, and many Americans struggle to afford their medications. That is why Congress passed a bill in 2003 to create a prescription drug benefit in Medicare. The drug program has greatly reduced the amount seniors spend on prescription drugs. This Medicare prescription drug bill also includes several provisions aimed at reducing the cost of pharmaceuticals, specifically by getting generic drugs to the market faster. These are important changes aimed at reducing costs for everyone.

I have concerns about the safety of bringing prescription drugs into the United States from other countries without meeting the safety criteria currently in law. Under the current system, Americans can feel secure when they purchase pharmaceuticals in this country. They know the pills they are taking are safe and effective and that they have been approved by the Food and Drug Administration, which uses some of the highest approval standards in the world. Congress should not put the safety of our pharmaceutical supply in the hands of a foreign government which may not recognize counterfeit or expired medicines or may not have the same safety standards that we do. The last thing we want to do is to undermine the integrity of our drug supply.

In fact, in December of 2005, a Food and Drug Administration operation found that nearly half of the imported drugs FDA intercepted from four selected countries were shipped to fill orders that consumers believed they were placing with "Canadian" pharmacies. Of the drugs being promoted as "Canadian," based on accompanying documentation, 85 percent actually came from 27 countries around the globe. A number of these products also were found to be counterfeit.

I believe this amendment will put our Nation's drug supply at risk and it is not even necessary. As this year goes on, more and more seniors are getting

excellent and affordable coverage under the new prescription drug plan that we passed in 2003, which means allowing potentially unsafe drugs into our country is an unnecessary risk that we do not need to take.

Mr. GREGG. Mr. President, I ask unanimous consent that the Senator from North Dakota be recognized for half an hour, that no amendments be offered during his term of speaking and that at the conclusion of his speaking, 2 minutes be equally divided on the amendment of the Senator from Louisiana, that we proceed to a rollcall vote, that the yeas and nays be deemed as ordered, and no second-degree amendments.

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

#### MIDSESSION BUDGET REVIEW

Mr. CONRAD. Mr. President, I want to thank the managers of the bill for this time allocation. I appreciate it very much. I thank the chairman and the ranking member.

Today is the day of the so-called midsession review in which the administration takes a middle-of-the-year look at our budget circumstances. The President has already held a press conference in the White House, the Budget Director is speaking to the National Press Club, and they are heralding the improvement in the deficit outlook as proof that their fiscal plan is working. That is an interesting spin. That is an interesting way of looking at these facts.

Let me give you what I consider to be the other side of the story, or perhaps it is better described as the rest of the story. The President is saying there has been a \$100 billion improvement in the deficit outlook. Well, not really because that is based on his earlier projection that many of us said, at the time, overestimated what the deficit would be, for the very purpose of later this year, when the deficit wasn't that big, to claim great success. That is exactly how things have played out. But if you compare the new deficit projection with what the actual deficit was last year, instead of getting into the projection game, the actual deficit last year was \$318 billion. Now they are saying the deficit this year will be \$296 billion.

Is this cause for some great celebration? Is this some dramatic improvement in the deficit? I wish it was, but I think people can reach their own conclusion. I think it is a pretty modest improvement over last year's deficit.

At the same time, the thing that is getting no attention is the real threat to our long-term economic security, and that is the debt of the country. And the debt increase last year was \$551 billion. With these new numbers this morning, the debt this year will increase by \$593 billion. So the amount of the debt increase is actually growing. The debt is getting bigger, and it is getting bigger than it was last year. That is even with these new numbers. This is almost a \$600 billion increase in the debt.

The White House is saying: Well, there has been this dramatic improvement in revenue, and that proves that if you cut taxes, you get more revenue. No, that is not what it proves. I wish it would prove that because then we really would have the tooth fairy working for us. That would be great. Wouldn't it be wonderful? You cut taxes, you get more money. But here is what has happened. Here is the historical record.

In 2000, revenue, as a percentage of gross domestic product, was about 21 percent. It is true that this year we are getting an increase over last year's revenue, but it is still way below what it was back in 2000. If you look at it on an inflation-adjusted basis, you look at the revenues that we have received, you adjust it for inflation, what you see is now, in 2006, we are getting back to the revenue we had in 2000. So in 2000, we had over \$2 trillion in revenue. We had massive tax cuts in 2001 and revenue went down. In 2003, revenue went down some more. We had another big tax cut. Revenue stayed down for 2004 and 2005. Now, only in 2006, are they projecting that revenue will go beyond what it was in 2000.

This is not proof of the theory of the tooth fairy that if you cut taxes, you get more revenue. In fact, if you look at individual income taxes, where most of the tax cuts have been, you see—and this is not adjusted for inflation; this is in nominal terms—we had \$1 trillion of individual income tax revenue in 2000. You can see every year after that: 2001, 2002, 2003, 2004, 2005, every one of those years we had less revenue than we had all the way back in 2000. It was not until this year that they are now projecting that we will have somewhat of an increase over the level of revenue in 2000.

If one wants to talk about projections, if you go back to their projections in January of 2001, they said this year we would have \$2.7 trillion of revenue. Instead, we are going to have \$2.4 trillion in revenue. So we are far below what they projected back in 2001.

This is from the New York Times of July 9:

Revenues are still below historical norms. One reason the run-up in taxes looks good is because the past five years looked so bad. Revenues are up, but they have lagged well behind economic growth. Compared with the size of the economy, tax revenues are still below historical norms and far below what the administration predicted as recently as 2003.

"Far below." This is not this magic supply-side epiphany that some are now claiming today. In fact, if one looks at the debt, the increase in the debt, here is what one sees. When President Bush took office at the end of his first full year—because obviously he is not responsible for the first year; he is inheriting a budget—at the end of his first full year, the debt was \$5.8 trillion. At the end of this year, they are now saying it will be \$8.5 trillion. And in 2011, they are now saying the debt will reach \$11.5 trillion. This is an explosion of debt, and they are claiming great success. Excuse me. This is a



great success? What would a failure be? They will have doubled the national debt.

When we look at foreign holdings of U.S. debt, here is what we see. It took 42 Presidents—all these Presidents pictured here—224 years to run up \$1 trillion of external debt—U.S. debt held abroad. This President has more than doubled that amount in just 5 years. This is a success? I don't think so.

Looked at another way, it is stunning. Here are the world's biggest borrowers. If you look at all of the money that is being borrowed in the world, you see the United States in the No. 1 position. We are borrowing 65 percent of all of the money that is available to borrow. Let me repeat that. The United States is borrowing 65 percent of all of the money that is available to borrow. Look at this. We have the United Kingdom borrowing about 4 percent of what is available; Spain, 7 percent; Australia, 3 percent; France, about 3 percent; Italy, 2 percent; Turkey, 2 percent. And the United States is borrowing 65 percent of all of the money being borrowed in the world. This is not a sustainable course. This is not something that can be continued.

So while the White House is out bragging about their achievements, let's just remember their budget record: Four years in a row of record deficits, debt projected to soar to more than \$11 trillion by 2011. They have more than doubled foreign-held debt in 5 years. There is very little real revenue growth since 2000. Revenues in 2006 are still far below original projection. And every penny of Social Security surplus is projected to be spent on tax cuts and other things over the next 10 years. Again, \$2.5 trillion of Social Security money is going to be spent on other things. On the other hand, they say there is a big shortage of Social Security? Well, they are helping to create it.

A new budget process proposal has been made by our friends on the other side that would circumvent Social Security protections and fast-track a Social Security privatization plan. They have repealed and increased the spending caps for next year that they put in place last year. They have come out with a big, new plan, more spending caps, more budget points of order, but they just repealed the spending caps they put in place last year. Now we are told they will not have a budget this year at all. The country simply will not have a budget.

The Comptroller General of the United States has warned that the budget outlook is getting worse, not better. This is what he said: Our problem is our large, long-term deficit, and the sooner we deal with that, the better.

Walker, the Comptroller General, warned of a false sense of security: "We're in much worse shape fiscally today than we were just a few years ago." He said this on July 11.

Mr. President, the Comptroller General is telling the truth. Our budget

situation is not getting better; our budget situation is getting much worse.

Here is what is happening to the debt. You didn't hear the President mention anything about the debt. They don't want to talk about the debt because the debt is exploding. The debt is going up, up, and away. And this is before the baby boomers retire. If the budget were to pass that has gone through both Houses of Congress—which we are now told is not going to pass, we are not going to have a budget—if it were to pass, they would add \$3 trillion to the debt over the next 5 years. It is simply stunning.

The former CBO Director who, by the way, was an economic adviser to the President before he was CBO Director, said this: "The long-term outlook is such a deep well of sorrow that I can't get much happiness out of this year," said Douglas Holtz-Eakin, a former Director of the Congressional Budget Office and a former White House economist under President Bush. He is telling the truth.

This notion that there has been some dramatic decrease in the deficit just misses the fact. The fact is the deficit last year—the actual deficit—was \$318 billion. Now they are forecasting it is going to be \$296 billion this year. That is not some great improvement. That is an improvement, but it is very modest.

At the same time the deficit is getting a little better, the debt is getting a whole lot worse. Last year, the debt increased by \$551 billion. This year, the debt is going to increase by \$593 billion.

All this happy talk today from the administration about how great things are reminds me a little of somebody holding a press conference to brag about the new lifeboats on the Titanic. Yes, it is a nice thing that the deficit numbers are a little better, but it misses the larger reality. The larger reality is this ship of State is in deep trouble. We are in an ocean of red ink, and nothing substantial is being done about it under this administration. Instead, the debt is growing and growing dramatically.

Even with these new numbers, that is what is happening to the debt of our country. It is skyrocketing, and it is skyrocketing at the worst possible time—before the baby boomers retire. Remember, the baby boomers are going to start retiring—the leading edge—those eligible for Social Security, in 2008, and we are going to leave them a legacy of debt unprecedented in our Nation's history.

The President does a disservice to the country, as do members of his administration, when they talk about the fiscal circumstance dramatically improving. It is not. It is not. The deficit has improved modestly over the deficit of last year, but the debt is actually growing more rapidly than the debt grew last year. And there is absolutely no relief anywhere in sight. The President and this administration owes it to the American people to come forward

with a plan to address this crisis of debt.

Mr. President, I yield back the remainder of my time, and I yield the floor.

Mr. GREGG. Mr. President, it is my understanding that we are going to proceed to vote on the Vitter amendment at 12:15; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. GREGG. Mr. President, let me quickly respond to some of the points made by the Senator from North Dakota, whom I greatly admire and enjoy working with on the Budget Committee because I think the context of those comments have to be put in proper form. There is no question but that the revenues of this country dropped significantly at the beginning of this administration. There is obviously a significant argument as to why those revenues dropped. The point that I made earlier, and which I think is very valid, is that coming out of the 1990s we had experienced an explosion of growth, much of which was unsupported. It was called a bubble, the Internet bubble. What is a bubble? That is when people are speculating irrationally—as at the time Chairman Greenspan said, irrational exuberance—irrationally in a way that is basically creating stock, in this instance, which has no substance behind it but is still being sold at a higher and higher price.

That bubble burst. When a bubble bursts, the history of economics is that there is a severe contraction in the economy that is experiencing the bubble. That is what happened to us. We saw a severe recession begin.

We followed the Internet bubble bursting with the attacks of 9/11. That was a huge catastrophe for us as a nation, a vicious attack killing thousands of Americans, but it was also an attack on our economy.

These two events together would have led to a massive slowdown in our economy had not the President had the foresight to reduce the tax rates to a more fair level so that entrepreneurs, people who are willing to take risks, were willing to go out and do exactly that. The tax cuts were put in place, and the tax cuts benefitted everybody who paid taxes. It is hard to do a tax cut to benefit people who do not pay taxes, which seems to be the position of the people on the other side of the aisle. Essentially, the tax cuts benefitted all who pay taxes, but, importantly, it was to create an atmosphere where the entrepreneurs in our Nation, the people who are willing to take risks and as a result create jobs, did exactly that. They were rewarded for being risk takers and job creators. As a result a recession which should have been severe in its slope ended up being shallow.

We are now seeing ourselves coming out of that recession. Now, for 39 months, we have had a very strong recovery, a recovery which is played

down by the other side of the aisle but cannot be played down by the facts—5.4 million jobs created, 39 months of economic growth, some of the strongest growth periods we have had in the post-World War II period, and that has been driven in large part by tax rates which have generated more revenues to the Federal Government.

The theory on the other side of the aisle, and their whole *modus operandi* for economic activity, is you should raise taxes in order to raise revenue for the Federal Government to meet spending. You can always expand spending because you can always raise taxes. That is basically the philosophy of the other side of the aisle, coined as “tax and spend,” or “spend and tax.” But the fact is—and it has been proven by three Presidents of both parties—that if you reduce rates to a level which gives people an incentive to go out and be productive, you actually generate more revenue for the Federal Government than if you overtax them.

Why is that? It is human nature. If you say to a person: 70 percent of the next dollar you earn, or 50 percent of the next dollar you earn is going to go to the Federal Government or to the State government or the local government or a combination, a person doesn't have a whole lot of incentive to go out there and take a risk with their money or to work harder to produce that extra dollar. But if you say to a person: We are going to tax you at a fair rate so when you go out and take risks with your money you are going to get a fair return and the Government is going to get a fair return in taxes, then a person is willing to go out and take that risk and do those things that create those jobs.

That is exactly what has happened under the tax laws that President Bush has put in place with the support of the Republican Congress. We have taken those elements of the tax law which are most related to creating economic activity—capital formation, risk-taking activity and thus resulting in job creation—and put those rates at reasonable levels, capital gains being the best example of that. The other side of the aisle wants to raise all these taxes again. What they are unwilling to acknowledge is that by having a fair rate of those taxes, at those tax levels, we have actually generated a huge increase in revenues. If you combine the last 2 years, we have the most significant increase in revenues that we have seen anytime in the post-World War II period for a 2-year period in rate of growth of revenues. It is because there has been an incentive for people to go out and be productive, create jobs, and as a result generate more income for the Federal Treasury.

There is another effect, for example, of the lower capital gains rate which I mentioned earlier today. Not only does it create economic activity. In other words, if you are sitting on some stocks or sitting on a piece of real estate or you have a small family busi-

ness, you are afraid to sell it because you don't want to pay the Government 30 percent, which was the rate, or 20 percent, which was the rate. Now the rate is 15 percent, and you say: I guess I can sell that asset.

All right, you go out and sell that asset. The Federal Government would have never gotten any revenue from that asset because you were going to sit on it as long as the rates were too high, so by selling the asset the Federal Government got income it didn't expect, by having a fair rate.

But more important, or equally important, you have that cash. You are going to go out and reinvest it in something that is going to produce more money and, as a natural flow of human nature, it is going to be more productive. You are going to get more productivity out of those dollars. What does that do? It creates more jobs. It creates more economic activity which creates more jobs.

And it works. It has been proven to work by President Kennedy, by President Reagan, and now by President Bush. It worked so well that over the last 2 years, the CBO estimated that the revenues from capital gains would be half of what they actually were because they used the static model. They didn't factor in human reaction. So we generated almost \$100 billion more revenue just from capital gains than we expected to get as a result of the CBO estimates. That is because human nature inherently, certainly in America at least, is entrepreneurial. It is risk taker and job creator oriented, and people who are risk takers are rewarded for that, and as a result jobs are created.

So we have had this explosion of jobs in America. We have created more jobs in this country in the last 2 years than Europe and Japan combined—I believe is the statistic. Equally important, we have generated huge amounts of new revenues for the Federal Government. That is reflected in the midterm report which came out today and which is so dismissed by the other side of the aisle.

You just can't dismiss the fact that we reduced the deficit by \$126 billion, approximately, in 6 months, over what it was supposed to be, what we expected it to be. Why did it come down \$126 billion? Because people were paying more in taxes because there was more job activity out there.

Interestingly enough, most of that new revenue came from the highest income taxpayers in America today. In fact, they are paying more in taxes today than they have ever paid, that group of individuals.

But the attitude of the other side of the aisle is, let's just raise taxes again. It doesn't work. It actually reduces revenues if you get taxes too high. What we have to do is control spending. That is why this side of the aisle has been talking about a comprehensive package to accomplish that.

I see the Senator from Pennsylvania is here. I know he wished to speak. We have about 6 minutes. I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

AMENDMENT NO. 4548, AS MODIFIED

Mr. SANTORUM. Mr. President, I rise to speak on the amendment that I understand we are going to be voting on in about 6 minutes. I am not particularly pleased we are voting on this amendment in 6 minutes, that I only have 6 minutes to talk about this amendment on the importation of prescription drugs. I think what we are potentially about to do is something that is very dangerous, something that is a risk to consumers and patients in this country.

We have seen exposes written by newspapers. We have seen reports from the Surgeon General. We have seen reports by numerous government agencies, of the risk associated with drugs coming into this country from potentially dangerous foreign sources, prescription drugs, that are being used by people in this country. There is a profound risk of them being impure, contaminated, and having potency problems. Now we are back here on a quick amendment, and a quick time agreement, and we are going to have a vote on something that I think is life threatening to potentially thousands of individuals in this country.

This is an amendment that says, to my knowledge—I have it in front of me, but I understand it has been modified, and I have not yet seen the modification—that none of the funds in this bill will be made available for the Customs and Border Protection agents to prevent individuals from importing prescription drugs.

I understand it has been modified to say just from Canada. But, of course, how do we know they are from Canada? If a border agent sees a box that says “from Canada” or “FDA approved” or whatever, does that mean they can't look at it or can't examine it?

This is a very crude attempt to try to get around an issue that we have been debating for a long time, and that is, whether it is safe to allow people to get drugs, from other countries, that do not have the FDA safety and efficacy approvals.

We have huge concern in this Chamber, huge concerns around the United States with drug safety. There is a pill called Vioxx that has a small chance of causing certain side-effects in some individuals. Yet we want to allow importation of potentially dangerous drugs from other countries.

Let's look at the reports of analysis of some so called “Canadian generics” seized at the boarder. Experts in drug safety tell us that these drugs often have problems with potency, don't dissolve correctly, or have dangerous impurities. These are potentially dangerous drugs, and the United States Senate wants to say: Go ahead and bring those drugs in, but by the way, we have to take Vioxx off the market if there is even a 1-percent chance of hurting somebody.

Drug importation done this way has a nearly 100-percent chance of hurting

somebody, and we are going to come to the floor of the United States Senate and say that is a good idea because it might save a few dollars.

We addressed this issue for our most vulnerable population. We addressed it for seniors. We passed a Medicare prescription drug bill that is working. It is working very well. It is lowering costs of prescription drugs to our seniors. Providing affordable drugs of quality, FDA approved, we know they are safe, we know they are effective, they are made here in the United States.

We have folks who are going to vote for this amendment who complain night and day about exporting jobs around the world. What do you think this is? When these drugs are made in the United States they are made safe and effective. They are made by American workers. And we know they work for people who need these drugs. We are going to export these jobs to Bangladesh or Ghana or Belize—pick a country—which happens to mark the drug “from Canada”?

If you write “Canada” on there, assume a border guard, just to be safe, will say don’t open it because we may be breaking the law according to this amendment.

This is a dangerous piece of legislation for potentially thousands if not more persons who are looking for a cheap prescription and could get a prescription for ineffective treatment, which could lead to more problems, or potentially lethal treatment if there are dangerous side effects from impure drugs.

We should not be voting on this amendment, in my opinion. But the vote has been locked in—without my consent, I might add. What we are to do here—let’s not muddy the water—this is not about cheap drugs. We have dealt with that issue for seniors. We have dealt with that issue by putting up huge amounts of money to make sure that our seniors get good-quality, American-made drugs, made by Americans who have good-quality jobs making them. This is about hurting those Americans making these drugs as well as hurting people who are going to be consuming these drugs.

I am not happy, even though I understand we will look at this in conference and it can be striped out in conference. This is bad public policy. This is dangerous to the health of American citizens, and it hurts our economy. It says to a border guard or the Customs Service that is already overburdened, that already has too much of a job to do—how are they going to know whether it is made in Canada or not? How are they going to know whether it came from Canada or not? This is a potentially monstrous problem. This is an enforcement problem. This is going to create huge problems on a number of levels.

I hope Members vote against this. I am going to vote against it. This is not the right way to do this, No. 1, to withhold money from the Border Patrol so

they don’t do their job. If you want to debate the issue of whether we should adopt Canadian-style drug pricing, fine; let’s do that. We did that last session of Congress, and 38 Senators voted to allow Canada to set prices for drugs in America. That is how bad things are, in my opinion, in this Chamber when it comes to this issue.

This country’s pharmaceutical industry is the envy of the world. We are the envy of the world for our biotech and pharmaceutical treatments and cures. We discover over 50 percent of the new drugs in the world. We have research jobs. We employ the best and brightest scientists in the world here in the United States. What do we want to do? We want to destroy that. We want to completely go around safety and effectiveness, completely go around the FDA and bring in counterfeit, bogus drugs to let our seniors or let other people use those drugs because it is a political advantage to doing it, to saying we are for cheap drugs. You are for harming people if you vote for this amendment.

I yield the floor.

Mr. GREGG. Mr. President, I understand that the unanimous consent request did not include the yeas and nays. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order, there is 2 minutes equally divided on the Vitter amendment, as modified.

Who yields time? The Senator from Louisiana.

Mr. VITTER. Mr. President, I rise in support of this amendment. I thank Senators Nelson and Coburn and others for their support.

This is very simple and straightforward. It will simply say in the post-9/11 world to Customs and border security that they should not be spending precious time and precious resources confiscating prescription drugs from seniors as they come back into this country from Canada. That is the only thing the amendment does. It is only about Canada. It is only about the personal use of prescription drugs. It doesn’t involve wholesale, and it doesn’t involve large quantities which can be resold in this country. It is only about FDA-approved drugs or their equivalent or what would be FDA-approved drugs if FDA did not define their approval process to specifically exclude drugs from other countries.

I ask for strong support of this very commonsense amendment.

The PRESIDING OFFICER. Who seeks time in opposition to the amendment?

Mr. SANTORUM. Mr. President, the Senator from Louisiana said it only concerns Canadian drugs. Let’s take a look at what FDA said when they looked at so-called Canadian generic drugs ordered from a website claiming to sell drugs from Canada.

Where was the website registered? China. Where was the post office address? Dallas, TX. Where was the return address? Miami, FL. Where was the credit card billed? St. Kitts. And where was the phone number listed? Belize. Canadian pharmacies, legal under this new amendment coming in from Canada. Canadian? Really? Where was this stuff made? We don’t know. Probably China. Maybe not. Is it FDA approved? Is it licensed? Safe and effective? No, no, no.

This is dangerous stuff.

For U.S. Senators to stand up and say, We have concerns about Vioxx if there is even a 1-percent potential problem for somebody who uses it, but we are going to let drugs come in from God knows where, that are potentially ineffective and deadly, is a travesty.

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

The assistant legislative clerk called the roll.

The result was announced—yeas 68, nays 32, as follows:

[Rollcall Vote No. 191 Leg.]

#### YEAS—68

Akaka	Feingold	Murkowski
Allard	Feinstein	Murray
Baucus	Grassley	Nelson (FL)
Bayh	Harkin	Nelson (NE)
Biden	Inhofe	Obama
Bingaman	Inouye	Pryor
Boxer	Jeffords	Reed
Brownback	Johnson	Reid
Burns	Kennedy	Rockefeller
Byrd	Kerry	Salazar
Cantwell	Kohl	Sarbanes
Carper	Landrieu	Schumer
Chafee	Lautenberg	Sessions
Clinton	Leahy	Shelby
Coburn	Levin	Smith
Collins	Lieberman	Snowe
Conrad	Lincoln	Specter
Craig	Lott	Stabenow
Dayton	Lugar	Talent
DeMint	Martinez	Thune
Dodd	McCain	Vitter
Dorgan	Menendez	Wyden
Durbin	Mikulski	

#### NAYS—32

Alexander	DeWine	Isakson
Allen	Dole	Kyl
Bennett	Domenici	McConnell
Bond	Ensign	Roberts
Bunning	Enzi	Santorum
Burr	Frist	Stevens
Chambliss	Graham	Sununu
Cochran	Gregg	Thomas
Coleman	Hagel	Voynovich
Cornyn	Hatch	Warner
Crapo	Hutchison	

The amendment (No. 4548), as modified, was agreed to.

Mr. THUNE. 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.

#### RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:49 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

## DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2007—Continued

Mr. SCHUMER. 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 upon the arrival of the Senator from West Virginia, he be recognized to offer two amendments, and that upon the disposition of those two amendments, the Senator from Maine be recognized to offer an amendment.

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

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

The PRESIDING OFFICER (Ms. COLLINS). Without objection, it is so ordered.

Mr. BYRD. Madam President, I was just saying as I came in, I saw these young pages here—I have been around here quite a long time, but I haven't gotten used to these. Our country has put a man on the Moon and brought him back to Earth again, but it hasn't yet perfected a really good public address system. A Senator such as myself is not used to the public address system and has to learn how to use the ones we have.

As I was saying, I said the person who really introduced court reporting in the Roman Senate was Cicero, which I will discuss at another time.

AMENDMENT NO. 4557

Mr. BYRD. Madam President, when the President sent his budget to the Congress in February, it was based on a false premise. The President's budget assumed that the Appropriations Committees would raise the aviation fees on airline passengers by \$1.23 billion. The President and his advisers at the Office of Management and Budget were aware that the Congress would not approve this tax increase on airline passengers because the administration tried a similar proposal last year, and the Congress responded with a bipartisan no. Thus, the President's budget is kind of a hollow one—h-o-l-l-o-w, hollow. It leaves a gaping \$1.23 billion hole in the homeland security budget.

The chairman of the Appropriations Committee, Senator COCHRAN, provided the subcommittee with some additional resources, but the fact remains that this bill is still \$515 million below the President's request and \$350 million

lower than the bill that was passed by the House of Representatives last month.

The amendment I am offering today attempts to rectify this discrepancy. My amendment provides an additional \$350 million for border security infrastructure enhancements, and it is fully paid for.

I am pleased that the chairman of the subcommittee, Senator GREGG, is working with me on this amendment. As we continue to hire more Border Patrol agents and other immigration enforcement officials, we need to give them the tools they need to do their job, and we need to start paying for those tools now so they will be available as more and more Border Patrol and immigration enforcement officials are hired and trained.

The Border Patrol needs new helicopters because the average age of its helicopters is nearly 40 years. The average age of our Customs primary fixed-wing aircraft is 30 years. All of our border enforcement officials, including the newly hired officials, need more vehicles, including all-terrain vehicles, high endurance vehicles, and even more buses to transport and remove illegal aliens.

Customs and Border Protection has a requirement for 18 unmanned aerial vehicles, or UAVs. The Senate-passed immigration bill authorizes more UAVs. Yet the only one we had operating on our border crashed in the desert this past spring.

The amendment I am offering provides real dollars for our aging border infrastructure. It provides \$90 million for additional fencing, tactical border infrastructure, and facilities. It provides \$105 million for air and marine items, such as new helicopters, unmanned aerial vehicles, the standing up of all planned northern border air wings, and the facilities to house and maintain these aircraft. It provides \$55 million for replacement vehicles for our border and immigration personnel, and it also provides \$15 million for the ongoing Information Technology Modernization Program at Immigration and Customs Enforcement.

The President's budget requested \$47 million in direct appropriations for the Business Transformation Program at U.S. Citizenship and Immigration Services. Because of the hollowness of the President's budget submission, these funds were not included in the bill reported out of committee. The program is a multiyear effort to modernize immigration benefits services.

So this amendment will help to reduce the rate of fraud in the program and to ensure the security and the integrity of the immigration system. This amendment provides the \$47 million requested by the President for this program.

Finally, my amendment adds \$38 million for fraud detection and national security activities at USCIS. This \$38 million will add 100 new positions to enable FDNS to conduct benefit fraud

assessments of additional immigration benefits, including training efforts necessary to further enhance the background checking process. We must have the technology and trained personnel in place now if we are to ensure that only those individuals who are legally allowed to be in this country are obtaining benefits and other privileges.

How is the amendment paid for? The amendment is fully paid for through increases in existing fees on non-U.S. citizens.

Border security in this country must be more than just a political slogan in this campaign year. Do you know this is a campaign year? I do. I am running. Border security must be one of the Nation's top priorities. The people out there watching through those lenses will agree with that. Border security must be one of this Nation's top priorities.

The United States is on track to hire over 6,500 new Border Patrol agents and immigration enforcement officers. But what happens once they are on the job? Do we send them to the border without weapons, without radios, without trucks and Jeeps? Without this amendment, without these resources, we will be telling our Border Patrol agents in essence to stem the tide of illegal immigration with little more than a polite smile—little more than a polite smile. Asking illegal immigrants to please turn around just won't cut it. Our Border Patrol must have the law enforcement resources to get the job done.

If we are truly serious about securing our borders—and not just engaging in hollow rhetoric—then we will put real dollars on the border. I commend my chairman, Senator GREGG, for his support, and I urge my colleagues to support this amendment.

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

The PRESIDING OFFICER (Mr. VOINOVICH). The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself, Mr. GREGG, Ms. Murray, Mr. ROCKEFELLER, and Mr. BINGAMAN, proposes an amendment numbered 4557.

Mr. BYRD. 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 provide additional resources for border infrastructure and program integrity initiatives)

At the appropriate place in the bill insert the following:

#### TITLE VI

#### BORDER SECURITY INFRASTRUCTURE ENHANCEMENTS

SEC. 601. (a) Notwithstanding any other provision of law, the Secretary of Homeland Security shall adjust fees charged by the Department against any non-United States citizen by notice in the Federal Register no later than January 1, 2007, to achieve not less than \$350,000,000 in additional receipts by September 30, 2007: *Provided*, That the

Secretary may adjust only those fees authorized under the Immigration and Nationality Act and the Illegal Immigration Reform and Immigrant Responsibility Act: *Provided further*, That this adjustment shall be in addition to fees authorized under 8 United States Code 1356.

(b) Amounts collected under subsection (a) shall be deposited in the accounts as provided by 8 United States Code 1356: *Provided*, That of the total amount collected pursuant to subsection (a) the Secretary shall transfer the following amounts:

(1) \$25,000,000 to Customs and Border Protection "Salaries and Expenses" for vehicle replacement;

(2) \$105,000,000 to Customs and Border Protection "Air and Marine Interdiction, Operations, Maintenance, and Procurement" for air asset replacement and air operations facilities upgrades;

(3) \$90,000,000 to Customs and Border Protection "Construction";

(4) \$30,000,000 to Immigration and Customs Enforcement "Salaries and Expenses" for vehicle replacement; and,

(5) \$15,000,000 to Immigration and Customs Enforcement "Automation Modernization".

(c) Of the total amount collected pursuant to subsection (a) \$85,000,000 shall be made available to United States Citizenship and Immigration Services: *Provided*, That of the additional amount available, \$47,000,000 shall be for Business Transformation and \$38,000,000 shall be for Fraud Detection and National Security initiatives.

(d) Amounts deposited under paragraph (b) shall remain available until expended for the activities and services described in paragraphs (b) and (c).

Mr. GREGG. Mr. President, I wish to commend the Senator from West Virginia for this amendment. Everything that he is proposing to fund in this amendment is needed and is critical. There is no question but that the agencies to which he is giving these additional dollars for the purposes of refurbishing both air and vehicle fleets are in dire need of these dollars, as he cited in his statement. The aircraft owned by Customs is 30 years beyond its useful life. Helicopters are averaging 20 years beyond their useful life. The vehicles in which these folks go out to protect our borders often break down and many times they can't fulfill their missions because the vehicles are not up to the capacity that is needed.

So this is a good amendment. It is a needed amendment. I support it. Senator BYRD has found an offset which is a reasonable offset. It increases the fees for non-Americans who seek to use the Immigration Service and the Customs Service—mostly the Immigration Service, I believe. This will not raise blue slip issues. So I am in support of this amendment and urge its adoption.

Mr. President, I ask unanimous consent that amendment No. 4557 be agreed to.

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

The amendment (No. 4557) was agreed to.

Mr. BYRD. Mr. President, I thank my chairman for his support. I ask unanimous consent that further consideration of the amendment be waived.

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

AMENDMENT NO. 4559

Mr. BYRD. Mr. President, the President of the United States, in his January State of the Union Address, told America: "The enemy has not lost the desire or the capability to attack us." He was right. I am sure the President is correct about that. But some of the speech writers and policy writers for the administration seem to be living in alternative worlds.

After the administration's decision to allow Dubai Ports World to operate terminals in six major U.S. ports, the administration asserted that it has a robust, layered security system for our ports. Yet the White House has proposed for the second straight year now to eliminate the Port Security Grant Program.

How serious is the administration about port security when it decides to allow Dubai Ports World to control six major U.S. ports? How serious is the administration when it underfunds port security? How serious are they about port security when Customs and Border Protection inspects only 5 percent of the 11 million containers that come into the country each year? How serious is the administration about port security when the Coast Guard inspects only one-third of the foreign ports that trade with our country? How serious is the administration when the Coast Guard Deepwater budget for replacing its ships, planes, and helicopters will not be completed until 2026? How old will I be then, in 2026? Well, it really doesn't matter. That is 20 years away.

How serious are they when it takes over 11 months to make grant funds available to ports for needed security measures?

My amendment would provide \$648 million to fill critical gaps in our paper-thin—paper-thin—do you see how thin this paper is—our paper-thin port security programs. The amendment would provide resources for more container inspection equipment and personnel, more port inspections, more Coast Guard ships, more Coast Guard planes that are essential to securing our borders, and more port security grants.

Currently, only 5 percent of all of the cargo containers entering the United States are physically inspected by opening the containers. Now, this is paper-thin security. My amendment would fund 60 more cargo container imaging machines at our seaports and rail border crossings that can view inside a container. It will also fund the hiring of 354 additional Customs and Border Protection officers to inspect these containers and address anomalies in cargo containers that may be triggered by the radiation portal monitors deployed at the ports.

Currently, the Coast Guard has only 82 inspectors to conduct facility investment compliance at domestic ports and 34 inspectors to review security plans at foreign ports. Of the 144 countries that conduct maritime trade with our

country, the Coast Guard has assessed security at only 51. At the current rate of inspections, Coast Guard inspectors will visit countries that trade with the United States only once every 4 years. Now, this is paper-thin security.

Under my amendment, the Coast Guard would complete the assessment of all 144 countries every 2 years. My amendment would also provide the Coast Guard with funding to conduct random spot checks of all domestic port facilities and assess the vulnerability of our most strategic ports here at home.

Domestically, the Coast Guard inspects the 3,064 U.S. facilities that are subject to the Maritime Transportation Security Act regulations just once per year. The Coast Guard has no funding to conduct random spot checks of these facilities. My amendment includes funding for approximately 80 new positions to establish a robust spot check program at each Coast Guard sector office, an important element in any enforcement regime, wouldn't you think so?

The Coast Guard has completed vulnerability assessments at 55 militarily and economically strategic ports. Currently, no funding is available to update these assessments which were completed 2 years ago. But my amendment would allow the Coast Guard to reassess the vulnerability of approximately 10 ports.

The condition of Coast Guard ships and planes is declining rapidly. These assets spend more and more time out of service. For example, total patrol boat hours in 2004 were 25 percent lower than in 1998. Current Coast Guard maritime patrol airplanes can only provide half of the hours required to meet operational commitments. At the same time, funding constraints require maintenance on these aging assets to be deferred more and more every year.

My amendment provides \$184 million for the Coast Guard to buy new patrol boats, maintain existing cutters, buy new maritime patrol aircraft, and arm its helicopters for homeland defense in U.S. ports and harbors.

Coast Guard Patrol boats are operating in theater less today than they were in 1998. Total boat hours were only 75,000 in 2004, compared to the 1998 baseline of approximately 100,000 hours. The decline in operational hours has been the result of aging assets and the loss of 8 patrol boats deployed to the Middle East for Operation Iraqi Freedom. Under the Coast Guard's Deepwater modernization plan, this gap won't be closed until 2012 at the earliest. Funding in my amendment would enable the Coast Guard to purchase 2 additional patrol boats for a total of 5 in fiscal year 2007. This will provide the Coast Guard with 6,000 desperately needed Deepwater patrol boat hours in drug and migrant transit zones.

Finally, my amendment includes \$190 million for port security grants, which would bring fiscal year 2007 funding to \$400 million. The Coast Guard estimates that \$5.4 billion is needed

through 2012 for security at our ports. To date, only 15 percent of that amount has been funded despite the fact that United States ports handle over 95 percent of U.S. overseas trade. Last year, Homeland Security was able to fund only 24 percent of the projects requested. This is paper-thin security.

I ask unanimous consent that a letter from the American Association of Port Authorities supporting the amendment be printed in the RECORD.

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

(See exhibit 1)

Mr. BYRD. The White House knew, when it sent the budget to the Congress, that the funding relied on a tax hike on air travelers—a tax hike the Congress had already rejected. The Appropriations committees lack jurisdiction to increase the aviation passenger tax, and, of course could not do so in this bill. As a result, despite Chairman GREGG's best efforts, the bill that is before the Senate does not provide the necessary resources for port security. My amendment addresses that shortfall.

Just 2 months ago, the Senate approved my \$648 million port security amendment to the supplemental. Regrettably, the President threatened to veto the supplemental unless what he characterized as low-priority spending was dropped from the bill. In conference, port security funding was stricken from the supplemental. I hope that the Senate will approve this port security amendment again and that this time, it survives in conference.

The amendment is within the allocation available to the subcommittee for fiscal year 2006.

The American people expect more than just a paper-thin security plan for our ports. I thank Chairman GREGG for his support.

I thank my illustrious chairman, Senator GREGG, for his support, and I urge the adoption of my amendment.

#### EXHIBIT 1

AMERICAN ASSOCIATION  
OF PORT AUTHORITIES,  
Alexandria, VA, July 10, 2006.

To: All Members of the United States Senate.

From: Kurt Nagle, President and CEO, American Association of Port Authorities.

Subj: Support Port Security Amendment on the Senate Floor.

As a member of the United States Senate, I am writing to urge you to support an amendment to the Department of Homeland Security's (DHS) FY '07 appropriations bill being offered tomorrow by Senator Byrd to increase funding for port security. This amendment represents a critical opportunity to make port security a higher priority for this nation. The American Association of Port Authorities (AAPA) represents the leading public ports in the U.S., handling most of the maritime cargo imported or exported from this country. We strongly endorse this amendment to provide an additional \$635 million to enhance port security by providing: an increase in port security grants, additional port security inspectors at foreign and domestic ports, additional cargo container inspection equipment, and improved maritime security through expedited purchase of Coast Guard planes and boats.

Earlier this year, Congress and this nation focused its attention on the P&O Ports/Dubai Ports World transaction, which resulted in a nationwide debate on port security and calls for more security funding for this critical transportation asset. In response, the Senate and the House began working on legislation to strengthen maritime security. The Senate Greenlane Maritime Security Act (S. 2459—Collins/Murray) and the House SAFE Ports Act (H.R. 4954—Lungren/Harman) both call for significantly more funding for port security. The Senate-based emergency supplemental followed the recommendations in these bills, but much of the port security funding was eliminated due to concerns over the total spending level for the bill.

Senator Byrd's amendment is aimed at once again adopting the funding levels in the House and Senate bills and making port security a high priority for this country. AAPA is especially interested in properly funding the Port Security Grant program. The Byrd amendment would bring the funding level up to \$400 million for the year. This would help pay for the very costly new regulations DHS has proposed following the Dubai Ports controversy to require all maritime workers and facilities to comply with new Transportation Worker Identification Credential or TWIC requirements. DHS estimates that 40 percent of the \$1 billion cost of this regulation will fall on port facilities. By supporting this amendment, Congress will provide federal funds critical to help co-fund this new mandate.

With 99% of our international cargo by volume flowing through ports, we urge you to show the nation that port security is a priority in Congress by voting "yes" on this port security amendment tomorrow.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I rise again to express my appreciation to the Senator from West Virginia. He has brought forward an amendment which addresses critical needs in port security and Coast Guard retooling. He has paid for it. My druthers were to take the 2006 authorization allocation which we had and allow it to lapse and go to deficit reduction. That was my initial plan. But I have been here long enough to know that if you leave that type of money on the table, somebody else will end up spending it.

It is truly a critical need in the area of homeland security that we address the issues which the Senator from West Virginia has put into his package. The Coast Guard is especially important. An example: The Senator from West Virginia noted that he is going to fund the adding of armament to Coast Guard helicopters. Presently there are about 90 Coast Guard helicopters. Four or five are armed. The four or five that are armed have a 100-percent interception rate. In other words, when a smuggler is headed toward our shores, either with people or with contraband, if the helicopter that tracks them has armament on it, there is 100 percent interception rate. Those helicopters which do not have armament do not have anywhere near that interception rate.

There was an interesting article just a day or so ago in the Miami paper, I believe, about how smugglers are coming in and that the Coast Guard fast

boat tried to catch up with the smugglers. They were in a cigarette boat. The cigarette boat turned and was on a course to ram the intercept boats, and the intercept boats called in the armed helicopter and that stopped the confrontation. The smugglers were arrested.

So it is critical that we do this type of upgrading to the Coast Guard. In this bill, we had upgraded 36 helicopters. This will upgrade another 30. We are getting pretty close to the entire Coast Guard fleet or as much as is needed to have that type of armament on it.

In addition, the fast boats are critical, the observation aircraft are critical, and then the whole major thrust toward port security is equally important.

It is a paid-for amendment. It is one that addresses needs that are there, that are obvious. They need to be addressed and were not addressed because of the tight resource situation. But, as usual, the Senator from West Virginia has been creative, and his proposal is not only reasonable but is an improvement of the bill. I am happy to support it.

I know the Senator from North Dakota wants to speak on it.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator from West Virginia.

Mr. BYRD. Mr. President, I ask that my amendment be called up and the clerk state it for the consideration of the Senate.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself, Mr. GREGG, Mr. KOHL, Mrs. CLINTON, Mr. MENENDEZ, Mrs. MURRAY, and Mr. ROCKEFELLER, proposes an amendment numbered 4559.

Mr. BYRD. 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 additional funding for port security enhancements in fiscal year 2006)

At the appropriate place, insert the following:

#### TITLE VII—SUPPLEMENTAL APPROPRIATIONS FOR PORT SECURITY ENHANCEMENTS

The following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to enhance port security for the fiscal year ending September 30, 2006, and for other purposes, namely:

##### CUSTOMS AND BORDER PROTECTION SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", \$251,000,000, to remain available until expended.

##### UNITED STATES COAST GUARD OPERATING EXPENSES

For an additional amount for "Operating Expenses", \$23,000,000, to remain available until expended: Provided, That funding is available to accelerate foreign port security assessments, conduct domestic port vulnerability assessments, and perform unscheduled security audits of facilities regulated by



chapter 701 of title 46, United States Code, commonly known as the Maritime Transportation Security Act of 2002.

UNITED STATES COAST GUARD  
ACQUISITION, CONSTRUCTION, AND  
IMPROVEMENTS

For an additional amount for "Acquisition, Construction, and Improvements" for acquisition, construction, renovation, and improvement of vessels, aircraft, and equipment, \$184,000,000 for the Integrated Deep-water Systems program, to remain available until expended: *Provided*, That funding is available to acquire maritime patrol aircraft and parent craft patrol boats, to provide armed helicopter capability, and to sustain the medium endurance cutter fleet.

OFFICE FOR DOMESTIC PREPAREDNESS  
STATE AND LOCAL PROGRAMS

For an additional amount for "State and Local Programs", \$190,000,000 to remain available until September 30, 2007: *Provided*, That the entire amount shall be for port security grants pursuant to the purposes of subsection (a) through (h) of section 70107 of title 46, United States Code, which shall be awarded based on risk notwithstanding subsection (a), for eligible costs as defined in paragraphs (2), (3), and (4) of subsection (b).

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I will be very brief. I come from a landlocked State. We don't have a seaport in North Dakota. But I have taken the time to review some of the activities of seaports and learned a bit about seaports and related that to the issue of security in this new age of terrorism.

I come today to support the amendment offered by my colleague from West Virginia. He has been relentless over some long period of time, being very concerned about seaport security. Let me also commend Senator GREGG as well for his work on the underlying legislation and also for his support of the amendment of Senator BYRD.

I recall going to a seaport and being shown containers that come in, I believe between 5.5 and 6 million containers, stacked on ships that arrive at the shores of the United States. Then they are put on wheels and they are trucked around the country. I asked the question, How many of these containers are inspected? The answer at that point was around 3 percent. I believe now it is something just over 5 percent.

They were showing me, at this particular seaport, a container they had opened. It turned out to be a refrigerated container with frozen broccoli from Poland, and it had in it giant bags of frozen broccoli from Poland. I said, "What is in the middle of the container? I see you opened the back end and ripped open some bags, and there is frozen broccoli in this container. Is there anything in the middle of these bags?"

"That we don't know. We haven't unloaded it. We don't unload most of these. We don't inspect most of these."

Then they showed me the technology that exists by which they could inspect, effectively x-raying these containers. So there are ways to enhance greater inspection of these containers at seaports.

Even though my State doesn't have a seaport, we in the Senate debate and provide funding now of about \$10 billion a year for the antiballistic missile system so we can create a catcher's mitt in case some rogue nation or some terrorist group would fire an intercontinental ballistic missile at us that is tipped with a nuclear bomb. The likelihood of that is very unlikely. It is one of the least likely things on the threat meter against our country, that a rogue nation or terrorist group would acquire a nuclear weapon, put it on top of an intercontinental ballistic missile, and have the means to launch it at our country, but we spent about \$10 billion to try to find a way to provide a catcher's mitt and intercept a bullet, with a bullet traveling at 18,000 miles an hour.

A much more likely scenario to threaten this country will be a ship pulling up to the dock of a major American city at 3 miles an hour with a load of containers on board, one of which may contain a weapon of mass destruction. That has been my concern.

I think we have done a lot of work to try to extend the envelope and extend the line of protection, going actually to other countries. That is included, in addition, in this amendment—to have inspectors overseas at the point of departure for some of these container ships and so on. But there is so much more we must do if we really are going to assure ourselves we are not going to allow, coming in at 2 or 3 miles an hour, some large ship carrying containers, one of which—out of some 6 million—one of which could threaten to blow up a major American city. That is the reason for being concerned about port security. It has the purpose of going the extra mile and making the extra investment to make sure that we can feel as if we have done everything possible to provide security at America's seaports.

Let me again thank my colleague from West Virginia. As I said, he has been relentless. He has been on the Senate floor many times. I have tried to come and be supportive when he has offered these amendments because I feel so strongly about it. And let me again compliment Senator GREGG, the chairman of the subcommittee, for his work and also for accepting this amendment.

Mr. BINGAMAN. Mr. President, I speak on behalf of an amendment being offered by Senator BYRD which would enhance funding for border security infrastructure. I am pleased to be a co-sponsor of this important legislation, and I thank the Senator from West Virginia for his hard work on this important bill.

The amendment would provide an additional \$350 million for critical border security needs. The amendment would allocate \$105 million for customs and border protection to purchase new Border Patrol replacement helicopters, fixed wing aircraft, and additional unmanned aerial vehicles. And \$25 million is added to the bill to purchase ap-

proximately 540 additional replacement vehicles for the Border Patrol.

The amendment would also provide an additional \$90 million for tactical infrastructure. This funding can be used to construct vehicle barrier, fencing, and facility upgrades. This funding will be of great assistance to the state of New Mexico, where such upgrades are needed to secure our border. The underlying bill allocates about \$57 million for tactical infrastructure in Arizona and about \$30 million for San Diego. However, the El Paso Sector, which includes the entire State of New Mexico, is only provided about \$7.5 million. The additional \$90 million under this amendment will help ensure that New Mexico receives the resources that it needs.

The amendment would also prove \$30 million for ICE to purchase 800 vehicles, including buses and vans, used to transport undocumented immigrants. And USCIS is allocated \$38 million to enhance fraud detection systems.

These additional resources are greatly needed and I urge my colleagues to support this important measure.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. I thank the Senator from North Dakota. There is some irony in that, although neither the Senator from West Virginia nor the Senator from North Dakota has a port, unless Harpers Ferry is considered a port, they would be putting forward this concept. It is a good concept.

I ask unanimous consent the amendment be agreed to.

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

The amendment (No. 4559) was agreed to.

Mr. DORGAN. Mr. President, 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.

AMENDMENT NO. 4560

Ms. COLLINS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk reads as follows:

The Senator from Maine [Ms. COLLINS], for herself and Mr. LIEBERMAN, Mr. LOTT, and Mr. CARPER, proposes an amendment numbered 4560.

Ms. COLLINS. 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 printed in today's RECORD under Text of amendments.)

Ms. COLLINS. Mr. President, our amendment would strengthen the capability, stature, and effectiveness of the Federal Emergency Management Agency. The language in the amendment is largely drawn from S. 3595, the United States Emergency Management Authority Act, which we introduced in this Chamber 2 weeks ago. We believe this is the appropriate time and the right vehicle for improving our Nation's emergency management system.

The wounds of Hurricane Katrina are still fresh. A new hurricane season is upon us, and the recent news on the law enforcement and military front reminds us that the terrorist threat to America continues. Bitter lessons have been learned from the experience in responding to Hurricane Katrina, but they have not yet been applied. The time for action is now.

The amendment reflects the Senate Committee on Homeland Security's 8-month investigation into the failed preparations for response to Hurricane Katrina.

As the Presiding Officer is well aware, the committee conducted an extensive and exhaustive investigation. We held some 23 hearings at which nearly 90 witnesses testified. We formally interviewed 325 individuals, and we reviewed some 838,000 pages of documents. We distilled all of this into a comprehensive report with many recommendations for improving the response at all levels of government.

Some of these recommendations have to do with how the Federal Government should be organized to effectively respond to future disasters, whether they are manmade or whether they are natural ones such as Katrina. These recommendations have been distilled in part in USEMA legislation that forms the basis for this amendment.

I note that this is the first step in implementing the committee's comprehensive recommendations. We will be introducing a subsequent bill to implement other findings and recommendations. Most significant will be a package of reforms to the Stafford Act, but that is not what we are proposing today. The amendment before us today has four key features. It seeks to restructure, reform, and strengthen the Federal Emergency Management Agency, FEMA, which we would rename as the United States Emergency Management Authority.

The four key features are as follows: First, it would give this new authority statutory protection against administrative actions that could diminish its capabilities and effectiveness, such as department-wide reorganization that could strip essential functions away from the new agency.

Second, it would ensure that the administrator has direct access to the President and serve as his principal adviser on emergency management issues.

Third, it would reunite preparedness functions with response capabilities. After all, preparedness and response are really two sides of the same coin. I believe it was a mistake when the Department decided to strip FEMA of its preparedness functions.

It would reestablish the agency's comprehensive responsibility and restore a full range of work relationships with State and local government, the essential partners in emergency response.

Fourth, the amendment would strengthen the new authority's regional focus.

I know that as a former mayor the Presiding Officer has a special appreciation for just how important it is for the Federal Government to work closely with State and local governments. That is an issue that he has brought up throughout this investigation.

We would create Federal strike teams that have representatives from all the agencies that are involved on the Federal side of the response. They would be located in regional offices to foster cooperation, coordination, and joint training with State and local emergency managers and with first responders.

A crisis, whether it is due to a hurricane, an ice storm, or a terrorist attack is the last time that people should be exchanging business cards. We should make sure the Federal, State, and local governments are training together, planning together, exercising together; that they know one another; that they know the culture, the capabilities, and the essentials.

The overarching objective of the amendment is to strengthen FEMA which, as I pledged, we would propose to rename as the United States Emergency Management Authority. The new name signals a fresh start for FEMA with new authority, including some authority that it has never had before over critical infrastructure, for example. It signifies new capabilities and new responsibilities to all-hazards emergency preparedness and response. And, surely, those of us who investigated for some months the failed response to Hurricane Katrina, as well as anyone who followed the issue peripherally, can have no doubt that FEMA urgently needs to be restructured and reformed to be more effective.

Part of this help entails giving the new people a special legal status within DHS. Our amendment's prohibition against further departmental reorganization of this agency and mission alterations affecting the authority will give USEMA exactly the same kind of protection that has already been extended to the Coast Guard and to the Secret Service.

This is something completely new. We paralleled the kind of protection, the distinct legal status that is given to the Coast Guard and to the Secret Service. I know the Coast Guard was the stellar performer in the response to Katrina. The Coast Guard, by all accounts, did an exceptional job in its preparedness and response, yet as part of the Department of Homeland Security.

I think those who think the answer is to sever FEMA or the new agency from the Department should take a hard look at the Coast Guard's experience. But in looking at the Coast Guard, I think we can also learn that it benefited from having this legal protection, and we would extend that to the newly constituted FEMA.

This protection will help achieve congressional intent that DHS be the focus for comprehensive, all-hazards

Federal preparation and response to disasters.

When the Hart-Rudman Commission on National Security in the 21st Century memorandum recommended just 5 years ago a new approach to homeland security and that America establish a single department to plan, coordinate, and integrate homeland security operations, it called FEMA the necessary core of that new department. To that end, USEMA, like FEMA, needs to be a part of the DHS structure. That analysis has been confirmed by experience.

Admiral Allen of the Coast Guard explained at one of our hearings that having FEMA and the Coast Guard in the same department leads to certain synergies that do not otherwise occur, and that led in particular to a 350-percent increase in joint training exercises. That is the kind of integration that we need more of.

More generally, keeping key capabilities within a single DHS umbrella permits faster communication and response than a more formal and bureaucratic procedure required for interdepartmental requests from a setting within DHS. However, FEMA needs to have far better lines of communication.

I know the Presiding Officer was as shocked as I was to hear the former head of FEMA, Michael Brown, talk about circumventing the chain of command within the Department and his failure to order critical commodities, to order the buses, to communicate just how dire the situation was in Louisiana.

We want to make sure that we improve those lines of communication, both within the Department and between the Department and the White House and other agencies. That means giving the administrator more status.

We would upgrade the administrator so he is the equivalent of a Deputy Secretary. That gives him more clout and more stature in dealing, for example, with the Department of Defense and other departments that play important roles in responding to a disaster.

We designate the administrator of USEMA the principal adviser to the President on matters of emergency management. And we adopt a system that for the Pentagon has worked well in outlining the reporting responsibilities. We parallel the relationship between the Chairman of the Joint Chiefs of Staff to the President. So there is both a reporting relationship to the Secretary of Homeland Security, and yet the new administrator would be the principal adviser to the President on emergency management.

In addition—I think this also responds to a key weakness that our intensive investigation revealed—the administrator would be authorized to give recommendations directly to Congress. The administration would have to make sure he informs the Secretary of what he is going to say, but there is a direct link, a direct line of communication.

I know the Presiding Officer recalls that Michael Brown claims he was stifled in reporting to Congress. We don't know for a fact whether that is an accurate statement. But we put in reforms to ensure that the administrator has the ability to communicate his recommendations, his needs, his findings directly to Congress.

Our amendment, as I indicated, specifically rejects the notion that FEMA should be cut off of DHS and made a freestanding agency. The DHS needs FEMA's capability. What would happen if FEMA, a weak FEMA, were cast alone is that DHS would have to recreate many of the capabilities that FEMA has at great cost, at great duplication of effort. What we would end up having is one agency that deals with natural disasters and another agency within DHS that deals solely with disasters resulting from terrorist attacks. That makes no sense whatsoever.

Many of the challenges in the aftermath of a catastrophe, whether it is manmade or natural, are exactly the same—sheltering people, getting them food and water, an evacuation plan.

It also makes no sense from the perspective of State and local governments. We don't want them to just deal with one agency if they are planning for a natural disaster and another agency if they are planning for a terrorist attack since many of the challenges are identical. Just think, if the levees had been blown up by terrorists rather than breached by Hurricane Katrina, many of the challenges would have been exactly the same. There just would have been a stronger law enforcement component.

It is a mistake, in that the Coast Guard's stellar performance proves it is a mistake, to think the location of FEMA is the cause of the problems. Even if that duplication were cost free, a virtual impossibility, the Secretary of the Department estimates it would cost billions of dollars to duplicate the necessary capabilities within DHS if FEMA were separated. Even if that were possibly cost free, it would be destructive. Divided preparation and response systems would force State and local officials to have to engage one to prepare for natural disasters and another for terror attacks.

As one of our committee's expert witnesses, Professor Donald Kettl of the University of Pennsylvania, said: Separating response to terrorism from response to natural disasters, separating preparedness from response, separating FEMA from DHS, would inevitably bring problems.

I agree with the professor. This is consistently what we hear from those who are on the front lines, from those who know what it takes to respond to a catastrophe.

In that regard, I note that there is extraordinarily strong support from first responder groups for the Collins-Lieberman-Lott-Carper amendment. It has been endorsed by the National Troopers Coalition, the Major Cities

Chiefs Association, the Grand Lodge of the Fraternal Order of Police, the National Association of Police Organizations, the National Sheriffs Association, the International Association of Fire Fighters, the International Association of Fire Chiefs, the Congressional Fire Services Institute, Advocates for EMS, the International Brotherhood of Police Officers, the International Association of EMT's and Paramedics.

This is quite a list of those who truly are on the front lines when it comes to responding to a disaster. I am very proud to have their support for our amendment. They recognize we have worked very hard and consulted fully with them to come up with the right approach.

I also note the amendment we are offering has been endorsed by the Homeland Security and Defense Business Council. This is a council that provides advice to the Secretary. It is made up of very distinguished members of the private sector. They, too, have endorsed it.

I ask unanimous consent these letters from first responder groups and from the Homeland Security and Defense Business Council be printed in the RECORD at the conclusion of my statement.

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

(See exhibit 1.)

Ms. COLLINS. Mr. President, I also note planning and response capabilities are already too weak in many States, as evidenced by the recent DHS reviews. We don't want to splinter those efforts further by needlessly multiplying their Federal points of contact. For many reasons, therefore, preserving those close working ties with other agencies within the Department, the new FEMA must stay within DHS.

Allow me to briefly summarize a few more of the provisions of the bill before yielding to my colleague from Connecticut. First, as I mentioned, it establishes a strong position for the administrator of the new USEMA. This administrator would be nominated by the President, confirmed by the Senate, and have the standing of a Deputy Secretary. Day by day, the administrator would report to the DHS Secretary, but the bill explicitly provides that direct line of communication to the President as well as the authority to make recommendations to Congress on which I have already elaborated.

The amendment provides for two directors. There was an issue on which we worked very closely with DHS. The language we have incorporates the feedback we got from the Department. Both of these individuals—which, again, would be high-level individuals within the Department—would be nominated by the President, confirmed by the Senate, and would provide the administrator and the Department with highly qualified professionals in preparedness and mitigation and in response and recovery.

Our amendment would give the administrator responsibility for managing preparedness grant programs. The Presiding Officer knows, as the former mayor, that if you control some of the money that goes out to State and local governments, if you are helping to allocate that funding, you will have a good relationship with State and local governments. Inevitably, the authority follows the money. This is going to ensure we have far better coordination. This is an important restoration of authority to this agency. It was a mistake, in my view, that authority was taken away from FEMA. That will help ensure better oversight and coordination of preparedness at all levels of government.

I have talked about how important I think these regional structures are for the new agency. It will ensure that Federal officials are familiar with the people, the vulnerabilities, the capabilities, and the resources of the regions they protect, and they won't be introducing themselves to strangers on unfamiliar ground when disaster strikes.

I could not help but be struck during our hearings by the fact that so many individuals from FEMA were sent from region 1e—the region that the Senator from Connecticut and I represent, New England—down to New Orleans. I like to believe we New Englanders can handle anything, but the fact is, the response would be far more effective if we had people who are in the area who worked every day with the emergency management officials in the area, who understood the weaknesses and the strengths of particular States rather than sending someone from the Northeast down to the hurricane region or vice versa in times of an ice storm or some other disaster.

Further recognizing the importance of multilevel governmental coordination, the bill creates a national advisory council on emergency preparedness and response that would be made up of State and local officials, emergency management professionals from the public, private, and NGO sectors to advise the administrator of USEMA. This is important. We know the critical role nonprofits and the Red Cross play. They, too, should be involved in the training, the planning, the exercising. We learned from our investigation that, too, was flawed. This will help ensure the agency's thinking does not proceed in a stovepipe, but is fortified with comments and expertise from a wide range of vitally concerned partners.

Our amendment addresses the glaring and urgent needs highlighted in our investigation of Hurricane Katrina. As I mentioned, I am very pleased we have the support of so many experts. Nothing could speak more eloquently of the need for reform or be more encouraging than to receive the words of support from those who do put their lives on the line every day to protect the American people. We also have the support of the administration for this proposal.

Amending the Homeland Security appropriations bill by adding the provisions of our USEMA bill will go far to ensuring in a timely way that we will have a far more effective structure to protect our fellow citizens' lives and livelihoods from disaster.

I am very pleased this is a bipartisan effort. I recognize the work of the Senator from Connecticut who has led, with me, the investigation of the committee and the drafting of this legislation. We are also grateful for the input of Senator LOTT who knows better than any of us—except his fellow Senators from Mississippi and Louisiana—the devastation of Hurricane Katrina. I am grateful for his input, as well as the input from Senator CARPER who also has worked very hard on this issue.

Finally, I recognize all of the participation of the Presiding Officer, Senator COLEMAN. There was no more loyal committee member who came to virtually every single hearing, participated actively, and contributed greatly to our investigation. I thank him for his work, as well.

EXHIBIT 1

JULY 11, 2006.

Hon. SUSAN COLLINS,  
*Chairman, Committee on Homeland Security,*  
*U.S. Senate, Washington, DC.*

Hon. JOSEPH LIEBERMAN,  
*Ranking Member, Committee on Homeland Security,*  
*U.S. Senate, Washington, DC.*

DEAR CHAIRMAN COLLINS AND RANKING MEMBER LIEBERMAN: On behalf of the Homeland Security and Defense Business Council (the Council), I am writing to support S. 3595, the U.S. Emergency Management Authority Act. On behalf of the private sector, the Council is pleased to endorse this measure to reinvent, protect, and strengthen FEMA. The new FEMA, reconstituted as the U.S. Emergency Management Authority, would ensure that the nation will be better prepared to address, either, natural or man-made disasters.

The Council is a non-partisan, non-profit 501 C6 organization that comprises the major companies that serve the Department of Homeland Security (DHS). Our focus is to align private sector resources to support the mission of the Department on behalf of the nation's interests. The Council is pleased to see language that elevates the importance of FEMA within DHS and reunites preparedness functions with response capabilities.

The Council supports provisions of S. 3595 that would:

Give the new U.S. Emergency Management Authority statutory protection against actions that could diminish its capabilities and effectiveness;

Ensure that the Administrator of US-EMA has direct access to the President and serves as Principal Emergency Management Advisor, at all times;

Reunite preparedness functions with response capabilities to reestablish the agency's comprehensive responsibilities and restore the full range of working relationships with state and local government; and

Strengthen the Authority's regional focus with federal strike teams for a faster and more coordinated response and to provide better familiarity with the states in which the strike teams will operate.

Thank you for your continued commitment to improving emergency management and response and for engaging the private sector to leverage industry best practices.

Should you have additional questions, please do not hesitate to contact me anytime.

Sincerely,

MICHAEL M. MELDON,  
*Executive Director.*

NATIONAL TROOPERS COALITION,  
*July 11, 2006.*

Hon. SUSAN M. COLLINS,  
*Chair, Homeland Security and Governmental Affairs Committee, Dirksen Senate Office Building, Washington, DC.*

DEAR SENATOR COLLINS: On behalf of the 40,000 state troopers and highway patrol men and women represented by the National Troopers Coalition (NTC), we are writing to commend you for your legislative efforts to ensure that law enforcement is directly involved in the continuing efforts to prevent and respond to acts of terrorism.

As an organization, NTC joins with our colleagues in other national law enforcement organizations in support S. 3595, the United States Emergency Management Authority Act of 2006. We are convinced that retaining the Federal Emergency Management Agency within the Department of Homeland Security will provide better coordination among all agencies serving as first responders to both natural disasters and terrorist attacks. Recent history has demonstrated the importance of the law enforcement community responding promptly, along with others, to both terrorism and natural disasters for the safety and well-being of our citizens.

The NTC thanks you for your leadership on this issue and your continued efforts to ensure the public that we will have the authority and resources to meet our public safety responsibilities under any and all circumstances.

Sincerely,

CASEY PERRY.

INTERNATIONAL ASSOCIATION OF  
FIRE CHIEFS,  
*Fairfax, VA, July 13, 2006.*

Hon. SUSAN COLLINS,  
*Chairman, U.S. Senate Committee on Homeland Security and Governmental Affairs, Dirksen Senate Office Building, Washington, DC.*

DEAR CHAIRMAN COLLINS: On behalf of the nearly 13,000 chief fire and emergency officers of the International Association of Fire Chiefs (IAFC), I would like to endorse your amendment to establish a U.S. Emergency Management Authority (USEMA). We believe that this amendment will resolve many of the problems with the nation's emergency management system by improving the structure and granting greater autonomy to the federal preparedness and response activities within the Department of Homeland Security (DHS).

We believe that your approach is the best way to reform the nation's emergency preparedness and response system, because it keeps these activities within DHS. The IAFC is concerned that the removal of the Federal Emergency Management Agency (FEMA) from DHS will splinter the federal government's emergency preparedness and response efforts, which will force local jurisdictions to cope with competing directives from both an independent FEMA and the other DHS agencies. In addition, it is important that the FEMA stay within DHS and continue developing relationships with the U.S. Coast Guard and the other DHS components to better leverage their collective assets.

We believe that the U.S. Emergency Management Agency established by your amendment would ensure more autonomy for the federal emergency preparedness and response activities. The USEMA Administrator would report directly to the Secretary of Homeland Security and the directors of Preparedness and Response and Recovery divisions would

be Senate-confirmed. Your amendment also would insulate the USEMA from reorganization and diversion of assets, functions, or missions. The IAFC believes that USEMA's independence could be further guaranteed by ensuring that the USEMA Administrator would report directly to the President during a Stafford Act—defined “emergency” or “major disaster” to ensure that all federal assets are available without delay. We greatly appreciate the provisions in this amendment that ensure that the U.S. Fire Administrator remains at a level equivalent to an Assistant Secretary in the department.

We thank you for your continued leadership on behalf of America's fire service. Please feel to contact Ken LaSala, Director of Government Relations, at (703) 273-9815 x347, if we can be of assistance.

Sincerely,

GARRY L. BRIESE, CAE,  
*Executive Director.*

GRAND LODGE  
FRATERNAL ORDER OF POLICE®,  
*Washington, DC, July 10, 2006.*

Hon. SUSAN M. COLLINS,  
*Chairman, Committee on Homeland Security and Governmental Affairs,*  
*U.S. Senate, Washington, D.C.*

Hon. JOSEPH I. LIEBERMAN,  
*Ranking Member, Committee on Homeland Security and Governmental Affairs,*  
*U.S. Senate, Washington, DC.*

DEAR CHAIRMAN COLLINS AND SENATOR LIEBERMAN, I am writing on behalf of the members of the Fraternal Order of Police to advise you of our strong opposition to any legislation or amendment that would remove the Federal Emergency Management Agency (FEMA) from the U.S. Department of Homeland Security (DHS).

Since the terrorist attacks on the United States in September 2001, our nation has worked diligently to defend itself from future attacks and, in so doing, have also dedicated significant resources to respond to large scale critical incidents, both natural and man-made. Yet the primary mission of the Department of Homeland Security must always be the prevention of future attacks against the United States, and this mission is best entrusted to law enforcement at the local, State, and Federal levels.

However, our nation will face natural disasters which cannot be prevented, and, for these, we must be prepared to respond. Law enforcement is a critical component of this response and law enforcement at every level of government seeks to increase the speed and effectiveness of delivering emergency services to those in need. Clearly, the mass devastation brought to the Gulf Coast by Hurricane Katrina showed that greater coordination and communication is needed to respond to incidents of such magnitude. This goal cannot and will not be achieved if FEMA is removed from DHS. Indeed, the F.O.P. believes that such a move would reduce our nation's overall level of preparedness.

The F.O.P. also strongly supports greater participation of law enforcement in planning emergency response at every level of government. We will continue our review of various legislative proposals addressing the need for emergency management reform at the Federal level. I thank you both in advance for your consideration of the positions we have laid out to date and look forward to working with you to improve our nation's ability to prevent terrorist attacks and prepare for future critical incidents. If I can provide any further information on this issue, please do

not hesitate to contact me or Executive Director Jim Pasco in my Washington office.

Sincerely,

CHUCK CANTERBURY,  
*National President.*

MAJOR CITIES CHIEFS ASSOCIATION,  
*Columbia, MD, July 6, 2006.*

Hon. SUSAN COLLINS,  
*Chairwoman, Committee on Homeland Security and Governmental Affairs,*  
*U.S. Senate, Washington, DC.*

DEAR MADAME CHAIRWOMAN: On behalf of the Major City Chiefs Association, I am writing to commend you on developing legislation that will strengthen the Department of Homeland Security (DHS). S. 3595, the United States Emergency Management Authority Act, is a step in the right direction; making DHS more efficient with limited disruption and reorganization.

Prevention is the best investment in response capability. Like the President, we believe that the best way to respond to a terrorist attack, be it biological, chemical, radiological, nuclear or conventional explosive is to prevent it from happening in the first place. Intelligence, investigation, and preparedness are all law enforcement functions that will help prevent terrorists from striking again.

As you know, we feel strongly that preparedness and prevention are too dissimilar from response and recovery for these functions to operate under the same common chain of command. That is why we welcome the creation of a separate and distinct Office of the Prevention of Terrorism reporting directly to the Secretary. This structure will not permit the dilution of the prevention mission under layers of bureaucracy. We are also pleased that the bill does not break apart the Preparedness Directorate keeping it on equal footing with response and recovery. We strongly support the Preparedness Directorate and its vital role at DHS.

We look forward to working with you and supporting your efforts to ensure that DHS has a clear prevention mission. If we can be of further assistance, please do not hesitate to call on Tom Frazier at 410-433-8909.

Sincerely,

HAROLD HURTT,  
*President.*

NATIONAL ASSOCIATION OF  
POLICE ORGANIZATIONS, INC.,  
*Washington, DC, July 11, 2006.*

Hon. SUSAN COLLINS,  
*Committee on Homeland Security and Governmental Affairs,*  
*U.S. Senate, Washington, DC.*

Hon. JOSEPH LIEBERMAN,  
*Committee on Homeland Security and Governmental Affairs,*  
*U.S. Senate, Washington, DC.*

DEAR CHAIRWOMAN COLLINS AND RANKING MEMBER LIEBERMAN: On behalf of the National Association of Police Organizations (NAPO) representing more than 238,000 law enforcement officers throughout the United States, I would like to thank you for introducing S. 3595, the "United States Emergency Management Authority Act of 2006," and advise you of our support, particularly in regards to Section 517 of the legislation. If enacted, this bill will establish within the Department of Homeland Security (DHS) an Office for the Prevention of Terrorism.

The "United States Emergency Management Authority Act of 2006" will create an Office that would be responsible for coordinating anti-terrorism policy and operations between DHS and state and local law enforcement. The Director of the Office for the Prevention of Terrorism would have the important task of developing better intel-

ligence sharing methods between DHS and state and local law enforcement agencies. This new Office would also ensure that vital homeland security grants are adequately focused on terrorism.

This legislation recognizes the importance of standardized coordination and communication between the country's local, state, and federal law enforcement in preventing acts of terrorism within the United States. Section 517 of the "United States Emergency Management Authority Act of 2006" will help ensure that state and local law enforcement are properly supported, trained and informed in order to prevent terrorism before it occurs.

NAPO thanks you for your continued support of law enforcement and I look forward to working with you to get this important legislation passed. If you have any questions, please feel free to contact me, or NAPO's Legislative Assistant, Andrea Mournighan, at (202) 842-4420.

Sincerely,

WILLIAM J. JOHNSON,  
*Executive Director.*

ADVOCATES FOR EMS,  
*July 11, 2006.*

Sen. SUSAN COLLINS,  
*Chair, Senate Homeland Security and Government Affairs Committee, Dirksen Senate Office Building, Washington, DC.*

DEAR SENATOR COLLINS: Advocates for EMS, a not-for-profit organization founded to educate elected and appointed officials and the public on important issues affecting EMS providers, writes in support of S. 3595, the United States Emergency Management Authority Act of 2006. The measure establishes the U.S. Emergency Management Authority (USEMA) and creates a more autonomous agency within DHS, similar to the U.S. Coast Guard. S. 3595 also retains the Federal Emergency Management Agency (FEMA) within the Department of Homeland Security (DHS).

Advocates believes that moving FEMA out of DHS would only continue the instability that FEMA has experienced since its move to DHS. While FEMA responsibilities include natural disasters such as hurricanes, tornadoes and floods; it should also have an integrated response plan for other emerging threats. Removing FEMA from DHS would only add additional hurdles for EMS providers in terms of their ability to work with the federal government in response to a natural or man-made event.

Creating a U.S. Emergency Management Authority (USEMA) and the autonomy provided by the legislation is a step forward in making FEMA efficient and effective in providing emergency medical services responders the leadership and resources they need. In addition, Advocates also supports the establishment of the Chief Medical Officer (CMO) and its responsibilities the legislation provides. The CMO plays a key role in coordinating medical response within DHS and other federal agencies.

Advocates thanks you for your continued leadership on this issue and looks forward to working with you in the future on first responder issues.

Sincerely,

ADVOCATES FOR EMS.

INTERNATIONAL ASSOCIATION  
OF FIRE FIGHTERS,  
*Washington, DC, July 11, 2006.*

Hon. SUSAN COLLINS,  
Hon. JOE LIEBERMAN,  
*U.S. Senate, Washington, DC.*

DEAR SENATORS COLLINS AND LIEBERMAN: On behalf of the nation's more than 270,000 professional fire fighters and emergency medical personnel, I applaud you for your ef-

forts to reform the nation's emergency preparedness and response system. We strongly support the enactment of legislation to reform FEMA within the Department of Homeland Security and appreciate your continued leadership in moving this effort forward.

Congress must enact comprehensive reforms to ensure that FEMA will be able to provide an effective response to disasters. These reforms, such as reuniting disaster preparedness and response functions within FEMA and utilizing an all-hazards approach to emergency preparedness, can and should be made within the Department of Homeland Security.

We believe that proposals to return FEMA to its status as an independent agency would hinder efforts to reform our nation's emergency response system. Removing FEMA from DHS would create competing agencies, sowing confusion among emergency responders. Furthermore, such an approach would undermine an all-hazards approach, leading to a perception that DHS deals with terrorism, while FEMA is in charge of natural disasters.

When Congress created the Department of Homeland Security, it did so with the understanding that emergency preparedness and response are at the core of our nation's homeland security. Your amendment to the Homeland Security Appropriations Act helps to fulfill this mandate by ensuring that FEMA remain an integral part of the Department of Homeland Security.

Thank you for your leadership on this vital issue. We greatly appreciate your continued support for the nation's front-line emergency responders and look forward to working with you in the coming weeks to improve the way our nation responds to disasters.

Sincerely,

BARRY KASINITZ,  
*Director, Governmental Relations.*

CONGRESSIONAL FIRE  
SERVICES INSTITUTE,  
*Washington, DC, July 10, 2006.*

Hon. SUSAN COLLINS, Chair,  
Hon. JOE LIEBERMAN, Ranking Member,  
*Senate Committee on Homeland Security and Governmental Affairs, Washington, DC.*

DEAR SENATORS COLLINS AND LIEBERMAN: The response to Hurricane Katrina revealed a number of things regarding our nation's level of readiness for major disasters. On the one hand, it showed the courage and dedication of local first responders—our firefighters, law enforcement, and rescue personnel—who made many sacrifices of their own in order to respond valiantly to the greatest natural disaster in our nation's history. On the other hand, it exposed the limitations of our national response capabilities, exacerbated by failures in leadership at all levels of government.

While there is no doubt fundamental changes need to be made to our national response structure, we are greatly concerned by recent efforts in the Congress to remove FEMA from the Department of Homeland Security. The separation would diminish the resources of both FEMA and DHS, and create a duplication of critical components resulting in a bureaucratic nightmare for first responders and local governments.

In 2002, we were one of nine organizations that signed on to a white paper outlining our position on the creation of the Department of Homeland Security. The first recommendation was that FEMA "be at the core of the Department of Homeland Security." Our organization has not altered its position. FEMA can succeed but it will require strong leadership, proper resources, and better execution of the roles and responsibilities by FEMA and its partners. Your legislation, S. 3595, takes into account our

recommendation. We commend you for addressing this issue and appreciate your support.

Thank you for your leadership on this issue. We certainly look forward to continuing our work with your committee to address the needs and challenges of our nation's first responders.

Sincerely,

WILLIAM M. WEBB,  
*Executive Director.*

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank my colleague, Chairman COLLINS, for an excellent introductory statement and to say, once again, how much I am honored and pleased to work with her as the ranking Democrat on our homeland security committee, and how pleased I am to join with her today and with Senators CARPER and LOTT to introduce this amendment to make FEMA into an agency capable of responding swiftly and effectively to the most serious disasters, whether a hurricane the size and scope of Katrina, a natural disaster the likes of which we see more routinely, or a terrorist attack which, of course, our enemies hope will be even more devastating than the attacks of September 11 and for which we must be perpetually on the defensive and prepared.

This amendment would literally reinvent FEMA to give our Federal emergency preparedness and response experts the authority, the capabilities, the resources, and the integration with State and local officials needed to avoid the confused, uncoordinated, and ultimately ineffective response that the Nation and the world witnessed last August when Katrina made landfall. It would strengthen emergency preparedness and response within the Homeland Security Department which this Congress created a short time ago to prevent, prepare for, and ultimately respond to all kinds of disasters.

In doing so, this amendment would create a truly national system of emergency management that will be able to draw on the Nation's vast resources for a cohesive and complete local, State, and Federal response.

Mr. President, the Homeland Security and Governmental Affairs Committee spent 7 months in 2005 and 2006 investigating the botched Government response to that catastrophic hurricane. We found all levels of our Government were ill-equipped to deal with the massive human suffering all along the gulf coast that followed that terrible storm's landfall, suffering that shocked, angered, and embarrassed the American people who expect more support from their Government for fellow Americans in need.

These failings were caused by negligence in some cases, by a lack of resources in other cases, by a lack of capabilities in some cases, but most of all by a lack of leadership and preparation that comes with leadership from the very top to the very bottom.

We cannot legislate leadership, although as Senator COLLINS said, we can

at least require the kind of experience in the people who will lead America's emergency management effort that would make it more likely they would be leaders, and we can legislate changes in Government structures to make them more sensible and better suited to protect people in times of disaster.

The homeland security committee's report had merit because we told the story of what happened and didn't happen, of the clear warnings that such a hurricane would one day strike the gulf coast, and the clear predictions that we were not ready. In telling the story, right through the weekend before landfall and then the days following the disaster itself, I believe the committee, on a truly bipartisan basis, made a contribution. Because sometimes just telling the truth and putting it before those in positions of responsibility is one of the great curatives, one of the great sources of reform. But the committee went beyond just telling the story and offered a number of recommendations about what was needed to improve our preparations, response, and recovery.

Chairman COLLINS and I will soon introduce broader legislation to encompass all of our committee report's recommendations. These include changes to the Stafford Act to address the different kinds of assistance that are needed in response to catastrophic events rather than "ordinary" disasters; provisions to ensure that communications systems can work—and that first responders can talk to each other—even in devastating disasters; requirements for the national planning for disasters and catastrophes that FEMA was never able to fully accomplish; and steps to ensure that USEMA has the kind of robust and capable workforce it needs to succeed. All of these are crucial pieces of the effort to remake our nation's emergency response and recovery capabilities.

But we begin today with the foundation, the most important recommendation we made, which is to rejoin the functions of disaster response with disaster preparedness within a new agency, a reinvented FEMA, which we will call USEMA, the U.S. Emergency Management Authority. It would be at the very core of the Department of Homeland Security, just as FEMA was originally intended to be when we proposed the new department in 2002 based on the recommendations of the Hart-Rudman Commission the previous year.

How could one have a Department of Homeland Security, which is aimed at preparing for and responding to disasters, including terrorist attacks, without the Federal agency that is primarily responsible for emergency management? It makes no sense. Our investigation of what went wrong during Hurricane Katrina made it clear that part of the problem was caused by separate and uncoordinated Federal preparedness and response functions within the Department of Homeland Security.

In the years before Katrina, FEMA, the agency charged with coordinating our Nation's response to terrorist attacks and natural disasters, too often was out of the loop when critical decisions about how to prepare were being made. It had no say in how to spend billions of dollars in preparedness grants. Training exercises were designed and held without serious input by FEMA. Relationships with State and local officials on the front lines were not fully developed and sometimes were nonexistent. So FEMA's ability to respond was crippled because it was not working hand in glove with those making preparations for responding to disaster.

Our amendment, first and foremost, therefore, will ensure that our preparedness efforts are inseparable from the capabilities needed to respond. As Chairman COLLINS has said, preparation and response are two sides of the same coin. And the coin, which is the coin of America's emergency management in times of disaster, is stronger if those two sides are together.

USEMA will provide the resources and it will have the ability and the responsibility to plan and train with State and local emergency management officials, just as it will have the responsibility to coordinate with them at the time of a disaster.

Where FEMA has often struggled to cope with normal hurricanes, the mission of the new Authority will be to partner with State and local governments, other Federal agencies, the private sector, and nongovernmental organizations to build a national system of emergency management that can respond effectively to catastrophic incident.

Where FEMA has been slow to respond and too often reactive, the new Authority will be charged with developing a Federal response capability that can and will act rapidly and proactively when necessary to deliver assistance essential to saving lives in a disaster.

Where FEMA has not been fully integrated with DHS, the Department of Homeland Security, the new Authority will be charged with coordinating with key agencies in the Department also involved in emergency management, also on the front lines at a time of disaster, such as the Coast Guard.

Our amendment would also give the new Authority special status within the Department—the same status the Coast Guard and the Secret Service now have. With that status, changes to the agency's functions and its assets could only be made by congressional statute, not by executive action. That is a way of protecting the strength we intend to give this new authority.

We would also insist in this legislation that the administrator and other key agency officials have the necessary experience and qualifications for the job. In other words, USEMA will not be plagued by unqualified appointees, as FEMA has been in the past.



Chairman COLLINS and I also envision a new agency with robust regional offices which would focus on coordination of preparedness and response with local and State agencies. Let's take the focus away from Washington and place it where it belongs, where the real work of preparedness is done, on the front lines, in the States and in the municipalities. This will guarantee that Federal officials are familiar with regional and local threats and know their counterparts at the State and local levels. Different parts of the country face different natural disaster prospects. Unfortunately, most every part of the country is vulnerable today to terrorist attack. This regional approach will help ensure that officials are not exchanging business cards on the day the disaster strikes, that the local, State, and Federal officials are not meeting on the day or the day before the disaster or the day after the disaster.

I know some of my colleagues in the Senate believe FEMA should be removed from the Department of Homeland Security and given independent status. But Senator COLLINS and I, after our extensive investigation, have concluded that is not the solution to the problems we saw in response to Hurricane Katrina, but instead would compound the problems. It would be a serious mistake to separate FEMA out of the Department. Even when it was independent, FEMA never developed the capacity to respond to a catastrophe like Hurricane Katrina. So returning it to independent status, as if those were the golden days of yore, is not based on fact, and it will in no way solve the problems we saw in response to Katrina and that we face today. In fact, it will make solutions and, I would say, preparations and responses to disaster far more difficult.

Removing the agency from the Department would only create additional problems, duplications, and disconnectedness. The Department of Homeland Security, containing other emergency response agencies, such as the Coast Guard, and other components, would begin to rebuild the functions of FEMA in the Department, even though it was independent. FEMA—independent, out of the Department—would duplicate activities and functions that are in the Department resulting in a waste of money, bureaucratic inefficiencies and a lack of coordination that would not only put us at risk of repeating the inadequate response we saw to Hurricane Katrina last year but of making it even worse.

To cope with a catastrophe, the Government's chief preparations and response agency must have access to the vast resources of the Department of Homeland Security, and it needs to work seamlessly with other agencies that have critical roles to play during a catastrophe. Those working relationships are going to be much easier and more real if officials know one another and if agencies have a history with

each other and, of course, if everyone ultimately serves the same Secretary of Homeland Security.

The grievous conditions of gulf coast communities in the week after Katrina's landfall embarrassed us before the world and, quite appropriately, angered us because we know that America can do better. But the gulf coast and the force of Katrina are not isolated examples. Other American communities and regions are similarly vulnerable today—whether to a natural disaster or terrorist attack. We also know significant flaws in the Nation's readiness remain. Another response like the one we saw during Katrina is simply not an option.

Our proposal is not about rearranging bureaucratic boxes. We have studied past failings and carefully considered how to improve our performance, the Federal Government performance, the next time. We have been driven by that singular goal. We have not had any thoughts in mind of protecting the status quo or favoring one bureaucratic entity over another. We have tried to come up with a recommendation that will put America's Government in the best position to protect America's people the next time disaster strikes. We are driven by the imperative to save people's lives, like the lives lost during Hurricane Katrina.

The changes embodied in this amendment, I am convinced, promise a strong response, if enacted, the next time disaster strikes. So I ask my colleagues for their support of this amendment.

I thank Senator COLLINS for her leadership and express once again my pleasure at the opportunity to work with her and in this instance to be joined by Senator LOTT and Senator CARPER in a truly bipartisan national-interest homeland security amendment.

Mr. JEFFORDS. Mr. President, I rise today in support of the amendment raised by Senator AKAKA on behalf of Senator CLINTON, and in opposition to the amendment offered by Senator COLLINS.

Mr. President, colleagues, what we are seeing today with the underlying amendment is a refusal to admit that a mistake was made when FEMA was incorporated into the Department of Homeland Security when it was created in 2002 after September 11.

Rather than correct the mistake, extract FEMA from DHS, and restore it to its former state as an independent agency reporting directly to the President, the Collins amendment makes an effort to change the way FEMA operates within the Department. I support Senator CLINTON's second-degree amendment to restore FEMA to an independent, Cabinet-level agency, and I urge my colleagues to do the same.

Over the last 200 years, we have moved from an ad hoc approach to disaster response to a coordinated, orderly approach, authorized by the Stafford Act, over which my Committee, the Environment and Public Works Committee, holds jurisdiction.

On September 11, the Nation was struck by a terrorist attack. The effectiveness of FEMA helped reduce the impact of those events.

In what I believe is an example of extremely poor judgment that failed to take into account FEMA's role in responding to natural disasters, FEMA was moved into the Department of Homeland Security.

FEMA has shown itself to be ineffective, in my opinion, largely due to the bureaucracy of the Department of Homeland Security and FEMA's lack of independence. At the time of the creation of DHS, I said:

I cannot understand why, after years of frustration and failure, we would jeopardize the Federal government's effective response to natural disasters by dissolving FEMA into this monolithic Homeland Security Department. I fear that FEMA will no longer be able to adequately respond to hurricanes, fires, floods, and earthquakes, begging the question, who will? (November 20, 2002)

Today, unfortunately, we know the answer—no one.

With Hurricane Katrina, I believe that we witnessed the degradation of our national response system as a result of that change. We all watched the results of that free-fall on live television. As I watched the coverage of that event, I could only think of the unnecessary human suffering that was occurring, in part as a result of the bad decision made by Congress to include FEMA in DHS.

Today we have a chance to correct our mistake.

It is the very structure of the Department that makes it impossible for FEMA to be effective. In a disaster, regardless of cause, decisions need to be made quickly and resources need to be brought to bear immediately. FEMA reporting directly to the President is the only way to make this happen. During Katrina, we saw the result of having our emergency response agency buried in the bureaucracy of DHS—executive decisionmakers were isolated from the realities of the situation, preventing the quick, effective action that we saw after September 11. The only way to correct that problem is to get FEMA out of DHS and into a Cabinet-level status, reporting directly to the President.

I urge my colleagues to support the Clinton amendment and reject the Collins amendment.

I ask unanimous consent that my entire statement from 2002 be printed in the RECORD.

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

FLOOR STATEMENT OF SENATOR JIM JEFFORDS, HOMELAND SECURITY, NOVEMBER 20, 2002.

Mark Twain once said, "Always do right—this will gratify some people and astonish the rest." I rise today to explain why I believe voting against this bill is the right thing to do.

Of the many reasons to vote against the bill, I will focus on three—the bill's treatment of the Federal Emergency Management

Agency, the bill's treatment of the Freedom of Information Act, and the process used to create this new Department.

With the passage of this Homeland Security legislation, we will destroy the Federal Emergency Management Agency, losing year's of progress toward a well-coordinated Federal response to disasters.

As it now exists, FEMA is a lean, flexible agency receiving bipartisan praise as one of the most effective agencies in government. But it hasn't always been that way.

Throughout the 1980s, FEMA's focus on Cold War's nuclear threat left the Agency ill-prepared to respond to natural disasters. The Congressional chorus of critics decried the Agency's misguided focus and reached a crescendo after bungled responses to Hurricane Hugo in 1989 and Hurricane Andrew in 1992.

One of FEMA's leading Congressional critics, then-Representative Tom Ridge said in 1988, "I was convinced that somewhere along the way, the Federal Emergency Management Agency had lost its sense of mission."

Over the last decade, refocusing the agency's mission and priorities on natural disasters has left the agency well-equipped to respond to all types of disasters. FEMA's stellar response to September 11th proved this.

I cannot understand why, after years of frustration and failure, we would jeopardize the Federal government's effective response to natural disasters by dissolving FEMA into this monolithic Homeland Security Department.

I fear that FEMA will no longer be able to adequately respond to hurricanes, fires, floods, and earthquakes, begging the question, who will?

Mr. President, also of great concern to me are the new Freedom of Information Act exemptions contained in the latest substitute.

Unfortunately, the current Homeland Security proposal chokes the public's access to information under the Freedom of Information Act. I ask, are we headed toward an Orwellian society with an all-knowing, secretive big brother reigning over an unknowing public?

The bill defines information so broadly that almost anything disclosed by a company to the Department of Homeland Security could be considered secret and kept from the public.

Although I believe current law contains an adequate national security exemption, in the spirit of compromise, I supported the carefully crafted bi-partisan Senate language contained in both the Lieberman substitute and the Gramm-Miller substitute. The current bill ignores this compromise.

Mr. President, the process by which we received this substitute seems eerily similar to the way the White House sprung its original proposal on the Congress some time ago.

Last week we received a bill that had magically grown from an original 35 pages to an unwieldy 484 pages. There was no compromise in arriving at the current substitute, only a mandate to pass the substitute or be branded as weak on homeland security or worse yet, unpatriotic.

Still more troubling, the current bill places little emphasis on correcting what went wrong prior to September 11th or addressing future threats. Correcting intelligence failures should be our prime concern. Instead this bill recklessly reshuffles the bureaucratic deck.

Furthermore, as my colleague Senator CORZINE stated earlier this week, this bill does not address other vitally important issues such as security at facilities that store or use dangerous chemicals. Without provisions to address yet another gaping hole in our Nation's security, why are we not being more deliberate in our approach?

In closing Mr. President, I feel that it is irresponsible to divert precious limited re-

sources from our fight against terrorism to create a dysfunctional new bureaucracy that will only serve to give the American public a false sense of security.

I will vote against this bill because it does nothing to address the massive intelligence failure that led up to the September 11th attacks. It dismantles the highly effective Federal Emergency Management Agency and creates dangerous new exemptions to the Freedom of Information Act that threaten the fundamental democratic principle of a well-informed citizenry.

Thank you.

I thank the Chair and yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### AMENDMENT NO. 4555, AS MODIFIED

Mr. GREGG. Mr. President, I send an amendment to the desk on behalf of Senator SALAZAR.

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

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG], for Mr. SALAZAR, proposes an amendment numbered 4555, as modified.

Mr. GREGG. 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 the Secretary of Homeland Security to prepare a report on activities to ensure that the agriculture quarantine inspection monitoring program of the Animal and Plant Health Inspection Service is operating effectively and to ensure that States are receiving adequate guidance)

At the appropriate place, insert the following:

SEC. \_\_\_\_ The Secretary of Homeland Security shall submit a report to the Committees on Appropriations of the Senate and the House of Representatives, not later than February 8, 2007.

(1) identifies activities being carried out by the Department of Homeland Security to improve—

(A) the targeting of agricultural inspections;

(B) the ability of United States Customs and Border Protection to adjust to new agricultural threats; and

(C) the in-service training for interception of prohibited plant and animal products and agricultural pests under the agriculture quarantine inspection monitoring program of the Animal and Plant Health Inspection Service; and

(2) describes the manner in which the Secretary of Homeland Security will coordinate with the Secretary of Agriculture and State and local governments in carrying out the activities described in paragraph (1).

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

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

The amendment (No. 4555), as modified, was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. FEINSTEIN. 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. 4556

Mrs. FEINSTEIN. Mr. President, I ask that amendment No. 4556 be called up.

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

The legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN], for herself, Mr. KYL, Mrs. BOXER, Mr. TALENT, Ms. CANTWELL, Mr. SALAZAR, Mrs. HUTCHISON, and Mr. BINGAMAN, proposes an amendment numbered 4556.

Mrs. FEINSTEIN. 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 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)

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

SEC. 540. (a) CONSTRUCTION OF BORDER TUNNEL OR PASSAGE.—Chapter 27 of title 18, United States Code, is amended by adding at the end the following:

#### "§ 554. Border tunnels and passages

"(a) Any person who knowingly constructs or finances the construction of a tunnel or subterranean passage that crosses the international border between the United States and another country, other than a lawfully authorized tunnel or passage known to the Secretary of Homeland Security and subject to inspection by the Bureau of Immigration and Customs Enforcement, shall be fined under this title and imprisoned for not more than 20 years.

"(b) Any person who knows or recklessly disregards the construction or use of a tunnel or passage described in subsection (a) on land that the person owns or controls shall be fined under this title and imprisoned for not more than 10 years.

"(c) Any person who uses a tunnel or passage described in subsection (a) to unlawfully smuggle an alien, goods (in violation of section 545), controlled substances, weapons of mass destruction (including biological weapons), or a member of a terrorist organization (as defined in section 2339B(g)(6)) shall be subject to a maximum term of imprisonment that is twice the maximum term of imprisonment that would have otherwise been applicable had the unlawful activity not made use of such a tunnel or passage."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 27 of title 18, United States Code, is amended by adding at the end the following:

"Sec. 554. Border tunnels and passages."

(c) CRIMINAL FORFEITURE.—Section 982(a)(6) of title 18, United States Code, is amended by inserting “554,” before “1425.”

(d) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—

(1) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this subsection, the United States Sentencing Commission shall promulgate or amend sentencing guidelines to provide for increased penalties for persons convicted of offenses described in section 554 of title 18, United States Code, as added by subsection (a).

(2) REQUIREMENTS.—In carrying out this subsection, the United States Sentencing Commission shall—

(A) ensure that the sentencing guidelines, policy statements, and official commentary reflect the serious nature of the offenses described in section 554 of title 18, United States Code, and the need for aggressive and appropriate law enforcement action to prevent such offenses;

(B) provide adequate base offense levels for offenses under such section;

(C) account for any aggravating or mitigating circumstances that might justify exceptions, including—

(i) the use of a tunnel or passage described in subsection (a) of such section to facilitate other felonies; and

(ii) the circumstances for which the sentencing guidelines currently provide applicable sentencing enhancements;

(D) ensure reasonable consistency with other relevant directives, other sentencing guidelines, and statutes;

(E) make any necessary and conforming changes to the sentencing guidelines and policy statements; and

(F) ensure that the sentencing guidelines adequately meet the purposes of sentencing set forth in section 3553(a)(2) of title 18, United States Code.

Mrs. FEINSTEIN. Mr. President, this amendment criminalizes the unauthorized construction, financing, or reckless disregard which permits construction of a border tunnel that is a tunnel between American land and another country's land; namely, Canada or Mexico or any subterranean passageway along international borders.

This amendment is cosponsored by Senators KYL, BOXER, TALENT, CANTWELL, SALAZAR, HUTCHISON, and BINGAMAN. This amendment was part of the immigration bill. It was unanimously added to the immigration bill by the Judiciary Committee. I have tried to hotline this amendment. It was cleared on the Democratic side, and it was cleared on the Republican side with the exception of one Senator. I believe it is an important amendment. That is why I am offering it today as an amendment to this bill.

Believe it or not, today the act of constructing, financing, or using a tunnel between borders is not a Federal crime. This amendment changes that. In addition to criminalizing the unauthorized construction, financing, or use of a border tunnel on one's land, this amendment also doubles the criminal penalties for individuals caught using a tunnel to unlawfully smuggle aliens, goods, drugs, weapons of mass destruction, or terrorists. The amendment also allows for assets involved in the offense or any property traceable to the offense to be subject to forfeiture.

Finally, the amendment directs the U.S. Sentencing Commission to promulgate or amend Federal sentencing guidelines to provide for criminal penalties for persons convicted pursuant to the language of the amendment and to take into account the gravity of this crime when considering base offense levels.

One might ask: Why is this important? I will answer that. Since September 11, 43 tunnels and subterranean passageways into the United States have been discovered—26 tunnels along the California-Mexican border, 16 tunnels along the Arizona-Mexican border, and 1 tunnel along the Washington-Canadian border. The risk to national security that is raised by the use of these tunnels is one this body is already aware of. In fact, the Senate Appropriations Committee included report language on this topic, which reads:

Policy on tunnels along the border: The Committee is concerned with the Department's lack of a clear policy regarding which agency is responsible for securing, closing, and ultimately filling tunnels which are discovered crossing under our land borders. It appears decisions regarding the handling of tunnels are made on an ad hoc basis, depending on which agency discovers the tunnel and has the resources to fill it. With nearly four dozen known tunnels along our borders, it is imperative a policy regarding tunnels be developed.

And it goes on. It asks that this policy be developed not later than February 8.

This report language in the appropriations bill is a good first step, but it is just that. The cosponsors of this amendment and I believe that we send a further message that border tunnels are a problem and they must be dealt with. As I mentioned, 43 border tunnels have been discovered in the United States. These tunnels range in complexity from simple gopher holes a few feet long at the border to massive drug-cartel-built megatunnels costing hundreds of thousands of dollars to construct.

I recently visited a border tunnel on the Mexican-San Diego border. Let me tell you what I found. I found a tunnel that was extraordinarily sophisticated. It was six football fields long. It went under other buildings. It went under the border. The American side was a large warehouse, brand new, huge warehouse, half a long square block, kept empty, small rooms inside the warehouse. Inside one room, which I will show you in a minute, was a hatch. Down the hatch was a tunnel, a concrete floor, ventilation, a pump to drain it, and electricity, as we can see. This was the tunnel interior.

This is a picture of the interior. We can see the concrete. At one end of the tunnel was 2,000 pounds of marijuana, and at the other end was 300 pounds of marijuana.

This was the hatch in a room, and it looked very benign. You simply lifted up two floor tiles, and under those floor tiles, you descended about 10 feet and there was this huge apparatus

which clearly had been functioning for a substantial period of time. I found it just amazing.

The building, interestingly enough, was sold about a year ago to an individual who never leased it out. I have always wondered: Why wouldn't you lease out a warehouse? That question still has not been answered to my satisfaction.

I also learned there is no law against it. There is no law that says you have to do due diligence on your property if it is on the border to see that somebody doesn't come along and dig a tunnel such as this and smuggle aliens, smuggle drugs, possibly smuggle terrorists, possibly smuggle weapons. This is a way to do it. Therefore, I believe this amendment belongs in this bill.

My hope, given the importance of criminalizing this action, is that this amendment will be included in the managers' amendment. We will still be delighted if that is the case. I am not sure that is possible. I believe to allow another period of time to go by with no law that says it is illegal to build a border tunnel unless you are authorized to do so, and has some sanctions to it, is really long overdue. It would be terrible if we found out one day that a group of 15 or 16 terrorists came in from Mexico or came in from Canada to the State of Washington through a border tunnel and we had done nothing about it.

This amendment also says that the owner of property along the border must be reasonably aware, must do their due diligence to see that their property is maintained and a border tunnel is prevented.

I am hopeful this amendment will be accepted and, if not, I will certainly ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I think the Senator's amendment is a good amendment and I would like to accept it. There is an objection on our side to our accepting it at this time with which the Senator is familiar. I am hopeful we can resolve that objection.

Rather than going to the yeas and nays, let's see if we can resolve the objection.

Mrs. FEINSTEIN. Would the Senator like me to hold on the yeas and nays?

Mr. GREGG. Mr. President, I would appreciate it if the Senator from California would. I certainly assure the Senator that at some point, if we have to vote on it, we will vote on it. Right now there appears to be an objection going forward.

Mrs. FEINSTEIN. Mr. President, I thank Senator GREGG. I know Senator KYL is going to come to the floor and speak on the amendment as well. I do not see him at this time.

Mr. GREGG. The Senator has made an excellent point. It doesn't surprise me there is no criminality or law involved that restricts the ability to dig a tunnel from one country to another. It is pretty obvious that something

should be done in this area. So I think the Senator has touched on a very important point. hopefully we will work it out, and we will work it out before this bill is off the floor.

Mrs. FEINSTEIN. I thank the Senator for those comments.

Mr. President, I yield the floor and ask that the amendment be set aside.

Mrs. MURRAY. 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. LOTT. 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. LOTT. Mr. President, parliamentary inquiry: What is the pending amendment?

The PRESIDING OFFICER. The amendment by Senator FEINSTEIN, No. 4556.

Mr. LOTT. Mr. President, I ask unanimous consent that the amendment be set aside and we return to debate on amendment No. 4560 by Senator COLLINS.

The PRESIDING OFFICER. Is the Senator asking that it be the pending question or just to debate it?

Mr. LOTT. I am asking that the pending amendment be set aside to return to debate on amendment No. 4560.

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

#### AMENDMENT NO. 4560

Mr. LOTT. Mr. President, I come to the floor to join in the support of amendment No. 4560 to the Department of Homeland Security appropriations bill. I thank Senator COLLINS for her leadership in this area and for her willingness to work on a solution that I think will be good for the Federal Emergency Management Administration, as it is now known, in the Department of Homeland Security, and result in a better effort by the successor to FEMA in the future.

Let me begin by saying that I appreciate the support of my colleagues in the Senate as we have gone through the aftermath of Katrina and we have come to the floor three or four times asking for help in a variety of areas to help us with the recovery, to get funds for the different Federal agencies, to get funds even to the Federal Emergency Management Administration to help us recover. A lot of progress has been made. I want to acknowledge that.

In 3 years or 5 years, we are going to look back and say that the aid we received from the Federal Government was absolutely indispensable and allowed us to get through this very difficult process.

In the immediate aftermath of the hurricane, there were wonderful stories that could be told about the actions of the Coast Guard specifically, let me point out, and by other military installations, faith-based groups, volunteer

groups, charitable organizations, by corporate America that sent aid, supplies, money, people. The utilities worked laboriously to get power back on and telephones operative. It was a monumental undertaking.

For those who want to be critical of the recovery effort—and I am one of those—you have to first acknowledge that this was a devastating disaster of Biblical proportions, more than any of us could have comprehended, more than any of us who lived in the line of fire from Hurricane Katrina understood even in the immediate aftermath, including me.

I was there in the immediate aftermath. We lost our house. We are like everybody else along the coastline of Mississippi and Louisiana. It is a very difficult experience. But our people have been resilient, they have been determined, and we are making progress.

We did get through the preparations for the hurricane, saving lives immediately after, getting basics to people who needed them—just basic water and ice. We have gotten almost all of the debris removed, except in some of the swamp and water canals and channels that still has to be removed. We are seeing rebuilding start. Just yesterday, the Department of Housing and Urban Development released \$3 billion for the home grants through CDBG so that people who lost their home, had no insurance, and had a mortgage and probably lost their job and their car, their truck, or their dog will have some way to get up to \$150,000 to get their homes repaired or rebuilt. So we have made a lot of progress.

I think it is time that we look even more to the future: How are we going to get through the rebuilding period? We are working with elevations, heights that FEMA is requiring; we are dealing with small business loans, all that goes on with the rebuilding effort.

But I am worried about the next disaster. There were some very disappointing results at FEMA. And I want to hasten to say that FEMA, which became a dirty, four-letter word, has a lot of good people in it and has done a lot of really good things, but it could have been and it should have been better. And what troubles me so much, as a Congressman and Senator and even before that as a staff member—I have dealt with the recovery effort after five hurricanes, two major tornadoes, two major ice storms, and a flood. I have dealt with disasters. I have dealt with the emergency arm of the Federal Government, going back to 1969 after Hurricane Camille, when the disaster effort and recovery was carried out by the Office of Emergency Preparedness, OEP. Its offices are right across the street from the Old Executive Office Building, run by a general, a retired Army general, and reportable only to the President of the United States.

They did a marvelous job after Hurricane Camille. The chain of command was short. In those days, the Corps of

Engineers brought in the heavy equipment, the trucks, the bulldozers, the front-end loaders, the Bobcats. They cleaned up the debris. Now you have to go through Treasury, a check goes to FEMA, FEMA goes to the Corps, the Corps of Engineers goes to the contractor—out of State probably—and the contractor goes to subcontractors, to sub-subcontractors and, meanwhile, a lot of money is frittered away as everybody takes their bite, on down the line.

Of course, one of the most difficult things was getting the trailers, the temporary housing to people in the area. The logistics of getting trailers is not a big problem, but getting them to the people turned out to be a huge problem. The insanity of how it was managed was inexplicable. I won't go through how difficult it was.

We are still dealing with that. We still have some people who are living in tents because FEMA said: We won't deliver you a trailer if you are in a flood zone. If that is all the property you have—you could bring a trailer into a flood zone, and if you had to, you could hitch it up and pull it out. But people are still living in very difficult circumstances.

I believe we made a mistake when we were creating this huge, new, mammoth Department of Homeland Security where we put all of these different entities, agencies, and bureaus into that agency that wound up having 150,000 or more people in it.

I remember when we were discussing creating this Department of Homeland Security in an office right down the hall. Senator STEVENS and Senator COLLINS and some of us raised questions about how the Coast Guard was going to be handled, and we wound up carving out a special arrangement for the Coast Guard. I won't get into the details of it at this moment. But I raised questions about FEMA, too: Are we sure we want to put our emergency management organization into this big, mammoth department and maybe become overrun by homeland security and terrorism? And the answer was: Oh, absolutely. They need to coordinate manmade disasters, natural disasters, disaster preparation, disaster recovery; it needs to be seamless and they all need to be operating under the same authority.

Well, I relented. I think it was a mistake. I think the emergency management organization has a unique responsibility in preparation for disasters. Yes, they can be manmade as well as natural disasters, but also in the recovery. But I think the chain of command was out of control. The number of officials who were meeting in a room, they would fill up the room and identify all the problems: Oh, we have a flood main broken here. We have schools where the wall is falling in. We have debris in the road. They would get through with the meeting, everybody would leave, and somebody would say: Did anybody get any assignments? Did they agree to do anything? No.

The people that did do something, though, were in the Coast Guard. They helped move people out before the hurricane, rescued people during and after the hurricane, and generally did a magnificent job. Do you know why? Because they had this carved-out, unique position, even though they were in the Department of Homeland Security. They didn't have to go through the Secretary of the Department of Homeland Security to do what was necessary.

Another example was the Seabees at Gulfport, MS. When they went to these meetings with all of these muckety-mucks, all of these different agency heads, to hear the problems and do nothing about it, the Seabees would make lists of things they could do and they went out and did it. They went out and stopped the leaky water main. They went and removed the debris so you could get into a neighborhood. They went to the school and they took action to tear down or repair or fix a wall so it would at least be safe for their children. You know what. They just did it.

By the way, they could have gotten in trouble because if FEMA hadn't agreed to reimbursement, they would have had to eat the cost of what they did, and some captain in the Seabees could have been in real jeopardy. But, thank goodness, they worked through it. They got reimbursed and did well.

So I think that is part of the problem. I asked the Seabees: Why were you able to do that?

They said: Well, the chain of command was so long and laborious, we decided we would find the things we could do and we would just go out and do it.

FEMA, I think, meanwhile, had been sort of pushed back into the back 40 part of Homeland Security. They had been underfunded, undermanned, and had not been really getting the involvement and the attention they needed. Plus, I was shocked one time when I heard the Secretary of Homeland Security complaining that the head of FEMA was going around him directly to the President. Yes, he should have. You shouldn't have the emergency management and recovery people having to check with the Assistant Secretary, the Deputy Secretary, the Secretary, the Chief of Staff, the OMB, to get to the President. This is an emergency. It is a disaster, for heaven's sake. So I don't think it worked well.

I don't blame a lot of the good men and women at FEMA; I blame us. We did it. We created a system that didn't work.

So I introduced legislation to move FEMA, like its predecessors, back into a role as an independent agency with specific authorities for natural disasters, reporting only to the President. I was joined in sponsoring that legislation by the Senator from New York, Mrs. CLINTON, who knows something about how the predecessor to FEMA worked under its Administrator at the

time, James Lee Witt, who also had a little experience with disasters, although the ones he dealt with on 9/11, as the Senator from New York knows, were manmade. Others joined in co-sponsoring that legislation.

I still believe that is the best way to go. I think it should be independent.

In the House, you have two separate approaches. You have the independent approach and you have the approach that would keep it locked in Homeland Security. But it seemed to me that there was a third way. There is always a third way, if you will just look for it. I think that is one of the things we have lost in this institution. We get locked into the Republican position, the Democratic position, or some other division, and then we won't talk to each other.

So Senator COLLINS, to her credit, on her own initiative, said: Can I come talk to you about the proposal that Senator LIEBERMAN and I have, which was to keep it in the Department of Homeland Security, with some changes, and some recommendations I thought would have been positive but still was not the solution I thought we needed. But she came and took the time to explain it to me. It had some attractive features to it. She gave it more authority.

But then I thought about it for a while and I went back to her and I said: Let's find this third way. I think maybe the thing to do is to carve FEMA out into a position like the Coast Guard but within the Department of Homeland Security but with an independent authority, the ability to report directly to the President of the United States. Yes, they could be involved in coordinating and in the preparation for disasters of all kinds, but set them up basically independent within the Department of Homeland Security.

I think it will work. An example is the Coast Guard. So much of the language that we have in this amendment came from the Coast Guard language. I know Senator COLLINS has taken the time to explain the details of what is proposed here, and I am painting a broader picture of what is involved. But we were able to come to an agreement. Her staff was cooperative. My staff, which has had a lot of experience with this sort of thing, worked with them, and we came to an agreement. By the way, I then went to Senator CLINTON and said: I think we can get something done if we do this, rather than just having a big fight. Do you want a big fight or do you want a result? The new hurricane season is upon us.

Now, the media made it sound like on June 8, or whatever the date was that hurricane season begins, we would get hit immediately. Well, those of us who are hurricane pros know that hurricanes generally don't hit in June and July, but they will come in August and September, and this time it may not be Mississippi or Florida; it may be

Maine. But it will come somewhere. I don't want to be sitting around here complaining about what it was like because FEMA did not have the authority they needed, didn't have the money, didn't have the power they needed 6 months or a year from now. So we needed to get something done.

Senator CLINTON understood what I was trying to do. It is part of the way I think we need to do things around here. It is part of being honorable with each other. She had been a cosponsor. I thought I should explain what I was working on doing. So we came to the agreement that has been produced with this amendment. I think it makes good sense. I think the House will find some wisdom in it, and the most important thing is we will get something done.

It is so difficult to move something through the Senate anymore. Do you think we could really move a whole new, freestanding bill through the Homeland Security and Government Affairs Committee, get it to the floor of the Senate, all kinds of amendments—and let me tell you, I would be one of the ones waiting here with lots of amendments. I have lots of other things stuck in my craw about the hurricanes that I am worried about for the future—or could we go with an amendment, which seems appropriate to me, to the Department of Homeland Security appropriations bill, get it to the House, get their input, and get a result. Even then, it won't be perfect, but I believe it will be better. This is something we should do.

I will be coming back, until the last day I serve in this institution—when ever that may be—to talk to my colleagues about lessons we learned and things we can do that will hopefully help our people be more secure; that will help people who will be hit with other kinds of disasters such as tornadoes, earthquakes, crickets, or whatever, but we will do it better because of what we learned from Hurricane Katrina.

So I am delighted to be here to support this amendment. In a perfect world I might do it differently, or I might still insist that it can be a separate entity. The amendment even proposes that it be renamed the Emergency Management Administration, I believe—EMA. It is something we can say, and it is not a four-letter word. I think while that is not going to cure a single problem, it is part of creating a new atmosphere and a different mindset, hopefully.

I think the Administrator of FEMA that we have in place now, Mr. Paulson, is a good man. I think he is going to move toward trying to get professional disaster-experienced people in FEMA throughout this country, and I certainly hope he will.

So I urge my colleagues to support this amendment and then support this appropriations bill. I yield the floor.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, I thank the Senator from Mississippi for his

comments, for his support, and for his enormous contribution to the amendment that is before us today. He, more than any other Member of this body, has personal experience with the devastation that Hurricane Katrina caused, and he has been, along with Senator COCHRAN and the two Louisiana Senators, a fierce advocate for reforming the system to make sure that never again does government at all levels so fundamentally fail in its obligation to our citizens.

I very much appreciated the opportunity to work with Senator LOTT to strengthen the language in our bill to make sure that the exact same safeguards and protections that the Coast Guard enjoys would now apply to the new FEMA organization: USEMA. I think that was an excellent suggestion. We used the same language, and we will protect the new agency from being reorganized by the Secretary, from having its mission altered, from having it split up or dispersed or its budget cut through administrative fiat. Those kinds of changes should come to Congress, and we have put those protections in place.

As Senator LOTT recommended, we have upgraded the status of the whole agency. The head of the new agency will be the equivalent of a Deputy Secretary and will have the clout and the stature that is needed to deal with other agencies. We have done enormous reforms. This version of an emergency management agency will have authorities that the current FEMA has never had. In addition, we restored the preparedness and the grant-making functions, and I think we have come up with a very good product.

So I want to thank my colleague and friend from Mississippi for his considerable contributions to this amendment, and I am very grateful that he was willing to sit down and find—as he put it—a third way and, indeed, I believe, a far better solution. So I thank him for his support.

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 dispensed with.

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

Mr. GREGG. Mr. President, we are working toward getting an agreement. For the edification of Members, if we can work that out, we will have two votes in approximately an hour, but that is not necessarily going to happen.

Mr. AKAKA. Mr. President, I ask unanimous consent to speak for 20 minutes.

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

Mr. AKAKA. Mr. President, I ask unanimous consent that the pending amendment be laid aside.

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

AMENDMENT NO. 4563

Mr. AKAKA. Mr. President, I call up amendment 4563 on behalf of Senator CLINTON, myself, and others.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. AKAKA], for himself and Mrs. CLINTON, Mr. LEAHY, Mr. JEFFORDS, Mrs. BOXER, Mr. LAUTENBERG, and Ms. MIKULSKI, proposes an amendment numbered 4563.

Mr. AKAKA. 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 printed in the RECORD under "Text of Amendments.")

Mr. AKAKA. Mr. President, I rise today to propose an amendment for myself and my good friend from New York to restore the Federal Emergency Management Agency—FEMA—to its proper place as an independent agency.

Before I speak on our amendment, I would like to thank the chairman and ranking member of the Homeland Security and Governmental Affairs Committee for their hard work on this issue. We disagree on this one point, but I appreciate all they have done over the past year to ensure that the failures of Hurricane Katrina are never repeated.

As my colleagues on the Homeland Security and Governmental Affairs Committee know, the placement of FEMA in the Department of Homeland Security—DHS—is a subject that has troubled me since the concept of the Department was first debated in 2002. As a senior member of this committee, I can tell you that the structure of Federal agencies matters. Combining too many disparate functions some of which have nothing to do with homeland security into one agency can be unworkable, which is a primary reason why I voted against the creation of DHS.

Some say reinstating FEMA's independence now is brash and premature. Respectfully, I could not disagree more. To me, it was premature to place FEMA within DHS, a huge, terrorism-focused agency, where FEMA's traditional mission of responding to disasters would be neglected. The FEMA of yesterday has been downgraded, dismantled, and demoralized which I believe contributed to the muddled response to Hurricane Katrina.

DHS failed as a department during Hurricane Katrina and failed to give FEMA the opportunity to succeed. During the Committee's Katrina hearings, we heard numerous examples of information and initiative getting lost in DHS during the Hurricane Katrina response. Witnesses described sending information updates and requests out to the Department, never knowing where those messages went or if requested action had been taken. DHS was a black hole where information and accountability were lost.

Since FEMA was folded into the Department, FEMA has been deprived of funding and resources. FEMA has been forced to transfer significant resources to other parts of the Department. In 2003 and 2004, \$169 million of FEMA's funding was transferred to DHS, in part because of lost programs, but also because of a so-called management tax to help pay for shared services within the Department.

Congress and the American public never knew about these funding shortfalls because FEMA was buried within DHS. Former FEMA Director Michael Brown testified that instead of taking FEMA's budget proposal to the President, he was required to clear the budget through another Undersecretary at DHS, then the Secretary, and then the President.

With a loss of funding and programs, came a loss of staff. FEMA's staff has been reduced by 500 positions since 2003. And within the existing positions at FEMA, there has been a 15 to 20 percent vacancy rate over the past few years.

FEMA needs to be an independent, Cabinet-level agency to avoid having its budget and staff siphoned off for other activities within the Department. Restoring the FEMA Director to the President's Cabinet will better serve America. Restoring FEMA's place at the table will ensure transparency and accountability while allowing the Director to present funding needs directly to the President. In 1996, recognizing the importance of emergency response, President Clinton elevated the FEMA Director position to the Cabinet level. Former FEMA Director James Lee Witt said being a member of the President's Cabinet allowed him to task other Federal agencies more effectively during disasters and provided an established and direct line of communication to the President.

There are those who argue that FEMA needs to remain in DHS so that the Department's other personnel and assets can be accessed more readily. This is a hollow argument because under the Stafford Act, FEMA has the authority to utilize resources across the Federal Government during a disaster. The Stafford Act allows FEMA to task Health and Human Services, the Department of Transportation, the Department of Defense, and many other Federal agencies during disasters. Should all those entities be incorporated into DHS as well? There is no reason the same mission assignment procedure cannot be applied to DHS assets as well.

Separating FEMA from DHS not only will improve FEMA's ability to manage preparedness and response, but it also will allow DHS to focus on its mission to prevent a terrorist attack. DHS cannot be all things to all people.

The dedicated public servants of FEMA agree. The American Federation of Government Employees—AFGE—which represents 1,200 FEMA employees, strongly endorses an independent



FEMA. AFGE's June 13, 2006, letter to Congress states:

(T)he merger of FEMA into DHS may have sounded good in theory, but in reality it has proven to be impractical and counter-productive. When Hurricane Katrina struck the U.S., the DHS structure simply imposed an extra layer of bureaucracy on top of FEMA, and wound up impeding, not assisting, the response.

Former FEMA Director Witt also believes FEMA does not belong in DHS. In a recent editorial, he stated:

Though most agree FEMA must be mended, we don't have the luxury of gambling with another experimental restructuring of the department. And why gamble when a simple reversion to its pre-2001 incarnation would fix the problem? . . . As it stands under today's DHS structure, annual hazards such as hurricanes, floods, and tornados are allowed a 25 percent focus, even though they have a 100 percent probability of occurring at some point. An independent FEMA would again give all disasters 100 percent of its attention.

I agree with Mr. Witt. Fortunately, since DHS was created, there has not been another terrorist attack in the U.S. although there have been over 100 Presidentially-declared natural disasters. I support ensuring the U.S. is prepared for a terrorist attack, but we should not forget that natural disasters are guaranteed to occur every single year.

Mr. President, we have tried the superagency approach, and now it is time to get back to basics. I ask my colleagues to think about what is practical when they cast their vote on our amendment. Our constituents should feel confident that FEMA and its resources will be there in their time of need.

I urge support for our amendment. I yield back my remaining time.

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

Mrs. CLINTON. Mr. President, I thank my colleague, the Senator from Hawaii, who has been a strong voice on behalf of our Nation's security and joins with me in putting before the Senate one of the most important issues we face: How will we manage our emergency preparedness and response?

I have the greatest respect and regard for my colleagues, Senator COLLINS and Senator LIEBERMAN. They have done an extraordinary job in leading a committee that has had so much responsibility over the last months for the well-being and the homeland security of our Nation. I respectfully disagree with the solution they are putting forth, but I know it comes after not only many hearings but incredible thought and extraordinary attention to the details about how best to rescue the situation in which we find ourselves.

We had a functioning, effective Federal Emergency Management Agency 5½ years ago. By all accounts, on all sides of the political spectrum, we had a crown jewel, an agency where performance was highly regarded not only in our own country but literally around

the world. Unfortunately, that agency became a victim of the governing philosophy of the current administration.

We have seen, in stark terms, the failures of the existing Federal Emergency Management Agency, so-called FEMA. We saw it in the disastrous failures in the days and weeks, continuing until this day, along our gulf coast when people lost everything—their homes, their neighborhoods, their churches, even their loved ones. Our Nation lost something precious as well: we lost faith in our Federal Government and in the response capabilities of the organization that until 5½ years ago we could count on.

When we created the Department of Homeland Security after September 11, I warned, along with others, that moving FEMA into that large bureaucracy was a mistake. I said that on the basis of what I thought was the mission of the Department of Homeland Security, which was, first and foremost, to deal with the potential for terrorism and to deter and prevent terrorist attacks like the horrific attacks of September 11.

The decision was made to move FEMA into the Department of Homeland Security, and my worst fears came true. It became a stepchild. It became a holding pen for political cronies. It was no longer viewed as the crown jewel of the Federal Government but as a stepchild that did not really deserve the attention and the resources of this administration. Our worst fears about what would happen to FEMA in the Department of Homeland Security came true when we saw the images on television coming out of New Orleans and up and down the gulf coast.

I applaud Senator COLLINS and Senator LIEBERMAN for the extraordinarily thorough investigation they did. We got even more sickening detail of e-mails from FEMA officials at the time the disaster struck, what their concerns were—which were hardly focused on saving the people who were suffering. We have seen thousands of people displaced. We see 10,000 mobile homes sitting empty at the Hope, AR, Municipal Airport, and on and on. We have a GAO report that says there may have been up to \$1 billion—yes, that is billion with a “b”—\$1 billion in Federal assistance that has been misspent.

It is not only the facts about Katrina that bring me to urge we restore FEMA to an independent status, give it back Cabinet-level access, make it independent of the behemoth that the bureaucracy of the Department of Homeland Security has become, but it is also my worry about the future.

Hurricane Katrina was a foreseen disaster. We watched it on the Weather Channel. We saw it coming across the gulf. It was not a sneak attack by suicide bombers in airplanes, it was a huge storm. I worry, as incompetent as FEMA has become, how would they handle the unforeseen?

It is tragic to me that we have come to this position, and I think the new leadership at FEMA is laboring might-

ily to try to turn the situation around. But I worry it will be impossible, if FEMA stays within the Department of Homeland Security. If it stays within the Department and is renamed and reconfigured, I do not think that eliminates the primary problem, which is that it is stuck in a department with a focus and mission that cannot help but be to try to prevent and deter terrorist attacks. Believe me, I am all for that. We are about to come up on the fifth anniversary year of the attacks of 9/11.

Although I really respect what Senators COLLINS and LIEBERMAN are trying to do, I think they are trying to fit a square peg into a round hole. They are stuck with the Department of Homeland Security, and so they are trying to figure out a way to shoehorn it in, to detour around the dysfunctional organization and leadership that the Department has. And I do not think that will work.

The amendment Senator AKAKA and I and others have offered would do three things: first, reinstitute FEMA as an independent Cabinet-level agency; second, require the Director and Deputy Director to have the appropriate emergency service qualifications; and third, require the FEMA Director to report directly to the President of the United States.

During Katrina, who was in charge? Was it our President? Was it the Secretary of the Department of Homeland Security? Was it the FEMA Director? I do not know who it was. And one of the problems is that no one was. If we just sort of move the deck chairs on the Titanic, I do not think that solves the problem.

FEMA's response capabilities have been degraded since Katrina even, because people are not there. They are not able to have the same sense of morale and commitment. When you look at all the reports that have been done—one from the White House, one from the Senate, one from the House, as well as the various reports from the Government Accountability Office—you can see all of the things that went wrong. Unfortunately, these reports have not been coordinated, and it is very difficult to figure out how we are going to get ourselves back on the right track with a functioning world-class FEMA, and I just do not believe the answer is for it to operate as a subagency within the Department.

Now, I know there are those who are rightly concerned that if we take FEMA back to an independent status, then we will have duplicative efforts, we will not have coordination. I think the amendment tries to specifically say this does not detract in any way from the Department of Homeland Security's mission to secure the homeland. But I believe having it back in an independent status, with full accountability to the President, statutory authority under the Stafford Act to carry out all of the necessary mitigation, response, and recovery actions, is the way to go. If under our amendment we

make FEMA report directly to the President, then the FEMA Director will have more authority under Stafford Act designation than if he is a sub-Cabinet official within DHS.

My bottom line is we should get FEMA back to a functioning, effective agency again, and there is a difference of opinion about how best to do that. Obviously, we are back in hurricane season. We do not want to do anything, either within a reorganization or an independent status, that would further disable FEMA from responding. But if we reempower FEMA, restore its independence, and staff it with qualified people, we will be back on the right track.

We have a regional structure for FEMA, and it is not clear from the proposal from the committee how that will work, who appoints those regional directors, who has to be in charge. I do not want people exchanging business cards at the site of a disaster, which is what has been happening. I believe we have to build on the strong track record FEMA had during the 1990s.

I know the committee has said this would be comparable to the Coast Guard, but I think that is a slightly different role and mission. The Coast Guard is a military, multimissioned maritime service. It is one of our Nation's five armed services. Its mission is to "protect the public, the environment, and U.S. economic interests—in the nation's ports and waterways, along the coast, on international waters, or in any maritime region as required to support national security."

They did a superb job with respect to Katrina and Rita. But FEMA has a different role. It is supposed to be managing dollars of considerable numbers in advance of catastrophic events, coordinating Federal agencies, carrying out the President's statutory authority for emergency response. It is supposed to be the go-to entity for full management.

I believe we have a better chance of getting back the FEMA we should have, that the people should be able to count on, that can work with State and local governments, that can help to mitigate disasters, by returning it to independence.

So, Mr. President, I ask our colleagues to support the amendment to restore FEMA to an effective, independent, Cabinet-level agency once again and send a message to the country that FEMA is back—it is back, it is ready for business, and people can have trust in it once again.

Thank you, Mr. President.

THE PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, in deciding how to vote on this issue, I would encourage our colleagues to consult the experts, the first responder organizations that overwhelmingly support the Collins-Lieberman-Lott-Carper approach and do not support the amendment that has been proposed by my colleagues from New York and Hawaii.

For example, the International Association of Fire Fighters, which represents 270,000 professional firefighters and emergency medical personnel, has endorsed the Collins-Lieberman-Lott-Carper amendment and says this about the alternative approach we have just heard described:

We believe that proposals to return FEMA to its status as an independent agency would hinder efforts to reform our nation's emergency response system. Removing FEMA from DHS would create competing agencies, sowing confusion among emergency responders. Furthermore, such an approach would undermine an all-hazards approach, leading to the perception that DHS deals with terrorism while FEMA is in charge of natural disasters.

That is what the International Association of Fire Fighters says.

Other groups, such as the Major Cities Chiefs Association, say something very similar; the National Troopers Coalition, the National Association of Police Organizations, Advocates for EMS—the list goes on and on and on. The fact is, those who put their lives on the line, who are on the front lines of emergency response, say it would be a colossal mistake to take FEMA out of DHS, to sever that connection.

Does the Senator from New Hampshire wish for me to yield the floor?

Mr. GREGG. If the Senator would yield so we could enter into a unanimous consent agreement. I believe we have reached an agreement where we can proceed to lock in the vote on the Senator's amendment and the amendment offered by Senator AKAKA and Senator CLINTON.

Mr. President, the request is as follows: I ask unanimous consent that at the conclusion of the Senator's remarks, Senator LAUTENBERG be recognized for 15 minutes, and that at the conclusion of his remarks, we would go to a vote on Senator COLLINS' amendment, with no second degrees being in order—and there would be 2 minutes equally divided prior to that vote—and that at the conclusion of the vote on Senator COLLINS' amendment, we would go to a vote on the amendment offered by Senator AKAKA and Senator CLINTON, with 2 minutes equally divided prior to that vote—

Mrs. MURRAY. With no second degrees.

Mr. GREGG. With no second degrees and no points of order against either amendment.

THE PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. GREGG. That would mean—how long will the Senator probably be speaking?

Ms. COLLINS. Fifteen minutes.

Mr. GREGG. So that would mean the votes would begin at around 6:15, one would presume.

THE PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, those who are on the front lines—our police associations, our firefighters associations, the emergency medical per-

sonnel organizations—have all endorsed the approach we have suggested. This approach would strengthen FEMA but leave it within the Department of Homeland Security so we can establish a comprehensive all-hazards approach to emergency management.

We do not want to take FEMA out of the Department in the way particularly that Senator CLINTON's and Senator AKAKA's amendment would entail. I refer my colleagues to page 7 of their amendment, section 612, "Transfer Of Functions." This provision says the functions FEMA has as of the date of enactment should be transferred to the new agency. Well, let me tell you what that means. That means that preparedness would still be separate from response despite the fact that the experts agree that one of the reasons for FEMA's weak performance was the separation of preparedness from response—two sides of the same coin that should be together in one agency. Yet the Clinton-Akaka amendment keeps preparedness within the Department of Homeland Security and only has the response functions going to the new independent agency that they would propose.

Our bill consolidates the grant-making for preparedness—that is billions of dollars of preparedness grants—we would put in the new FEMA. Infrastructure protection, the national communications system, the chief medical officer, the cybersecurity office all would be in this new agency which we call the U.S. Emergency Management Authority. So we are not simply leaving FEMA within the Department of Homeland Security; we are strengthening, reforming, and upgrading FEMA so it can be effective.

I must say, I am at a loss why the proponents of the alternative approach want to take a FEMA that everyone deems is inadequate and has poorly performed, take this shell of an agency that has been stripped of many of its essential functions and cast it adrift by making it an independent agency. That approach makes absolutely no sense at all.

If the problem were FEMA's location, then why did the Coast Guard do such a stellar job in performing in response to Hurricane Katrina? By all accounts, the Coast Guard's preparedness and its response were superb. It pre-positioned its assets, it responded quickly, and it rescued some 35,000 people.

If the problem, in fact, were the location of the agency, then how did the Coast Guard manage to do such a good job? It is part of the Department of Homeland Security. Obviously, that is not the issue.

What we have done in our proposal is give the new emergency management agency the same kinds of protections that the Coast Guard has within DHS. No longer could the agency's mission be altered or its assets stripped away or could it be reorganized. You would have to come to Congress to do that. The issue is how can we best create a

strong emergency management agency. That is the question that our proposal answers. It stresses giving FEMA back the authorities that were stripped away. It emphasizes giving it new authority so that it can be a strong, all-hazards agency. It elevates the stature of the appointees. It requires them to have relevant experience for those positions. It gives it the tools to do the job effectively. It protects it from reorganization. It makes the head of the new agency the principal adviser to the President on emergency management, but it allows it to have all the advantages of being part of the Department of Homeland Security, the advantage of a close relationship with the Coast Guard, a close relationship with the law enforcement agencies that are within DHS.

Taking the weakened version of FEMA and casting it adrift and thinking that somehow that is going to solve the problem flies in the face of the 23 hearings that we held to get to this solution, the 838,000 pages of evidence, the 325 people we interviewed, and the expertise of the first responder community. It would be a terrible mistake.

The Hart-Rudman commission 5 years ago said FEMA is the essential core of DHS, and they are right. If FEMA were pulled out of DHS, DHS would be forced to create a very similar, costly, duplicative agency in order to handle a response to terrorist attacks. It makes no sense to have one agency that deals with natural disasters and another agency within DHS that deals with the response to terrorist attacks. If the levees in New Orleans had been bombed rather than breached, the same challenges of evacuation, sheltering, and caring for individuals would have been present. It makes no sense and will be extremely costly—to the tune of billions of dollars, according to Secretary Chertoff—for us to have to recreate within DHS essential capabilities that DHS will need if FEMA is taken out of the Department.

I am reminded during this debate of a saying by H.L. Mencken that for every problem there is a solution that is neat, plausible, and wrong. Taking FEMA out of the Department of Homeland Security is wrong. At first blush it may look like the easy solution. But after looking at this issue for more than 8 months, it is not the solution. I hope our colleagues will listen to the true experts, our first responders and their organizations warning that this would be a disaster, that it would force them and State and local emergency managers to have to deal with two agencies, two sets of regulations, depending on whether or not this was the result of a terrorist attack or a natural disaster. That is contrary to the all-hazards approach that the experts have encouraged us to take.

The Homeland Security Council, a very prestigious group of private sector businesses and experts, conducted its own 6-month review of what went

wrong with the preparedness and response to Hurricane Katrina. It, too, concluded that DHS preparedness assets and FEMA need to be more closely aligned, not split apart into two separate agencies.

I am going to reserve the remainder of my time. It is my understanding Senator LAUTENBERG will be speaking on this issue.

I suggest the absence of a quorum. The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Ms. COLLINS. Mr. President, since Senator LAUTENBERG has not arrived, I am going to continue to expound on why the Collins-Lieberman-Lott-Carper amendment should be agreed to and the Clinton-Akaka amendment should be rejected.

As I look at this issue, I realize that people look back at FEMA with rose-colored glasses. There is this myth of the golden age of FEMA. Indeed, FEMA in the past has had some talented leaders which proves my point that this really is about leadership more than anything. Clearly, Michael Brown was an abysmal failure as FEMA's leader. There is unanimity on that as well. But the fact is, when FEMA was an independent agency, it also experienced severe problems dealing with major disasters.

If you look at the GAO and other reports, and, indeed, the hearing records before the committee I now chair back after Hurricane Andrew in 1992, you could take out the word "Andrew" and substitute "Katrina," and you would get exactly the same indictment. In the hearing after Hurricane Andrew, my colleague, Senator AKAKA, noted the difficulties that FEMA has had with response to catastrophic disasters. It is those catastrophic disasters, the fact is, that FEMA has never been able to handle, both when it was independent and when it was in DHS.

Our committee's bipartisan recommendation seeks to correct that problem by creating an agency with the capabilities for the first time to manage catastrophic disasters.

The Government Accountability Office found that FEMA's response to Hurricane Andrew in 1992 "raised serious doubts about whether FEMA is capable of responding to catastrophic disasters." This is when FEMA was an independent agency. In particular, the GAO said that "the Federal strategy for response lacked provisions to assess damage, the needs of victims, to provide food, shelter, and other essential services when the needs of victims outstrip State and local resources."

You could apply exactly the same words to what happened after Katrina. What we need is to build an agency that does have the capacity to respond

to not just small- and medium-sized disasters but to true catastrophes. That is what our bill would do. We would have a stronger agency, better led, better organized, with new authorities and powers that FEMA has never had. We would give it the resources to be effective.

Another important part of our amendment that, again, the Clinton-Akaka amendment completely lacks is the creation of regional strike teams that would be located in regions of the country and have representatives of all the Federal agencies that are involved in responding to a disaster. These strike teams would plan, train, and exercise with their State and local counterparts and with private sector groups that are involved in responding to a disaster such as the Red Cross and the Salvation Army. That is the kind of approach we need to be effective. We should have people in the region who already know the local officials, the vulnerabilities, the weaknesses, the strengths, the capabilities of the State and local systems, and can make sure that there are effective plans in place. We don't have that now.

When Katrina struck, people were sent from region 1 in New England down to New Orleans and Mississippi to help out. They didn't know the people. They didn't know the geography. They didn't know the culture. They didn't have that much experience in dealing with hurricanes. That doesn't make any sense at all. We should have regionally based teams that can work with their partners at the State and local level and in the private sector. I am talking about working not just with the nonprofits such as the Red Cross and Salvation Army but also with the private sector, such as the local utility companies. That is an important partner as well. Instead, what we found with Katrina were problems in credentialing utility workers and other private sector workers so they couldn't, in some cases, gain access to the disaster area.

We have given a lot of thought to how to do this right. This wasn't cobbled together overnight. It avoids the simplistic solution, which is no solution at all, of just saying: Let's take this weak, dysfunctional agency, this discredited agency, cut it loose from DHS, and somehow all will be well.

All will not be well. In fact, it would be a disaster to have FEMA, with its very limited current authorities, cast off as a separate agency.

Thad Allen said it well when he pointed out that since FEMA and the Coast Guard have been part of the same Department, there has been a 350-percent increase in joint training. That is what we want. We don't want a bureaucratic structure. We want people to plan, train, and exercise together. If they are in different agencies, that is not going to happen. FEMA is not going to have the advantage of working closely with those relevant agencies within the Department.

Another problem of the Clinton-Akaka amendment is that it would leave the preparedness functions in the Department of Homeland Security. I suspect I know why they did that. They did that because they realize the Department of Homeland Security has to have those preparedness functions. It needs to be able to prepare to respond to a terrorist attack. So they kept that function there.

But how does it make sense for FEMA to be only a response agency? That is what led us to the failed response to Katrina. Preparedness had been stripped off from FEMA. So this makes no sense at all.

Another criticism has been that FEMA lacks right now the authority to award preparedness grants. Yet the Clinton-Akaka amendment keeps that problem. It would keep the preparedness grants that go to State and local governments in the Department of Homeland Security, and yet would have this agency, FEMA, which is supposed to be working with State and local governments, with no authority over the funding for preparedness. That doesn't make any sense either.

I hope this body will recognize that the Homeland Security Committee has done a great deal of work. I hope they will listen to these first responder groups who say: Keep FEMA within DHS, but make it work. That is exactly what our amendment would do.

I see that the Senator from Connecticut has come to the floor. I would like to yield to him, if that is acceptable with the manager of the bill.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, as I understand the time agreement, the Senator from Maine had no limitation on her time, but at the conclusion of her remarks, the Senator from New Jersey was to be recognized for 15 minutes. If her remarks are completed, the time will begin to run against the Senator from New Jersey. It will take a new unanimous consent request, I suspect, to yield to the Senator from Connecticut.

How much time does the Senator from Connecticut wish?

Mr. LIEBERMAN. I would just say amen to everything Senator COLLINS has said, but I will speak for 5 minutes.

Mr. GREGG. If there is no objection, I ask unanimous consent that the Senator from Connecticut be recognized for 5 minutes, then the Senator from New Jersey be recognized for 15 minutes, and then the vote occur 20 minutes from now.

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

The Senator from Connecticut is recognized.

Mr. LIEBERMAN. Mr. President, I come to the floor to quite literally say amen to everything Senator COLLINS has said on behalf of our amendment and in respectful opposition to the amendment that Senator CLINTON has proposed.

We had a disaster, a catastrophe last year in Hurricane Katrina that was natural, and then we had a manmade disaster which was the shockingly inadequate response of the Federal, State, and local governments to that catastrophe that was called Katrina. So our committee spent months investigating, told the story, and considered what we could do to make sure nothing like the Federal Government's inadequate, incompetent reaction and response ever occurred again.

We considered the responsibility that some have raised of taking FEMA, or a replacement agency such as we are proposing, out of the Department and making it independent again. But it made no sense to us. If you have a Department of Homeland Security, which is supposed to be our major Department to prepare for and respond to disasters, natural and manmade, then why would we want to take the emergency management agency, which is all about responding to disasters, natural and terrorist, out of that Department? It would be, as I said at one of our hearings, like taking the U.S. Army out of the Department of Defense because you were not happy with the management of the U.S. Army, so you take it out. Or you had memories that there used to be a Chief of the Army who was good in a different time way back when it was independent, and you make it independent. It makes no sense. It is inefficient. I am afraid it would compromise the ability of our Government to prepare for and respond to another disaster.

In some ways, this is a comparison between James Lee Witt and Michael Brown. I will be real specific about it. I am happy to say in public that James Lee Witt did a great job, and Michael Brown did not, particularly in Katrina. That shouldn't lead us to think that going back to the time when FEMA was independent and James Lee Witt was the Director would solve all of our problems.

FEMA, under James Lee Witt, as good as he was—and he was very good—never faced a catastrophe such as Katrina. We heard testimony to this effect from people in the Department, from inspectors general, from outside authorities that FEMA never, no matter how good James Lee Witt was, could have independently given an adequate response to a catastrophe such as Hurricane Katrina or, God forbid, a catastrophe such as a significant terrorist attack. That is why we kept FEMA, our new USEMA, in the Department of Homeland Security.

We have strengthened it considerably. Senator LOTT, who was an initial cosponsor of the amendment to take FEMA out of the Department of Homeland Security, is now with us on keeping it in the Department because we made some significant changes. We gave the U.S. Emergency Management Agency that we would create, USEMA, the special legal status that only the Coast Guard and Secret Service have

within the Department of Homeland Security. That means it cannot be changed except by statute. No executive action can change its status.

We also made clear that during a time of crisis, though the head of the U.S. Emergency Management Authority normally reports to the Secretary of Homeland Security, that person reports directly to the President of the United States.

I happen to have joined with Senator SPECTER, my friend and colleague from Pennsylvania, in introducing the original legislation to create the Department of Homeland Security. We did it a month or two after 9/11 because we felt we had entered a new age. We had been attacked here at home, innocent citizens were killed by terrorists, and we needed a whole new structure to prepare to defend the American people against similar attacks in the future—our enemies are still obviously out there—and to respond to those attacks.

We built our proposal on the work of an independent commission headed by our former colleagues Warren Rudman and Gary Hart. They said loudly and clearly that FEMA must be the heart of this new Department if it is to adequately protect the American people from disaster or terrorism.

It would be a profound mistake to take it out. That is why I urge my colleagues to support the amendment that Senator COLLINS and I are offering with Senator CARPER and Senator LOTT, and to oppose the amendment of Senator CLINTON.

I thank the Chair, and I yield the floor.

Mr. President, I saw Senator LAUTENBERG come into the Chamber. I do not see him now, so I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

The Senator from New Jersey is recognized for 13 minutes 25 seconds.

Mr. LAUTENBERG. Mr. President, I listened with interest to the Senator from Maine, the chairperson of the committee on which we both serve. I am trying to figure out why a name change might be part of the plan to try to make FEMA a more efficient agency. I think we are chasing our tail around the tree because I don't see how we can do it under the present structure.

I want to start at the beginning. I don't plan to take all the time that is available. I would like to go back a little bit.

When we look at the structure of DHS, the Department of Homeland Security, we see the complications that exist even today with its general functioning: Are the screeners doing an effective job? Do we have too many?

They were once publicly owned groups across the country, and they were doing a poor job. Then we brought them into the Government and their performance improved substantially. Now there is talk about whether we ought to put them back into private hands.

I think about the task of Secretary Chertoff—and Secretary Chertoff is someone I know very well and for whom I have a great deal of respect—when we look at the assignment—22 Departments, 180,000 people, budgets that are insufficient to start with, and then the squabbling, the arm wrestling that has to take place within the Department to try and get FEMA enough money. It just doesn't make sense to have this Department of Government surrounded by the rest of the structure that is so complicated within DHS.

There was a time when FEMA was called upon to act as a result of natural disasters, and they did it very well. James Lee Witt was the head of FEMA. In 1993, we had what was the equivalent of a 100-year flood in Mississippi, and FEMA acted professionally and efficiently and got the job done. Then we had the Northridge earthquake which was one of the worst disasters we have seen. Once again, FEMA stood up to the task and did it efficiently and responded very promptly to get that done.

I, for one, believe, as does the Senator from New York, Mrs. CLINTON, that FEMA ought to be removed, ought to be independent, and to give it a chance to fight for its own budget, to make its own case, to be able to have direct contact with the President's office.

When we think about it, we worry an awful lot about a terrorist attack on our soil, and we should, and we should fight to protect our citizens from the consequences of that kind of an event. But, also, when we look at what happened with natural disasters and the significant—just look at Katrina and see what has happened there. There is a whole sector in our country that has yet to recover.

We are going to be at the first anniversary of Katrina in less than 2 months, and there are still people living in unacceptable conditions, still the restoration has not taken place—the theft, the waste, the fraud that has taken place there, and we look and we say: What has happened here? Why isn't it better? It isn't better because the structure doesn't permit it to get better with any degree of ease. In my view, FEMA has to be a separate department, as it once was, to be able to function as it once did under a different kind of leadership.

Who can forget the consequences of the first strike of the storm when the President of the United States was busy in California. He didn't visit the scene until a couple of days had passed, and he did that from 30,000 feet in the air and called it a devastating sight and gave congratulations to Mr. Brown: Brownie, heck of a job.

Did the President not know what he was saying or did he make a mistake? The fact is, there was so much confusion with the communications links that it was almost impossible to decipher what was going to happen, who was responsible, who was out to dinner when they were crying for help in the various communities, until someone reached over the top, went past the organizational structure, and got to the President's office. Then things began to happen. And they didn't happen very efficiently, nor did they happen thoroughly.

I think if we separated FEMA from the Department of Homeland Security, it would give our new director—who holds high hope, I think, for all of us; he is a competent person. He has experience before he came to FEMA. He has a very positive background for this kind of job. He is new on the job, and I think it would give him a much stronger hand in the annual battle over the agency's budget and appropriations. Obviously, then, it would free FEMA of several layers of bureaucracy at DHS and make it easier for the agency to do its job.

We talk so often around here about the bureaucracy and how tough it is to work your way through it. But here we have this critical agency, the agency that has more direct responsibility for our national security within our boundaries, on our land, than any other agency, and we keep it as a part of a total mechanical structure that says: OK, make sure you get A, B, C, and D. I think that is the wrong approach to having FEMA do the job we want it to do.

It is obvious that FEMA was weak and ineffective and showed a great deal of incompetence. What we want to do is streamline the agency as much as we can, and this is an opportunity to do just that. We are not going to rely on picking friends—cronies, if I can use the term, political campaign workers—to do this job and expect to have it succeed. That is not the way you take a position like this and have it be able to do its job, the job of jumping in there in the middle of a natural disaster of people searching for relatives, searching for a way out. What do you do to replace a reasonable living condition for them? It is a very tough job.

I think FEMA's subservient position inside DHS has contributed to low morale and the loss of qualified professional staff, and it is difficult attracting experienced personnel back to the agency. The agency has lost so much of its former excellent reputation that people are not anxious to go to an agency like that.

So I think the way we have to do it is the way Senator CLINTON and I and others are supportive of, which is the separation of FEMA from the Department. Separate FEMA. Let it stand on its own two feet. Let it strive for its own budget. Let it hire its personnel under its own structure and give it the responsibilities that it deserves and the resources that it needs.

So I hope at this point that people will vote against the amendment Senator COLLINS has presented and support the Clinton amendment that calls for FEMA to be separated from DHS, stand alone, and let it make its case.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, I urge my colleagues to support the approach offered by the Senator from Connecticut, Mr. LIEBERMAN, and Senator LOTT, Senator CARPER, and myself, and reject the approach offered by Senator CLINTON and Senator AKAKA.

Senator CLINTON said earlier that we are rearranging the deck chairs on the Titanic but, in fact, that is what her amendment does. It takes the weak FEMA that we have now and moves it outside of the Department with no new personnel, no new function, no new authorities, no new funding, no infrastructure protection responsibilities, no new communications assets, no new medical assets, no new cyber-security assets.

That is exactly contrary to the approach that we have taken. We have built a new FEMA within the Department with strong authorities—authorities that FEMA has never had—to allow it to respond effectively to a disaster, regardless of its size. We create a new regional structure that will improve the management and the relationship with State and local governments. That is why the first responder groups are all supporting the Collins-Lieberman amendment, and I hope my colleagues will, too.

The PRESIDING OFFICER. Who yields time in opposition?

Mr. GREGG. Mr. President, I yield back the time in opposition, and I ask for the yeas and nays on the Collins amendment.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second. The question is on agreeing to the amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Nevada (Mr. ENSIGN) and the Senator from Pennsylvania (Mr. SANTORUM).

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

The result was announced—yeas 87, nays 11, as follows:

[Rollcall Vote No. 192 Leg.]

#### YEAS—87

Alexander	Byrd	Crapo
Allard	Cantwell	Dayton
Allen	Carper	DeMint
Baucus	Chafee	DeWine
Bayh	Chambliss	Dodd
Bennett	Coburn	Dole
Biden	Cochran	Domenici
Bingaman	Coleman	Dorgan
Bond	Collins	Durbin
Brownback	Conrad	Enzi
Burns	Cornyn	Feingold
Burr	Craig	Feinstein

Frist	Lincoln	Salazar
Graham	Lott	Sarbanes
Grassley	Lugar	Sessions
Gregg	Martinez	Shelby
Hagel	McCain	Smith
Harkin	McConnell	Snowe
Hatch	Menendez	Specter
Hutchison	Mikulski	Stabenow
Inouye	Murkowski	Stevens
Isakson	Murray	Sununu
Johnson	Nelson (FL)	Talent
Kennedy	Nelson (NE)	Thomas
Kohl	Obama	Thune
Kyl	Reed	Vitter
Landrieu	Reid	Voinovich
Levin	Roberts	Warner
Lieberman	Rockefeller	Wyden

## NAYS—11

Akaka	Inhofe	Leahy
Boxer	Jeffords	Pryor
Bunning	Kerry	Schumer
Clinton	Lautenberg	

## NOT VOTING—2

Ensign	Santorum
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The amendment (No. 4560) was agreed to.

## AMENDMENT NO. 4563

The PRESIDING OFFICER. There is 2 minutes equally divided on the Clinton amendment.

The Senator from New York.

Mrs. CLINTON. Mr. President, the recently passed amendment did try to improve upon the status quo, and I commend Senators COLLINS and LIEBERMAN for attempting to do so. But the answer is we need to restore the independence of FEMA. We need to give back to it Cabinet-level status with a direct line to the President. My amendment will allow us to do that. I urge you to vote for this amendment even if you voted for the last amendment because it improves the status quo vote which gets us back to the kind of independent FEMA that can actually respond to disasters and mitigate and help us prepare for them.

Thank you, Mr. President.

The PRESIDING OFFICER. Who yields time in opposition?

Ms. COLLINS. Mr. President, the Clinton-Akaka amendment does nothing to strengthen FEMA. It takes a weak FEMA and casts it adrift as an independent agency. It is not the answer. My colleagues, you have just voted for the right reform. I urge opposition to the Clinton amendment, as do all the first responder groups.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mrs. CLINTON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Nevada (Mr. ENSIGN) and the Senator from Pennsylvania (Mr. SANTORUM).

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

The result was announced—yeas 32, nays 66, as follows:

[Rollcall Vote No. 193 Leg.]

## YEAS—32

Akaka	Inhofe	Mikulski
Baucus	Inouye	Nelson (FL)
Boxer	Jeffords	Obama
Clinton	Kennedy	Pryor
Conrad	Kerry	Reed
Dayton	Kohl	Reid
Dodd	Landrieu	Rockefeller
Dorgan	Lautenberg	Sarbanes
Durbin	Leahy	Schumer
Feingold	Lincoln	Stabenow
Feinstein	Menendez	

## NAYS—66

Alexander	Craig	Martinez
Allard	Crapo	McCain
Allen	DeMint	McConnell
Bayh	DeWine	Murkowski
Bennett	Dole	Murray
Biden	Domenici	Nelson (NE)
Bingaman	Enzi	Roberts
Bond	Frist	Salazar
Brownback	Graham	Sessions
Bunning	Grassley	Shelby
Burns	Gregg	Smith
Burr	Hagel	Snowe
Byrd	Harkin	Specter
Cantwell	Hatch	Stevens
Carper	Hutchison	Sununu
Chafee	Isakson	Talent
Chambliss	Johnson	Thomas
Coburn	Kyl	Thune
Cochran	Levin	Vitter
Coleman	Lieberman	Voinovich
Collins	Lott	Warner
Cornyn	Lugar	Wyden

## NOT VOTING—2

Ensign	Santorum
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The amendment (No. 4563) was rejected.

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.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, parliamentary inquiry: Is the Feinstein amendment the pending business?

The PRESIDING OFFICER. The Feinstein amendment is the pending question.

## AMENDMENT NO. 4577 TO AMENDMENT NO. 4566

Mr. CORNYN. Mr. President, I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. CORNYN] proposes an amendment numbered 4577 to amendment No. 4566.

Mr. CORNYN. 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 provide for immigration injunction reform)

At the end of the amendment, add the following:

## SEC. 541. IMMIGRATION INJUNCTION REFORM.

(a) SHORT TITLE.—This section may be cited as the "Fairness in Immigration Litigation Act of 2006".

(b) APPROPRIATE REMEDIES FOR IMMIGRATION LEGISLATION.—

(1) REQUIREMENTS FOR AN ORDER GRANTING PROSPECTIVE RELIEF AGAINST THE GOVERNMENT.—

(A) IN GENERAL.—If a court determines that prospective relief should be ordered

against the Government in any civil action pertaining to the administration or enforcement of the immigration laws of the United States, the court shall—

(i) limit the relief to the minimum necessary to correct the violation of law;

(ii) adopt the least intrusive means to correct the violation of law;

(iii) minimize, to the greatest extent practicable, the adverse impact on national security, border security, immigration administration and enforcement, and public safety, and

(iv) provide for the expiration of the relief on a specific date, which is not later than the earliest date necessary for the Government to remedy the violation.

(B) WRITTEN EXPLANATION.—The requirements described in subparagraph (A) shall be discussed and explained in writing in the order granting prospective relief and must be sufficiently detailed to allow review by another court.

(C) EXPIRATION OF PRELIMINARY INJUNCTIVE RELIEF.—Preliminary injunctive relief shall automatically expire on the date that is 90 days after the date on which such relief is entered, unless the court—

(i) makes the findings required under subparagraph (A) for the entry of permanent prospective relief; and

(ii) makes the order final before expiration of such 90-day period.

(D) REQUIREMENTS FOR ORDER DENYING MOTION.—This paragraph shall apply to any order denying the Government's motion to vacate, modify, dissolve or otherwise terminate an order granting prospective relief in any civil action pertaining to the administration or enforcement of the immigration laws of the United States.

(2) PROCEDURE FOR MOTION AFFECTING ORDER GRANTING PROSPECTIVE RELIEF AGAINST THE GOVERNMENT.—

(A) IN GENERAL.—A court shall promptly rule on the Government's motion to vacate, modify, dissolve or otherwise terminate an order granting prospective relief in any civil action pertaining to the administration or enforcement of the immigration laws of the United States.

(B) AUTOMATIC STAYS.—

(i) IN GENERAL.—The Government's motion to vacate, modify, dissolve, or otherwise terminate an order granting prospective relief made in any civil action pertaining to the administration or enforcement of the immigration laws of the United States shall automatically, and without further order of the court, stay the order granting prospective relief on the date that is 15 days after the date on which such motion is filed unless the court previously has granted or denied the Government's motion.

(ii) DURATION OF AUTOMATIC STAY.—An automatic stay under clause (i) shall continue until the court enters an order granting or denying the Government's motion.

(iii) POSTPONEMENT.—The court, for good cause, may postpone an automatic stay under clause (i) for not longer than 15 days.

(iv) ORDERS BLOCKING AUTOMATIC STAYS.—Any order staying, suspending, delaying, or otherwise barring the effective date of the automatic stay described in clause (i), other than an order to postpone the effective date of the automatic stay for not longer than 15 days under clause (iii), shall be—

(I) treated as an order refusing to vacate, modify, dissolve or otherwise terminate an injunction; and

(II) immediately appealable under section 1292(a)(1) of title 28, United States Code.

(3) SETTLEMENTS.—

(A) CONSENT DECREES.—In any civil action pertaining to the administration or enforcement of the immigration laws of the United States, the court may not enter, approve, or



continue a consent decree that does not comply with paragraph (1).

(B) PRIVATE SETTLEMENT AGREEMENTS.—Nothing in this subsection shall preclude parties from entering into a private settlement agreement that does not comply with paragraph (1) if the terms of that agreement are not subject to court enforcement other than reinstatement of the civil proceedings that the agreement settled.

(4) EXPEDITED PROCEEDINGS.—It shall be the duty of every court to advance on the docket and to expedite the disposition of any civil action or motion considered under this subsection.

(5) DEFINITIONS.—In this subsection:

(A) CONSENT DECREE.—The term “consent decree”—

(i) means any relief entered by the court that is based in whole or in part on the consent or acquiescence of the parties; and

(ii) does not include private settlements.

(B) GOOD CAUSE.—The term “good cause” does not include discovery or congestion of the court’s calendar.

(C) GOVERNMENT.—The term “Government” means the United States, any Federal department or agency, or any Federal agent or official acting within the scope of official duties.

(D) PERMANENT RELIEF.—The term “permanent relief” means relief issued in connection with a final decision of a court.

(E) PRIVATE SETTLEMENT AGREEMENT.—The term “private settlement agreement” means an agreement entered into among the parties that is not subject to judicial enforcement other than the reinstatement of the civil action that the agreement settled.

(F) PROSPECTIVE RELIEF.—The term “prospective relief” means temporary, preliminary, or permanent relief other than compensatory monetary damages.

(C) EFFECTIVE DATE.—

(1) IN GENERAL.—This section shall apply with respect to all orders granting prospective relief in any civil action pertaining to the administration or enforcement of the immigration laws of the United States, whether such relief was ordered before, on, or after the date of the enactment of this Act.

(2) PENDING MOTIONS.—Every motion to vacate, modify, dissolve or otherwise terminate an order granting prospective relief in any such action, which motion is pending on the date of the enactment of this Act, shall be treated as if it had been filed on such date of enactment.

(3) AUTOMATIC STAY FOR PENDING MOTIONS.—

(A) IN GENERAL.—An automatic stay with respect to the prospective relief that is the subject of a motion described in paragraph (2) shall take effect without further order of the court on the date which is 10 days after the date of the enactment of this Act if the motion—

(i) was pending for 45 days as of the date of the enactment of this Act; and

(ii) is still pending on the date which is 10 days after such date of enactment.

(B) DURATION OF AUTOMATIC STAY.—An automatic stay that takes effect under subparagraph (A) shall continue until the court enters an order granting or denying the Government’s motion under subsection (b)(2). There shall be no further postponement of the automatic stay with respect to any such pending motion under subsection (b)(2)(B). Any order, staying, suspending, delaying or otherwise barring the effective date of this automatic stay with respect to pending motions described in paragraph (2) shall be an order blocking an automatic stay subject to immediate appeal under subsection (b)(2)(B)(iv).

Mr. CORNYN. Mr. President, this amendment is designed to end a dec-

ades-old, obsolete Federal court injunction designed to impede the Department of Homeland Security’s use of expedited removal and enforcement of our immigration laws.

In 1988, a Federal court in Los Angeles issued a permanent, nationwide injunction that requires immigration authorities to afford detained Salvadorans a host of substantive and proposal rights—rights afforded to literally no other immigrant group.

Largely as a result of this 1988 Orantes injunction, Salvadorans have now become the single largest component of what is known as OTMs or “other than Mexican” immigrants.

Both the border tunnel amendment that Senator FEINSTEIN has offered and my immigration injunction second-degree amendment deal with illegal immigration and are designed to deal with criminal activity. They go together well because they both close border vulnerabilities that are being exploited by gangs and smugglers.

The injunction amendment passed as an amendment in committee, and there has been little opposition. It is currently in the compromise bill endorsed by a majority of Senate Democrats.

The amendment requires courts to narrowly tailor injunctive relief orders against the Government in immigration cases and to take into account national security, border security, public safety, and immigration enforcement concerns.

Decades-old, obsolete Federal court injunctions continue to impede the Department of Homeland Security’s efforts to enforce our immigration laws.

For example, if you look at June of 2005 through February of 2006, you can see why this specific injunction, which impedes the use of expedited removal when it comes to immigrants from El Salvador, is such a problem and why this amendment is necessary.

For example, in June of 2005 there were some 4,181 Brazilians subject to apprehension. At the same time, there were roughly the same number of El Salvadorans: 4,011. But because of the improvements in expedited removal and immigration law enforcement insofar as it relates to Brazilians—not subject to the Orantes injunction that impedes the use of this important procedure—we saw the number of Brazilians drop from 4,181 in June of 2005 to 72 in February of 2006.

During the same time period, because of the impediment created by the Orantes injunction, which prohibited the use of expedited removal when it came to Salvadorans who illegally immigrated into the United States, we saw, in June of 2005, 4,011 Salvadorans; and in February of 2006, that number has virtually not changed at all, to 3,906.

So, clearly, the impediment created by this Orantes injunction, that would be overturned and remedied by this amendment, creates an impediment for the Department of Homeland Security when it comes to enforcing our immigration laws.

This amendment, it is important to note, would not eliminate injunctive relief but would require that any injunction granted be narrowly tailored and to not unnecessarily impede on enforcement of our immigration laws.

Specifically, it would provide that injunctions must be narrowly tailored to precisely address the actual harm identified. It would require that injunctions do not extend forever and must end on a date certain. It provides that an injunction is suspended unless a court acts within 30 days of the date when the Government moves to vacate an injunction. And for any injunction in which the Government has already filed a motion to vacate—and which remains pending 10 days after enactment of this bill—that injunction is automatically stayed on that 10th day.

Mr. President, I conclude by saying, in my conversations with the Secretary of the Department of Homeland Security, he regards this amendment as important to providing the Department of Homeland Security the tools it needs in order to enforce our immigration laws and to make sure the use of expedited removal, which is so important in terms of the deterrence that it provides, be uniform across populations that would be affected.

So, as he told me, if this amendment passes, he would be able to end catch-and-release, which is a de facto policy of this Government, within a matter of months.

I would think this is an issue we can all support, and I ask my colleagues to support this amendment.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. 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.

AMENDMENT NO. 4579

Mr. GREGG. Mr. President, I send an amendment to the desk and ask it be reported.

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

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG], for himself and Mr. BYRD, proposes an amendment numbered 4579.

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:

On page 118, strike line 7 through page 119, line 2 and insert in lieu thereof the following:

SEC. 524. Using funds made available in this Act:

(a) Within 60 days of enactment of this Act, the Secretary of the Department of

Homeland Security shall revise DHS MD [Management Directive] 11056 to provide for the following:

(1) that when a lawful request is made to publicly release a document containing information designated as SSI, the document shall be reviewed in a timely manner to determine whether any information contained in the document meets the criteria for continued SSI protection under applicable law and regulation and shall further provide that all portions that no longer require SSI designation be released, subject to applicable law, including sections 552 and 552a of title 5, United States Code;

(2) that sensitive security information that is four years old shall be subject to release upon request unless:

(A) the Secretary or his designee makes a written determination that identifies a rational basis why the information must remain SSI;

(B) the information is covered by a current sensitive security information application guide approved by the Secretary or his designee in writing; or

(C) such information is otherwise exempt from disclosure under applicable law.

Any determination made by the Secretary under clause (a)(2)(A) shall be provided to the party making a request to release such information and to the Committees on Appropriations of the Senate and House of Representatives as part of the annual reporting requirement pursuant to section 537 of the Department of Homeland Security Appropriations Act, 2006 (Pub. L. 109-90; 119 Stat. 2088);

(3) common and extensive examples of the individual categories of SSI information cited under 49 CFR 1520(b) (1) through (16) in order to minimize and standardize judgment by covered persons in the application of SSI marking; and

(b) Not later than 120 days after the date of enactment of this Act, the Secretary of Homeland Security shall report to the Committees on Appropriations of the Senate and the House of Representatives on the progress that the Department has made in implementing the remaining requirements of section 537 of the Department of Homeland Security Appropriations Act, 2006 (Pub. L. 109-90; 119 Stat. 2088), including information on the current procedures regarding access to sensitive security information (SSI) by civil litigants and the security risks and benefits of any proposed changes to these procedures.

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

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

The amendment (No. 4579) was agreed to.

### MORNING BUSINESS

Mr. GREGG. Mr. President, I ask unanimous consent that there now be a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

### BUDGET SCOREKEEPING REPORT

Mr. GREGG. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of S. Con. Res. 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the 2006 budget through June 30, 2006. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 2006 concurrent resolution on the budget, H. Con. Res. 95. Pursuant to section 402 of that resolution, provisions designated as emergency requirements are exempt from enforcement of the budget resolution. As a result, the attached report excludes these amounts.

The estimates show that current level spending is under the budget resolution by \$11.873 billion in budget authority and by \$4.060 billion in outlays in 2006. Current level for revenues is \$6.589 billion above the budget resolution in 2006.

Since my last report dated May 19, 2006, Congress has cleared and the President has signed the following acts which have changed budget authority, outlays, or revenues: the Native Amer-

ican Technical Corrections Act of 2006, Public Law 109-221; the Heroes Earned Retirement Opportunities Act Public Law 109-227; the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Relief, 2006, Public Law 109-234; and the Mine Improvement and New Emergency Response Act of 2006 Public Law 109-236.

I ask unanimous consent that the accompanying letter and material be printed in the RECORD.

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

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
Washington, DC, July 10, 2006.

Hon. JUDD GREGG,  
Chairman Committee on the Budget,  
U.S. Senate Washington, DC.

DEAR MR. CHAIRMAN: The enclosed tables show the effects of Congressional action on the 2006 budget and are current through June 30, 2006. This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended.

The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions for fiscal year 2006 that underlie H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006. Pursuant to section 402 of that resolution, provisions designated as emergency requirements are exempt from enforcement of the budget resolution. As a result, the enclosed current level report excludes these amounts (see footnote 2 on Table 2).

Since my last letter dated May 18, 2006, the Congress has cleared and the President has signed the following acts which have changed budget authority, outlays, or revenues: the Native American Corrections Act of 2006 (Public Law 109-221); the Heroes Earned Retirement Opportunities Act (Public Law 109-227); the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Relief, 2006 (Public Law 109-234); and the Mine Improvement and New Emergency Response Act of 2006 Public Law 109-236).

Sincerely,

DONALD B. MARRON,  
Acting Director.

TABLE 1.—SENATE CURRENT-LEVEL REPORT FOR SPENDING AND REVENUES FOR FISCAL YEAR 2006, AS OF JUNE 30, 2006

(In billions of dollars)

	Budget Resolution <sup>1</sup>	Current Level <sup>2</sup>	Current level over/under (—) resolution
On-Budget:			
Budget Authority .....	2,094.4	2,082.5	— 11.9
Outlays .....	2,099.0	2,094.9	— 4.1
Revenues .....	1,589.9	1,596.5	6.6
Off-Budget:			
Social Security Outlays <sup>3</sup> .....	416.0	416.0	0
Social Security Revenues .....	604.8	604.8	*

Note: \* = Less than \$50 million.

<sup>1</sup> H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006, assumed \$50.0 billion in budget authority and \$62.4 billion in outlays in fiscal year 2006 from emergency supplemental appropriations. Such emergency amounts are exempt from the enforcement of the budget resolution. Since current-level totals exclude the emergency requirements enacted in the previous session and the emergency requirements in Public Law 109-176, Public Law 109-208, and Public Law 109-234 (see footnote 2 on Table 2), the budget authority and outlay totals specified in the budget resolution have also been reduced (by the amounts assumed for emergency supplemental appropriations) for purposes of comparison.

<sup>2</sup> Current level is the estimated effect on revenue and spending of all legislation that the Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations, even if the appropriations have not been made.

<sup>3</sup> Excludes administrative expenses of the Social Security Administration, which are also off-budget, but are appropriated annually.

Source: Congressional Budget Office.

TABLE 2.—SUPPORTING DETAIL FOR THE SENATE CURRENT-LEVEL REPORT FOR ON-BUDGET SPENDING AND REVENUES OF FISCAL YEAR 2006, AS OF JUNE 30, 2006

(In millions of dollars)

	Budget authority	Outlays	Revenues
Enacted in Previous Sessions:			
Revenues .....	n.a.	n.a.	1,607,180
Permanents and other spending legislation <sup>1</sup> .....	1,296,134	1,248,957	n.a.

TABLE 2.—SUPPORTING DETAIL FOR THE SENATE CURRENT-LEVEL REPORT FOR ON-BUDGET SPENDING AND REVENUES OF FISCAL YEAR 2006, AS OF JUNE 30, 2006—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
Appropriation legislation .....	1,333,823	1,323,802	n.a.
Offsetting receipts .....	- 479,868	- 479,828	n.a.
Total, enacted in previous sessions: .....	2,150,089	2,092,891	1,607,180
Enacted This Session:			
Katrina Emergency Assistance Act of 2005 (P.L. 109-176) .....	250	250	0
An act to make available funds included in the Deficit Reduction Act for the Low-income Energy Assistance Program for 2006 (P.L. 109-204) .....	1,000	750	0
Native American Corrections Act of 2006 (P.L. 109-221) .....	23	23	3
Tax Increase Prevention and Reconciliation Act of 2006 (P.L. 109-222) .....	0	0	-10,757
Heroes Earned Retirement Opportunities Act (P.L. 109-227) .....	0	0	-1
Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (P.L. 109-234) .....	-111	143	55
Mine Improvement and New Emergency Response Act of 2006 (P.L. 109-236) .....	0	0	1
Total, enacted this session: .....	1,162	1,166	-10,699
Entitlements and mandates:			
Difference between enacted levels and budget resolution estimates for appropriated entitlements and other mandatory programs .....	-68,740	879	n.a.
Total Current Level, <sup>1,2,3,4</sup> .....	2,082,511	2,909,436	1,596,481
Total Budget Resolution .....	2,144,384	2,161,420	1,589,892
Adjustment to budget resolution for emergency requirement <sup>4</sup> .....	-50,000	-62,424	n.a.
Adjusted Budget Resolution .....	2,909,434	1,098,996	n.a.
Current Level Over Adjusted Budget Resolution .....	n.a.	n.a.	6,589
Current Level Under Adjusted Budget Resolution .....	11,873	4,060	n.a.

Notes: n.a. = not applicable; P.L. = Public Law.

<sup>1</sup> P.L. 109-171 was enacted early in this session of Congress, but is shown under "enacted in previous sessions" as requested by the Committee on the Budget. Included in current-level totals for P.L. 109-171 are \$980 million in budget authority and -\$4,847 million in outlays.<sup>2</sup> Pursuant to section 402 of H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006, provisions designated as emergency requirements are exempt from enforcement of the budget resolution. As a result, the current-level totals exclude the following amounts:

	Budget authority	Outlays	Revenues
Emergency requirements enacted in previous session .....	74,981	112,423	-7,111
Katrina Emergency Assistance Act of 2006 (P.L. 109-1 E6) .....	-250	0	0
National Flood Insurance Enhanced Borrowing Authority Act of 2006 (P.L. 109-208) .....	2,275	2,275	0
Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (P.L. 109-2B4) .....	94,541	24,184	0
Total, enacted emergency requirements .....	174,547	138,882	-7,111

<sup>3</sup> Excludes administrative expenses of the Social Security Administration, which are off-budget.<sup>4</sup> H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006, assumed \$50,000 million in budget authority and \$62,424 million in outlays in fiscal year 2006 from emergency supplemental appropriations. Such emergency amounts are exempt from the enforcement of the budget resolution. Since current-level totals exclude the emergency requirements enacted in the previous session and the emergency requirements in Public Law 109-176, Public Law 109-208, and Public Law 109-234 (see footnote 2 above) budget authority and outlay totals specified in the budget resolution have also been reduced (by the amounts assumed for emergency supplemental appropriations) for purposes of comparison.

Source: Congressional Budget Office.

## THE HIGHWAY WATCH® PROGRAM

Mr. ISAKSON. Mr. President, I rise today to offer my strong support for the Highway Watch® program.

Highway Watch® is a national program to enhance the security and overall preparedness on our Nation's highways through training highway professionals to be the "eyes and ears" of our highways. The Highway Watch® program, managed by the American Trucking Associations, recruits and trains professional truck drivers to identify and report security and safety situations on our Nation's roads.

Highway Watch® has enrolled more than 330,000 highway professionals and expects to enroll more than 1,000,000 by March, 2007. In my State of Georgia, the training is mandatory for the more than 300,000 commercial drivers licensed in Georgia. To date, the State of Georgia has enrolled more than 18,000 participants.

I share with you two of the successes of the program. An instructor at a Michigan truck-driving school grew suspicious when ten students showed up to verify their safety and driving skills. The individuals had little knowledge about driving a commercial vehicle and could not verify their commercial driver's licenses. It turned out that the individuals were illegal immigrants and some were on a terrorist watch list.

In another example, Highway Watch® members reported a man photographing and videotaping fuel tanker trucks and asking questions. Forty-eight hours after a "Be On the

Look Out" (BOLO) notice was issued by Highway Watch®, the man was in custody.

This program has fostered a good working relationship between the public and private sector, and is a model for how corporations can teach vigilance to their employees. I encourage the Department of Homeland Security to place the requisite monies for this important program in the Department of Homeland Security annual budget, and encourage the appropriators to continue their commitment to the program.

I look forward to working with my colleagues and ask for continued support of the Highway Watch® program to help ensure that our Nation's highways are safe and secure.

## ADDITIONAL STATEMENTS

## 125TH ANNIVERSARY OF THE FOUNDING OF MITCHELL, SOUTH DAKOTA

• Mr. JOHNSON. Mr. President, today I wish to recognize the 125th anniversary of the founding of one of South Dakota's great cities, Mitchell. Located along I-90, Mitchell serves as the county seat of Davison County and is one of the State's most thriving communities. Mitchell is home to a strong economy, first-rate hospital, a 4-year university and a technical institute, as well as numerous tourist destinations, art, culture, shopping, and outdoor recreation.

The site of Mitchell was originally platted in 1879 and then incorporated in 1881. Mitchell may be best known as the home of the Corn Palace. Build in 1897 to showcase South Dakota's healthy agriculture climate, the Corn Palace attracts over a half million visitors annually. Each year a new theme and new murals are chosen and the Corn Palace is redecorated with corn, other grains, and native grasses. It is a great venue for displaying the variety of South Dakota agriculture. Additionally, the Corn Palace is more than a visitor's attraction; it serves as a host for state basketball tournaments, dances, meetings, banquets, and other civic events.

Also in Mitchell are historical and cultural attractions such as the Pre-historic Indian Village, Enchanted Doll Museum, and the Dakota Discovery Museum. Mitchell's economy is also boosted by the hunting and fishing industries. The community is served by the Mitchell Republic newspaper. Perhaps Mitchell's most famous resident is George McGovern, former Representative and Senator of South Dakota and 1972 Democratic nominee for President.

Mitchell boasts one of South Dakota's oldest and finest educational institutions, Dakota Wesleyan University. DWU is a 4-year university with 26 majors and 30 minors available. The latest addition to the campus, the George and Eleanor McGovern Library and Center for Leadership and Public Service, is expected to be completed in August of 2006. Mitchell is also home to Mitchell Technical Institute, a post-secondary

technical school employing cutting edge technology in five occupational areas.

The Avera Queen of Peace Hospital, one of the most advanced medical centers in the region, is also located in Mitchell. Especially noteworthy is the recently finished Avera Queen of Peace Cancer Center. The hospital employs over 700 people from the Mitchell area.

Even 125 years after its founding Mitchell remains a vital community and a great asset to South Dakota. I am pleased to honor this progressive city and offer my congratulations to the residents of the city on this historic milestone.●

#### 60TH ANNIVERSARY OF THE PHOENIX SYMPHONY ORCHESTRA

● Mr. MCCAIN. Mr. President, I am pleased to congratulate the Phoenix Symphony Orchestra, which will launch the celebration of its diamond jubilee for the 2007/2008 season on December 30, 2006.

The Phoenix Symphony Orchestra is embarking on its 60th year of having a profound cultural and educational effect in the State of Arizona. Founded in 1947, the Phoenix Symphony proudly serves Phoenix and the surrounding metropolitan area, the State of Arizona, and the southwestern United States. What began as an occasional group of musicians performing a handful of concerts each year—in a city of fewer than 100,000 people—today serves more than 300,000 people annually, with 275 concerts and presentations throughout the greater Phoenix area and beyond.

Under the artistic leadership of Michael Christie as the Virginia G. Piper Music Director and administrative leadership of President Maryellen H. Gleason, the orchestra is overseen by the nonprofit Phoenix Symphony Association under Board Chairman Gerald W. Murphy.

The 76-member Phoenix Symphony presents an annual season from September through the beginning of June, featuring full-length classical and pops concerts at Symphony Hall in downtown Phoenix, in Scottsdale, in Prescott, in several Native American communities and throughout central Arizona. The symphony performs for more than 50,000 students and children, representing over 260 different schools, helping to introduce music to new generations through a variety of education and youth-engagement programs including programs at the Salt River Pima Indian Nation, Chicanos por la Causa, and Phoenix Elementary School District No. 1.

Again, I congratulate the Phoenix Symphony Orchestra for its remarkable achievements and contributions to Arizona.●

#### RETIREMENT OF GEORGE GULSON

● Mr. JOHNSON. Mr. President, today I wish to recognize the achievements of

Mr. George Gulson, who spent 43 years working in the Brandon Valley School System, including 13 years as superintendent. Throughout his career, Mr. Gulson has exhibited a true commitment to excellence in education by creating positive learning environments for his students.

Mr. Gulson started with Brandon Valley as the band director, a position he held for 11 years. Though he has always loved music, Mr. Gulson did not originally plan on being a teacher. Initially, he had planned on going into pharmacy, but found that his lab classes at South Dakota State University conflicted with the band schedule. Rather than stop playing in the band, he decided to go into education instead. He had several options following his graduation, but after seeing the Brandon Valley band perform at a contest, he was so impressed that he contacted the superintendent. He signed a teaching contract a few weeks later.

In 1974, Mr. Gulson accepted a position as a junior high school principal in Brandon Valley. Though being an administrator was quite different from teaching, it was a job he came to appreciate. He found that he was able to influence youth at a time in their lives when they were still learning who they are and how to interact with the world. In addition to helping students find themselves, the post also put Mr. Gulson in a position to start thinking about ways to change the school. He spent his last 3 years as principal readying the school to change from the junior high to the middle school philosophy.

Then in late 1993 came the call from the Brandon Valley School Board asking him to become superintendent. It was a job Mr. Gulson would excel at for 13 years. Among the issues Mr. Gulson faced during his tenure were a growing student population, building projects, No Child Left Behind provisions, curriculum, and funding. Brandon Valley's Performing Arts Center was built on his watch, a particularly impressive accomplishment.

George Gulson has shown unequivocal dedication to quality education throughout his stellar career. As a teacher, principal, and superintendent Mr. Gulson has helped generations of students to become lifelong learners. It is my pleasure to publicly recognize such a tireless advocate of education as Mr. Gulson. Though Mr. Gulson's day to day presence will be missed by students, parents, and the community at large, I congratulate him on his years of service and wish him the best in his retirement.●

#### MESSAGE FROM THE HOUSE

At 12:32 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 122. An act to amend the Reclamation Wastewater and Groundwater Study and Fa-

cilities Act to authorize the Secretary of the Interior to participate in the Eastern Municipal Water District Recycled Water System Pressurization and Expansion Project.

H.R. 2563. An act to authorize the Secretary of the Interior to conduct feasibility studies to address certain water shortages within the Snake, Boise, and Payette River systems in Idaho, and for other purposes.

H.R. 3462. An act to provide for the conveyance of the Bureau of Land Management parcels known as the White Acre and Gambel Oak properties and related real property to Park City, Utah, and for other purposes.

H.R. 3897. An act to authorize the Secretary of the Interior, acting through the Bureau of Reclamation to enter into a cooperative agreement with the Madera Irrigation District for purposes of supporting the Madera Water Supply Enhancement Project.

H.R. 5061. An act to direct the Secretary of the Interior to convey Paint Bank National Fish Hatchery and Wytheville National Fish Hatchery to the State of Virginia.

H.R. 5232. An act to direct the Secretary of the Interior to initiate and complete an evaluation of lands and waters located in Northeastern Pennsylvania for their potential acquisition and inclusion in a future Cherry Valley National Wildlife Refuge, and for other purposes.

H.R. 5589. An act to direct the Secretary of Homeland Security to transfer to United States Immigration and Customs Enforcement all functions of the Customs Patrol Officers unit operating on the Tohono O'odham Indian reservation.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 427. Concurrent resolution permitting the use of the rotunda of the Capitol for a ceremony to commemorate the 75th anniversary of the establishment of the Department of Veterans Affairs.

#### MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 122. An act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Eastern Municipal Water District Recycled Water System Pressurization and Expansion Project; to the Committee on Energy and Natural Resources.

H.R. 2563. An act to authorize the Secretary of the Interior to conduct feasibility studies to address certain water shortages within the Snake, Boise, and Payette River systems in Idaho, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 3462. An act to provide for the conveyance of the Bureau of Land Management parcels known as the White Acre and Gambel Oak properties and related real property to Park City, Utah, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 3897. An act to authorize the Secretary of the Interior, acting through the Bureau of Reclamation to enter into a cooperative agreement with the Madera Irrigation District for purposes of supporting the Madera Water Supply and Groundwater Enhancement Project; to the Committee on Energy and Natural Resources.

H.R. 5061. An act to direct the Secretary of the Interior to convey Paint Bank National Fish Hatchery and Wytheville National Fish

Hatchery to the State of Virginia; to the Committee on Environment and Public Works.

H.R. 5232. An act to direct the Secretary of the Interior to initiate and complete an evaluation of lands and waters located in North-eastern Pennsylvania for their potential acquisition and inclusion in a future Cherry Valley National Wildlife Refuge, and for other purposes; to the Committee on Environment and Public Works.

H.R. 5589. An act to direct the Secretary of Homeland Security to transfer to United States Immigration and Customs Enforcement all functions of the Customs Patrol Officers unit operating on the Tohono O'odham Indian reservation; to the Committee on Homeland Security and Governmental Affairs.

## MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 3637. A bill to require the submittal to Congress of any Presidential Daily Briefing relating to Iraq during the period beginning on January 20, 1997, and ending on March 19, 2003.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-7442. A communication from the Secretary of Education, transmitting, pursuant to law, the Semiannual Report to Congress on Audit Follow-Up, covering the period October 1, 2005 through March 31, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC-7443. A communication from the Chairman, Federal Maritime Commission, transmitting, pursuant to law, the Commission's Semiannual Report of the Inspector General for the period October 1, 2005 through March 31, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC-7444. A communication from the Secretary of Labor, transmitting, pursuant to law, the Pension Benefit Guaranty Corporation's Semiannual Report of the Inspector General and the Executive Director's Semiannual Report on Management Decisions and Final Actions on Office of Inspector General Audit Recommendations for the period October 1, 2005 through March 31, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC-7445. A communication from the Administrator, U.S. Agency for International Development, transmitting, pursuant to law, the Agency's Semiannual Report of the Inspector General for the period October 1, 2005 through March 31, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC-7446. A communication from the Director of the Peace Corps, transmitting, pursuant to law, the Commission's Semiannual Report of the Inspector General for the period October 1, 2005 through March 31, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC-7447. A communication from the Chairman and the General Counsel, National Labor Relations Board, transmitting, pursuant to law, the Board's Semiannual Report of the Inspector General for the period October 1, 2005 through March 31, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC-7448. A communication from the Chairman, Broadcasting Board of Governors, transmitting, pursuant to law, the Board of Governor's Semiannual Report of the Inspector General for the period October 1, 2005 through March 31, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC-7449. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the Department of Agriculture's Semiannual Report of the Inspector General for the period October 1, 2005 through March 31, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC-7450. A communication from the Administrator, U.S. Small Business Administration, transmitting, pursuant to law, the Administration's Semiannual Report of the Inspector General for the period October 1, 2005 through March 31, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC-7451. A communication from the Secretary of Education, transmitting, pursuant to law, the Department of Education's Semiannual Report of the Inspector General for the period October 1, 2005 through March 31, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC-7452. A communication from the Chair, U.S. Equal Employment Opportunity Commission, transmitting, pursuant to law, the Commission's Semiannual Report of the Inspector General for the period October 1, 2005 through March 31, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC-7453. A communication from the Chairman, Postal Rate Commission, transmitting, pursuant to law, a report entitled "Fiscal Year 2005 International Mail Volumes, Costs and Revenues"; to the Committee on Homeland Security and Governmental Affairs.

EC-7454. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of Presidential Determination 2006-15 relative to the suspension of limitations under the Jerusalem Embassy Act; to the Committee on Foreign Relations.

EC-7455. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of proposed legislation entitled "R.M.S. Titanic Maritime Memorial Preservation Act of 2006" received on July 6, 2006; to the Committee on Foreign Relations.

EC-7456. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the Chemical Weapons Convention Implementation Act of 1998; to the Committee on Foreign Relations.

EC-7457. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled "Department of State Acquisition Regulation" (RIN1400-AB90) received on July 6, 2006; to the Committee on Foreign Relations.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. OBAMA:

S. 3631. A bill to amend the Toxic Substances Control Act to phase out the use of mercury in the manufacture of chlorine and caustic soda, and for other purposes; to the Committee on Environment and Public Works.

By Mr. HATCH (for himself and Mr. BENNETT):

S. 3632. A bill to provide for the sale of approximately 25 acres of public land to the Turnabout Ranch, Escalante, Utah, at fair market value; to the Committee on Energy and Natural Resources.

By Mr. INHOFE (for himself, Mr. NELSON of Nebraska, Ms. SNOWE, Mr. WARNER, Mr. GRAHAM, Mr. DEWINE, Mr. STEVENS, Mr. MARTINEZ, Mr. BUNNING, Mr. CRAPO, Mr. CRAIG, Mr. KYL, Mr. ENSIGN, Mr. COBURN, Mr. SHELBY, Mr. THOMAS, Mr. DEMINT, Mr. CHAMBLISS, Mrs. HUTCHISON, Mr. VITTER, Mr. ISAKSON, Mr. SESSIONS, Mr. THUNE, Mr. BOND, Mr. SMITH, Mr. COCHRAN, Mr. GREGG, Mr. BURNS, Mr. TALENT, Mr. BURR, Mr. ALLEN, and Mrs. DOLE):

S. 3633. A bill to require the withholding of United States contributions to the United Nations until the President certifies that the United Nations is not engaged in global taxation schemes; to the Committee on Foreign Relations.

By Mr. JEFFORDS (for himself and Mr. LEAHY):

S. 3634. A bill to amend the Nuclear Waste Policy Act of 1982 to improve the material control and accounting and data management systems used by civilian nuclear power reactors to better account for spent nuclear fuel and reduce the risks associated with the handling of those materials; to the Committee on Environment and Public Works.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 3635. A bill to direct the Secretary of the Interior to take into trust 2 parcels of Federal land for the benefit of certain Indian Pueblos in the State of New Mexico; to the Committee on Indian Affairs.

By Mr. BENNETT (for himself and Mr. HATCH):

S. 3636. A bill to establish wilderness areas, promote conservation, improve public land, and provide for high quality economic development in Washington County, Utah, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. KENNEDY:

S. 3637. A bill to require the submittal to Congress of any Presidential Daily Briefing relating to Iraq during the period beginning on January 20, 1997, and ending on March 19, 2003; read the first time.

By Mrs. FEINSTEIN:

S. 3638. A bill to encourage the Secretary of the Interior to participate in projects to plan, design, and construct water supply projects and to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to encourage the design, planning, and construction of projects to treat impaired surface water, reclaim and reuse impaired groundwater, and provide brine disposal in the State of California; to the Committee on Energy and Natural Resources.

## ADDITIONAL COSPONSORS

S. 94

At the request of Mr. LUGAR, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 94, a bill to amend the Internal Revenue Code of 1986 to provide for a charitable deduction for contributions of food inventory.

S. 407

At the request of Mr. JOHNSON, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 407, a bill to restore health care

coverage to retired members of the uniformed services, and for other purposes.

S. 635

At the request of Mr. SANTORUM, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 635, a bill to amend title XVIII of the Social Security Act to improve the benefits under the medicare program for beneficiaries with kidney disease, and for other purposes.

S. 718

At the request of Mr. BIDEN, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 718, a bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to provide standards and procedures to guide both State and local law enforcement agencies and law enforcement officers during internal investigations, interrogation of law enforcement officers, and administrative disciplinary hearings, and to ensure accountability of law enforcement officers, to guarantee the due process rights of law enforcement officers, and to require States to enact law enforcement discipline, accountability, and due process laws.

S. 914

At the request of Mr. ALLARD, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of S. 914, a bill to amend the Public Health Service Act to establish a competitive grant program to build capacity in veterinary medical education and expand the workforce of veterinarians engaged in public health practice and biomedical research.

S. 1283

At the request of Mrs. CLINTON, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1283, a bill to amend the Public Health Service Act to establish a program to assist family caregivers in accessing affordable and high-quality respite care, and for other purposes.

S. 1537

At the request of Mr. AKAKA, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 1537, a bill to amend title 38, United States Code, to provide for the establishment of Parkinson's Disease Research Education and Clinical Centers in the Veterans Health Administration of the Department of Veterans Affairs and Multiple Sclerosis Centers of Excellence.

S. 1923

At the request of Ms. SNOWE, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 1923, a bill to address small business investment companies licensed to issue participating debentures, and for other purposes.

S. 2419

At the request of Mr. HAGEL, the names of the Senator from Minnesota (Mr. COLEMAN) and the Senator from Maine (Ms. SNOWE) were added as co-

sponsors of S. 2419, a bill to ensure the proper remembrance of Vietnam veterans and the Vietnam War by providing a deadline for the designation of a visitor center for the Vietnam Veterans Memorial.

S. 2465

At the request of Mrs. BOXER, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 2465, a bill to amend the Foreign Assistance Act of 1961 to provide increased assistance for the prevention, treatment, and control of tuberculosis, and for other purposes.

S. 2491

At the request of Mr. CORNYN, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 2491, a bill to award a Congressional gold medal to Byron Nelson in recognition of his significant contributions to the game of golf as a player, a teacher, and a commentator.

S. 2548

At the request of Mr. STEVENS, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 2548, a bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to ensure that State and local emergency preparedness operational plans address the needs of individuals with household pets and service animals following a major disaster or emergency.

S. 2599

At the request of Mr. VITTER, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 2599, a bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to prohibit the confiscation of firearms during certain national emergencies.

S. 2754

At the request of Mr. SANTORUM, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 2754, a bill to derive human pluripotent stem cell lines using techniques that do not knowingly harm embryos.

S. 2827

At the request of Mr. AKAKA, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 2827, a bill to amend the Homeland Security Act of 2002 to clarify the investigative authorities of the privacy officer of the Department of Homeland Security, and for other purposes.

S. 2916

At the request of Mrs. CLINTON, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 2916, a bill to amend title XIX of the Social Security Act to expand access to contraceptive services for women and men under the Medicaid program, help low income women and couples prevent unintended pregnancies and reduce abortion, and for other purposes.

S. 3274

At the request of Mr. SPECTER, the name of the Senator from Indiana (Mr.

LUGAR) was added as a cosponsor of S. 3274, a bill to create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure, and for other purposes.

S. 3495

At the request of Mr. SMITH, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 3495, a bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Vietnam.

S. 3603

At the request of Mr. ISAKSON, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 3603, a bill to amend the Internal Revenue Code of 1986 to provide economic incentives for the preservation of open space and conservation of natural resources, and for other purposes.

S.J. RES. 38

At the request of Mr. MCCONNELL, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S.J. Res. 38, a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003, and for other purposes.

S. CON. RES. 96

At the request of Mr. BROWNBACKE, the names of the Senator from Montana (Mr. BURNS) and the Senator from Tennessee (Mr. ALEXANDER) were added as cosponsors of S. Con. Res. 96, a concurrent resolution to commemorate, celebrate, and reaffirm the national motto of the United States on the 50th anniversary of its formal adoption.

S. CON. RES. 101

At the request of Mr. REID, the names of the Senator from Maryland (Ms. MIKULSKI) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of S. Con. Res. 101, a concurrent resolution condemning the repression of the Iranian Baha'i community and calling for the emancipation of Iranian Baha'is.

S. RES. 405

At the request of Mr. HAGEL, the name of the Senator from South Carolina (Mr. DEMINT) was added as a cosponsor of S. Res. 405, a resolution designating August 16, 2006, as "National Airborne Day".

S. RES. 420

At the request of Mr. SMITH, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. Res. 420, a resolution expressing the sense of the Senate that effective treatment and access to care for individuals with psoriasis and psoriatic arthritis should be improved.

S. RES. 494

At the request of Mr. SANTORUM, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. Res. 494, a resolution expressing the sense of the Senate regarding the creation of refugee populations in the Middle East, North Africa, and the Persian Gulf region as a result of human rights violations.



S. RES. 500

At the request of Mr. BROWNBACK, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. Res. 500, a resolution expressing the sense of Congress that the Russian Federation should fully protect the freedoms of all religious communities without distinction, whether registered or unregistered, as stipulated by the Russian Constitution and international standards.

## AMENDMENT NO. 4548

At the request of Mr. VITTER, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of amendment No. 4548 proposed to H.R. 5441, a bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes.

At the request of Ms. STABENOW, her name was added as a cosponsor of amendment No. 4548 proposed to H.R. 5441, supra.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH (for himself and Mr. BENNETT):

S. 3632. A bill to provide for the sale of approximately 25 acres of public land to the Turn-About Ranch, Escalante, Utah, at fair market value; to the Committee on Energy and Natural Resources.

Mr. HATCH. Mr. President, I rise to introduce legislation that would correct a property trespass question involving a 25-acre parcel of Bureau of Land Management, BLM, land in Garfield County, UT. The parcel is part of the Turn-About Ranch, which hosts a successful and popular program to rehabilitate troubled youth.

The trespass conflict is the result of an erroneous survey at the time that Congress approved a major land exchange—Public Law 105-335—between the State of Utah and the BLM in January 1999. The legislation at hand would grant the owners of the ranch the opportunity to purchase the erroneously surveyed land at fair market value so that this very important program for at-risk youth can continue unimpeded.

Since 1995, Turn-About Ranch has graduated some 500 troubled and at-risk teenagers through an intense program of training and rehabilitation. The ranch employs some 35 Garfield County residents, and the Turn-About Ranch program has strong support from the local community and the local civic leaders in the area.

Historically used for agriculture and grazing purposes, it was purchased by the Townsend Family and leased to Turn-About Ranch, Inc., for the purpose of restoring dignity and self-esteem to wayward teenagers. Because Government-owned land administered by the BLM surrounds the private land, the only way to resolve the trespass is to ask for the blessing of Congress.

Mr. President, this legislation offers a simple and fair solution to a fairly

technical problem on our public lands. I hope Congress can use this legislation to resolve this problem in the very near future.

By Mr. INHOFE (for himself, Mr. NELSON of Nebraska, Ms. SNOWE, Mr. WARNER, Mr. GRAHAM, Mr. DEWINE, Mr. STEVENS, Mr. MARTINEZ, Mr. BUNNING, Mr. CRAPO, Mr. CRAIG, Mr. KYL, Mr. ENSIGN, Mr. COBURN, Mr. SHELBY, Mr. THOMAS, Mr. DEMINT, Mr. CHAMBLISS, Mrs. HUTCHISON, Mr. VITTER, Mr. ISAKSON, Mr. SESSIONS, Mr. THUNE, Mr. BOND, Mr. SMITH, Mr. COCHRAN, Mr. GREGG, Mr. BURNS, Mr. TALENT, Mr. BURR, Mr. ALLEN, and Mrs. DOLE):

S. 3633. A bill to require the withholding of United States contributions to the United Nations until the President certifies that the United Nations is not engaged in global taxation schemes; to the Committee on Foreign Relations.

Mr. INHOFE. Mr. President, today I introduce to you a bill to prevent the imposition of global taxes on the United States. The current efforts of the United Nations and other international organizations to develop, advocate, endorse, promote, and publicize proposals to raise revenue by instituting international taxes are unacceptable.

The United Nations is not a sovereign nation and, therefore, does not have the legal capacity to levy taxes. Furthermore, paying taxes to an international organization like the UN would impair global commerce, hinder the defense capabilities of the United States, and continue to line the pockets of an organization that has historically been replete with mismanagement and corruption, especially in recent years. In order to avoid these consequences, the bill I bring before you will withhold 20 percent of dues from the United Nations and other international organizations if they continue to promote global taxes. Its passage will help preserve the sovereignty of our Nation and save American taxpayers from potentially paying billions of dollars every year to international organizations.

The United Nations' record of developing and advocating global taxation goes back for more than a decade. Usually the organization's efforts have been done quietly so as not to elicit the ire of the United States. However, in 1996 Secretary General Boutros-Boutros Ghali delivered a speech at Oxford University in which he openly embraced the concept of global taxes and authoritarian world government. Specifically, the Secretary General expressed a desire for the United Nations to "not be under the daily financial will of the member states." Though the U.N. had tried to circumvent the Security Council and avoid member state scrutiny for many years by borrowing

from international financial institutions, assuming control of bonds issued by Member States, and imposing fees on an extensive range of transactions, goods and services, this was the first time the concept of global taxation was so explicitly advocated.

In response to the United Nations' actions, Senator Bob Dole and Representative Gerald Solomon introduced bills in both Houses of Congress in January of 1996 to put a stop to the United Nations' antics. These bills prohibited any voluntary or assessed contributions from the United States to the United Nations if the United Nations continued to develop and promote proposals for international taxes and fees. That legislation passed through the 104th and the 105th Congresses to become public law.

Still, the United Nations continued to pursue global taxation. Later in 1996, the United Nations Economic and Social Council fully debated international taxation. After that, a United Nations Development Programme research project resulted in the publishing of a text entitled "The Tobin Tax," which proposed a currency transaction tax. Global taxation was discussed in "The Human Development Report" in 1999 as well as at the United Nations Preparatory Committee for the International Conference on Financing for Development in 2001. Also in 2001, Ernesto Zedillo published a report which concluded "there is a genuine need to establish, by international consensus, stable and contractual new sources of multilateral finance." Dialog arose at the Conference on Sharing Global Prosperity in Helsinki in 2003. In 2004, the United Nations University-World Institute for Development Economics Research issued a study on global taxation.

Recently, the 2005 "Human Development Report" discussed proposals to levy international taxes in order to fund the U.N.'s Millennium Development Goals. Some of the taxes the United Nations proposed in this report were taxes on aviation fuel, an airline passenger tax, and a currency transaction tax like the Tobin tax. At other points in time the U.N. has considered a global environmental levy, an ocean freight tax on international trade, and a military expenditures and arms tax.

Innovative development financing mechanisms were the primary topics of discussion at a conference held in Paris on February 28 and March 1 of 2006. As a result of this conference and other discussions, various nations, most notably France, are already implementing an international tax on airline travel, with the approval of Kofi Annan. Plans for global taxes on currency transactions, energy use, and United States companies are also being considered. An official U.N.-sponsored book, "New Sources of Development Finance," says that a proposed tax on oil, gas, coal and other carbon-based fuels could produce \$750 billion a year in revenue for the U.N. and other global purposes.

We have frequently reminded the United Nations of our sentiments regarding global taxation after legislation formally passed through Congress in 1996 and 1998. Recently, on August 30, 2005, the U.S. representative to the United Nations, John R. Bolton, clearly stated "the United States does not accept global aid targets or global taxes." Shortly after, on September 13, 2005, 16 Senators joined with me in sending a letter to Kofi Annan which reiterated Mr. Bolton's message. Still, the United Nations has continued to research and promote different forms of international taxation.

Since the United Nations is not listening to the United States, now it is time for Congress to back up our words. The bill I am introducing along with 31 colleagues states that if the United Nations or other international organizations continue to pursue global taxation, the United States will withhold 20 percent of assessed contributions to the regular budget of these organizations. This measure would last until certification is given by the President to Congress that neither the United Nations nor any other international organization has legal taxation authority in the United States, that no taxes or fees have been imposed on the United States, and that no taxes have been proposed by any of these organizations.

The fascination of the United Nations and other international organizations with international taxation has gone on too long. Please join me in taking a stand for the sovereignty of our Nation by supporting this bill.

By Mr. JEFFORDS (for himself and Mr. LEAHY):

S. 3634. A bill to amend the Nuclear Waste Policy Act of 1982 to improve the material control and accounting and data management systems used by civilian nuclear power reactors to better account for spent nuclear fuel and reduce the risks associated with the handling of those materials; to the Committee on Environment and Public Works.

Mr. JEFFORDS. Mr. President, today I am introducing the Spent Nuclear Fuel Control and Accounting Act of 2006. I am pleased to be joined by the Senior Senator from Vermont, Mr. LEAHY, in introducing this legislation. In the other body, our colleague from Vermont, Congressman SANDERS, is introducing a companion measure. This legislation is designed to improve the safety and security of spent nuclear fuel generated by our Nation's nuclear powerplants.

Approximately 2,000 metric tons of spent nuclear fuel are generated by the Nation's 103 nuclear powerplants each year. Spent nuclear fuel is no longer able to generate power but is still intensely radioactive and continues to generate heat for tens of thousands of years. Radiation produced by the fuel can kill a person within minutes if they are directly exposed.

Terrorist attacks in the U.S. have heightened public concern generally

about whether this highly radioactive material could be stolen and used maliciously. Although the Nuclear Regulatory Commission, NRC, argues that spent nuclear fuel is "self-protecting" because of its high radioactivity, the potential for harm to human health and the environment warrants close attention to the control and accounting of this material.

I am introducing this legislation because there have been several instances of lost spent nuclear fuel at operating plants in the past few years, including in my own home State. Such losses have eroded public confidence in the job the NRC is doing. Following the loss of spent fuel rod fragments at Vermont Yankee in 2004, I requested that GAO study the issue of how the NRC controls such material. In its April 2005 report, the GAO recommended that the NRC establish requirements for the control of individual fuel rods and fragments and develop inspection procedures to verify plants' compliance.

NRC currently has no regulations that specifically deal with the tracking and recordkeeping of spent nuclear fuel of this type. While the NRC generally has regulations requiring plant operators to maintain records of their spent nuclear fuel they do not specify how individual fuel rods and fragments should be tracked. Additionally, the NRC requires plant operators to inventory spent fuel at least once a year, but does not specify how that inventory should be conducted. Because of this lack of specificity in its regulations, there is considerable variation among nuclear powerplants in how regulations are implemented. Plus, the NRC no longer monitors plants' compliance with its tracking and accounting regulations.

While the NRC has been working administratively to address the issues identified in the GAO report, the proposed legislation would require the NRC to more effectively control and account for spent nuclear fuel. The NRC needs to redouble its efforts to shore up public confidence in its regulatory efforts. This is a difficult task, but one that is critically important.

This bill will focus on the safe operation and management of existing nuclear powerplants. The NRC and the nuclear industry are planning for a "nuclear renaissance" with the construction of new nuclear plants. The NRC estimates that it will receive 18 new license requests between now and the year 2012. But, we must maintain continued oversight over existing plants and pay particular attention to the safe management of spent nuclear fuel. The public needs to be confident that the current system operates well, or they will likely not accept a new generation of plants.

The Spent Nuclear Fuel Control and Accounting Act of 2006 directs NRC to develop regulations which would improve the current system of control and accounting for spent nuclear fuel and would help prevent incidents like the one which occurred at Vermont Yankee.

In the case of Vermont Yankee, operated by Entergy, the plant's operators discovered that two pieces of a radioactive fuel rod were missing from the plant's storage facilities on April 21, 2004. During a scheduled fuel outage, the plant conducted a special inspection requested by the NRC to document the location of its fuel rods, both spent and unspent.

The documentation of the pieces' location was requested by the NRC as part of a follow up to the loss of two complete spent fuel rods at the Millstone plant in Connecticut in 2000. At Vermont Yankee, the missing pieces were 7 and 17 inches long, and came from a fuel rod sent to the Vermont Yankee plant by General Electric in 1979 that arrived broken. When the rod broke, the pieces were placed in a lead bucket at the bottom of the spent fuel pool, in which low-level waste was periodically also stored. Later it was learned that a special storage container was ordered from General Electric to house these pieces, and that they were stored in a different part of the fuel pool.

The NRC was involved in Entergy's efforts to use a remote-control camera to see if the misplaced rod pieces were among the spent fuel rods in the plant's spent fuel pool. Entergy also reviewed paper records to see if two missing fuel rods from the plant were shipped to waste storage facilities in South Carolina or the State of Washington. The spent fuel rods were eventually located on July 15, 2004, after a search in which Entergy estimates company employees and outside contractors had spent between 9,000 and 10,000 hours involved in the search.

A similar event occurred at the Millstone nuclear powerplant in Connecticut in 2000 and at the Humboldt Bay plant in California in July 2004. Pacific Gas and Electric officials searched for three missing uranium components of a used nuclear fuel rod in the reactor pool at the decommissioned Humboldt Bay nuclear powerplant near Eureka, CA. Each of the pieces of the missing Humboldt Bay fuel rod is 18 inches long, has the width of a pencil and contains uranium fuel encased in steel. The rods from the Humboldt Bay and Millstone plants are still missing. The Millstone plant paid a \$288,000 fine for the loss of its fuel.

When the Millstone incident occurred, the NRC said that fuel rods had never before gone missing in the history of commercial nuclear power in the United States. While I know that the materials at Vermont Yankee were found to be missing due in part to a special inspection the NRC instituted after Millstone, the sad fact is that fuel again went missing. I do not want missing fuel to become the norm. It is not enough to tell the public that we "think" it is likely that highly radioactive material went to storage. Certainly it is poor government management not to look carefully at how the

utilities conducted these searches for missing fuel rods, draw out lessons, develop best management practices, and safeguard and protect the existing paper trail we have for the waste stored at our Nation's nuclear power plants. We must improve our nuclear materials accounting system, and my legislation is the first step in doing so.

This legislation calls for NRC to pay special attention to loose individual spent fuel rods and rod fragments like those lost at the Vermont Yankee plant. It requires NRC to report when loose fuel rods and fragments result and requires NRC to conduct an annual inspection to make sure that plants are complying with waste tracking requirements. Additionally, the bill instructs NRC to develop best management practices for the safe storage of individual rods and fragments and for the inventory of spent nuclear fuel. The legislation will require NRC to modernize its data management systems by developing an updated electronic system for storing data and for tracking the location of spent nuclear fuel. The creation of an electronic database of spent fuel storage records would help secure this important information from aging plants that are being uprated and relicensed and also require the new fleet of plants to use a uniform electronic system. Finally, this bill would track the movement of spent nuclear fuel onsite at nuclear powerplants and offsite to other facilities by requiring that manifests indicate whether shipments contain fuel rods or fragments.

I believe that this bill will be an important step towards improving security related to one of the most hazardous materials made by humans—spent nuclear fuel. This bill would increase the scrutiny on the tracking of this material and ensure that spent nuclear fuel remains safely stored in appropriate facilities and does not end up in the wrong hands.

I ask unanimous consent that a copy of my bill be printed in the RECORD.

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

S. 3634

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Spent Nuclear Fuel Control and Accounting Act of 2006”.

#### SEC. 2. FINDINGS.

Congress finds that—

(1) several incidents involving missing or unaccounted-for spent nuclear fuel have occurred at civilian nuclear power reactors, including—

(A) the Vermont Yankee Nuclear Power Plant;

(B) the Humboldt Bay Nuclear Power Plant (California); and

(C) the Millstone Nuclear Power Station (Connecticut);

(2) weaknesses in the accounting and control of spent nuclear fuel have been identified at several other civilian nuclear power reactors;

(3) data provided by the Nuclear Regulatory Commission indicate that—

(A) operators of most civilian nuclear power reactors have removed spent fuel rods from their fuel assemblies; and

(B) those rods are stored onsite in spent fuel pools or dry casks or have been shipped offsite to a storage facility;

(4) individual spent fuel rods and fragments may also result from the loading of a new assembly and therefore may be new fuel;

(5) individual spent fuel rods, and especially fragments of spent fuel rods, are—

(A) highly radioactive; and

(B) much smaller and lighter than fuel assemblies;

(6) while regulations promulgated by the Nuclear Regulatory Commission require civilian nuclear power reactors to control and account for spent nuclear fuel, they do not cover—

(A) individual spent fuel rods that have been removed from an assembly; and

(B) fragments of spent fuel rods;

(7) the storage and oversight of individual spent fuel rods at civilian nuclear power reactors have not been managed in a consistent manner;

(8) the lack of specific guidance in the regulations promulgated by the Nuclear Regulatory Commission relating to how civilian nuclear power reactors should conduct physical inventories has resulted in inconsistent compliance with those regulations;

(9) the Nuclear Regulatory Commission does not evaluate the compliance of civilian nuclear power reactors with the material control and accounting regulations promulgated by the Commission;

(10) the Nuclear Regulatory Commission has much to do to implement the recommendations listed in the report published by the Government Accountability Office titled “NRC Needs to Do More to Ensure that Power Plants Are Effectively Controlling Spent Nuclear Fuel”; and

(11) the effective implementation of material control and accounting regulations by civilian nuclear power reactors is of great importance to the United States because of the potential safety and security consequences for failing to manage spent nuclear fuel, especially in the aftermath of terrorist attacks in the United States.

#### SEC. 3. MATERIAL CONTROL AND ACCOUNTING OF DISMANTLED FUEL ASSEMBLY.

The Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.) is amended by adding after section 137 the following:

##### “SEC. 138. MATERIAL CONTROL AND ACCOUNTING OF INDIVIDUAL RODS AND FRAGMENTS FROM A DISMANTLED FUEL ASSEMBLY.

“(a) PROMULGATION OF REGULATIONS.—The Commission shall promulgate regulations to require each civilian nuclear power reactor to provide to the Commission a report that contains a detailed record of each individual spent fuel rod, and each fragment of a spent fuel rod, that results from the loading or dismantling of a fuel assembly.

“(b) ANNUAL INSPECTION.—The Commission shall promulgate regulations to require an annual inspection by the Commission of each civilian nuclear power reactor to determine the compliance of the civilian nuclear power reactor with regulations relating to the material control and accounting of spent nuclear fuel promulgated by the Commission.

##### “SEC. 139. GUIDANCE FOR STORING INDIVIDUAL FUEL RODS AND FRAGMENTS.

“The Commission shall develop and make available to each civilian nuclear power reactor guidance that describes—

“(1) best management practices relating to—

“(A) the procedures that a civilian nuclear power reactor should use to store individual fuel rods and fragments on site; and

“(B) the selection of suitable locations for the storage of individual fuel rods and fragments; and

“(2) suitable inventory practices relating to—

“(A) the manner in which a civilian nuclear power reactor should conduct an annual inventory of any spent nuclear fuel, including individual fuel rods and fragments; and

“(B) the manner in which a civilian nuclear power reactor should catalogue each item of spent nuclear fuel, including individual rods and fragments located at the civilian nuclear power reactor.

#### “SEC. 140. ELECTRONIC DATA MANAGEMENT AND WASTE TRACKING SYSTEM.

“(a) DEVELOPMENT OF SYSTEM.—The Commission shall develop an electronic data management and waste tracking system—

“(1) to store and access the records of each civilian nuclear power reactor; and

“(2) to track the location of spent nuclear fuel including individual rods and fragments.

“(b) ADOPTION OF ELECTRONIC DATA MANAGEMENT AND WASTE TRACKING SYSTEM BY CIVILIAN NUCLEAR POWER REACTORS.—The Commission shall promulgate regulations to require each civilian nuclear power reactor—

“(1) in the case of a civilian nuclear power reactor that is licensed before the date of enactment of this section, to digitize the existing records of the civilian nuclear power reactor; and

“(2) in the case of a civilian nuclear power reactor that is licensed on or after the date of enactment of this Act, to implement and use the electronic data management and waste tracking system described in subsection (a).

“(c) EVALUATION OF EXISTING ELECTRONIC DATA MANAGEMENT AND WASTE TRACKING SYSTEMS.—The Commission may evaluate existing electronic data management and waste tracking systems to determine whether those systems could be modified for purposes of complying with subsection (a).”.

#### SEC. 4. MANIFEST REQUIREMENT FOR SPENT NUCLEAR FUEL.

The Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.) is amended by inserting after section 180 the following:

##### “SEC. 181. MANIFEST REQUIREMENT FOR SPENT NUCLEAR FUEL.

“(a) DEVELOPMENT OF MANIFEST.—The Commission shall develop a detailed manifest form for the onsite transportation of spent fuel that indicates whether the package containing the spent fuel contains individual rods or fragments.

“(b) PROMULGATION OF REGULATIONS.—The Commission shall promulgate regulations to require each civilian nuclear power reactor to provide to the Commission a completed detailed manifest form developed under subsection (a) to identify and track any spent fuel rod or rod fragment that is transported within the premises of the civilian nuclear power reactor.

##### “SEC. 182. IDENTIFICATION OF SPENT FUEL OR ROD FRAGMENTS TRANSPORTED OUTSIDE PREMISES OF CIVILIAN NUCLEAR POWER REACTORS.

“The Commission, in consultation with the Department of Transportation, shall identify any spent fuel rod or rod fragment that is transported outside the premises of the civilian nuclear power reactor through use of manifests used by the Department of Transportation.”.

#### SEC. 5. CONFORMING AMENDMENTS.

The table of contents of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 note; 96 Stat. 2201) is amended—

(1) by adding after the item relating to section 137 the following:

“Sec. 138. Material control and accounting of dismantled fuel assembly.

"Sec. 139. Guidance for storing spent nuclear fuel.

"Sec. 140. Electronic data management and waste tracking system."

and;

(2) by adding after the item relating to section 180 the following:

"Sec. 181. Manifest requirement for spent nuclear fuel.

"Sec. 182. Identification of spent fuel or rod fragments transported outside premises of civilian nuclear power reactors."

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 3635: A bill to direct the Secretary of the Interior to take into trust 2 parcels of Federal land for the benefit of certain Indian Pueblos on the State of New Mexico; to the Committee on Indian Affairs.

Mr. DOMENICI. Mr. President, I rise today to introduce the Albuquerque Indian Schools Act of 2006. I want to thank Senator BINGAMAN for joining me as a cosponsor of the bill.

The Albuquerque Indian Schools—AIS—Act of 2006 seeks to consolidate two parcels of federal land and take this land into trust for the 19 pueblos—Acoma, Cochiti, Isleta, Jemez, Laguna, Nambe, Ohkay Owingeh, Picuris, Pojoaque, San Felipe, San Ildefonso, Sandia, Santa Ana, Santa Clara, Santo Domingo, Taos, Tesuque, Zia and Zuni. I believe this property, if transferred, would receive greater utilization and benefit the economic development of the 19 pueblos.

In 1981, the 19 New Mexico pueblos petitioned the United States for the transfer of 44 acres from the Albuquerque Indian School site for the purpose of economic development and in 1984 the Assistant Secretary of the Interior conveyed the 44 acres to the pueblos. This land is currently under development by the 19 New Mexico pueblos. They have constructed a 150,000 square foot Department of the Interior building which houses the southern regional office of the Bureau of Indian Affairs, BIA, and a 150,000 square foot Department of the Interior office building that houses the National BIA Training Center and the BIA Data Center. In addition, the pueblos are starting construction on a hotel and are preparing to begin several retail projects.

In 2003, the 19 pueblos requested conveyance of the two remaining tracts of land that are located south of Interstate 40. This land contains various metal buildings, which have deteriorated to the point that they have no value at this time.

The return of these two properties to the 19 pueblos is supported by the southwestern regional office of the BIA. With the addition of these two tracts, the 19 pueblos will be able to continue their successful economic development of the Albuquerque Indian School property, which will benefit not only the 19 New Mexico pueblos, but each individual tribal member.

Mr. President I ask unanimous consent that a copy of the bill be printed in the RECORD.

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

S. 3635

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Albuquerque Indian School Act".

#### SEC. 2. DEFINITIONS.

In this Act:

(1) 19 PUEBLOS.—The term "19 Pueblos" means the New Mexico Indian Pueblos of—

- (A) Acoma;
- (B) Cochiti;
- (C) Isleta;
- (D) Jemez;
- (E) Laguna;
- (F) Nambe;
- (G) Ohkay Owingeh (San Juan);
- (H) Picuris;
- (I) Pojoaque;
- (J) San Felipe;
- (K) San Ildefonso;
- (L) Sandia;
- (M) Santa Ana;
- (N) Santa Clara;
- (O) Santo Domingo;
- (P) Taos;
- (Q) Tesuque;
- (R) Zia; and
- (S) Zuni.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior (or a designee).

#### SEC. 3. LAND TAKEN INTO TRUST FOR BENEFIT OF 19 PUEBLOS.

(a) ACTION BY SECRETARY.—

(1) IN GENERAL.—The Secretary shall take into trust all right, title, and interest of the United States in and to the land described in subsection (b) (including any improvements and appurtenances to the land) for the benefit of the 19 Pueblos.

(2) ADMINISTRATION.—The Secretary shall—  
(A) take such action as the Secretary determines to be necessary to document the transfer under paragraph (1); and

(B) appropriately assign each applicable private and municipal utility and service right or agreement.

(b) DESCRIPTION OF LAND.—The land referred to in subsection (a)(1) is the 2 tracts of Federal land, the combined acreage of which is approximately 18,304 acres, that were historically part of the Albuquerque Indian School, more particularly described as follows:

(1) TRACT B.—The approximately 5,921 acres located in sec. 7 and sec. 8 of T. 10 N., R. 3 E., of the New Mexico Principal Meridian in the city of Albuquerque, New Mexico, as identified on the map entitled "Site Map of the Albuquerque Indian School Property" (including attachments).

(2) TRACT D.—The approximately 12,383 acres located in sec. 7 and sec. 8 of T. 10 N., R. 3 E., of the New Mexico Principal Meridian in the city of Albuquerque, New Mexico, as identified on the map entitled "Site Map of the Albuquerque Indian School Property" (including attachments).

(c) USE OF LAND.—The land taken into trust under subsection (a) shall be used for the educational, health, cultural, business, and economic development of the 19 Pueblos.

(d) LIMITATIONS AND CONDITIONS.—The land taken into trust under subsection (a) shall remain subject to any private or municipal encumbrance, right-of-way, restriction, easement of record, or utility service agreement in effect on the date of enactment of this Act.

#### SEC. 4. EFFECT OF OTHER LAWS.

(a) IN GENERAL.—Except as otherwise provided in this section, land taken into trust under section 3(a) shall be subject to Federal laws relating to Indian land.

(b) GAMING.—No gaming activity (within the meaning of the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)) shall be carried out on land taken into trust under section 3(a).

Mr. BINGAMAN. Mr. President, I'm pleased today to join my colleague Senator DOMENICI in sponsoring the Albuquerque Indian School Act. This bill would direct the Secretary of Interior to take lands no longer being used by the Bureau of Indian Affairs in Albuquerque and hold them in trust for the benefit of the 19 pueblos. The bill disallows gaming on the property.

In addition to being a good thing for the pueblos, this transfer promises to be beneficial to the surrounding community, as several deteriorating structures will be renewed and new jobs brought in. Since the bill would not alter the standard public process for taking the lands into trust, I hope this will result in a consensus among all concerned on the best uses of the property.

I am pleased we are taking the first step today on a process that should be beneficial to the pueblos, the Federal Government, and local residents.

By Mr. KENNEDY:

S. 3637. A bill to require the submittal to Congress of any Presidential Daily Briefing relating to Iraq during the period beginning on January 20, 1997, and ending on March 19, 2003; read the first time.

Mr. KENNEDY. Mr. President, I am introducing legislation on an intelligence issue, p. 3637.

The legislation requires the administration to provide the prewar Presidential daily briefs on Iraq to the Senate Intelligence Committee for its investigation on the way the administration's policymakers used this intelligence in its decision to go to war.

I introduced an identical bill, S. 2175, on December 22 last year, but it has not yet been reported out of the Intelligence Committee.

It is essential that the Intelligence Committee have access to all the information about prewar intelligence in Iraq for its investigation. With threats looming in North Korea and Iran, we need to learn from the mistakes of the past to ensure that we do not repeat them. The PDBs are extremely relevant to this issue, and Congress should have access to them.

By Mrs. FEINSTEIN:

S. 3638. A bill to encourage the Secretary of the Interior to participate in projects to plan, design, and construct water supply projects and to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to encourage the design, planning, and construction of projects to treat impaired surface water, reclaim and reuse impaired groundwater, and provide brine

disposal in the State of California; to the Committee on Energy and Natural Resources.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce legislation to authorize water recycling and other water supply projects by the Inland Empire Utilities Agency, the Cucamonga Valley Water District, the Western Municipal Water District, the Yucaipa Valley Water District, and the City of Corona Water Utility. These projects will produce approximately 161,000 acre-feet of new water annually in one of the most rapidly growing regions in the United States, reducing the need for imported water from the Colorado River and northern California through the California Water Project.

This legislation is intended to be the companion to two House of Representatives bills: H.R. 802, sponsored by DAVID DREIER, GRACE NAPOLITANO, KEN CALVERT, JOE BACA, and GARY MILLER; and H.R. 1008, sponsored by KEN CALVERT, JERRY LEWIS, JOE BACA and DARRELL ISSA. H.R. 802 and H.R. 1008 have each passed the House of Representatives twice, in both this Congress and the previous Congress.

Environmental groups such as the Mono Lake Committee, Environmental Defense, Clean Water and Natural Resources Defense Council strongly support the water recycling and groundwater remediation projects in this bill. Business leaders such as Southern Cal Edison and Building Industry Association also support these projects.

I would like to describe the projects in this bill:

The Inland Empire Regional Water Recycling Initiative would authorize two project components. The first will be constructed by the Inland Empire Utilities Agency—IEUA—and will produce approximately 90,000 acre feet of new water annually. The second of these projects, to be constructed by the Cucamonga Valley Water District—CVWD—will produce an additional 5,000 acre feet of new water annually.

The Inland Empire Regional Water Recycling Initiative has the support of all member agencies of IEUA, as well as the water agencies downstream in Orange County. IEUA encompasses approximately 242 square miles and serves the cities of Chino, Chino Hills, Fontana—through the Fontana Water Company—Ontario, Upland, Montclair, Rancho Cucamonga—through the Cucamonga Valley Water District—and the Monte Vista Water District.

The next project is Western Municipal Water District's Riverside-Corona Feeder. Western provides supplemental water to a 510 square mile area of growing western Riverside County and serves a population of more than one-half million people. As a member of the Metropolitan Water District of Southern California—MWD—Western provides supplemental water to the cities of Corona, Norco, and Riverside and the water agencies of Elsinore Valley and Rancho California. Western also serves customers in the unincorporated

areas of El Sobrante, Eagle Valley, Temescal Creek, Woodcrest, Lake Mathews, and March Air Reserve Base.

The purpose of the Riverside—Corona Feeder water supply project is to capture and store new water in wet years in order to increase firm water supplies, reduce water costs, and improve water quality. The project will include about 20 wells and 28 miles of pipeline. Studies have shown the safe annual yield of the aquifer is about 40,000 acre-feet.

The project would allow locally stored water to replace imported water from Colorado River and the State project sources in times of drought or other shortages. The project proposes to manage the ground water levels by the construction of ground water wells and pumping capacity to deliver the pumped ground water supply to water users. A new water conveyance pipeline is also proposed that will serve western Riverside County.

There are also very important environmental remediation aspects of the project. Up to half of the wells could be placed within plumes of VOCs and perchlorate. These wells would remediate about 20,000 acre-feet of currently contaminated water per year.

Next, the city of Corona Water Recycling and Reuse Project will consist of three reservoirs and two pump stations along with retrofitted user irrigation systems.

Additionally, 27 miles of pipelines will separate recycled water from drinking water. The reclamation system will enable the city of Corona to provide recycled water to parks, landscape maintenance districts, schools, landscaped freeway frontages and any other project that does not require potable water. It will also reduce the need for increased water imports and construction of additional drinking water infrastructure.

Finally, the Yucaipa Valley Water Supply Renewal Project will maximize the various water resources in the Yucaipa Valley. Federal funds would be used to provide federal assistance for planning, designing, and constructing the new Yucaipa Valley Regional Water Filtration Facility that is part of the renewal project. The new facility will contain a reverse osmosis system and a brine pipeline to remove salinity, contaminants, and organic compounds from the water supply in the Yucaipa Valley. The brine pipeline will extend nearly 20 miles to the existing Santa Ana Regional Interceptor brine pipeline.

This project will minimize the amount of water imported from northern California, maximize the use of higher quality water, reduce withdrawals from ground water supplies, and provide a long-term, drought-proof water supply. The full project is expected to reduce demands on the California State Water Project by over 4 billion gallons per year, which is a sufficient quantity of water for 27,000 families.

I want to say a few words about the importance of water recycling projects.

The development of recycled water can bring significant amounts of water "on line" in a relatively short period of time. Recycled water provides our State and region with the ability to "stretch" existing water supplies significantly and in so doing, minimize conflict and address the many needs that exist. According to the State of California's Recycled Water Task Force, water recycling is a critical part of California's water future with an estimated 1.5 million acre-feet of new supplies being developed over the next 25 years.

Water recycling is also a bipartisan initiative in California, as witnessed by the many Republican and Democratic House cosponsors of the House versions of the bill I introduce today.

It also has a long history. In 1991, the Secretary of the Interior in President George H.W. Bush's administration, Manual Lujan, recognized that California would need an alternative water supply source because it was receiving more water from the Colorado River than its allocation.

In a bold and farsighted maneuver, in August 1991, Secretary Lujan launched the Southern California Water Initiative, a program to evaluate and study the feasibility of water reclamation projects. Mr. Lujan's vision was to build replacement water capacity to offset the anticipated Colorado River water supply reductions.

Congress, in 1992, was completing work on major water legislation saw the wisdom of the Lujan initiative too. Lujan's proposal, a year after it was first announced, became title XVI, the Bureau of Reclamation water recycling program that today serves the entire West, not just California. Today, water recycling is the essential water supply element in Albuquerque, Phoenix, Denver, Salt Lake City, Tucson, El Paso, San Antonio, Portland, and other western metropolitan areas.

I urge my colleagues to support this bill to help meet the West's water supply needs and to reduce our dependence on the Colorado River. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3638

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "The Water Recycling and Riverside-Corona Feeder Act of 2006".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—THE INLAND EMPIRE REGIONAL WATER RECYCLING INITIATIVE

Sec. 102. Short title.

Sec. 103. Inland Empire and Cucamonga Valley recycling projects.

## TITLE II—PROJECTS IN RIVERSIDE AND SAN BERNARDINO COUNTIES

Sec. 201. Planning, design, and construction of the Riverside-Corona Feeder.

Sec. 202. Project authorizations.

## TITLE I—THE INLAND EMPIRE REGIONAL WATER RECYCLING INITIATIVE

### SEC. 102. SHORT TITLE.

This title may be cited as the “The Inland Empire Regional Water Recycling Initiative”.

### SEC. 103. INLAND EMPIRE AND CUCAMONGA VALLEY RECYCLING PROJECTS.

(a) RECYCLING PROJECTS.—The Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102–575, Title XVI; 43 U.S.C. 390h et seq.) is amended by adding at the end the following:

#### “SEC. 1637. INLAND EMPIRE REGIONAL WATER RECYCLING PROJECT.

“(a) IN GENERAL.—The Secretary, in cooperation with the Inland Empire Utilities Agency, may participate in the design, planning, and construction of the Inland Empire regional water recycling project described in the report submitted under section 1606(c).

“(b) COST SHARING.—The Federal share of the cost of the project described in subsection (a) shall not exceed 25 percent of the total cost of the project.

“(c) LIMITATION.—Funds provided by the Secretary shall not be used for operation and maintenance of the project described in subsection (a).

“(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$20,000,000.

#### “SEC. 1638. CUCAMONGA VALLEY WATER RECYCLING PROJECT.

“(a) IN GENERAL.—The Secretary, in cooperation with the Cucamonga Valley Water District, may participate in the design, planning, and construction of the Cucamonga Valley Water District satellite recycling plants in Rancho Cucamonga, California, to reclaim and recycle approximately 2 million gallons per day of domestic wastewater.

“(b) COST SHARING.—The Federal share of the cost of the project described in subsection (a) shall not exceed 25 percent of the capital cost of the project.

“(c) LIMITATION.—Funds provided by the Secretary shall not be used for operation and maintenance of the project described in subsection (a).

“(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, \$10,000,000.”.

(b) CONFORMING AMENDMENTS.—The table of sections in section 2 of Public Law 102–575 is amended by inserting after the item relating to section 1636 the following:

“Sec. 1637. Inland Empire Regional Water Recycling Program

“Sec. 1638. Cucamonga Valley Water Recycling Project”.

## TITLE II—PROJECTS IN RIVERSIDE AND SAN BERNARDINO COUNTIES

### SEC. 201. PLANNING, DESIGN, AND CONSTRUCTION OF THE RIVERSIDE-CORONA FEEDER.

(a) IN GENERAL.—The Secretary of the Interior, in cooperation with the Western Municipal Water District, may participate in a project to plan, design, and construct a water supply project, the Riverside-Corona Feeder, which includes 20 groundwater wells and 28 miles of pipeline in San Bernardino and Riverside Counties, California.

(b) AGREEMENTS AND REGULATIONS.—The Secretary may enter into such agreements and promulgate such regulations as are necessary to carry out this section.

(c) FEDERAL COST SHARE.—

(1) PLANNING, DESIGN, CONSTRUCTION.—The Federal share of the cost to plan, design, and

construct the project described in subsection (a) shall be the lesser of 35 percent of the total cost of the project or \$50,000,000.

(2) STUDIES.—The Federal share of the cost to complete the necessary planning study associated with the project described in subsection (a) shall not exceed 50 percent of the total study cost.

(d) IN-KIND SERVICES.—In-kind services performed by the Western Municipal Water District shall be considered a part of the local cost share to complete the project described in subsection (a).

(e) LIMITATION.—Funds provided by the Secretary under this section shall not be used for operation or maintenance of the project described in subsection (a).

### SEC. 202. PROJECT AUTHORIZATIONS.

(a) IN GENERAL.—The Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102–575, title XVI; 43 U.S.C. 390h et seq.) is amended by adding at the end the following:

#### “SEC. 163x. YUCAIPA VALLEY REGIONAL WATER SUPPLY RENEWAL PROJECT.

“(a) AUTHORIZATION.—The Secretary, in cooperation with the Yucaipa Valley Water District, may participate in the design, planning, and construction of projects to treat impaired surface water, reclaim and reuse impaired groundwater, and provide brine disposal within the Santa Ana Watershed described in the report submitted under section 1606.

“(b) COST SHARING.—The Federal share of the cost of the project described in subsection (a) shall not exceed 25 percent of the total cost of the project.

“(c) LIMITATION.—Funds provided by the Secretary shall not be used for operation or maintenance of the project described in subsection (a).

“(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$20,000,000.

#### “SEC. 163x. CITY OF CORONA WATER UTILITY, CALIFORNIA, WATER RECYCLING AND REUSE PROJECT.

“(a) AUTHORIZATION.—The Secretary, in cooperation with the City of Corona Water Utility, California, is authorized to participate in the design, planning, and construction of, and land acquisition for, a project to reclaim and reuse wastewater, including degraded groundwaters, within and outside of the service area of the City of Corona Water Utility, California.

“(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

“(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.”.

(b) CONFORMING AMENDMENTS.—The table of sections in section 2 of Public Law 102–575 is amended by inserting after the item relating to section 163 the following:

“Sec. 163x. Yucaipa Valley Regional Water Supply Renewal Project

“Sec. 163x. City of Corona Water Utility, California, water recycling and reuse project”.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 4550. Mr. SPECTER (for himself and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the bill H.R. 5441, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table.

SA 4551. Mr. VITTER submitted an amendment intended to be proposed by him to the bill H.R. 5441, supra; which was ordered to lie on the table.

SA 4552. Mr. KERRY (for himself, Ms. SNOWE, and Mr. LAUTENBERG) submitted an amendment intended to be proposed by him to the bill H.R. 5441, supra; which was ordered to lie on the table.

SA 4553. Mr. BIDEN submitted an amendment intended to be proposed by him to the bill H.R. 5441, supra; which was ordered to lie on the table.

SA 4554. Mr. SALAZAR (for himself and Ms. LANDRIEU) submitted an amendment intended to be proposed by him to the bill H.R. 5441, supra; which was ordered to lie on the table.

SA 4555. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 5441, supra.

SA 4556. Mrs. FEINSTEIN (for herself, Mr. KYL, Mrs. BOXER, Mr. TALENT, Ms. CANTWELL, Mr. SALAZAR, Mr. BINGAMAN, Mrs. HUTCHISON, Mr. ALLEN, Mr. DOMENICI, and Mr. BROWNBACK) submitted an amendment intended to be proposed by her to the bill H.R. 5441, supra.

SA 4557. Mr. BYRD (for himself, Mr. GREGG, Mrs. MURRAY, Mr. ROCKEFELLER, Mr. BINGAMAN, and Mr. LIEBERMAN) proposed an amendment to the bill H.R. 5441, supra.

SA 4558. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill H.R. 5441, supra; which was ordered to lie on the table.

SA 4559. Mr. BYRD (for himself, Mr. GREGG, Mr. KOHL, Mrs. CLINTON, Mr. MENENDEZ, Mrs. MURRAY, Mr. ROCKEFELLER, Mr. LIEBERMAN, Mr. LAUTENBERG, and Mr. SCHUMER) proposed an amendment to the bill H.R. 5441, supra.

SA 4560. Ms. COLLINS (for herself, Mr. LIEBERMAN, Mr. LOTT, Mr. CARPER, and Mr. SALAZAR) proposed an amendment to the bill H.R. 5441, supra.

SA 4561. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 5441, supra; which was ordered to lie on the table.

SA 4562. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 5441, supra; which was ordered to lie on the table.

SA 4563. Mrs. CLINTON (for herself, Mr. AKAKA, Mr. LEAHY, Mr. JEFFORDS, Mrs. BOXER, Mr. LAUTENBERG, and Ms. MIKULSKI) submitted an amendment intended to be proposed by her to the bill H.R. 5441, supra.

SA 4564. Mrs. CLINTON (for herself, Mr. AKAKA, Mr. LEAHY, Mr. JEFFORDS, Mrs. BOXER, Mr. LAUTENBERG, and Ms. MIKULSKI) submitted an amendment intended to be proposed by her to the bill H.R. 5441, supra; which was ordered to lie on the table.

SA 4565. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill H.R. 5441, supra; which was ordered to lie on the table.

SA 4566. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill H.R. 5441, supra; which was ordered to lie on the table.

SA 4567. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill H.R. 5441, supra; which was ordered to lie on the table.

SA 4568. Mr. DEMINT (for himself and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill H.R. 5441, supra; which was ordered to lie on the table.

SA 4569. Mr. FEINGOLD (for himself and Mr. SUNUNU) submitted an amendment intended to be proposed by him to the bill H.R. 5441, supra; which was ordered to lie on the table.

SA 4570. Mr. LOTT submitted an amendment intended to be proposed by him to the



bill H.R. 5441, supra; which was ordered to lie on the table.

SA 4571. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 5441, supra; which was ordered to lie on the table.

SA 4572. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 5441, supra; which was ordered to lie on the table.

SA 4573. Mr. OBAMA submitted an amendment intended to be proposed by him to the bill H.R. 5441, supra; which was ordered to lie on the table.

SA 4574. Mr. COLEMAN (for himself and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill H.R. 5441, supra; which was ordered to lie on the table.

SA 4575. Mr. SANTORUM (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to the bill H.R. 5441, supra; which was ordered to lie on the table.

SA 4576. Mrs. CLINTON (for herself, Mr. SCHUMER, Ms. MIKULSKI, Mr. MENENDEZ, Ms. CANTWELL, Mr. KENNEDY, Mr. KERRY, Mr. LIEBERMAN, Mr. REED, and Mr. LAUTENBERG) submitted an amendment intended to be proposed by her to the bill H.R. 5441, supra; which was ordered to lie on the table.

SA 4577. Mr. CORNYN proposed an amendment to amendment SA 4566 submitted by Mrs. MURRAY and intended to be proposed to the bill H.R. 5441, supra.

SA 4578. Mr. WARNER (for himself, Mr. ALLEN, Mr. SARBANES, Ms. MIKULSKI, Mr. VOINOVICH, and Mr. AKAKA) submitted an amendment intended to be proposed by him to the bill H.R. 5441, supra; which was ordered to lie on the table.

SA 4579. Mr. GREGG proposed an amendment to the bill H.R. 5441, supra.

SA 4580. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 5441, supra; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

**SA 4550.** Mr. SPECTER (for himself and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the bill H.R. 5441, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

On page 92, line 2, strike the semicolon and insert the following: “: *Provided*, That \$25,000,000 shall be available until expended for assistance to organizations (as described under section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax section 501(a) of such Code (in this subparagraph referred to as “nonprofit organizations”)) determined by the Secretary to be at high-risk or potential high-risk of a terrorist attack, and that these determinations shall not be delegated to any Federal, State, or local government official: *Provided further*, That not later than 45 days after the date of enactment of this Act, the Secretary of Homeland Security shall make available to nonprofit organizations the requirements for an application for a grant under the preceding proviso, which application shall be submitted not later than 45 days after the date of the grant announcement, and the Office for Grants and Training shall take action on such an application not later than 15 days after the date of receiving such application: *Provided further*, That the Secretary of Homeland Security shall submit an annual report to the Committee on Appropriations of the Senate and Committee on Appropriations

of the House of Representatives on the threat or potential threat to each nonprofit organization receiving a grant under this subparagraph: *Provided further*, That the Secretary shall distribute any unallocated funds to assist nonprofit organizations determined by the Secretary to be at high-risk or potential high-risk of a terrorist attack provided for in title III of the Department of Homeland Security Appropriations Act, 2006 (Public Law 109-90; 119 Stat. 2075) under the heading “STATE AND LOCAL PROGRAMS” under the heading “OFFICE FOR DOMESTIC PREPAREDNESS” under the terms and conditions in this subparagraph: *Provided further*, That in determining the allocation of funds to nonprofit organizations under this subparagraph the Secretary shall consider—

(i) potential threats from any organization designated as an international terrorist organization by the Department of State or a separate network or cell that may operate domestically or internationally against any group of United States citizens who operate or are principal beneficiaries or users of a nonprofit organization;

(ii) prior attacks, within or outside the United States by an organization described in clause (i) against a nonprofit organization or entities associated with or similarly situated as a nonprofit organization;

(iii) symbolic value (including whether a nonprofit organization is a highly recognized national, cultural, or historic institution);

(iv) the role of a nonprofit organization in responding to an international terrorist attack;

(v) any previously conducted threat or vulnerability assessments; and

(vi) any increased threats to specific sectors or areas;

On page 92, line 19, before the comma insert “other than grants to nonprofit organizations as provided for under that subparagraph”.

**SA 4551.** Mr. VITTER submitted an amendment intended to be proposed by him to the bill H.R. 5441, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

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 the possession of which 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.

**SA 4552.** Mr. KERRY (for himself, Ms. SNOWE, and Mr. LAUTENBERG) submitted an amendment intended to be proposed by him to the bill H.R. 5441, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

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.

**SA 4553.** Mr. BIDEN submitted an amendment intended to be proposed by him to the bill H.R. 5441, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

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

**SA 4554.** Mr. SALAZAR (for himself and Ms. LANDRIEU) submitted an amendment intended to be proposed by him to the bill H.R. 5441, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

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.

**SA 4555.** Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 5441, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. . The Secretary of Homeland Security shall prepare a report for submission to Congress by the President with the budget for fiscal year 2008 transmitted under section 1105(a) of title 31, United States Code, that—

(1) identifies activities being carried out by the Department of Homeland Security to improve—

(A) the targeting of agricultural inspections;

(B) the ability of United States Customs and Border Protection to adjust to new agricultural threats; and

(C) the in-service training for interception of prohibited plant and animal products and

agricultural pests under the agriculture quarantine inspection monitoring program of the Animal and Plant Health Inspection Service; and

(2) describes the manner in which the Secretary of Homeland Security will coordinate with the Secretary of Agriculture and State and local governments in carrying out the activities described in paragraph (1).

**SA 4556.** Mrs. FEINSTEIN (for herself, Mr. KYL, Mrs. BOXER, Mr. TALENT, Ms. CANTWELL, Mr. SALAZAR, Mr. BINGAMAN, Mrs. HUTCHISON, Mr. ALLEN, Mr. DOMENICI, and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill H.R. 5441, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes; as follows:

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

SEC. 540. (a) CONSTRUCTION OF BORDER TUNNEL OR PASSAGE.—Chapter 27 of title 18, United States Code, is amended by adding at the end the following:

**“§ 554. Border tunnels and passages**

“(a) Any person who knowingly constructs or finances the construction of a tunnel or subterranean passage that crosses the international border between the United States and another country, other than a lawfully authorized tunnel or passage known to the Secretary of Homeland Security and subject to inspection by the Bureau of Immigration and Customs Enforcement, shall be fined under this title and imprisoned for not more than 20 years.

“(b) Any person who knows or recklessly disregards the construction or use of a tunnel or passage described in subsection (a) on land that the person owns or controls shall be fined under this title and imprisoned for not more than 10 years.

“(c) Any person who uses a tunnel or passage described in subsection (a) to unlawfully smuggle an alien, goods (in violation of section 545), controlled substances, weapons of mass destruction (including biological weapons), or a member of a terrorist organization (as defined in section 2339B(g)(6)) shall be subject to a maximum term of imprisonment that is twice the maximum term of imprisonment that would have otherwise been applicable had the unlawful activity not made use of such a tunnel or passage.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 27 of title 18, United States Code, is amended by adding at the end the following:

“Sec. 554. Border tunnels and passages.”.

(c) CRIMINAL FORFEITURE.—Section 982(a)(6) of title 18, United States Code, is amended by inserting “554,” before “1425.”.

(d) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—

(1) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this subsection, the United States Sentencing Commission shall promulgate or amend sentencing guidelines to provide for increased penalties for persons convicted of offenses described in section 554 of title 18, United States Code, as added by subsection (a).

(2) REQUIREMENTS.—In carrying out this subsection, the United States Sentencing Commission shall—

(A) ensure that the sentencing guidelines, policy statements, and official commentary reflect the serious nature of the offenses described in section 554 of title 18, United States Code, and the need for aggressive and appropriate law enforcement action to prevent such offenses;

(B) provide adequate base offense levels for offenses under such section;

(C) account for any aggravating or mitigating circumstances that might justify exceptions, including—

(i) the use of a tunnel or passage described in subsection (a) of such section to facilitate other felonies; and

(ii) the circumstances for which the sentencing guidelines currently provide applicable sentencing enhancements;

(D) ensure reasonable consistency with other relevant directives, other sentencing guidelines, and statutes;

(E) make any necessary and conforming changes to the sentencing guidelines and policy statements; and

(F) ensure that the sentencing guidelines adequately meet the purposes of sentencing set forth in section 3553(a)(2) of title 18, United States Code.

**SA 4557.** Mr. BYRD (for himself, Mr. GREGG, Mrs. MURRAY, Mr. ROCKEFELLER, Mr. BINGAMAN, and Mr. LIEBERMAN) proposed an amendment to the bill H.R. 5441, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes; as follows:

At the appropriate place in the bill insert the following:

**TITLE VI**

**BORDER SECURITY INFRASTRUCTURE ENHANCEMENTS**

SEC. 601. (a) Notwithstanding any other provision of law, the Secretary of Homeland Security shall adjust fees charged by the Department against any non-United States citizen by notice in the Federal register no later than January 1, 2007, to achieve not less than \$350,000,000 in additional receipts by September 30, 2007: *Provided*, That the Secretary may adjust only those fees authorized under the Immigration and Nationality Act and the Illegal Immigration Reform and Immigrant Responsibility Act: *Provided further*, That this adjustment shall be in addition to fees authorized under 8 United States Code 1356.

(b) Amounts collected under subsection (a) shall be deposited in the accounts as provided by 8 United States Code 1356: *Provided*, That of the total amount collected pursuant to subsection (a) the Secretary shall transfer the following amounts:

(1) \$25,000,000 to Customs and Border Protection “Salaries and Expenses” for vehicle replacement;

(2) \$105,000,000 to Customs and Border Protection “Air and Marine Interdiction, Operations, Maintenance, and Procurement” for air asset replacement and air operations facilities upgrades;

(3) \$90,000,000 to Customs and Border Protection “Construction”;

(4) \$30,000,000 to Immigration and Customs Enforcement “Salaries and Expenses” for vehicle replacement; and,

(5) \$15,000,000 to Immigration and Customs Enforcement “Automation Modernization”.

(c) Of the total amount collected pursuant to subsection (a) \$85,000,000 shall be made available to United States Citizenship and Immigration Services: *Provided*, That of the additional amount available, \$47,000,000 shall be for Business Transformation and \$38,000,000 shall be for Fraud Detection and National Security initiatives.

(d) Amounts deposited under paragraph (b) shall remain available until expended for the activities and services described in paragraphs (b) and (c).

**SA 4558.** Mr. LAUTENBERG submitted an amendment intended to be

proposed by him to the bill H.R. 5441, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

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.

**SA 4559.** Mr. BYRD (for himself, Mr. GREGG, Mr. KOHL, Mrs. CLINTON, Mr. MENENDEZ, Mrs. MURRAY, Mr. ROCKEFELLER, Mr. LIEBERMAN, Mr. LAUTENBERG, and Mr. SCHUMER) proposed an amendment to the bill H.R. 5441, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes; as follows:

At the appropriate place, insert the following:

**TITLE VII—SUPPLEMENTAL APPROPRIATIONS FOR PORT SECURITY ENHANCEMENTS**

The following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to enhance port security for the fiscal year ending September 30, 2006, and for other purposes, namely:

**CUSTOMS AND BORDER PROTECTION**

**SALARIES AND EXPENSES**

For an additional amount for “Salaries and Expenses”, \$251,000,000, to remain available until expended.

**UNITED STATES COAST GUARD**

**OPERATING EXPENSES**

For an additional amount for “Operating Expenses”, \$23,000,000, to remain available until expended: *Provided*, That funding is available to accelerate foreign port security assessments, conduct domestic port vulnerability assessments, and perform unscheduled security audits of facilities regulated by chapter 701 of title 46, United States Code, commonly known as the Maritime Transportation Security Act of 2002.

**UNITED STATES COAST GUARD**

**ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS**

For an additional amount for “Acquisition, Construction, and Improvements” for acquisition, construction, renovation, and improvement of vessels, aircraft, and equipment, \$184,000,000 for the Integrated Deep-water Systems program, to remain available

until expended: *Provided*, That funding is available to acquire maritime patrol aircraft and parent craft patrol boats, to provide armed helicopter capability, and to sustain the medium endurance cutter fleet.

**OFFICE FOR DOMESTIC PREPAREDNESS  
STATE AND LOCAL PROGRAMS**

For an additional amount for “State and Local Programs”, \$190,000,000 to remain available until September 30, 2007: *Provided*, That the entire amount shall be for port security grants pursuant to the purposes of subsection (a) through (h) of section 70107 of title 46, United States Code, which shall be awarded based on risk notwithstanding subsection (a), for eligible costs as defined in paragraphs (2), (3), and (4) of subsection (b).

**SA 4560.** Ms. COLLINS (for herself, Mr. LIEBERMAN, Mr. LOTT, Mr. CARPER, and Mr. SALAZAR) proposed an amendment to the bill H.R. 5441, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes; as follows:

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

**TITLE VI—UNITED STATES EMERGENCY  
MANAGEMENT AUTHORITY**

**SEC. 601. SHORT TITLE.**

This title may be cited as the “United States Emergency Management Authority Act of 2006”.

**SEC. 602. UNITED STATES EMERGENCY MANAGE-  
MENT AUTHORITY.**

Title V of the Homeland Security Act of 2002 (6 U.S.C. 311 et seq.) is amended—

(1) by striking the title heading and inserting the following:

**“TITLE V—NATIONAL PREPAREDNESS  
AND RESPONSE”;**

(2) by striking sections 501 through 503;

(3) by striking sections 506 and 507;

(4) by redesignating sections 504, 505, 508, and 509 as sections 521, 522, 523, and 524, respectively;

(5) by redesignating section 510 (relating to procurement of security countermeasures for the strategic national stockpile) as section 525;

(6) by redesignating section 510 (relating to urban and other high risk area communications capabilities) as section 526; and

(7) by inserting before section 521, as so redesignated by this section, the following:

**“SEC. 501. DEFINITIONS.**

“In this title—

“(1) the term ‘all-hazards-plus’ means an approach to preparedness, response, recovery, and mitigation that emphasizes the development of capabilities that are common to natural and man-made disasters, while also including the development of capabilities that are uniquely relevant to specific types of disasters;

“(2) the term ‘Authority’ means the United States Emergency Management Authority established under section 502;

“(3) the term ‘Administrator’ means the Administrator of the Authority;

“(4) the term ‘Federal coordinating officer’ means a Federal coordinating officer as described in section 302 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5143);

“(5) the term ‘National Advisory Council’ means the National Advisory Council on Emergency Preparedness and Response established under section 508;

“(6) the term ‘National Incident Management System’ means the National Incident Management System as described in the National Response Plan;

“(7) the term ‘National Response Plan’ means the National Response Plan prepared under Homeland Security Presidential Directive 5 or any presidential directive meant to replace or augment that directive;

“(8) the term ‘Nuclear Incident Response Team’ means a resource that includes—

“(A) those entities of the Department of Energy that perform nuclear or radiological emergency support functions (including accident response, search response, advisory, and technical operations functions), radiation exposure functions at the medical assistance facility known as the Radiation Emergency Assistance Center/Training Site (REAC/TS), radiological assistance functions, and related functions; and

“(B) those entities of the Environmental Protection Agency that perform such support functions (including radiological emergency response functions) and related functions;

“(9) the term ‘Regional Advisory Council’ means a Regional Advisory Council on Preparedness and Response established under section 503;

“(10) the term ‘Regional Administrator’ means a Regional Administrator for Preparedness and Response appointed under section 507;

“(11) the term ‘Regional Office’ means a Regional Office established under section 507; and

“(12) the term ‘surge capacity’ means the ability to rapidly and substantially increase the provision of search and rescue capabilities, food, water, medicine, shelter and housing, medical care, evacuation capacity, staffing, including disaster assistance employees, and other resources necessary to save lives and protect property during a catastrophic incident, or other natural or man-made disaster.

**“SEC. 502. UNITED STATES EMERGENCY MANAGE-  
MENT AUTHORITY.**

“(a) IN GENERAL.—There is established in the Department the United States Emergency Management Authority, headed by an Administrator.

“(b) MISSION.—The mission of the Authority is to—

“(1) lead the Nation’s efforts to prepare for, respond to, recover from, and mitigate the risks of natural and man-made disasters, including catastrophic incidents;

“(2) partner with State and local governments and emergency response providers, with other Federal agencies, with the private sector, and with nongovernmental organizations to build a national system of emergency management that can effectively and efficiently utilize the full measure of the Nation’s resources to respond to a catastrophic incident or other natural or man-made disaster;

“(3) develop a Federal response capability that, when necessary and appropriate, can act effectively, rapidly, and proactively to deliver assistance essential to saving lives or protecting or preserving property or public health and safety in a natural or man-made disaster;

“(4) fuse the Department’s emergency response, preparedness, recovery, mitigation, and critical infrastructure assets into a new, integrated organization that can effectively confront the challenges of a natural or man-made disaster;

“(5) develop and maintain robust Regional Offices that will work with State and local governments and emergency response providers to identify and address regional priorities;

“(6) under the leadership of the Secretary, coordinate with the Commandant of the Coast Guard, the Director of Customs and Border Protection, the Director of Immigration and Customs Enforcement, the National

Operations Center, and other agencies and offices in the Department to take full advantage of the substantial range of resources in the Department that can be brought to bear in preparing for and responding to a natural or man-made disaster;

“(7) carry out the provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.);

“(8) provide funding, training, exercises, technical assistance, planning, and other assistance, to build local, State, regional, and national capabilities, including communications capabilities, necessary to respond to a potential natural or man-made disaster;

“(9) implement an all-hazards-plus strategy for preparedness that places priority on building those common capabilities necessary to respond to both terrorist attacks and natural disasters while also building the unique capabilities necessary to respond to specific types of incidents that pose the greatest risk to our Nation; and

“(10) promote, plan for, and facilitate the security and resiliency of critical infrastructure and key resources, including cyber infrastructure, against a natural or man-made disaster, and the post-disaster restoration of such critical infrastructure and key resources.

“(c) ADMINISTRATOR.—

“(1) IN GENERAL.—The Administrator shall be appointed by the President, by and with the advice and consent of the Senate.

“(2) QUALIFICATIONS.—The Administrator shall have not less than 5 years of executive leadership and management experience in the public or private sector, significant experience in crisis management or another relevant field, and a demonstrated ability to manage a substantial staff and budget.

“(3) REPORTING.—The Administrator shall report to the Secretary, without being required to report through any other official of the Department.

“(4) PRINCIPAL ADVISOR ON EMERGENCY PREPAREDNESS AND RESPONSE.—

“(A) IN GENERAL.—The Administrator is the principal emergency preparedness and response advisor to the President, the Homeland Security Council, and the Secretary.

“(B) ADVICE AND RECOMMENDATIONS.—

“(i) IN GENERAL.—In presenting advice with respect to any matter to the President, the Homeland Security Council, or the Secretary, the Administrator shall, as the Administrator considers appropriate, inform the President, the Homeland Security Council, or the Secretary, as the case may be, of the range of emergency mitigation, preparedness, response, and recovery options with respect to that matter.

“(ii) ADVICE ON REQUEST.—The Administrator, as an emergency preparedness and response advisor, shall provide advice to the President, the Homeland Security Council, or the Secretary on a particular matter when the President, the Homeland Security Council, or the Secretary requests such advice.

“(iii) RECOMMENDATIONS TO CONGRESS.—After informing the Secretary, the Administrator may make such recommendations to Congress relating to emergency preparedness and response as the Administrator considers appropriate.

“(C) RETENTION OF AUTHORITY.—Nothing in this paragraph shall be construed as affecting the authority of the Secretary under this Act.

**“SEC. 503. AUTHORITIES AND RESPONSIBILITIES.**

“(a) IN GENERAL.—The Administrator shall provide Federal leadership necessary to prepare for and respond to a natural or man-made disaster, including—

“(1) carrying out the mission to reduce the loss of life and property and protect the Nation from all hazards by leading and supporting the Nation in a comprehensive, risk-based emergency preparedness and response program of—

“(A) mitigation, by taking sustained actions to reduce or eliminate long-term risk to people and property from hazards and their effects;

“(B) preparedness, by planning, training, and building the emergency preparedness and response workforce to prepare effectively for, mitigate against, respond to, and recover from any hazard;

“(C) response, by conducting emergency operations to save lives and property through positioning emergency equipment, personnel, and supplies, through evacuating potential victims, through providing food, water, shelter, and medical care to those in need, and through restoring critical public services;

“(D) recovery, by rebuilding communities so individuals, businesses, and governments can function on their own, return to normal life, and protect against future hazards; and

“(E) critical infrastructure protection, by establishing an inventory of, and protections for, public and private sector critical infrastructure, including cyber and communications assets;

“(2) increasing efficiencies, by coordinating efforts relating to mitigation, preparedness, response, recovery, and infrastructure protection;

“(3) helping to ensure the effectiveness of emergency response providers in responding to a natural or man-made disaster;

“(4) providing the Federal Government's response to a natural or man-made disaster, including—

“(A) managing such response;

“(B) directing the Domestic Emergency Support Team, the National Disaster Medical System, and (when operating as an organizational unit of the Department under this title) the Nuclear Incident Response Team;

“(C) overseeing the Metropolitan Medical Response System; and

“(D) coordinating other Federal response resources, including requiring deployment of the Strategic National Stockpile, in the event of a natural or man-made disaster;

“(5) working with Federal, State, and local government personnel, agencies, and authorities to build a comprehensive national incident management system to respond to a natural or man-made disaster;

“(6) with respect to the Nuclear Incident Response Team (regardless of whether it is operating as an organizational unit of the Department under this title)—

“(A) establishing standards and certifying when those standards have been met;

“(B) conducting joint and other exercises and training and evaluating performance; and

“(C) providing funds to the Department of Energy and the Environmental Protection Agency, as appropriate, for homeland security planning, exercises and training, and equipment;

“(7) helping to ensure that emergency response providers acquire interoperable and sustainable technology;

“(8) assisting the President in carrying out the functions under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.);

“(9) administering homeland security emergency management, first responder, and other preparedness grants;

“(10) administering and implementing the National Response Plan, including monitoring, evaluating, and ensuring the readiness of each emergency support function under the National Response Plan;

“(11) coordinating with the National Advisory Council;

“(12) ensuring the protection of critical infrastructure by—

“(A) carrying out the responsibilities under paragraphs (2) through (6) of section 201(d);

“(B) helping ensure the protection and resiliency of key resources and critical infrastructure, including cyber infrastructure, against a natural or man-made disaster; and

“(C) planning for, assisting with, and facilitating, the restoration of key resources and critical infrastructure, including cyber infrastructure, in the event of a natural or man-made disaster;

“(13) establishing in each Regional Office a Regional Advisory Council on Preparedness and Response, to advise the Regional Administrator of that Regional Office on emergency preparedness and response issues specific to the region; and

“(14) otherwise carrying out the mission of the Authority as described in section 502(b).

“(b) ADDITIONAL RESPONSIBILITIES RELATED TO CATASTROPHIC INCIDENTS.—

“(1) IN GENERAL.—The Administrator, in consultation with the Secretary and other senior Department officials, shall develop a national emergency management system that is capable of responding to catastrophic incidents.

“(2) IDENTIFICATION OF RESOURCES.—

“(A) IN GENERAL.—The Administrator shall develop and submit to Congress annually an estimate of the resources of the Authority and other Federal agencies needed for and devoted specifically to developing local, State, and national capabilities necessary to respond to a catastrophic incident.

“(B) CONTENTS.—Each estimate under subparagraph (A) shall include the resources both necessary for and devoted to—

“(i) planning;

“(ii) training and exercises;

“(iii) Regional Office enhancements;

“(iv) staffing, including for surge capacity during a catastrophic event;

“(v) additional logistics capabilities;

“(vi) other responsibilities under the Catastrophic Incident Annex of the Catastrophic Incident Supplement of the National Response Plan; and

“(vii) State and local catastrophic preparedness.

“(c) ALL-HAZARDS-PLUS APPROACH.—In carrying out this section, the Administrator shall implement an all-hazards-plus strategy that places priority on building those common capabilities necessary to prepare for, respond to, recover from, and mitigate the risks of terrorist attacks and natural disasters, while also building the unique capabilities necessary to prepare for, respond to, recover from, and mitigate the risks of specific types of incidents that pose the greatest risk to the Nation.

“SEC. 504. AUTHORITY COMPONENTS.

“There are transferred to the Authority the following:

“(1) Except as provided in title III of the Department of Homeland Security Appropriations Act, 2007, regarding the transfer of the National Disaster Medical System, the Federal Emergency Management Agency, as constituted on June 1, 2006, including all of its functions, personnel, assets, components, and liabilities, and including the functions of the Under Secretary for Federal Emergency Management relating thereto.

“(2) The Directorate of Preparedness, as constituted on June 1, 2006, including all of its functions, personnel assets, components, and liabilities, and including the functions of the Under Secretary for Preparedness relating to the Directorate, as constituted on that date.

“SEC. 505. PRESERVING THE UNITED STATES EMERGENCY MANAGEMENT AUTHORITY.

“(a) DISTINCT ENTITY.—The Authority shall be maintained as a distinct entity within the Department.

“(b) REORGANIZATION.—Section 872 shall not apply to the Authority, including any function or organizational unit of the Authority.

“(c) PROHIBITION ON CHANGES TO MISSIONS.—

“(1) IN GENERAL.—The Secretary may not substantially or significantly reduce the authorities, responsibilities, or functions of the Authority or the capability of the Authority to perform those responsibilities, except as otherwise specifically provided in an Act enacted after the date of enactment of the United States Emergency Management Authority Act of 2006.

“(2) CERTAIN TRANSFERS PROHIBITED.—No asset, function or mission of the Authority may be diverted to the principal and continuing use of any other organization, unit, or entity of the Department, except for details or assignments that do not reduce the capability of the Authority to perform its missions.

“SEC. 506. DIRECTORS.

“(a) IN GENERAL.—There shall be in the Authority a Director for Preparedness and a Director for Response and Recovery, each of whom shall be appointed by the President, by and with the advice and consent of the Senate, and shall report to the Administrator.

“(b) QUALIFICATIONS.—

“(1) IN GENERAL.—A Director shall have—

“(A) not less than 5 years of—

“(i) executive leadership and management experience in the public or private sector; and

“(ii) significant experience in crisis management or another relevant field; and

“(B) a demonstrated ability to manage a substantial staff and budget.

“(2) CONCURRENT EXPERIENCE.—Service during any period of time may be used in meeting the requirements under both clause (i) and (ii) of paragraph (1)(A).

“(c) INITIAL DIRECTORS.—The individual serving as the Under Secretary for Preparedness and the individual serving as the Under Secretary for the Federal Emergency Management Agency on the effective date of the United States Emergency Management Authority Act of 2006, may serve as the Director for Preparedness and the Director of Response and Recovery, respectively, until a Director for Preparedness or a Director of Response and Recovery, as the case may be, is appointed under subsection (a).

“SEC. 507. REGIONAL OFFICES.

“(a) IN GENERAL.—

“(1) REGIONAL OFFICES.—The Administrator shall establish 10 Regional Offices of the Authority.

“(2) ADDITIONAL OFFICE.—In addition to the Regional Offices established under paragraph (1), the Administrator may designate the Office for National Capital Region Coordination under section 882 as a Regional Office.

“(b) MANAGEMENT OF REGIONAL OFFICES.—

“(1) REGIONAL ADMINISTRATOR.—Each Regional Office shall be headed by a Regional Administrator for Preparedness and Response, who shall be appointed by the Administrator. Each Regional Administrator for Emergency Preparedness and Response shall report directly to the Administrator.

“(2) QUALIFICATIONS.—Each Regional Office shall be headed by an individual in the Senior Executive Service qualified to act as a senior Federal coordinating officer to provide strategic oversight of incident management when needed.

“(c) RESPONSIBILITIES.—

“(1) IN GENERAL.—The Regional Administrator shall work in partnership with State and local governments, emergency managers, emergency response providers, medical providers, the private sector, nongovernmental organizations, multijurisdictional councils of governments, and regional planning commissions and organizations in the geographical area served by the Regional Office to carry out the responsibilities of a Regional Administrator under this section.

“(2) RESPONSIBILITIES.—The responsibilities of a Regional Administrator include—

“(A) ensuring effective, coordinated, and integrated regional preparedness, mitigation, response, and recovery activities and programs for natural and man-made disasters (including planning, training, exercises, and professional development);

“(B) coordinating and integrating regional preparedness, mitigation, response, and recovery activities and programs for natural and man-made disasters (including planning, training, exercises, and professional development), which shall include—

“(i) providing regional and interstate planning assistance;

“(ii) organizing, in consultation with the Administrator, regional training and exercise programs;

“(iii) providing support and coordination officers for State and local government training and exercises;

“(iv) participating in emergency preparedness and planning activities by State, regional, and local governments;

“(v) assisting in the development of regional capabilities needed for a national catastrophic response system; and

“(vi) helping to coordinate and develop interstate agreements;

“(C) establishing and overseeing 1 or more strike teams within the region under subsection (e), which shall serve as the focal point of the Federal Government’s initial response efforts for a natural or man-made disaster within that region, and otherwise building Federal response capabilities to respond to a natural or man-made disaster within that region;

“(D) working with the private sector to assess weaknesses in critical infrastructure protection in the region and to design and implement programs to address those weaknesses;

“(E) coordinating all activities conducted under this section with other Federal departments and agencies; and

“(F) performing such other duties relating to such responsibilities as the Administrator may require.

“(d) AREA OFFICES.—The Administrator shall establish an Area Office for the Pacific and an Area Office for the Caribbean, as components in the appropriate Regional Offices.

“(e) REGIONAL OFFICE STRIKE TEAMS.—

“(1) ESTABLISHMENT.—In coordination with other relevant Federal agencies, each Regional Administrator shall establish multi-agency strike teams that shall consist of—

“(A) a designated Federal coordinating officer;

“(B) personnel trained in incident management;

“(C) public affairs, response and recovery, and communications support personnel;

“(D) a defense coordinating officer;

“(E) liaisons to other Federal agencies;

“(F) such other personnel as the Administrator or Regional Administrator determines appropriate; and

“(G) individuals from the agencies with primary responsibility for each of the emergency support functions in the National Response Plan, including the following:

“(i) Transportation.

“(ii) Communications.

“(iii) Public works and engineering.

“(iv) Emergency management.

“(v) Mass care.

“(vi) Housing and human services.

“(vii) Public health and medical services.

“(viii) Urban search and rescue.

“(ix) Public safety and security.

“(x) External affairs.

“(2) LOCATION OF MEMBERS.—The members of each Regional Office strike team, including representatives from agencies other than the Department, shall be based primarily at the Regional Office that corresponds to that strike team.

“(3) COORDINATION.—Each Regional Office strike team shall coordinate the training and exercises of that strike team with the State and local governments and private sector and nongovernmental entities which the strike team shall support when a natural or man-made disaster occurs.

“(4) PREPAREDNESS.—Each Regional Office strike team shall be trained, equipped, and staffed to be well prepared to respond to natural and man-made disasters, including catastrophic incidents.

“(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as necessary to carry out this subsection.

**“SEC. 508. NATIONAL ADVISORY COUNCIL ON EMERGENCY PREPAREDNESS AND RESPONSE.**

“(a) ESTABLISHMENT.—Not later than 60 days after the date of enactment of the United States Emergency Management Authority Act of 2006, the Secretary shall establish an advisory body under section 871(a), to be known as the National Advisory Council on Emergency Preparedness and Response.

“(b) RESPONSIBILITIES.—The National Advisory Council shall advise the Administrator on all aspects of emergency preparedness and response.

“(c) MEMBERSHIP.—

“(1) IN GENERAL.—The members of the National Advisory Council shall be appointed by the Administrator, and shall, to the extent practicable, represent a geographic (including urban and rural) and substantive cross section of State and local government officials and emergency managers, and emergency response providers, from State and local governments, the private sector, and nongovernmental organizations, including as appropriate—

“(A) members selected from the emergency preparedness and response fields, including fire service, law enforcement, hazardous materials response, emergency medical services, and emergency preparedness and response personnel;

“(B) health scientists, emergency and inpatient medical providers, and public health professionals;

“(C) experts representing standards setting organizations;

“(D) State and local government officials with expertise in terrorism preparedness and emergency preparedness and response;

“(E) elected State and local government executives;

“(F) experts in public and private sector infrastructure protection, cybersecurity, and communications;

“(G) representatives of the disabled and other special needs populations; and

“(H) such other individuals as the Administrator determines to be appropriate.

“(d) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—

“(1) IN GENERAL.—Notwithstanding section 871(a) and subject to paragraph (2), the Federal Advisory Committee Act (5 U.S.C. App.), including subsections (a), (b), and (d) of section 10 of such Act, and section 552b(c) of

title 5, United States Code, shall apply to the Advisory Council.

“(2) TERMINATION.—Section 14(a)(2)(B) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Advisory Council.

**“SEC. 509. NATIONAL INCIDENT MANAGEMENT SYSTEM INTEGRATION CENTER.**

“(a) IN GENERAL.—There is in the Authority a National Incident Management System Integration Center.

“(b) RESPONSIBILITIES.—

“(1) IN GENERAL.—The Administrator, through the National Incident Management System Integration Center, and in consultation with other Federal departments and agencies and the National Advisory Council, shall ensure ongoing management and maintenance of the National Incident Management System, the National Response Plan, any other document or tool in support of Homeland Security Presidential Directive 5, or any other Homeland Security Presidential Directive relating to incident management and response.

“(2) SPECIFIC RESPONSIBILITIES.—The National Incident Management System Integration Center shall—

“(A) periodically review, and revise, as appropriate, the National Incident Management System and the National Response Plan;

“(B) review other matters relating to the National Incident Management System and the National Response Plan, as the Administrator may require;

“(C) develop and implement a national program for National Incident Management System and National Response Plan education and awareness;

“(D) oversee all aspects of the National Incident Management System, including the development of compliance criteria and implementation activities at Federal, State, and local government levels;

“(E) provide guidance and assistance to States and local governments and emergency response providers, in adopting the National Incident Management System; and

“(F) perform such other duties relating to such responsibilities as the Administrator may require.

**“SEC. 510. NATIONAL OPERATIONS CENTER.**

“(a) DEFINITION.—In this section, the term ‘situational awareness’ means information gathered from a variety of sources that, when communicated to emergency preparedness and response managers and decision makers, can form the basis for incident management decisionmaking.

“(b) ESTABLISHMENT.—There is established in the Department a National Operations Center.

“(c) PURPOSE.—The purposes of the National Operations Center are to—

“(1) coordinate the national response to any natural or man-made disaster, as determined by the Secretary;

“(2) provide situational awareness and a common operating picture for the entire Federal Government, and for State and local governments as appropriate, for an event described in paragraph (1);

“(3) collect and analyze information to help deter, detect, and prevent terrorist acts;

“(4) disseminate terrorism and disaster-related information to Federal, State, and local governments;

“(5) ensure that critical terrorism and disaster-related information reaches government decision-makers; and

“(6) perform such other duties as the Secretary may require.

“(d) RESPONSIBILITIES.—The National Operations Center shall carry out the responsibilities of the Homeland Security Operations Center, the National Response Coordination

Center, and the Interagency Incident Management Group, as constituted on September 1, 2005.

**“SEC. 511. CHIEF MEDICAL OFFICER.**

“(a) **IN GENERAL.**—There is in the Authority a Chief Medical Officer, who shall be appointed by the President, by and with the advice and consent of the Senate. The Chief Medical Officer shall report directly to the Administrator.

“(b) **QUALIFICATIONS.**—The individual appointed as Chief Medical Officer shall possess a demonstrated ability in and knowledge of medicine and public health.

“(c) **RESPONSIBILITIES.**—The Chief Medical Officer shall have the primary responsibility within the Department for medical issues related to natural and man-made disasters, including—

“(1) serving as the principal advisor to the Secretary and the Administrator on medical and public health issues;

“(2) coordinating the biosurveillance and detection activities of the Department;

“(3) ensuring internal and external coordination of all medical preparedness and response activities of the Department, including training, exercises, and equipment support;

“(4) serving as the Department’s primary point of contact with the Department of Agriculture, the Department of Defense, the Department of Health and Human Services, the Department of Transportation, the Department of Veterans Affairs, and other Federal departments or agencies, on medical and public health issues;

“(5) serving as the Department’s primary point of contact for State and local government, the medical community, and others within and outside the Department, with respect to medical and public health matters;

“(6) discharging, in coordination with the Under Secretary for Science and Technology, the responsibilities of the Department related to Project Bioshield;

“(7) establishing doctrine and priorities for the National Disaster Medical System, consistent with the National Response Plan and the National Incident Management System, supervising its medical components, and exercising predeployment operational control, including—

“(A) determining composition of the teams;

“(B) overseeing credentialing of the teams; and

“(C) training personnel of the teams;

“(8) establishing doctrine and priorities for the Metropolitan Medical Response System, consistent with the National Response Plan and the National Incident Management System;

“(9) managing the Metropolitan Medical Response System, including developing and overseeing standards, plans, training, and exercises and coordinating with the Office of Grants and Training on the use and distribution of Metropolitan Medical Response grants;

“(10) assessing and monitoring long-term health issues of emergency managers and emergency response providers;

“(11) developing and updating, in consultation with the Secretary of Health and Human Services, guidelines for State and local governments for medical response plans for chemical, biological, radiological, nuclear, or explosive weapon attacks;

“(12) developing, in consultation with the Secretary of Health and Human Services, appropriate patient tracking capabilities to execute domestic patient movement and evacuations, including a system that has the capacity of electronically maintaining and transmitting the health information of hospital patients;

“(13) establishing and providing oversight for the Department’s occupational health and safety program, including workforce health; and

“(14) performing such other duties relating to such responsibilities as the Secretary or the Administrator may require.

“(d) **LONG-TERM HEALTH ASSESSMENT PROGRAM.**—The Chief Medical Officer, in consultation with the Director of the National Institute for Occupational Safety and Health, shall establish a program to assess, monitor, and study the health and safety of emergency managers and emergency response providers, following Incidents of National Significance declared by the Secretary under the National Response Plan.

**“SEC. 512. PUBLIC AND COMMUNITY PREPAREDNESS.**

“The Administrator shall promote public and community preparedness.

**“SEC. 513. SAVER PROGRAM.**

“(a) **IN GENERAL.**—In the Department there is a System Assessment and Validation for Emergency Responders Program to provide impartial evaluations of emergency response equipment and systems.

“(b) **REQUIREMENTS.**—The program established under subsection (a) shall—

“(1) provide impartial, practitioner relevant, and operationally oriented assessments and validations of emergency response provider equipment and systems that have not already been third-party certified to a standard adopted by the Department, including—

“(A) commercial, off-the-shelf emergency response provider equipment and systems in all equipment list categories of the Standardized Equipment List published by the Interagency Board for Equipment Standardization and Interoperability; and

“(B) such other equipment or systems as the Secretary determines are appropriate;

“(2) provide information that enables decision-makers and emergency response providers to better select, procure, use, and maintain emergency response provider equipment or systems;

“(3) assess and validate the performance of products within a system and subsystems; and

“(4) provide information and feedback to emergency response providers through the Responder Knowledge Base of the National Memorial Institute for the Prevention of Terrorism, or other appropriate forum.

“(c) **ASSESSMENT AND VALIDATION PROCESS.**—The assessment and validation of emergency response provider equipment and systems shall use multiple evaluation techniques, including—

“(1) operational assessments of equipment performance on vehicle platforms;

“(2) technical assessments on a comparative basis of system component performance across makes and models under controlled conditions; and

“(3) integrative assessments on an individual basis of system component interoperability and compatibility with other system components.

“(d) **PERSONAL PROTECTIVE EQUIPMENT.**—To the extent practical, the assessment and validation of personal protective equipment under this section shall be conducted by the National Personal Protective Technology Laboratory of the National Institute for Occupational Safety and Health.

**“SEC. 514. NATIONAL SEARCH AND RESCUE RESPONSE SYSTEM.**

“(a) **NATIONAL SEARCH AND RESCUE RESPONSE SYSTEM.**—There is established in the Authority an emergency response system known as the National Search and Rescue Response System that provides a national network of standardized search and rescue

resources to assist State and local governments in responding to any natural or man-made disaster.

“(b) **ADMINISTRATION OF THE SYSTEM.**—

“(1) **TASK FORCE PARTICIPATION.**—The Administrator shall select eligible search and rescue teams that are sponsored by State and local government entities to participate as task forces in the National Search and Rescue Response System. The Administrator shall determine the criteria for such participation.

“(2) **AGREEMENTS WITH SPONSORING AGENCIES.**—The Administrator shall enter into an agreement with the State or local government entity that sponsors each search and rescue team selected under paragraph (1) with respect to the team’s participation as a task force in the National Search and Rescue Response System.

“(3) **MANAGEMENT AND TECHNICAL TEAMS.**—The Administrator shall maintain such management and other technical teams as are necessary to administer the National Search and Rescue Response System.

**“SEC. 515. METROPOLITAN MEDICAL RESPONSE SYSTEM.**

“(a) **IN GENERAL.**—There is in the Authority a Metropolitan Medical Response System. Under the Metropolitan Medical Response System, the Assistant Secretary for Grants and Planning, in coordination with the Chief Medical Officer, shall administer grants to develop, maintain, and enhance medical preparedness systems that are capable of responding effectively to a public health crisis or mass-casualty event caused by a natural or man-made disaster.

“(b) **USE OF FUNDS.**—The Metropolitan Medical Response System shall make grants to local governments to enhance any of the following activities:

“(1) Medical surge capacity.

“(2) Mass prophylaxis.

“(3) Chemical, biological, radiological, nuclear, and explosive detection, response, and decontamination capabilities.

“(4) Emergency communications capabilities.

“(5) Information sharing and collaboration capabilities.

“(6) Regional collaboration.

“(7) Triage and pre-hospital treatment.

“(8) Medical supply management and distribution.

“(9) Fatality management.

“(10) Such other activities as the Secretary may provide.

**“SEC. 516. EMERGENCY MANAGEMENT ASSISTANCE COMPACT.**

“(a) **IN GENERAL.**—The Secretary, acting through the Administrator, may make grants for the purposes of administering and improving the Emergency Management Assistance Compact consented to by the Joint Resolution entitled ‘Joint Resolution granting the consent of Congress to the Emergency Management Assistance Compact’ (Public Law 104-321; 110 Stat. 3877).

“(b) **USES.**—A grant under this section shall be used to—

“(1) carry out recommendations identified in after-action reports for the 2004 and 2005 hurricane season issued under the Emergency Management Assistance Compact;

“(2) coordinate with the Department and other Federal Government agencies;

“(3) coordinate with State and local government entities and their respective national associations;

“(4) assist State and local governments with credentialing emergency response providers and the typing of emergency response resources; or

“(5) administer the operations of the Emergency Management Assistance Compact.

“(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to



the Secretary to carry out this section \$4,000,000 for each of fiscal years 2007 through 2010. Amounts appropriated under this section shall remain available for 3 fiscal years after the date on which such funds are appropriated.

**“SEC. 517. OFFICE FOR THE PREVENTION OF TERRORISM.**

“(a) ESTABLISHMENT.—There is established in the Department an Office for the Prevention of Terrorism, which shall be headed by a Director.

“(b) DIRECTOR.—

“(1) REPORTING.—The Director of the Office for the Prevention of Terrorism shall report directly to the Secretary.

“(2) QUALIFICATIONS.—The Director of the Office for the Prevention of Terrorism shall have an appropriate background with experience in law enforcement, intelligence, or other anti-terrorist functions.

“(c) ASSIGNMENT OF PERSONNEL.—

“(1) IN GENERAL.—The Secretary shall assign to the Office for the Prevention of Terrorism permanent staff and other appropriate personnel detailed from other components of the Department to carry out the responsibilities under this section.

“(2) LIAISONS.—The Secretary shall designate senior employees from each component of the Department that has significant antiterrorism responsibilities to act a liaison between that component and the Office for the Prevention of Terrorism.

“(d) RESPONSIBILITIES.—The Director of the Office for the Prevention of Terrorism shall—

“(1) coordinate policy and operations between the Department and State and local government agencies relating to preventing acts of terrorism within the United States;

“(2) serve as a liaison between State and local law enforcement agencies and the Department;

“(3) in coordination with the Office of Intelligence, develop better methods for the sharing of intelligence with State and local law enforcement agencies;

“(4) work with the Assistant Secretary of the Office of Grants and Training to ensure that homeland security grants to State and local agencies, including the Law Enforcement Terrorism Prevention Program, Commercial Equipment Direct Assistance Program, grants for fusion centers, and other law enforcement programs are adequately focused on terrorism prevention activities; and

“(5) coordinate with the Authority, the Department of Justice, the National Institute of Justice, law enforcement organizations, and other appropriate entities to develop national voluntary consensus standards for training and personal protective equipment to be used in a tactical environment by law enforcement officers.

“(e) PILOT PROJECT.—

“(1) IN GENERAL.—The Director of the Office for the Prevention of Terrorism, in coordination with the Director for Response, shall establish a pilot project to determine the efficacy and feasibility of establishing law enforcement deployment teams.

“(2) FUNCTION.—The law enforcement deployment teams participating in the pilot program under this subsection shall form the basis of a national network of standardized law enforcement resources to assist State and local governments in responding to a natural or man-made disaster.

“(f) CONSTRUCTION.—Nothing in this section may be construed to affect the roles or responsibilities of the Department of Justice.

**“SEC. 518. DEPARTMENT OFFICIALS.**

“(a) CYBERSECURITY AND TELECOMMUNICATIONS.—There is in the Department an Assistant Secretary for Cybersecurity and Telecommunications.

“(b) UNITED STATES FIRE ADMINISTRATION.—The Administrator of the United States Fire Administration shall have a rank equivalent to an assistant secretary of the Department.

**“SEC. 519. CREDENTIALING.**

“(a) DEFINITIONS.—In this section—

“(1) the term ‘credential’ means to provide documentation that can authenticate and verify the qualifications and identity of managers of incidents, emergency response providers, and other appropriate personnel including by ensuring that such personnel possess a minimum common level of training, experience, physical and medical fitness, and capability appropriate for their position;

“(2) the term ‘credentialing’ means evaluating an individual’s qualifications for a specific position under guidelines created in this section and assigning such individual a qualification under the standards developed in this section; and

“(3) the term ‘credentialled’ means an individual has been evaluated for a specific position under the guidelines created under this section.

“(b) REQUIREMENTS.—

“(1) IN GENERAL.—The Administrator shall enter into a memorandum of understanding to collaborate with the Emergency Management Assistance Compact and other organizations to establish, in consultation with the Authority, nationwide standards for credentialing all personnel who are likely to respond to an emergency or major disaster.

“(2) CONTENTS.—The standards developed under paragraph (1) shall—

“(A) include the minimum professional qualifications, certifications, training, and education requirements for specific emergency response functional positions that are applicable to Federal, State and local government;

“(B) be compatible with the National Incident Management System; and

“(C) be consistent with standards for advance registration for health professions volunteers under section 319I of the Public Health Services Act (42 U.S.C. 247d-7b).

“(3) TIMEFRAME.—The standards developed under paragraph (1) shall be completed not later than 6 months after the date of enactment of the United States Emergency Management Authority Act of 2006.

“(c) CREDENTIALING OF DEPARTMENT PERSONNEL.—Not later than 1 year after the date of enactment of this Act, the Secretary and the Administrator shall ensure that all personnel of the Department (including temporary personnel) who are likely to respond to an emergency or major disaster are credentialled.

“(d) INTEGRATION WITH NATIONAL RESPONSE PLAN.—

“(1) DISTRIBUTION OF STANDARDS.—Not later than 6 months after the date of enactment of this Act, the Administrator of the Authority shall provide the standards developed under subsection (b) to all Federal agencies that have responsibilities under the National Response Plan.

“(2) CREDENTIALING OF AGENCIES.—Not later than 180 days after the date on which the standards are provided under paragraph (1), each agency described in paragraph (1) shall—

“(A) ensure that all employees or volunteers of that agency who are likely to respond to an emergency or major disaster are credentialled; and

“(B) submit to the Secretary the name of each credentialled employee or volunteer of such agency.

“(3) LEADERSHIP.—The Administrator shall provide leadership, guidance, and technical assistance to an agency described in paragraph (1) to facilitate the credentialing process of that agency.

“(e) DOCUMENTATION AND DATABASE SYSTEM.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator of the Authority shall establish and maintain a documentation and database system of Federal emergency response providers and all other Federal personnel credentialled to respond to an emergency or major disaster.

“(2) ACCESSIBILITY.—The documentation and database system established under paragraph (1) shall be accessible to the Federal coordinating officer and other appropriate officials preparing for or responding to an emergency or major disaster.

“(3) CONSIDERATIONS.—The Administrator shall consider whether the credentialing system can be used to regulate access to areas affected by a major disaster.

“(f) GUIDANCE TO STATE AND LOCAL GOVERNMENTS.—Not later than 6 months after the date of enactment of this Act, the Administrator shall—

“(1) in collaboration with the Emergency Management Assistance Compact provide detailed written guidance, assistance, and expertise to State and local governments to facilitate the credentialing of State and local emergency response providers and typing of assets commonly or likely to be used in responding to an emergency or major disaster; and

“(2) in coordination with the Emergency Management Assistance Compact and appropriate national professional organizations, assist State and local governments with credentialing the personnel and typing the resources of the State or local government under the guidance provided under paragraph (1).

“(g) REPORT.—Not later than 6 months after the date of enactment of this Act and annually thereafter, the Director of the Authority shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report describing the implementation of this section, including the number and level of qualification of Federal personnel trained and ready to respond to an emergency or major disaster.

“(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

**“SEC. 520. TYPING OF RESOURCES AND ASSETS.**

“(a) DEFINITIONS.—In this section—

“(1) the term ‘typed’ means an asset or resource has been evaluated for a specific function under the guidelines created under this section; and

“(2) the term ‘typing’ means to define in detail the minimum capabilities of an asset or resource.

“(b) REQUIREMENTS.—

“(1) IN GENERAL.—The Administrator shall enter into a memorandum of understanding to collaborate with the Emergency Management Assistance Compact and other organizations to establish, in consultation with the Authority, nationwide standards for typing of resources and assets commonly or likely to be used in responding to an emergency or major disaster.

“(2) CONTENTS.—The standards developed under paragraph (1) shall—

“(A) be applicable to Federal, State and local government; and

“(B) be compatible with the National Incident Management System.

“(c) TYPING OF DEPARTMENT RESOURCES.—Not later than 1 year after the date of enactment of this Act, the Secretary shall ensure that all resources and assets of the Department that are likely to be used to respond to an emergency or major disaster are typed.

“(d) INTEGRATION WITH NATIONAL RESPONSE PLAN.—

“(1) DISTRIBUTION OF STANDARDS.—Not later than 6 months after the date of enactment of this Act, the Administrator of the Authority shall provide the standards developed under subsection (b) to all Federal agencies that have responsibilities under the National Response Plan.

“(2) TYPING OF AGENCIES, ASSETS, AND RESOURCES.—Not later than 180 days after the date on which the standards are provided under paragraph (1), each agency described in paragraph (1) shall—

“(A) ensure that all resources and assets (including teams, equipment, and other assets) of that agency that are likely to be used to respond to an emergency or major disaster are typed; and

“(B) submit to the Secretary a list of all typed resources and assets

“(3) LEADERSHIP.—The Administrator shall provide leadership, guidance, and technical assistance to an agency described in paragraph (1) to facilitate the typing process of that agency.

“(e) DOCUMENTATION AND DATABASE SYSTEM.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator shall establish and maintain a documentation and database system of Federal resources and assets likely to be used to respond to an emergency or major disaster.

“(2) ACCESSIBILITY.—The documentation and database system established under paragraph (1) shall be accessible to the Federal coordinating officer and other appropriate officials preparing for or responding to an emergency or major disaster.

“(f) GUIDANCE TO STATE AND LOCAL GOVERNMENTS.—Not later than 6 months after the date of enactment of this Act, the Administrator of the Authority, in collaboration with the Emergency Management Assistance Compact, shall—

“(1) provide detailed written guidance, assistance, and expertise to State and local governments to facilitate the typing of the resources and assets of State and local governments likely to be used in responding to an emergency or major disaster; and

“(2) assist State and local governments with typing the resources and assets of the State or local governments under the guidance provided under paragraph (1).

“(g) GRANTS.—The Secretary may make grants to the party states of the Emergency Management Assistance Compact to develop and maintain a database of typed resources and assets of State and local governments.

“(h) REPORT.—Not later than 6 months after the date of enactment of this Act and annually thereafter, the Administrator shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report describing the implementation of this section, including the number and type of Federal resources and assets ready to respond to an emergency or major disaster.”.

#### SEC. 603. CONFORMING AMENDMENTS.

(a) EXECUTIVE SCHEDULE.—

(1) ADMINISTRATOR.—Section 5313 of title 5, United States Code, is amended by adding at the end the following:

“Administrator of the United States Emergency Management Authority.”.

(2) DIRECTORS.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

“Directors, United States Emergency Management Authority.”.

(3) FEMA OFFICERS.—

(A) FEDERAL INSURANCE ADMINISTRATOR.—Section 5315 of title 5, United States Code, is

amended by striking “Federal Insurance Administrator, Federal Emergency Management Agency.” and inserting “Federal Insurance Administrator, United States Emergency Management Agency.”.

(B) INSPECTOR GENERAL.—Section 5315 of title 5, United States Code, is amended by striking “Inspector General, Federal Emergency Management Agency.” and inserting “Inspector General, United States Emergency Management Agency.”.

(C) CHIEF INFORMATION OFFICER.—Section 5315 of title 5, United States Code, is amended by striking “Chief Information Officer, Federal Emergency Management Agency.” and inserting “Chief Information Officer, United States Emergency Management Agency.”.

(b) OFFICERS OF THE DEPARTMENT.—Section 103(a) of the Homeland Security Act of 2002 (6 U.S.C. 113(a)) is amended—

(1) by striking paragraph (5) and inserting the following:

“(5) An Administrator of the United States Emergency Management Authority.”;

(2) by striking paragraph (2); and

(3) by redesignating paragraphs (3) through (10) (as amended by this subsection) as paragraphs (2) through (9), respectively.

(c) REFERENCES.—Any reference to the Federal Emergency Management Agency, or the Director thereof, in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on the effective date of this title shall be considered to refer and apply to the United States Emergency Management Authority and the Administrator thereof, respectively.

(d) TABLE OF CONTENTS.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by striking the items relating to title V and sections 501 through 509 and inserting the following:

#### “TITLE V—NATIONAL PREPAREDNESS AND RESPONSE

“Sec. 501. Definitions.

“Sec. 502. United States Emergency Management Authority.

“Sec. 503. Authorities and responsibilities.

“Sec. 504. Authority components.

“Sec. 505. Preserving the United States Emergency Management Authority.

“Sec. 506. Directors.

“Sec. 507. Regional Offices.

“Sec. 508. National Advisory Council on Emergency Preparedness and Response.

“Sec. 509. National Incident Management System Integration Center.

“Sec. 510. National Operations Center.

“Sec. 511. Chief Medical Officer.

“Sec. 512. Public and community preparedness.

“Sec. 513. SAVER Program.

“Sec. 514. National Search and Rescue Response System.

“Sec. 515. Metropolitan Medical Response System.

“Sec. 516. Emergency Management Assistance Compact.

“Sec. 517. Office for the Prevention of Terrorism.

“Sec. 518. Department officials.

“Sec. 519. Credentialing.

“Sec. 520. Typing of resources and assets.

“Sec. 521. Nuclear incident response.

“Sec. 522. Conduct of certain public health-related activities.

“Sec. 523. Use of national private sector networks in emergency response.

“Sec. 524. Use of commercially available technology, goods, and services.

“Sec. 525. Procurement of security countermeasures for strategic national stockpile.

“Sec. 526. Urban and other high risk area communications capabilities.”.

#### SEC. 604. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title and the amendments made by this title.

#### SEC. 605. EFFECTIVE DATE.

This title, and the amendments made by this title, shall take effect on January 1, 2007.

**SA 4561.** Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 5441, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

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.

**SA 4562.** Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 5441, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

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.

**SA 4563.** Mrs. CLINTON (for herself, Mr. AKAKA, Mr. LEAHY, Mr. JEFFORDS, Mr. BOXER, Mr. LAUTENBERG, and Ms. MIKULSKI) submitted an amendment intended to be proposed by her to the bill H.R. 5441, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes; as follows:

At the end of the bill, add the following:

#### TITLE VI—FEDERAL EMERGENCY MANAGEMENT AGENCY

##### Subtitle A—Establishment

#### SEC. 601. ESTABLISHMENT OF AGENCY AND DIRECTOR AND DEPUTY DIRECTOR.

(a) ESTABLISHMENT.—The Federal Emergency Management Agency is established as an independent establishment in the executive branch as defined under section 104 of title 5, United States Code.

(b) DIRECTOR.—

(1) IN GENERAL.—The Director of the Federal Emergency Management Agency shall be the head of the Federal Emergency Management Agency. The Director shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall report directly to the President.

(2) QUALIFICATIONS.—The Director of the Federal Emergency Management Agency shall have significant experience, knowledge,

training, and expertise in the area of emergency preparedness, response, recovery, and mitigation as related to natural disasters and other national cataclysmic events.

(3) EXECUTIVE SCHEDULE POSITION.—Section 5312 of title 5, United States Code, is amended by adding at the end the following:

“Director of the Federal Emergency Management Agency.”.

(c) DEPUTY DIRECTOR.—

(1) IN GENERAL.—The Deputy Director of the Federal Emergency Management Agency shall assist the Director of the Federal Emergency Management Agency. The Deputy Director shall be appointed by the President, by and with the advice and consent of the Senate.

(2) QUALIFICATIONS.—The Deputy Director of the Federal Emergency Management Agency shall have significant experience, knowledge, training, and expertise in the area of emergency preparedness, response, recovery, and mitigation as related to natural disasters and other national cataclysmic events.

(3) EXECUTIVE SCHEDULE POSITION.—Section 5313 of title 5, United States Code, is amended by adding at the end the following:

“Deputy Director of the Federal Emergency Management Agency.”.

#### SEC. 602. FUNCTIONS.

(a) IN GENERAL.—The functions of the Federal Emergency Management Agency include the following:

(1) All functions and authorities prescribed by the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(2) Carrying out its mission to reduce the loss of life and property and protect the Nation from all hazards by leading and supporting the Nation in a comprehensive, risk-based emergency management program of—

(A) mitigation, by taking sustained actions to reduce or eliminate long-term risk to people and property from hazards and their effects;

(B) planning for building the emergency management profession to prepare effectively for, mitigate against, respond to, and recover from any hazard;

(C) response, by conducting emergency operations to save lives and property through positioning emergency equipment and supplies, through evacuating potential victims, through providing food, water, shelter, and medical care to those in need, and through restoring critical public services;

(D) recovery, by rebuilding communities so individuals, businesses, and governments can function on their own, return to normal life, and protect against future hazards; and

(E) increased efficiencies, by coordinating efforts relating to mitigation, planning, response, and recovery.

(b) NATIONAL RESPONSE PLAN.—

(1) ROLE OF FEMA.—Notwithstanding any provision of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.), the Federal Emergency Management Agency shall remain the lead agency for the National Response Plan established under Executive Order No. 12148 (44 Fed. Reg. 43239) and Executive Order No. 12656 (53 Fed. Reg. 47491).

(2) REVISION OF RESPONSE PLAN.—Not later than 60 days after the date of enactment of this Act, the Director of the Federal Emergency Management Agency shall revise the National Response Plan to reflect the establishment of the Federal Emergency Management Agency as an independent establishment under this Act.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 507 of the Homeland Security Act of 2002 (6 U.S.C. 317) is repealed.

(2) OTHER PROVISIONS.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended—

(A) in section 430(c)—

(i) in paragraph (7), by adding “and” at the end;

(ii) by striking paragraph (8); and

(iii) by redesignating paragraph (9) as paragraph (8); and

(B) in section 503—

(i) by striking paragraph (1); and

(ii) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively.

(3) TABLE OF CONTENTS.—The table of contents for the Homeland Security Act of 2002 (6 U.S.C. 101) is amended by striking the item relating to section 507.

#### SEC. 603. RULE OF CONSTRUCTION.

Nothing in this title shall be construed to detract from the Department of Homeland Security’s primary mission to secure the homeland from terrorist attacks.

#### Subtitle B—Transfer and Savings Provisions

##### SEC. 611. DEFINITIONS.

In this subtitle, unless otherwise provided or indicated by the context—

(1) the term “Federal agency” has the meaning given to the term “agency” by section 551(1) of title 5, United States Code;

(2) the term “function” means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program; and

(3) the term “office” includes any office, administration, agency, institute, unit, organizational entity, or component thereof.

##### SEC. 612. TRANSFER OF FUNCTIONS.

There are transferred to the Federal Emergency Management Agency established under section 601 of this Act all functions which the Director of the Federal Emergency Management Agency of the Department of Homeland Security exercised before the date of the enactment of this title.

##### SEC. 613. PERSONNEL PROVISIONS.

(a) APPOINTMENTS.—The Director of the Federal Emergency Management Agency may appoint and fix the compensation of such officers and employees, including investigators, attorneys, and administrative law judges, as may be necessary to carry out the respective functions transferred under this title. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5, United States Code.

(b) EXPERTS AND CONSULTANTS.—The Director of the Federal Emergency Management Agency may obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, and compensate such experts and consultants for each day (including traveltime) at rates not in excess of the rate of pay for level IV of the Executive Schedule under section 5315 of such title. The Director of the Federal Emergency Management Agency may pay experts and consultants who are serving away from their homes or regular place of business, travel expenses and per diem in lieu of subsistence at rates authorized by sections 5702 and 5703 of such title for persons in Government service employed intermittently.

##### SEC. 614. DELEGATION AND ASSIGNMENT.

Except where otherwise expressly prohibited by law or otherwise provided by this title, the Director of the Federal Emergency Management Agency may delegate any of the functions transferred to the Director of the Federal Emergency Management Agency by this title and any function transferred or granted to such Director after the effective date of this title to such officers and employees of the Federal Emergency Management Agency as the Director may designate, and

may authorize successive redelegations of such functions as may be necessary or appropriate. No delegation of functions by the Director of the Federal Emergency Management Agency under this section or under any other provision of this title shall relieve such Director of responsibility for the administration of such functions.

##### SEC. 615. REORGANIZATION.

The Director of the Federal Emergency Management Agency is authorized to allocate or reallocate any function transferred under section 612 among the officers of the Federal Emergency Management Agency, and to establish, consolidate, alter, or discontinue such organizational entities in the Federal Emergency Management Agency as may be necessary or appropriate.

##### SEC. 616. RULES.

The Director of the Federal Emergency Management Agency is authorized to prescribe, in accordance with the provisions of chapters 5 and 6 of title 5, United States Code, such rules and regulations as the Director determines necessary or appropriate to administer and manage the functions of the Federal Emergency Management Agency.

##### SEC. 617. TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.

Except as otherwise provided in this title, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this title, subject to section 1531 of title 31, United States Code, shall be transferred to the Federal Emergency Management Agency. Unexpended funds transferred pursuant to this section shall be used only for the purposes for which the funds were originally authorized and appropriated.

##### SEC. 618. INCIDENTAL TRANSFERS.

The Director of the Office of Management and Budget, at such time or times as the Director shall provide, is authorized to make such determinations as may be necessary with regard to the functions transferred by this title, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of this title. The Director of the Office of Management and Budget shall provide for the termination of the affairs of all entities terminated by this title and for such further measures and dispositions as may be necessary to effectuate the purposes of this title.

##### SEC. 619. EFFECT ON PERSONNEL.

(a) IN GENERAL.—Except as otherwise provided by this title, the transfer pursuant to this title of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer of such employee under this title.

(b) EXECUTIVE SCHEDULE POSITIONS.—Except as otherwise provided in this title, any person who, on the day preceding the effective date of this title, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Federal Emergency Management Agency to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated

in such new position at not less than the rate provided for such previous position, for the duration of the service of such person in such new position.

#### SEC. 620. SAVINGS PROVISIONS.

(a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this title, and

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

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Director of the Federal Emergency Management Agency or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS NOT AFFECTED.—The provisions of this title shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the Federal Emergency Management Agency at the time this title takes effect, with respect to functions transferred by this title but such proceedings and applications shall continue. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this title had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this title had not been enacted.

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

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Federal Emergency Management Agency, or by or against any individual in the official capacity of such individual as an officer of the Federal Emergency Management Agency, shall abate by reason of the enactment of this title.

(e) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by the Federal Emergency Management Agency relating to a function transferred under this title may be continued by the Federal Emergency Management Agency with the same effect as if this title had not been enacted.

#### SEC. 621. SEPARABILITY.

If a provision of this title or its application to any person or circumstance is held invalid, neither the remainder of this title nor the application of the provision to other persons or circumstances shall be affected.

#### SEC. 622. TRANSITION.

The Director of the Federal Emergency Management Agency is authorized to utilize—

(1) the services of such officers, employees, and other personnel of the Federal Emergency Management Agency with respect to functions transferred by this title; and

(2) funds appropriated to such functions for such period of time as may reasonably be needed to facilitate the orderly implementation of this title.

#### SEC. 623. REFERENCES.

Any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to a department, agency, or office from which a function is transferred by this title—

(1) to the head of such department, agency, or office is deemed to refer to the head of the department, agency, or office to which such function is transferred; or

(2) to such department, agency, or office is deemed to refer to the department, agency, or office to which such function is transferred.

#### SEC. 624. ADDITIONAL CONFORMING AMENDMENTS.

(a) RECOMMENDED LEGISLATION.—After consultation with the appropriate committees of the Congress and the Director of the Office of Management and Budget, the Director of the Federal Emergency Management Agency shall prepare and submit to Congress recommended legislation containing technical and conforming amendments to reflect the changes made by this title.

(b) SUBMISSION TO CONGRESS.—Not later than 6 months after the effective date of this title, the Director of the Federal Emergency Management Agency shall submit the recommended legislation referred to under subsection (a).

**SA 4564.** Mrs. CLINTON (for herself, Mr. AKAKA, Mr. LEAHY, Mr. JEFFORDS, Mrs. BOXER, Mr. LAUTENBERG, and Ms. MIKULSKI) submitted an amendment intended to be proposed by her to the bill H.R. 5441, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

#### **TITLE VI—FEDERAL EMERGENCY MANAGEMENT AGENCY** **Subtitle A—Establishment**

#### **SEC. 601. ESTABLISHMENT OF AGENCY AND DIRECTOR AND DEPUTY DIRECTOR.**

(a) ESTABLISHMENT.—The Federal Emergency Management Agency is established as an independent establishment in the executive branch as defined under section 104 of title 5, United States Code.

(b) DIRECTOR.—

(1) IN GENERAL.—The Director of the Federal Emergency Management Agency shall be the head of the Federal Emergency Management Agency. The Director shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall report directly to the President.

(2) QUALIFICATIONS.—The Director of the Federal Emergency Management Agency shall have significant experience, knowledge, training, and expertise in the area of emergency preparedness, response, recovery, and mitigation as related to natural disasters and other national cataclysmic events.

(3) EXECUTIVE SCHEDULE POSITION.—Section 5312 of title 5, United States Code, is amended by adding at the end the following: “Director of the Federal Emergency Management Agency.”

(c) DEPUTY DIRECTOR.—

(1) IN GENERAL.—The Deputy Director of the Federal Emergency Management Agency

shall assist the Director of the Federal Emergency Management Agency. The Deputy Director shall be appointed by the President, by and with the advice and consent of the Senate.

(2) QUALIFICATIONS.—The Deputy Director of the Federal Emergency Management Agency shall have significant experience, knowledge, training, and expertise in the area of emergency preparedness, response, recovery, and mitigation as related to natural disasters and other national cataclysmic events.

(3) EXECUTIVE SCHEDULE POSITION.—Section 5313 of title 5, United States Code, is amended by adding at the end the following:

“Deputy Director of the Federal Emergency Management Agency.”

#### **SEC. 602. FUNCTIONS.**

(a) IN GENERAL.—The functions of the Federal Emergency Management Agency include the following:

(1) All functions and authorities prescribed by the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(2) Carrying out its mission to reduce the loss of life and property and protect the Nation from all hazards by leading and supporting the Nation in a comprehensive, risk-based emergency management program—

(A) of mitigation, by taking sustained actions to reduce or eliminate long-term risk to people and property from hazards and their effects;

(B) of planning for building the emergency management profession to prepare effectively for, mitigate against, respond to, and recover from any hazard;

(C) of response, by conducting emergency operations to save lives and property through positioning emergency equipment and supplies, through evacuating potential victims, through providing food, water, shelter, and medical care to those in need, and through restoring critical public services;

(D) of recovery, by rebuilding communities so individuals, businesses, and governments can function on their own, return to normal life, and protect against future hazards; and

(E) of increased efficiencies, by coordinating efforts relating to mitigation, planning, response, and recovery.

(b) NATIONAL RESPONSE PLAN.—

(1) ROLE OF FEMA.—Notwithstanding any provision of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.), the Federal Emergency Management Agency shall remain the lead agency for the National Response Plan established under Executive Order No. 12148 (44 Fed. Reg. 43239) and Executive Order No. 12656 (53 Fed. Reg. 47491).

(2) REVISION OF RESPONSE PLAN.—Not later than 60 days after the date of enactment of this Act, the Director of the Federal Emergency Management Agency shall revise the National Response Plan to reflect the establishment of the Federal Emergency Management Agency as an independent establishment under this Act.

(c) TECHNICAL AND CONFORMING AMENDMENT.—

(1) REPEAL.—Section 507 of the Homeland Security Act of 2002 (6 U.S.C. 317) is repealed.

(2) TABLE OF CONTENTS.—The table of contents for the Homeland Security Act of 2002 (6 U.S.C. 101) is amended by striking the item relating to section 507.

#### **SEC. 603. RULE OF CONSTRUCTION.**

Nothing in this title shall be construed to detract from the Department of Homeland Security's primary mission to secure the homeland from terrorist attacks.

#### **Subtitle B—Transfer and Savings Provisions**

#### **SEC. 611. DEFINITIONS.**

In this subtitle, unless otherwise provided or indicated by the context—

(1) the term "Federal agency" has the meaning given to the term "agency" by section 551(1) of title 5, United States Code;

(2) the term "function" means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program; and

(3) the term "office" includes any office, administration, agency, institute, unit, organizational entity, or component thereof.

#### SEC. 612. TRANSFER OF FUNCTIONS.

There are transferred to the Federal Emergency Management Agency established under section 601 of this Act all functions which the Director of the Federal Emergency Management Agency of the Department of Homeland Security exercised before the date of the enactment of this title.

#### SEC. 613. PERSONNEL PROVISIONS.

(a) **APPOINTMENTS.**—The Director of the Federal Emergency Management Agency may appoint and fix the compensation of such officers and employees, including investigators, attorneys, and administrative law judges, as may be necessary to carry out the respective functions transferred under this title. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5, United States Code.

(b) **EXPERTS AND CONSULTANTS.**—The Director of the Federal Emergency Management Agency may obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, and compensate such experts and consultants for each day (including traveltime) at rates not in excess of the rate of pay for level IV of the Executive Schedule under section 5315 of such title. The Director of the Federal Emergency Management Agency may pay experts and consultants who are serving away from their homes or regular place of business, travel expenses and per diem in lieu of subsistence at rates authorized by sections 5702 and 5703 of such title for persons in Government service employed intermittently.

#### SEC. 614. DELEGATION AND ASSIGNMENT.

Except where otherwise expressly prohibited by law or otherwise provided by this title, the Director of the Federal Emergency Management Agency may delegate any of the functions transferred to the Director of the Federal Emergency Management Agency by this title and any function transferred or granted to such Director after the effective date of this title to such officers and employees of the Federal Emergency Management Agency as the Director may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate. No delegation of functions by the Director of the Federal Emergency Management Agency under this section or under any other provision of this title shall relieve such Director of responsibility for the administration of such functions.

#### SEC. 615. REORGANIZATION.

The Director of the Federal Emergency Management Agency is authorized to allocate or reallocate any function transferred under section 612 among the officers of the Federal Emergency Management Agency, and to establish, consolidate, alter, or discontinue such organizational entities in the Federal Emergency Management Agency as may be necessary or appropriate.

#### SEC. 616. RULES.

The Director of the Federal Emergency Management Agency is authorized to prescribe, in accordance with the provisions of chapters 5 and 6 of title 5, United States Code, such rules and regulations as the Director determines necessary or appropriate to administer and manage the functions of

the Federal Emergency Management Agency.

#### SEC. 617. TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.

Except as otherwise provided in this title, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this title, subject to section 1531 of title 31, United States Code, shall be transferred to the Federal Emergency Management Agency. Unexpended funds transferred pursuant to this section shall be used only for the purposes for which the funds were originally authorized and appropriated.

#### SEC. 618. INCIDENTAL TRANSFERS.

The Director of the Office of Management and Budget, at such time or times as the Director shall provide, is authorized to make such determinations as may be necessary with regard to the functions transferred by this title, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of this title. The Director of the Office of Management and Budget shall provide for the termination of the affairs of all entities terminated by this title and for such further measures and dispositions as may be necessary to effectuate the purposes of this title.

#### SEC. 619. EFFECT ON PERSONNEL.

(a) **IN GENERAL.**—Except as otherwise provided by this title, the transfer pursuant to this title of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer of such employee under this title.

(b) **EXECUTIVE SCHEDULE POSITIONS.**—Except as otherwise provided in this title, any person who, on the day preceding the effective date of this title, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Federal Emergency Management Agency to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position, for the duration of the service of such person in such new position.

#### SEC. 620. SAVINGS PROVISIONS.

(a) **CONTINUING EFFECT OF LEGAL DOCUMENTS.**—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this title, and

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

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance

with law by the President, the Director of the Federal Emergency Management Agency or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) **PROCEEDINGS NOT AFFECTED.**—The provisions of this title shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the Federal Emergency Management Agency at the time this title takes effect, with respect to functions transferred by this title but such proceedings and applications shall continue. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this title had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this title had not been enacted.

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

(d) **NONABATEMENT OF ACTIONS.**—No suit, action, or other proceeding commenced by or against the Federal Emergency Management Agency, or by or against any individual in the official capacity of such individual as an officer of the Federal Emergency Management Agency, shall abate by reason of the enactment of this title.

(e) **ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.**—Any administrative action relating to the preparation or promulgation of a regulation by the Federal Emergency Management Agency relating to a function transferred under this title may be continued by the Federal Emergency Management Agency with the same effect as if this title had not been enacted.

#### SEC. 621. SEPARABILITY.

If a provision of this title or its application to any person or circumstance is held invalid, neither the remainder of this title nor the application of the provision to other persons or circumstances shall be affected.

#### SEC. 622. TRANSITION.

The Director of the Federal Emergency Management Agency is authorized to utilize—

(1) the services of such officers, employees, and other personnel of the Federal Emergency Management Agency with respect to functions transferred by this title; and

(2) funds appropriated to such functions for such period of time as may reasonably be needed to facilitate the orderly implementation of this title.

#### SEC. 623. REFERENCES.

Any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to a department, agency, or office from which a function is transferred by this title—

(1) to the head of such department, agency, or office is deemed to refer to the head of the department, agency, or office to which such function is transferred; or

(2) to such department, agency, or office is deemed to refer to the department, agency, or office to which such function is transferred.

**SEC. 624. ADDITIONAL CONFORMING AMENDMENTS.**

(a) RECOMMENDED LEGISLATION.—After consultation with the appropriate committees of the Congress and the Director of the Office of Management and Budget, the Director of the Federal Emergency Management Agency shall prepare and submit to Congress recommended legislation containing technical and conforming amendments to reflect the changes made by this title.

(b) SUBMISSION TO CONGRESS.—Not later than 6 months after the effective date of this title, the Director of the Federal Emergency Management Agency shall submit the recommended legislation referred to under subsection (a).

**SA 4565.** Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill H.R. 5441, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

On page 104, line 20, after “2007:” insert the following: “Provided further, That not less than \$2,000,000 of unobligated balances under this heading shall be available for the construction of radiological laboratories at Pacific Northwest National Laboratory:”.

**SA 4566.** Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill H.R. 5441, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

On page 66, line 5, strike “\$166,456,000” and insert “\$163,000,000”.

On page 83, line 9, after “facilities;” insert the following: “of which \$3,456,000 shall be available until September 30, 2009, to acquire 33-foot Special Purpose Craft—Law Enforcement (‘SPC-LE’) vessels:”.

**SA 4567.** Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill H.R. 5441, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

On page 83, line 9, after “facilities;” insert the following: “of which \$3,631,000 shall be available until September 30, 2009, to acquire 33-foot Special Purpose Craft—Law Enforcement (‘SPC-LE’) vessels:”.

On page 83, line 9, strike “\$993,631,000” and insert “\$990,000,000”.

**SA 4568.** Mr. DEMINT (for himself and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill H.R. 5441, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**TITLE —NATIONAL ALERT SYSTEM****SEC. 100. TABLE OF CONTENTS.**

The table of contents for this title is as follows:

- Sec. 100. Table of contents.
- Sec. 101. Short title.

- Sec. 102. National Alert System.
- Sec. 103. Implementation and use.
- Sec. 104. National Alert Office
- Sec. 105. National Alert System Working Group.
- Sec. 106. Research and development.
- Sec. 107. Grant program for remote community alert systems.
- Sec. 108. Public familiarization, outreach, and response instructions.
- Sec. 109. Essential services disaster assistance.
- Sec. 110. Definitions.
- Sec. 111. Existing interagency activities.
- Sec. 112. Funding.

**SEC. 101. SHORT TITLE.**

This title may be cited as the “Warning, Alert, and Response Network Act”

**SEC. 102. NATIONAL ALERT SYSTEM.**

(a) ESTABLISHMENT.—There is established a National Alert System to provide a public communications system capable of alerting the public on a national, regional, or local basis to emergency situations requiring a public response.

(b) FUNCTIONS.—The National Alert System—

(1) will enable any Federal, State, tribal, or local government official with credentials issued by the National Alert Office under section 103 to alert the public to any imminent threat that presents a significant risk of injury or death to the public;

(2) will be coordinated with and supplement existing Federal, State, tribal, and local emergency warning and alert systems;

(3) will be flexible enough in its application to permit narrowly targeted alerts in circumstances in which only a small geographic area is exposed or potentially exposed to the threat; and

(4) will transmit alerts across the greatest possible variety of communications technologies, including digital and analog broadcasts, cable and satellite television, satellite and terrestrial radio, wireless communications, wireline communications, and the Internet to reach the largest portion of the affected population.

(c) CAPABILITIES.—The National Alert System—

(1) shall incorporate multiple communications technologies and be designed to adapt to, and incorporate, future technologies for communicating directly with the public;

(2) shall include mechanisms and technologies to ensure that members of the public with disabilities and older individuals (as defined in section 102(35) of the Older Americans Act of 1965 (42 U.S.C. 3002(35))) are able to receive alerts and information provided through the National Alert System;

(3) may not interfere with existing alert, warning, priority access, or emergency communications systems employed by Federal, State, tribal, or local emergency response personnel and shall incorporate existing emergency alert technologies, including the NOAA All-Hazards Radio System, digital and analog broadcast, cable, land satellite television and satellite and terrestrial radio;

(4) shall not be based upon any single technology or platform, but shall be designed to provide alerts to the largest portion of the affected population feasible and improve the ability of remote areas to receive alerts;

(5) shall incorporate technologies to alert effectively underserved communities (as determined by the Commission under section 107(a) of this title);

(6) when technologically feasible shall be capable of providing information in languages other than, and in addition to, English where necessary or appropriate; and

(7) shall be designed to promote local and regional public and private partnerships to enhance community preparedness and response.

(d) RECEPTION OF ALERTS.—The National Alert System shall—

(1) utilize multiple technologies for providing alerts to the public, including technologies that do not require members of the public to activate a particular device or use a particular technology to receive an alert provided via the National Alert System; and

(2) provide redundant alert mechanisms where practicable so as to reach the greatest number of people regardless of whether they have access to, or utilize, any specific medium of communication or any particular device.

(e) EXISTING FEDERAL WARNING SYSTEM COORDINATION.—The director shall work with the Federal Communications Commission and other relevant Federal agencies to ensure that the National Alert System—

(1) complements or incorporates, rather than duplicates, existing Federal alert systems; and

(2) obtains the maximum benefit possible from the utilization of existing research and development, technologies, and processes developed for or utilized by existing Federal alert systems.

(f) EMERGENCY ALERT SYSTEM.—Within 1 year after the date of enactment of this Act, the Federal Communications Commission shall—

(1) complete its proceeding Review of the Emergency Alert System, EB Docket No. 04-296;

(2) ensure the President, Secretary of Homeland Security, and State Governors have access to the emergency alert system; and

(3) ensure that the Emergency Alert System can transmit in languages other than English.

**SEC. 103. IMPLEMENTATION AND USE.**

(a) AUTHORITY TO ACCESS SYSTEM.—

(1) IN GENERAL.—Within 180 days after the date of enactment of this Act, the National Alert Office shall establish a process for issuing credentials to Federal, State, tribal, or local government officials with responsibility for issuing safety warnings to the public that will enable them to access the National Alert System. The Office shall approve or disapprove a request for credentials within 60 days of request by the Federal department or agency, the governor of the State or the elected leader of a federally recognized Indian tribe.

(2) REQUESTS FOR CREDENTIALS.—Requests for credentials from Federal, State, tribal, and local government agencies shall be submitted to the Office by the head of the Federal department or agency, or the governor of the State or the elected leader of a Federally recognized Indian tribe, concerned, for review and approval.

(3) SCOPE AND LIMITATIONS OF CREDENTIALS.—The Office shall—

(A) establish eligibility criteria for issuing, renewing, and revoking access credentials;

(B) limit credentials to appropriate geographic areas or political jurisdictions; and

(C) ensure that the credentials permit use of the National Alert System only for alerts that are consistent with the jurisdiction, authority, and basis for eligibility of the individual to whom the credentials are issued to use the National Alert System.

(4) PERIODIC TRAINING.—The Office shall—

(A) establish a periodic training program for Federal, State, tribal, or local government officials with credentials to use the National Alert System; and

(B) require such officials to undergo periodic training under the program as a prerequisite for retaining their credentials to use the system.

(b) ALLOWABLE ALERTS.—

(1) IN GENERAL.—Any alert transmitted via the National Alert System, other than an



alert described in paragraph (3), shall meet 1 or more of the following requirements:

(A) An alert shall notify the public of a hazardous situation that poses an imminent threat to the public health or safety.

(B) An alert shall provide appropriate instructions for actions to be taken by individuals affected or potentially affected by such a situation.

(C) An alert shall advise individuals of public addresses by Federal, State, tribal, or local officials when related to a significant threat to public safety and transmit such addresses when practicable and technically feasible.

(D) An alert shall notify the public of when the hazardous situation has ended or has been brought under control.

(2) **EVENT ELIGIBILITY REGULATIONS.**—The director of the National Alert Office, in consultation with the Working Group, shall by regulation specify—

(A) the classes of events or situations for which the National Alert System may be used to alert the public; and

(B) the content of the types of alerts that may be transmitted by or through use of the National Alert System, which may include—

(i) notifications to the public of a hazardous situation that poses an imminent threat to the public health or safety accompanied by appropriate instructions for actions to be taken by individuals affected or potentially affected by such a situation; and

(ii) when technologically feasible public addresses by Federal, State, tribal, or local officials related to a significant threat to public safety.

(3) **OPT-IN PROCEDURES FOR OPTIONAL ALERTS.**—The director of the Office may establish a procedure under which licensees who elect to participate in the National Alert System as described in paragraph (d), may transmit localized traffic, weather, community, or other non-emergency alerts via the National Alert System in a manner that enables them to be received only by individuals who take appropriate action to receive such alerts.

(c) **ACCESS POINTS.**—The National Alert System shall provide—

(1) secure, widely dispersed multiple access points to Federal, State, or local government officials with credentials that will enable them to initiate alerts for transmission to the public via the National Alert System; and

(2) system redundancies to ensure functionality in the event of partial system failures, power failures, or other interruptive events.

(d) **ELECTION TO CARRY SERVICE.**—

(1) **AMENDMENT OF LICENSE.**—Within 60 days after the date on which the National Alert Office adopts relevant technical standards based on recommendations of the Working Group, the Federal Communications Commission shall initiate a proceeding and subsequently issue an order—

(A) to allow any licensee providing commercial mobile service (as defined in section 332(d)(1) of the Communications Act of 1934 (47 U.S.C. 332(d)(1))) to transmit National Alert System alerts to all subscribers to, or users of, such service; and

(B) to require any such licensee who elects under paragraph (2) not to participate in the transmission of National Alert System alerts, to provide clear and conspicuous notice at the point of sale of any devices with which its service is included, that it will not transmit National Alert System alerts via its service.

(2) **ELECTION TO CARRY SERVICE.**—

(A) **IN GENERAL.**—Within 30 days after the Commission issues its order under paragraph (1), each such licensee shall file an election with the Commission with respect to wheth-

er or not it intends to participate in the transmission of National Alert System alerts.

(B) **PARTICIPATION.**—If a licensee elects to participate in the transmission of National Alert System alerts, the licensee shall certify to the Commission that it will participate in a manner consistent with the standards and protocols implemented by the National Alert Office.

(C) **ADVERTISING.**—Nothing in this title shall be construed to prevent a licensee from advertising that it participates in the transmission of National Alert System alerts.

(D) **WITHDRAWAL FROM OR LATER ENTRY INTO SYSTEM.**—The Commission shall establish a procedure—

(i) for a participating licensee to withdraw from the National Alert System upon notification of its withdrawal to its existing subscribers;

(ii) for a licensee to enter the National Alert System at a date later than provided in subparagraph (A); and

(iii) under which a subscriber may terminate a subscription to service provided by a licensee that withdraws from the National Alert System without penalty or early termination fee.

(E) **CONSUMER CHOICE TECHNOLOGY.**—Any licensee electing to participate in the transmission of National Alert System alerts may offer subscribers the capability of preventing the subscriber's device from receiving alerts broadcast by the system other than an alert issued by the President.

(3) **EXPANSION OF CLASS OF LICENSEES PARTICIPATING.**—The Commission, in consultation with the National Alert Office, may expand the class of the licensees allowed to participate in the transmission of National Alert System alerts subject to such requirements as the Commission, in consultation with the National Alert Office, determines to be necessary or appropriate—

(A) to ensure the broadest feasible propagation of alerts transmitted by the National Alert System to the public; and

(B) to ensure that the functionality, integrity, and security of the National Alert System is not compromised.

(e) **DIGITAL TELEVISION TRANSMISSION TOWERS.**—

(1) **RETRANSMISSION CAPABILITY.**—Within 30 days after the date on which the National Alert Office adopts relevant technical standards based on recommendations of the Working Group, the Federal Communications Commission shall initiate a proceeding to require public broadcast television licensees and permittee to install necessary equipment and technologies on, or as part of, any broadcast television digital signal transmitter to enable the transmitter to serve as a backbone for the reception, relay, and retransmission of National Alert System alerts.

(2) **COMPENSATION.**—The National Alert Office established by section—104 shall compensate any such licensee or permittee for costs incurred in complying with the requirements imposed pursuant to paragraph (1).

(f) **FCC REGULATION OF COMPLIANCE.**—Except as provided in subsections (d) and (e), the Federal Communications Commission shall have no regulatory authority under this Act except to regulate compliance with this Act by licensees and permittees regulated by the Commission under the Communications Act of 1934 (47 U.S.C. 151 et seq.).

(g) **LIMITATION OF LIABILITY.**—Any person that participates in the transmission of National Alert System alerts and that meets its obligations under this title shall not be liable to any subscriber to, or user of, such person's service or equipment for—

(1) any act or omission related to or any harm resulting from the transmission of, or

failure to transmit, a National Alert System alert to such subscriber or user;

(2) for the release to a government agency or entity, public safety, fire service, law enforcement official, or emergency facility of subscriber information used in connection with delivering an alert; or

(3) the licensee's or provider's withdrawal from or election not to participate in the National Alert System.

(h) **TESTING.**—The director shall establish testing criteria and guidelines for licensees that elect to participate in the transmission of National Alert System alerts.

## **SEC. 104. NATIONAL ALERT OFFICE.**

(a) **ESTABLISHMENT.**—

(1) **IN GENERAL.**—The National Alert Office is established within the Department of Homeland Security.

(2) **DIRECTOR.**—The office shall be headed by a director with at least 5 years' operational experience in the management and issuance of warnings and alerts, hazardous event management, or disaster planning. The Director shall serve under and report to the Secretary of Homeland Security or his designee.

(3) **STAFF.**—The office shall have a staff with significant technical expertise in the communications industry and emergency public communications. The director may request the detailing with or without reimbursement, of staff from any appropriate Federal department or agency in order to ensure that the concerns of all such departments and agencies are incorporated into the daily operation of the National Alert System.

(b) **FUNCTIONS AND RESPONSIBILITIES.**—

(1) **IN GENERAL.**—The Office shall administer, operate, and manage the National Alert System.

(2) **IMPLEMENTATION OF WORKING GROUP RECOMMENDATIONS.**—The Office shall be responsible for implementing the recommendations of the Working Group established by section—105 regarding—

(A) the technical transmission of alerts;

(B) the incorporation of new technologies into the National Alert System;

(C) the technical capabilities of the National Alert System; and

(D) any other matters that fall within the duties of the Working Group.

(3) **TRANSMISSION OF ALERTS.**—In administering the National Alert System, the director of the National Alert Office shall ensure that—

(A) the National Alert System is available to, and enables, only Federal, State, tribal, or local government officials with credentials issued by the National Alert Office under section—103 to access and utilize the National Alert System;

(B) the National Alert System is capable of providing geographically targeted alerts where such alerts are appropriate;

(C) the legitimacy and authenticity of any proffered alert is verified before it is transmitted;

(D) each proffered alert complies with formats, protocols, and other requirements established by the Office to ensure the efficacy and usefulness of alerts transmitted via the National Alert System;

(E) the security and integrity of the National Alert System alert from the point of origination to delivery is maintained; and

(F) the security and integrity of the National Alert System is maintained and protected.

(c) **REPORTS.**—

(1) **ANNUAL REPORTS.**—The director shall submit an annual report to the Senate Committee on Commerce, Science, and Transportation, the Senate Committee on Homeland Security and Governmental Affairs, the

House of Representatives Committee on Homeland Security, the House of Representatives Committee on Energy and Commerce, the House of Representatives Committee on Science, and the House of Representatives Committee on Transportation and Infrastructure on the status of, and plans for, the National Alert System. In the first annual report, the director shall report on—

(A) the progress made toward operational activation of the alerting capabilities of the National Alert System; and

(B) the anticipated date on which the National Alert System will be available for utilization by Federal, State, and local officials.

(2) 5-YEAR PLAN.—Within 1 year after the date of enactment of this Act and every 5 years thereafter, the director shall publish a 5-year plan that outlines future capabilities and communications platforms for the National Alert System. The plan shall serve as the long-term planning document for the Office.

(d) GAO AUDITS.—

(1) IN GENERAL.—The Comptroller General shall audit the National Alert Office every 3 years after the date of enactment of this Act and periodically thereafter and transmit the findings thereof to the Senate Committee on Commerce, Science, and Transportation, the Senate Committee on Homeland Security and Governmental Affairs, the House of Representatives Committee on Homeland Security, the House of Representatives Committee on Energy and Commerce, the House of Representatives Committee on Science, the House of Representatives Committee on Transportation and Infrastructure.

(2) RESPONSE REPORT.—If, as a result of the audit, the Comptroller General expresses concern about any matter addressed by the audit, the director of the National Alert Office shall transmit a report to the Senate Committee on Commerce, Science, and Transportation, the Senate Committee on Homeland Security and Governmental Affairs, the House of Representatives Committee on Homeland Security, the House of Representatives Committee on Energy and Commerce, the House of Representatives Committee on Science, and the House of Representatives Committee on Transportation and Infrastructure describing what action, if any, the director is taking to respond to any such concern.

#### SEC. 105. NATIONAL ALERT SYSTEM WORKING GROUP.

(a) ESTABLISHMENT.—Not later than 60 days after the date of enactment of this Act, the director of the National Alert Office shall establish a working group, to be known as the National Alert System Working Group.

(b) MEMBERSHIP.—

(1) APPOINTMENT; CHAIR.—The director shall appoint the members of the Working Group as soon as practicable after the date of enactment of this Act and shall serve as its chair. In appointing members of the Working Group, the director shall ensure that the number of members appointed under paragraph (5) provides appropriate and adequate representation for all stakeholders and interested and affected parties.

(2) FEDERAL AGENCY REPRESENTATIVES.—Appropriate personnel from the National Institute of Standards and Technology, the National Oceanic and Atmospheric Administration, the Federal Communications Commission, the Federal Emergency Management Agency, the Nuclear Regulatory Commission, the Department of Justice, the National Communications System, the Department of Homeland Security's Preparedness Directorate, the United States Postal Service, and other appropriate Federal agencies shall serve as members of the Working Group.

(3) STATE AND LOCAL GOVERNMENT REPRESENTATIVES.—The director shall appoint representatives of State and local governments and representatives of emergency services personnel, selected from among individuals nominated by national organizations representing such governments and personnel, to serve as members of the Working Group.

(4) TRIBAL GOVERNMENTS.—The director shall appoint representatives from Federally recognized Indian tribes and National Indian organizations.

(5) SUBJECT MATTER EXPERTS.—The director shall appoint individuals who have the requisite technical knowledge and expertise to serve on the Working Group in the fulfillment of its duties, including representatives of—

(A) communications service providers;

(B) vendors, developers, and manufacturers of systems, facilities; equipment, and capabilities for the provision of communications services;

(C) third-party service bureaus;

(D) technical experts from the broadcasting industry;

(E) the national organization representing the licensees and permittees of noncommercial broadcast television stations;

(F) national organizations representing individuals with special needs; and

(G) other individuals with technical expertise that would enhance the National Alert System.

(c) DUTIES OF THE WORKING GROUP.—

(1) DEVELOPMENT OF SYSTEM-CRITICAL RECOMMENDATIONS.—Within 1 year after the date of enactment of this Act, the Working Group shall develop and transmit to the National Alert Office recommendations for—

(A) protocols, including formats, source or originator identification, threat severity, hazard description, and response requirements or recommendations, for alerts to be transmitted via the National Alert System that ensures that alerts are capable of being utilized across the broadest variety of communication technologies, at National, State, and local levels;

(B) procedures for verifying, initiating, modifying, and canceling alerts transmitted via the National Alert System;

(C) guidelines for the technical capabilities of the National Alert System;

(D) guidelines for technical capability that provides for the priority transmission of National Alert System alerts;

(E) guidelines for other capabilities of the National Alert System as specified in this title;

(F) standards for equipment and technologies used by the National Alert System;

(G) guidelines for the transmission of National System Alerts in languages in addition to English, to the extent practicable; and

(H) guidelines for incorporating the National Alert System into comprehensive emergency planning standards for public alert and notification and emergency public communications.

(2) INTEGRATION OF EMERGENCY AND NATIONAL ALERT SYSTEMS.—The Working Group shall work with the operators of nuclear power plants and other critical infrastructure facilities to integrate emergency alert systems for those facilities with the National Alert System.

(d) MEETINGS.—

(1) INITIAL MEETING.—The initial meeting of the Working Group shall take place not later than 60 days after the date of the enactment of this Act.

(2) OTHER MEETINGS.—After the initial meeting, the Working Group shall meet at the call of the chair.

(3) NOTICE; OPEN MEETINGS.—Any meetings held by the Working Group shall be duly no-

ticed at least 14 days in advance and shall be open to the public.

(e) RESOURCES.—

(1) FEDERAL AGENCIES.—The Working Group shall have reasonable access to—

(A) materials, resources, data, and other information from the National Institute of Standards and Technology, the Department of Commerce and its agencies, the Department of Homeland Security and its bureaus, and the Federal Communications Commission; and

(B) the facilities of any such agency for purposes of conducting meetings.

(2) GRANTS AND GIFTS.—The Working Group may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Working Group. Gifts or grants not used at the expiration of the Working Group shall be returned to the donor or grantor.

(f) RULES.—

(1) QUORUM.—One-third of the members of the Working Group shall constitute a quorum for conducting business of the Working Group.

(2) SUBCOMMITTEES.—To assist the Working Group in carrying out its functions, the chair may establish appropriate subcommittees composed of members of the Working Group and other subject matter experts as deemed necessary.

(3) ADDITIONAL RULES.—The Working Group may adopt other rules as needed.

(g) FEDERAL ADVISORY COMMITTEE ACT.—Neither the Federal Advisory Committee Act (5 U.S.C. App.) nor any rule, order, or regulation promulgated under that Act shall apply to the Working Group.

#### SEC. 106. RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—The Undersecretary of Homeland Security for Science and Technology and the director jointly shall establish an extramural research and development program based on the recommendations of the Working Group to support the development of technology that will enable all existing and future providers of communications services and all existing and future communications devices to be utilized effectively with the National Alert System.

(b) FUNCTIONS.—IN CARRYING OUT SUBSECTION (A) THE UNDERSECRETARY FOR SCIENCE AND TECHNOLOGY AND THE DIRECTOR SHALL—

(1) fund research and development which may include academia, the private sector, and government laboratories; and

(2) ensure that the program addresses, at a minimum—

(A) developing innovative technologies that will transmit geographically targeted emergency messages to the public;

(B) enhancing participation in the national alert system;

(C) understanding and improving public response to warnings; and

(D) enhancing the ability of local communities to integrate the National Alert System operations management.

(c) USE OF EXISTING PROGRAMS AND RESOURCES.—In developing the program, the Undersecretary for Science and Technology shall utilize existing expertise of the Department of Commerce, including the National Institute of Standards and Technology.

#### SEC. 107. GRANT PROGRAM FOR REMOTE COMMUNITY ALERT SYSTEMS.

(a) GRANT PROGRAM.—The Undersecretary of Commerce for Oceans and Atmosphere shall establish a program under which grants may be made to provide for the installation of technologies in remote communities effectively unserved by commercial mobile radio service (as determined by the Federal Communications Commission within 180 days

after the date of enactment of this Act) for the purpose of enabling residents of those communities to receive National Alert System alerts.

(b) APPLICATIONS AND CONDITIONS.—In conducting the program, the Undersecretary—

(1) shall establish a notification and application procedure; and

(2) may establish such conditions, and require such assurances, as may be appropriate to ensure the efficiency and integrity of the grant program.

(c) SUNSET.—The Undersecretary may not make grants under subsection (a) more than 5 years after the date of enactment of this Act.

**SEC. 108. PUBLIC FAMILIARIZATION, OUTREACH, AND RESPONSE INSTRUCTIONS.**

The director of the National Office, in consultation with the Working Group, shall conduct a program of public outreach to ensure that the public is aware of the National Alert System and understands its capabilities and uses for emergency preparedness and response. The program shall incorporate multiple communications technologies and methods, including inserts in packaging for wireless devices, Internet websites, and the use broadcast radio and television Non-Commercial Sustaining Announcement Programs.

**SEC. 109. ESSENTIAL SERVICES DISASTER ASSISTANCE.**

Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170 et seq.) is amended by adding at the end the following:

**“SEC. 425. ESSENTIAL SERVICE PROVIDERS.**

“(a) DEFINITION.—In this section, the term ‘essential service provider’ means an entity that—

“(1) provides—  
“(A) telecommunications service;  
“(B) electrical power;  
“(C) natural gas;  
“(D) water and sewer services; or  
“(E) any other essential service, as determined by the President;

“(2) is—  
“(A) a municipal entity;  
“(B) a nonprofit entity; or  
“(C) a private, for-profit entity; and  
“(3) is contributing to efforts to respond to an emergency or major disaster.

“(b) AUTHORIZATION.—In an emergency or major disaster, the President may use Federal equipment, supplies, facilities, personnel, and other non-monetary resources to assist an essential service provider, in exchange for reasonable compensation.

“(c) COMPENSATION.—  
“(1) IN GENERAL.—The President shall, by regulation, establish a mechanism to set reasonable compensation to the Federal Government for the provision of assistance under subsection (b).

“(2) CRITERIA.—The mechanism established under paragraph (1)—

“(A) shall reflect the cost to the government (or if this is not readily obtainable, the full market value under the applicable circumstances) for assistance provided under subsection (b) in setting compensation;

“(B) shall have, to the maximum degree feasible, streamlined procedures for determining compensation; and

“(C) may, at the President’s discretion, be based on a good faith estimate of cost to the government rather than an actual accounting of costs.

“(3) PERIODIC REVIEW.—The President shall periodically review, and if necessary revise, the regulations established pursuant to paragraphs (1) and (2) to ensure that those regulations result in full compensation to the government for transferred resources. Such

reviews shall occur no less frequently than once every 2 years, and the results of such reviews shall be reported to the House Transportation and Infrastructure Committee and the Senate Homeland Security and Governmental Affairs Committee.”.

**SEC. 110. DEFINITIONS.**

In this title:

(1) DIRECTOR.—The term “director” means the director of the National Alert Office.

(2) OFFICE.—The term “Office” means the National Alert Office established by section—104.

(3) NATIONAL ALERT SYSTEM.—The term “National Alert System” means the National Alert System established by section—102.

(4) NON-COMMERCIAL SUSTAINING ANNOUNCEMENT PROGRAM.—The term “Non-Commercial Sustaining Announcement Program” means a radio and television campaign conducted for the benefit of a nonprofit organization or government agency using unsold commercial air time donated by participating broadcast stations for use in such campaigns, and for which the campaign’s sponsoring organization or agency funds the cost of underwriting programs that serve the public convenience, interest, and necessity, as described in section 307 of the Communications Act of 1934 (47 U.S.C. 307).

(5) WORKING GROUP.—The term “Working Group” means the National Alert System Working Group on the established under section—105.

**SEC. 111. EXISTING INTERAGENCY ACTIVITIES.**

Nothing in this title shall be construed to require the termination of existing interagency programs or activities, or cooperative or consultative arrangements, related to the provision of notice or information to the public about emergency situations that may require a public response.

**SEC. 112. FUNDING.**

Funding for this title shall be provided from the Digital Transition and Public Safety Fund in accordance with section 3010 of the Digital Television Transition and Public Safety Act of 2005 (47 U.S.C. 309 note).

**SA 4569.** Mr. FEINGOLD (for himself and Mr. SUNUNU) submitted an amendment intended to be proposed by him to the bill H.R. 5441, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

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.

**SA 4570.** Mr. LOTT submitted an amendment intended to be proposed by him to the bill H.R. 5441, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

On page 99, line 4, strike “Act.” and insert the following: “ Act; *Provided further*, That the Department of Homeland Security Inspector General shall investigate whether, and to what extent, in adjusting and settling claims resulting from Hurricane Katrina, insurers making flood insurance coverage available under the Write-Your-Own program pursuant to section 1345 of the National Flood Insurance Act of 1968 (42 U.S.C. 4081) and subpart C of part 62 of title 44, Code of Federal Regulations, improperly attributed damages from such hurricane to flooding

covered under the insurance coverage provided under the national flood insurance program rather than to windstorms covered under coverage provided by such insurers or by windstorm insurance pools in which such insurers participated; *Provided further*, That the Department of Homeland Security Inspector General may request the assistance of the Attorney General and the Department of Justice in conducting such investigation and may reimburse the costs of the Attorney General and the Department of Justice in providing such assistance from such funds; *Provided further*, That the Department of Homeland Security Inspector General shall submit a report to Congress not later than April 1, 2007, setting forth the conclusions of such investigation."

**SA 4571.** Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 5441, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

On page 111, strike lines 6 through 15.

**SA 4572.** Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 5441, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 540. (a) Not later than 60 days after the initiation of any contract relating to the Secure Border Initiative that is valued at more than \$20,000,000, and upon the conclusion of the performance of such contract, the Inspector General of the Department of Homeland Security shall review each action relating to such contract to determine whether such action fully complies with applicable cost requirements, performance objectives, program milestones, inclusion of small, minority-owned, and women-owned businesses, and time lines.

(b) If a contract review under subsection (a) uncovers information regarding improper conduct or wrongdoing, the Inspector General shall, as expeditiously as practicable, submit such information to the Secretary of Homeland Security, or to another appropriate official of the Department of Homeland Security, who shall determine if the contractor should be suspended from further participation in the Secure Border Initiative.

(c) Upon the completion of each review under subsection (a), the Inspector General shall submit a report to the Secretary that contains the findings of the review, including findings regarding—

- (1) cost overruns;
- (2) significant delays in contract execution;
- (3) lack of rigorous departmental contract management;
- (4) insufficient departmental financial oversight;
- (5) contract bundling that limits the ability of small businesses to compete; or
- (6) other high risk business practices.

(d) Not later than 30 days after the receipt of each report submitted under subsection (c), the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that describes—

(1) the findings of the report received from the Inspector General; and

(2) the steps the Secretary has taken, or plans to take, to address the problems identified in the report.

(e) Not later than 60 days after the initiation of each contract action with a company whose headquarters is outside of the United States, the Secretary shall submit a report regarding the Secure Border Initiative to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.

**SA 4573.** Mr. OBAMA submitted an amendment intended to be proposed by him to the bill H.R. 5441, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

On page 98, line 6, before the period insert the following: "*Provided further*, That the Secretary of Homeland Security, in consultation with the Secretary of Health and Human Services and the Attorney General of the United States, shall conduct an assessment of the models used by the Louisiana family assistance call center and the National Center for Missing and Exploited Children in assisting individuals displaced by Hurricane Katrina of 2005 in locating members of their family to determine how these models may be modified to assist individuals displaced in a major disaster (as that term is defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122) in locating members of their family: *Provided further*, That the Secretary of Homeland Security shall submit to the chairman and ranking member of the Committee on Homeland Security and Governmental Affairs, the Committee on Health, Education, Labor, and Pensions, and the Committee on the Judiciary of the Senate and the chairman and ranking member of the Committee on Homeland Security, the Committee on Energy and Commerce, and the Committee on the Judiciary of the House of Representatives regarding the assessment conducted under the previous proviso: *Provided further*, That not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Secretary of Health and Human Services and the Attorney General of the United States, shall issue regulations to implement the findings of such assessment, to the maximum extent practicable".

**SA 4574.** Mr. COLEMAN (for himself and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill H.R. 5441, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

#### SEC. \_\_. PILOT INTEGRATED SCANNING SYSTEM.

(a) DESIGNATIONS.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security (referred to in this section as the "Secretary") shall designate 3 foreign seaports through which containers pass or are transshipped to the United States to pilot an integrated scanning system that couples nonintrusive imaging equipment and radiation detection equipment, which may be provided by the Megaports Initiative of the Department of

Energy. In making designations under this subsection, the Secretary shall consider 3 distinct ports with unique features and differing levels of trade volume.

(2) COLLABORATION AND COOPERATION.—The Secretary shall collaborate with the Secretary of Energy and cooperate with the private sector and host foreign government to implement the pilot program under this subsection.

(b) IMPLEMENTATION.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall achieve a full-scale implementation of the pilot integrated screening system, which shall—

(1) scan all containers destined for the United States that transit through the port;

(2) electronically transmit the images and information to the container security initiative personnel in the host country and the National Targeting Center for evaluation and analysis;

(3) resolve every radiation alarm according to established Department procedures;

(4) utilize the information collected to enhance the Automated Targeting System or other relevant programs; and

(5) store the information for later retrieval and analysis.

(c) REPORT.—Not later than 120 days after achieving full-scale implementation under subsection (b), the Secretary, in consultation with the Secretary of Energy and the Secretary of State, shall submit a report, to the appropriate congressional committees, that includes—

(1) an evaluation of the lessons derived from the pilot program implemented under this section;

(2) an analysis of the efficacy of the Automated Targeted System or other relevant programs in utilizing the images captured to examine high-risk containers;

(3) a valuation of software that is capable of automatically identifying potential anomalies in scanned containers; and

(4) a plan and schedule to expand the integrated scanning system developed under this section to other container security initiative ports.

(d) IMPLEMENTATION.—As soon as practicable and possible after the date of enactment of this Act, an integrated scanning system shall be implemented to scan all containers entering the United States prior to arrival in the United States.

**SA 4575.** Mr. SANTORUM (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to the bill H.R. 5441, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

On page 70, line 3, strike "\$5,285,874,000; of which" and insert "\$5,459,135,000; of which \$459,863,000 shall be for 1,500 additional Border Patrol Agents and the necessary operational and mission support positions, information technology, relocation costs, and training for those agents; of which".

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

"SEC. 540 (a) Section 255 of the National Housing Act (12 U.S.C. 1715z-20) is amended—

(1) in subsection (g)—

(A) by striking the first sentence; and

(B) by striking 'established under section 203(b)(2)' and all that follows through 'located' and inserting 'limitation established under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a 1-family residence'; and

(2) in subsection (i)(1)(C), by striking 'limitations' and inserting 'limitation'.

(b) The Secretary of Housing and Urban Development shall by notice establish any additional requirements that may be necessary to immediately carry out the provisions of this section. The notice shall take effect upon issuance."

**SA 4576.** Mrs. CLINTON (for herself, Mr. SCHUMER, Ms. MILKULSKI, Mr. MENDENDEZ, Ms. CANTWELL, Mr. KENNEDY, Mr. KERRY, Mr. LIEBERMAN, Mr. REED, and Mr. LAUTENBERG) submitted an amendment intended to be proposed by her to the bill H.R. 5441, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

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".

**SA 4577.** Mr. CORNYN proposed an amendment to amendment SA 4566 submitted by Mrs. MURRAY and intended to be proposed to the bill H.R. 5441, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes; as follows:

At the end of the amendment, add the following:

#### **SEC. 541. IMMIGRATION INJUNCTION REFORM.**

(a) **SHORT TITLE.**—This section may be cited as the "Fairness in Immigration Litigation Act of 2006".

(b) **APPROPRIATE REMEDIES FOR IMMIGRATION LEGISLATION.**—

(1) **REQUIREMENTS FOR AN ORDER GRANTING PROSPECTIVE RELIEF AGAINST THE GOVERNMENT.**—

(A) **IN GENERAL.**—If a court determines that prospective relief should be ordered against the Government in any civil action pertaining to the administration or enforcement of the immigration laws of the United States, the court shall—

(i) limit the relief to the minimum necessary to correct the violation of law;

(ii) adopt the least intrusive means to correct the violation of law;

(iii) minimize, to the greatest extent practicable, the adverse impact on national security, border security, immigration administration and enforcement, and public safety, and

(iv) provide for the expiration of the relief on a specific date, which is not later than the earliest date necessary for the Government to remedy the violation.

(B) **WRITTEN EXPLANATION.**—The requirements described in subparagraph (A) shall be discussed and explained in writing in the order granting prospective relief and must be sufficiently detailed to allow review by another court.

(C) **EXPIRATION OF PRELIMINARY INJUNCTIVE RELIEF.**—Preliminary injunctive relief shall automatically expire on the date that is 90 days after the date on which such relief is entered, unless the court—

(i) makes the findings required under subparagraph (A) for the entry of permanent prospective relief; and

(ii) makes the order final before expiration of such 90-day period.

(D) **REQUIREMENTS FOR ORDER DENYING MOTION.**—This paragraph shall apply to any order denying the Government's motion to vacate, modify, dissolve or otherwise terminate an order granting prospective relief in any civil action pertaining to the administration or enforcement of the immigration laws of the United States.

(2) **PROCEDURE FOR MOTION AFFECTING ORDER GRANTING PROSPECTIVE RELIEF AGAINST THE GOVERNMENT.**—

(A) **IN GENERAL.**—A court shall promptly rule on the Government's motion to vacate, modify, dissolve or otherwise terminate an order granting prospective relief in any civil action pertaining to the administration or enforcement of the immigration laws of the United States.

(B) **AUTOMATIC STAYS.**—

(i) **IN GENERAL.**—The Government's motion to vacate, modify, dissolve, or otherwise terminate an order granting prospective relief made in any civil action pertaining to the administration or enforcement of the immigration laws of the United States shall automatically, and without further order of the court, stay the order granting prospective relief on the date that is 15 days after the date on which such motion is filed unless the court previously has granted or denied the Government's motion.

(ii) **DURATION OF AUTOMATIC STAY.**—An automatic stay under clause (i) shall continue until the court enters an order granting or denying the Government's motion.

(iii) **POSTPONEMENT.**—The court, for good cause, may postpone an automatic stay under clause (i) for not longer than 15 days.

(iv) **ORDERS BLOCKING AUTOMATIC STAYS.**—Any order staying, suspending, delaying, or otherwise barring the effective date of the automatic stay described in clause (i), other than an order to postpone the effective date of the automatic stay for not longer than 15 days under clause (iii), shall be—

(I) treated as an order refusing to vacate, modify, dissolve or otherwise terminate an injunction; and

(II) immediately appealable under section 1292(a)(1) of title 28, United States Code.

(3) **SETTLEMENTS.**—

(A) **CONSENT DECREES.**—In any civil action pertaining to the administration or enforcement of the immigration laws of the United States, the court may not enter, approve, or continue a consent decree that does not comply with paragraph (1).

(B) **PRIVATE SETTLEMENT AGREEMENTS.**—Nothing in this subsection shall preclude parties from entering into a private settlement agreement that does not comply with paragraph (1) if the terms of that agreement are not subject to court enforcement other than reinstatement of the civil proceedings that the agreement settled.

(4) **EXPEDITED PROCEEDINGS.**—It shall be the duty of every court to advance on the docket and to expedite the disposition of any civil action or motion considered under this subsection.

(5) **DEFINITIONS.**—In this subsection:

(A) **CONSENT DECREE.**—The term "consent decree"—

(i) means any relief entered by the court that is based in whole or in part on the consent or acquiescence of the parties; and

(ii) does not include private settlements.

(B) **GOOD CAUSE.**—The term "good cause" does not include discovery or congestion of the court's calendar.

(C) **GOVERNMENT.**—The term "Government" means the United States, any Federal department or agency, or any Federal agent

or official acting within the scope of official duties.

(D) **PERMANENT RELIEF.**—The term "permanent relief" means relief issued in connection with a final decision of a court.

(E) **PRIVATE SETTLEMENT AGREEMENT.**—The term "private settlement agreement" means an agreement entered into among the parties that is not subject to judicial enforcement other than the reinstatement of the civil action that the agreement settled.

(F) **PROSPECTIVE RELIEF.**—The term "prospective relief" means temporary, preliminary, or permanent relief other than compensatory monetary damages.

(c) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—This section shall apply with respect to all orders granting prospective relief in any civil action pertaining to the administration or enforcement of the immigration laws of the United States, whether such relief was ordered before, on, or after the date of the enactment of this Act.

(2) **PENDING MOTIONS.**—Every motion to vacate, modify, dissolve or otherwise terminate an order granting prospective relief in any such action, which motion is pending on the date of the enactment of this Act, shall be treated as if it had been filed on such date of enactment.

(3) **AUTOMATIC STAY FOR PENDING MOTIONS.**—

(A) **IN GENERAL.**—An automatic stay with respect to the prospective relief that is the subject of a motion described in paragraph (2) shall take effect without further order of the court on the date which is 10 days after the date of the enactment of this Act if the motion—

(i) was pending for 45 days as of the date of the enactment of this Act; and

(ii) is still pending on the date which is 10 days after such date of enactment.

(B) **DURATION OF AUTOMATIC STAY.**—An automatic stay that takes effect under subparagraph (A) shall continue until the court enters an order granting or denying the Government's motion under subsection (b)(2). There shall be no further postponement of the automatic stay with respect to any such pending motion under subsection (b)(2)(B). Any order, staying, suspending, delaying or otherwise barring the effective date of this automatic stay with respect to pending motions described in paragraph (2) shall be an order blocking an automatic stay subject to immediate appeal under subsection (b)(2)(B)(iv).

**SA 4578.** Mr. WARNER (for himself, Mr. ALLEN, Mr. SARBANES, Ms. MIKULSKI, Mr. VOINOVICH, and Mr. AKAKA) submitted an amendment intended to be proposed by him to the bill H.R. 5441, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

On page 90, line 15, strike "of which \$8,000,000" and insert "of which no less than \$2,741,000 may be used for the Office of National Capital Region Coordination, and of which \$8,000,000".

**SA 4579.** Mr. GREGG proposed an amendment to the bill H.R. 5441, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes; as follows:

On page 118, strike line 7 through page 119, line 2 and insert in lieu thereof the following:

SEC. 524. Using funds made available in this Act:

(a) Within 60 days of enactment of this Act, the Secretary of the Department of Homeland Security shall revise DHS MD [Management Directive] 11056 to provide for the following:

(1) that when a lawful request is made to publicly release a document containing information designated as SSI, the document shall be reviewed in a timely manner to determine whether any information contained in the document meets the criteria for continued SSI protection under applicable law and regulation and shall further provide that all portions that no longer require SSI designation be released, subject to applicable law, including sections 552 and 552a of title 5, United States Code;

(2) that sensitive security information that is four years old shall be subject to release upon request unless:

(A) the Secretary or his designee makes a written determination that identifies a rational basis why the information must remain SSI;

(B) the information is covered by a current sensitive security information application guide approved by the Secretary or his designee in writing; or

(C) such information is otherwise exempt from disclosure under applicable law.

Any determination made by the secretary under clause (a)(2)(A) shall be provided to the party making a request to release such information and to the Committees on Appropriations of the Senate and House of Representatives as part of the annual reporting requirement pursuant to section 537 of the Department of Homeland Security Appropriations Act, 2006 (Public Law 109-90; 119 Stat. 2088);

(3) common and extensive examples of the individual categories of SSI information cited under 49 CFR 1520(b)(1) through (16) in order to minimize and standardize judgment by covered persons in the application of SSI marking; and

(b) Not later than 120 days after the date of enactment of this Act, the Secretary of Homeland Security shall report to the Committees on Appropriations of the Senate and the House of Representatives on the progress that the Department has made in implementing the remaining requirements of section 537 of the Department of Homeland Security Appropriations Act, 2006 (Public Law 109-90; 119 Stat. 2088), including information on the current procedures regarding access to sensitive security information (SSI) by civil litigants and the security risks and benefits of any proposed changes to these procedures.

**SA 4580.** Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 5441, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

On page 75, line 8 strike “\$3,740,357,000; of which” and insert “\$3,780,357,000; of which \$40 million shall be authorized for 1,150 additional detention beds spaces and the necessary operational and mission support positions, information technology, relocation costs, and training for those beds; of which”.

SEC. . At the appropriate place in the bill, insert:

Section 255 of the National Housing Act (12 U.S.C. 1715z-20) is amended by adding at the end the following new subsection:

“(n) **AUTHORITY TO INSURE HOME PURCHASE MORTGAGE**—

“(1) **IN GENERAL.**—Notwithstanding any other provision in this section, the Secretary

may insure, upon application by a mortgagee, a home equity conversion mortgage upon such terms and conditions as the Secretary may prescribe, when the primary purpose of the home equity conversion mortgage is to enable an elderly mortgagor to purchase a 1-to 4 family dwelling in which the mortgagor will occupy or occupies one of the units.

“(2) **LIMITATION ON PRINCIPAL OBLIGATION.**—A home equity conversion mortgage insured pursuant to paragraph (1) shall involve a principal obligation that does not exceed the dollar amount limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a residence of the applicable size.”.

#### NOTICE OF INTENT

Mr. DEMINT. Mr. President, I submit the following notice in writing: In accordance with rule V of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend paragraph 4 of rule XVI for the purpose of proposing to the bill H.R. 5441 amendment No. 4568.

(The amendment is printed in today's RECORD under “Text of Amendments”).

#### AUTHORITY FOR COMMITTEES TO MEET

##### COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. THUNE. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on July 11, 2006, at 10 a.m., to conduct a hearing on “Insurance Regulation Reform.”

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

##### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. THUNE. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, July 11, 2006, at 2:30 p.m. The purpose of this hearing is to receive testimony relating to implementation of the Energy Policy Act of 2005.

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

##### COMMITTEE ON FOREIGN RELATIONS

Mr. THUNE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, July 11, 2006, at 9 a.m., to hold a briefing on North Korea.

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

##### COMMITTEE ON FOREIGN RELATIONS

Mr. THUNE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, July 11, 2006, at 2 p.m. to hold a Subcommittee hearing on Somalia.

The PRESIDING OFFICER. Without objection, it is so ordered

##### COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. THUNE. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet on Tuesday, July 11, 2006, at 10 a.m. to consider the nominations of the Honorable Anna Blackburne-Rigsby to be Associate Judge, District of Columbia Court of Appeals; Phyllis D. Thompson to be Associate Judge, District of Columbia Court of Appeals; and Jennifer M. Anderson to be Associate Judge, Superior Court of the District of Columbia.

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

##### COMMITTEE ON THE JUDICIARY

Mr. THUNE. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary be authorized to meet to conduct a hearing on “Hamdan V. Rumsfeld: Establishing a Constitutional Process” on Tuesday, July 11, 2006, at 9:30 a.m. in Hart Senate Office Building Room 216. Witness list:

Panel I: Mr. Steve Bradbury, Acting Assistant Attorney General, Office of Legal Counsel, United States Department of Justice, Washington, DC.

Mr. Daniel Dell’Orto, Principal Deputy General Counsel, United States Department of Defense, Washington, DC.

Panel II: The Honorable Theodore Olsen, Former Solicitor General, Partner, Gibson, Dunn & Crutcher, Washington, DC.

Professor Harold Koh, Dean, Yale Law School, New Haven, CT.

Mr. Paul “Whit” Cobb, Former Deputy General Counsel, United States Department of Defense, Washington, DC.

Lt. Commander Charles Swift, Office of Military Commissions, Office of Chief Defense Counsel, United States Department of Defense, Washington, DC.

Professor Scott L. Silliman, Former Judge Advocate General, USAF, Center on Law, Ethics and National Security, Duke University School of Law, Durham, NC.

Mr. Daniel Collins, Former Associate Deputy Attorney General, Partner, Munger, Tolles & Olson, Los Angeles, CA.

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

##### COMMITTEE ON THE JUDICIARY

Mr. THUNE. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary be authorized to meet to conduct a hearing on “Judicial Nominations” on Tuesday, July 11, 2006, at 2:15 p.m. in Dirksen Senate Office Building Room 226.

##### Witness list

Panel I: Members of Congress.

Panel II: William James Haynes, II to be United States Circuit Judge for the Fourth Circuit.

Panel III: Frances Marie Tydingco-Gatewood to be United States District Judge for the District of Guam.

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



## SELECT COMMITTEE ON INTELLIGENCE

Mr. THUNE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on July 11, 2006, at 2:30 p.m. to hold a closed briefing.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

# COMMEMORATING THE 100TH ANNIVERSARY OF THE NATIONAL AUDUBON SOCIETY

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 448, S. Res. 301.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 301) commemorating the 100th anniversary of the National Audubon Society.

There being no objection, the Senate proceeded to consider the resolution, which had been reported from the Committee on Environment and Public Works without amendment and amendments to the preamble, as follows:

(The part intended to be stricken is shown in boldface brackets and the part intended to be inserted is shown in italic.)

## S. RES. 301

Whereas the welfare of the citizens of the United States is greatly enriched by the purposeful endeavors of individuals and organizations committed to the preservation and protection of our environment, and the enhancement of, and appreciation for, our natural surroundings;

Whereas the National Audubon Society, the Nation's largest bird conservation organization, is celebrating its Centennial year in 2005, having been incorporated on January 5, 1905, by dedicated women and men eager to save from extinction the Great Egret and other bird species killed for their feathers to support the fashion industry;

Whereas it is the intent of the Senate to recognize and pay tribute to the National Audubon Society upon the occasion of its 100th anniversary;

Whereas the founders of the National Audubon Society withstood violence and opposition to organize one of the longest-lived and most successful conservation groups in the United States, dedicated to the protection of birds, other wildlife, and their habitats through advocacy of environmental policy and education based on sound science;

Whereas the dedicated efforts of Audubon volunteers, members, and staff in support of landmark bird protection legislation have aided in the rescue efforts of the following species from the threat of extinction: Bald Eagles, Egrets, Ibis, Herons, Flamingos, Whooping Cranes, Peregrine Falcons, Brown Pelicans, Roseate Spoonbills, Atlantic Puffins, and Condors;

Whereas the National Audubon Society lent critical support to the protection of wildlife habitats through the passage of legislation, such as the Alaska National Interest Lands Conservation Act and the Act popularly known as the Everglades Restoration Act, the identification of 1,800 habitats critical to the survival of bird species through Audubon's Important Bird Areas Program, and the establishment of private bird sanctuaries;

Whereas the National Audubon Society played a critical role in the establishment of the Nation's first wildlife refuge, Florida's Pelican Island, in 1903, and the subsequent protection of Pelican Island and other refuge areas in the National Wildlife Refuge system; *and*

[Whereas birds are excellent indicators of environmental health, as impacted by such factors as pollution, climate change, toxins, and habitat loss, as well as our own long-term well being, and it is in our best interest to heed such indicators, which may ultimately affect human populations; *and*]

Whereas recognizing that the national network of community-based nature centers and chapters, scientific and educational programs, and advocacy of the National Audubon Society, engages millions of people of all ages and backgrounds in positive conservation experiences, and are integral to maintaining the health and beauty of the United States: Now, therefore, be it

*Resolved*, That the Senate—

(1) commemorates the 100th anniversary of the National Audubon Society;

(2) congratulates the National Audubon Society on this milestone; *and*

(3) encourages the National Audubon Society to continue its important work to ensure that the next 100 years of conservation are a success.

Mr. FRIST. Mr. President, I ask unanimous consent that the committee-reported amendments be agreed to; the resolution, as amended, be agreed to; the preamble, as amended, be agreed to, and the motion to reconsider be laid upon the table.

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

The committee amendments were agreed to.

The resolution, as amended, was agreed to.

The preamble, as amended, was agreed to.

The resolution, with its preamble, reads as follows:

## S. RES. 301

Whereas the welfare of the citizens of the United States is greatly enriched by the purposeful endeavors of individuals and organizations committed to the preservation and protection of our environment, and the enhancement of, and appreciation for, our natural surroundings;

Whereas the National Audubon Society, the Nation's largest bird conservation organization, is celebrating its Centennial year in 2005, having been incorporated on January 5, 1905, by dedicated women and men eager to save from extinction the Great Egret and other bird species killed for their feathers to support the fashion industry;

Whereas it is the intent of the Senate to recognize and pay tribute to the National Audubon Society upon the occasion of its 100th anniversary;

Whereas the founders of the National Audubon Society withstood violence and opposition to organize one of the longest-lived and most successful conservation groups in the United States, dedicated to the protec-

tion of birds, other wildlife, and their habitats through advocacy of environmental policy and education based on sound science;

Whereas the dedicated efforts of Audubon volunteers, members, and staff in support of landmark bird protection legislation have aided in the rescue efforts of the following species from the threat of extinction: Bald Eagles, Egrets, Ibis, Herons, Flamingos, Whooping Cranes, Peregrine Falcons, Brown Pelicans, Roseate Spoonbills, Atlantic Puffins, and Condors;

Whereas the National Audubon Society lent critical support to the protection of wildlife habitats through the passage of legislation, such as the Alaska National Interest Lands Conservation Act and the Act popularly known as the Everglades Restoration Act, the identification of 1,800 habitats critical to the survival of bird species through Audubon's Important Bird Areas Program, and the establishment of private bird sanctuaries;

Whereas the National Audubon Society played a critical role in the establishment of the Nation's first wildlife refuge, Florida's Pelican Island, in 1903, and the subsequent protection of Pelican Island and other refuge areas in the National Wildlife Refuge system; *and*

Whereas recognizing that the national network of community-based nature centers and chapters, scientific and educational programs, and advocacy of the National Audubon Society, engages millions of people of all ages and backgrounds in positive conservation experiences, and are integral to maintaining the health and beauty of the United States: Now, therefore, be it

*Resolved*, That the Senate—

(1) commemorates the 100th anniversary of the National Audubon Society;

(2) congratulates the National Audubon Society on this milestone; *and*

(3) encourages the National Audubon Society to continue its important work to ensure that the next 100 years of conservation are a success.

## THE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration en bloc to Calendar No. 471, S. 1509; Calendar No. 465, S. 2041; Calendar No. 497, S. 2430.

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

Mr. FRIST. Mr. President, I ask unanimous consent that the committee-reported amendment be agreed to, the bills as amended, if amended, be read the third time and passed, the motions to reconsider be laid upon the table, and that any statements relating to the bills be printed in the RECORD en bloc.

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

## CAPTIVE PRIMATE SAFETY ACT OF 2005

The bill (S. 1509) to amend the Lacey Act Amendments of 1981 to add non-human primates to the definition of prohibited wildlife species, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1509

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Captive Primate Safety Act of 2005".

**SEC. 2. ADDITION OF NON-HUMAN PRIMATES TO THE DEFINITION OF PROHIBITED WILDLIFE SPECIES.**

Section 2(g) of the Lacey Act Amendments of 1981 (16 U.S.C. 3371(g)) is amended by inserting "or any non-human primate" before the period at the end.

**ED FOUNTAIN PARK EXPANSION ACT**

The bill (S. 2041) to provide for the conveyance of a United States Fish and Wildlife Service administrative site to the city of Las Vegas, Nevada, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2041

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Ed Fountain Park Expansion Act".

**SEC. 2. DEFINITIONS.**

In this Act:

(1) **ADMINISTRATIVE SITE.**—The term "administrative site" means the parcel of real property identified as "Lands to be Conveyed to the City of Las Vegas; approximately, 7.89 acres" on the map entitled "Ed Fountain Park Expansion" and dated November 1, 2005.

(2) **CITY.**—The term "City" means the city of Las Vegas, Nevada.

(3) **SECRETARY.**—The term "Secretary" means the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service.

**SEC. 3. CONVEYANCE OF UNITED STATES FISH AND WILDLIFE SERVICE ADMINISTRATIVE SITE, LAS VEGAS, NEVADA.**

(a) **IN GENERAL.**—The Secretary shall convey to the City, without consideration, all right, title, and interest of the United States in and to the administrative site for use by the City—

(1) as a park; or

(2) for any other recreation or nonprofit-related purpose.

(b) **ADMINISTRATIVE EXPENSES.**—As a condition of the conveyance under subsection (a), the Secretary shall require that the City pay the administrative costs of the conveyance, including survey costs and any other costs associated with the conveyance.

(c) **REVERSIONARY INTEREST.**—

(1) **IN GENERAL.**—If the Secretary determines that the City is not using the administrative site for a purpose described in paragraph (1) or (2) of subsection (a), all right, title, and interest of the City in and to the administrative site (including any improvements to the administrative site) shall revert, at the option of the Secretary, to the United States.

(2) **HEARING.**—Any determination of the Secretary with respect to a reversion under paragraph (1) shall be made—

(A) on the record; and

(B) after an opportunity for a hearing.

**GREAT LAKES FISH AND WILDLIFE RESTORATION ACT OF 2006**

The Senate proceeded to consider the bill (S. 2430) to amend the Great Lakes

Fish and Wildlife Restoration Act of 1990 to provide for implementation of recommendations of the United States Fish and Wildlife Service contained in the Great Lakes Fishery Resources Restoration Study, which had been reported from the Committee on Environment and Public Works, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Great Lakes Fish and Wildlife Restoration Act of 2006".

**SEC. 2. FINDINGS.**

Congress finds that—

(1) the Great Lakes have fish and wildlife communities that are structurally and functionally changing;

(2) successful fish and wildlife management focuses on the lakes as ecosystems, and effective management requires the coordination and integration of efforts of many partners;

(3) it is in the national interest to undertake activities in the Great Lakes Basin that support sustainable fish and wildlife resources of common concern provided under the recommendations of the Great Lakes Regional Collaboration authorized under Executive Order 13340 (69 Fed. Reg. 29043; relating to the Great Lakes Interagency Task Force);

(4) additional actions and better coordination are needed to protect and effectively manage the fish and wildlife resources, and the habitats upon which the resources depend, in the Great Lakes Basin;

(5) as of the date of enactment of this Act, actions are not funded that are considered essential to meet the goals and objectives in managing the fish and wildlife resources, and the habitats upon which the resources depend, in the Great Lakes Basin; and

(6) the Great Lakes Fish and Wildlife Restoration Act (16 U.S.C. 941 et seq.) allows Federal agencies, States, and tribes to work in an effective partnership by providing the funding for restoration work.

**SEC. 3. DEFINITIONS.**

Section 1004 of the Great Lakes Fish and Wildlife Restoration Act of 1990 (16 U.S.C. 941b) is amended—

(1) by striking paragraphs (1), (4), and (12);

(2) by redesignating paragraphs (2), (3), (5), (6), (7), (8), (9), (10), (11), (13), and (14) as paragraphs (1), (2), (3), (4), (5), (6), (7), (9), (10), (11), and (12), respectively;

(3) in paragraph (4) (as redesignated by paragraph (2)), by inserting before the semicolon at the end the following: ", and that has Great Lakes fish and wildlife management authority in the Great Lakes Basin"; and

(4) by inserting after paragraph (7) (as redesignated by paragraph (2)) the following:

"(8) the term 'regional project' means authorized activities of the United States Fish and Wildlife Service related to fish and wildlife resource protection, restoration, maintenance, and enhancement impacting multiple States or Indian Tribes with fish and wildlife management authority in the Great Lakes basin;".

**SEC. 4. IDENTIFICATION, REVIEW, AND IMPLEMENTATION OF PROPOSALS.**

Section 1005 of the Great Lakes Fish and Wildlife Restoration Act of 1990 (16 U.S.C. 941c) is amended to read as follows:

**"SEC. 1005. IDENTIFICATION, REVIEW, AND IMPLEMENTATION OF PROPOSALS AND REGIONAL PROJECTS.**

"(a) **IN GENERAL.**—Subject to subsection (b)(2), the Director—

"(1) shall encourage the development and, subject to the availability of appropriations, the implementation of fish and wildlife restoration proposals and regional projects based on the results of the Report; and

"(2) in cooperation with the State Directors and Indian Tribes, shall identify, develop, and, subject to the availability of appropriations, implement regional projects in the Great Lakes Basin to be administered by Director in accordance with this section.

**"(b) IDENTIFICATION OF PROPOSALS AND REGIONAL PROJECTS.—**

"(1) **REQUEST BY THE DIRECTOR.**—The Director shall annually request that State Directors and Indian Tribes, in cooperation or partnership with other interested entities and in accordance with subsection (a), submit proposals or regional projects for the restoration of fish and wildlife resources.

"(2) **REQUIREMENTS FOR PROPOSALS AND REGIONAL PROJECTS.**—A proposal or regional project under paragraph (1) shall be—

"(A) submitted in the manner and form prescribed by the Director; and

"(B) consistent with—

"(i) the goals of the Great Lakes Water Quality Agreement, as amended;

"(ii) the 1954 Great Lakes Fisheries Convention;

"(iii) the 1980 Joint Strategic Plan for Management of Great Lakes Fisheries, as revised in 1997, and Fish Community Objectives for each Great Lake and connecting water as established under the Joint Strategic Plan;

"(iv) the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4701 et seq.);

"(v) the North American Waterfowl Management Plan and joint ventures established under the plan; and

"(vi) the strategies outlined through the Great Lakes Regional Collaboration authorized under Executive Order 13340 (69 Fed. Reg. 29043; relating to the Great Lakes Interagency Task Force).

"(3) **SEA LAMPREY AUTHORITY.**—The Great Lakes Fishery Commission shall retain authority and responsibility to formulate and implement a comprehensive program to eradicate or minimize sea lamprey populations in the Great Lakes Basin.

**"(c) REVIEW OF PROPOSALS.—**

"(1) **ESTABLISHMENT OF COMMITTEE.**—There is established the Great Lakes Fish and Wildlife Restoration Proposal Review Committee, which shall operate under the guidance of the United States Fish and Wildlife Service.

**"(2) MEMBERSHIP AND APPOINTMENT.—**

"(A) **IN GENERAL.**—The Committee shall consist of 2 representatives of each of the State Directors and Indian Tribes, of whom—

"(i) 1 representative shall be the individual appointed by the State Director or Indian Tribe to the Council of Lake Committees of the Great Lakes Fishery Commission; and

"(ii) 1 representative shall have expertise in wildlife management.

"(B) **APPOINTMENTS.**—Each representative shall serve at the pleasure of the appointing State Director or Tribal Chair.

"(C) **OBSERVER.**—The Great Lakes Coordinator of the United States Fish and Wildlife Service shall participate as an observer of the Committee.

"(D) **RECUSAL.**—A member of the Committee shall recuse himself or herself from consideration of proposals that the member, or the entity that the member represents, has submitted.

**"(3) FUNCTIONS.—The Committee shall—**

"(A) meet at least annually;

"(B) review proposals and special projects developed in accordance with subsection (b) to assess the effectiveness and appropriateness of the proposals and special projects in fulfilling the purposes of this title; and

"(C) recommend to the Director any of those proposals and special projects that should be funded and implemented under this section.

**"(d) IMPLEMENTATION OF PROPOSALS AND REGIONAL PROJECTS.—**

"(1) **IN GENERAL.**—After considering recommendations of the Committee and the goals specified in section 1006, the Director shall—

“(A) select proposals and regional projects to be implemented; and

“(B) subject to the availability of appropriations and subsection (e), fund implementation of the proposals and regional projects.

“(2) **SELECTION CRITERIA.**—In selecting and funding proposals and regional projects, the Director shall take into account the effectiveness and appropriateness of the proposals and regional projects in fulfilling the purposes of other laws applicable to restoration of the fish and wildlife resources and habitat of the Great Lakes Basin.

“(e) **COST SHARING.**—

“(1) **IN GENERAL.**—Except as provided in paragraphs (2) and (4), not less than 25 percent of the cost of implementing a proposal selected under subsection (d) (excluding the cost of establishing sea lamprey barriers) shall be paid in cash or in-kind contributions by non-Federal sources.

“(2) **REGIONAL PROJECTS.**—Regional projects selected under subsection (d) shall be exempt from cost sharing if the Director determines that the authorization for the project does not require a non-Federal cost-share.

“(3) **EXCLUSION OF FEDERAL FUNDS FROM NON-FEDERAL SHARE.**—The Director may not consider the expenditure, directly or indirectly, of Federal funds received by any entity to be a contribution by a non-Federal source for purposes of this subsection.

“(4) **EFFECT ON CERTAIN INDIAN TRIBES.**—Nothing in this subsection affects an Indian tribe affected by an alternative applicable cost sharing requirement under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).”

#### **SEC. 5. GOALS OF UNITED STATES FISH AND WILDLIFE SERVICE PROGRAMS RELATED TO GREAT LAKES FISH AND WILDLIFE RESOURCES.**

Section 1006 of the Great Lakes Fish and Wildlife Restoration Act of 1990 (16 U.S.C. 941d) is amended by striking paragraph (1) and inserting the following:

“(1) Restoring and maintaining self-sustaining fish and wildlife resources.”

#### **SEC. 6. ESTABLISHMENT OF OFFICES.**

Section 1007 of the Great Lakes Fish and Wildlife Restoration Act of 1990 (16 U.S.C. 941e) is amended—

(1) by striking subsection (a) and inserting the following:

“(a) **GREAT LAKES COORDINATION OFFICE.**—

“(1) **IN GENERAL.**—The Director shall establish a centrally located facility for the coordination of all United States Fish and Wildlife Service activities in the Great Lakes Basin, to be known as the ‘Great Lakes Coordination Office’.

“(2) **FUNCTIONAL RESPONSIBILITIES.**—The functional responsibilities of the Great Lakes Coordination Office shall include—

“(A) intra- and interagency coordination;

“(B) information distribution; and

“(C) public outreach.

“(3) **REQUIREMENTS.**—The Great Lakes Coordination Office shall—

“(A) ensure that information acquired under this Act is made available to the public; and

“(B) report to the Director of Region 3, Great Lakes Big Rivers.”

(2) in subsection (b)—

(A) in the first sentence, by striking “The Director” and inserting the following:

“(1) **IN GENERAL.**—The Director”;

(B) in the second sentence, by striking “The office” and inserting the following:

“(2) **NAME AND LOCATION.**—The office”; and

(C) by adding at the end the following:

“(3) **RESPONSIBILITIES.**—The responsibilities of the Lower Great Lakes Fishery Resources Office shall include operational activities of the United States Fish and Wildlife Service related to fishery resource protection, restoration, maintenance, and enhancement in the Lower Great Lakes.”; and

(3) in subsection (c)—

(A) in the first sentence, by striking “The Director” and inserting the following:

“(1) **IN GENERAL.**—The Director”;

(B) in the second sentence, by striking “Each of the offices” and inserting the following:

“(2) **NAME AND LOCATION.**—Each of the offices”; and

(C) by adding at the end the following:

“(3) **RESPONSIBILITIES.**—The responsibilities of the Upper Great Lakes Fishery Resources Offices shall include operational activities of the United States Fish and Wildlife Service related to fishery resource protection, restoration, maintenance, and enhancement in the Upper Great Lakes.”

#### **SEC. 7. REPORTS.**

Section 1008 of the Great Lakes Fish and Wildlife Restoration Act of 1990 (16 U.S.C. 941f) is amended to read as follows:

##### **“SEC. 1008. REPORTS.**

“(a) **IN GENERAL.**—Not later than December 31, 2011, the Director shall submit to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that describes—

“(1) actions taken to solicit and review proposals under section 1005;

“(2) the results of proposals implemented under section 1005; and

“(3) progress toward the accomplishment of the goals specified in section 1006.

“(b) **PUBLIC ACCESS TO DATA.**—For each of fiscal years 2007 through 2012, the Director shall make available through a public access website of the Department information that describes—

“(1) actions taken to solicit and review proposals under section 1005;

“(2) the results of proposals implemented under section 1005;

“(3) progress toward the accomplishment of the goals specified in section 1006;

“(4) the priorities proposed for funding in the annual budget process under this title; and

“(5) actions taken in support of the recommendations of the Great Lakes Regional Collaboration authorized under Executive Order 13340 (69 Fed. Reg. 29043; relating to the Great Lakes Interagency Task Force).

“(c) **REPORT.**—Not later than June 30, 2006, the Director shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Resources of the House of Representatives the 2002 report required under this section as in effect on the day before the date of enactment of the Great Lakes Fish and Wildlife Restoration Act of 2006.”

#### **SEC. 8. CONTINUED MONITORING AND ASSESSMENT OF STUDY FINDINGS AND RECOMMENDATIONS.**

The Director of the United States Fish and Wildlife Service—

(1) shall continue to monitor the status, and the assessment, management, and restoration needs, of the fish and wildlife resources of the Great Lakes Basin; and

(2) may reassess and update, as necessary, the findings and recommendations of the report entitled “Great Lakes Fishery Resources Restoration Study”, submitted to the President of the Senate and the Speaker of the House of Representatives on September 13, 1995.

#### **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

Section 1009 of the Great Lakes Fish and Wildlife Restoration Act of 1990 (16 U.S.C. 941g) is amended to read as follows:

##### **“SEC. 1009. AUTHORIZATION OF APPROPRIATIONS.**

“There are authorized to be appropriated to the Director for each of fiscal years 2007 through 2012—

“(1) \$18,000,000 to implement fish and wildlife restoration proposals as selected by the Director under section 1005(e), of which—

“(A) not more than the lesser of 33 1/3 percent or \$6,000,000 may be allocated to implement regional projects by the United States Fish and

Wildlife Service, as selected by the Director under section 1005(e); and

“(B) the lesser of 5 percent or \$600,000 shall be allocated to the United States Fish and Wildlife Service to cover costs incurred in administering the proposals by any entity; and

“(2) \$2,000,000, which shall be allocated for the activities of the Great Lakes Coordination Office in East Lansing, Michigan, of the Upper Great Lakes Fishery Resources Office, and the Lower Great Lakes Fishery Resources Office under section 1007.”

The Committee amendment in the nature of a substitute was agreed to.

The bill (S. 2430), as amended, was passed.

#### **FREE NEWSPAPER ACCESS FOR BLIND AND OTHER PERSONS WITH DISABILITIES ACT**

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be discharged from further consideration of S. 2918 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 2918) to provide access to newspapers for blind or other persons with disabilities.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the measure be printed in the RECORD as if read.

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

The bill (S. 2918) was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2918

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

#### **SECTION 1. SHORT TITLE.**

This Act may be cited as the “Free Newspaper Access for Blind and Other Persons with Disabilities Act”.

#### **SEC. 2. AUTHORIZATION OF PROGRAM.**

(a) **PROGRAM AUTHORIZED.**—

(1) **IN GENERAL.**—The Librarian of Congress is authorized, subject to the availability of appropriations, to pay telecommunications costs for blind and other persons with disabilities to have interstate free access to electronic editions of periodicals and newspapers, disseminated in specialized audio and electronic text formats and available contemporaneously with their print editions, from a multi-State nonprofit source described in paragraph (2).

(2) **MULTI-STATE NONPROFIT SOURCE.**—The multi-State nonprofit source referred to in paragraph (1) shall be an entity that obtains content from publishers for free distribution of 1 or more periodicals or newspapers to blind and other persons with disabilities in each State in which eligible persons receive books and other publications supplied by the Librarian of Congress under the Act entitled “An Act to provide books for the adult blind”, approved March 3, 1931 (2 U.S.C. 135a).

(b) **DEFINITION OF BLIND AND OTHER PERSONS WITH DISABILITIES.**—In this section, the

term "blind and other persons with disabilities" means individuals who are eligible or who may qualify, in accordance with the Act entitled "An Act to provide books for the adult blind", approved March 3, 1931 (2 U.S.C. 135a), to receive books and other publications produced in specialized formats.

### SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Library of Congress to carry out this Act \$750,000 for fiscal year 2007 and such sums as may be necessary for each of the fiscal years 2008 through 2011.

### PERMITTING USE OF CAPITOL ROTUNDA FOR 75TH ANNIVERSARY OF THE DEPARTMENT OF VETERANS AFFAIRS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 427, which was received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 427) permitting the use of the rotunda of the Capitol for a ceremony to commemorate the 75th anniversary of the establishment of the Department of Veterans Affairs.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The concurrent resolution (H. Con. Res. 427) was agreed to.

### APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the Chairman of the Committee on Commerce, Science, and Transportation, and pursuant to Title 46, Section 1295b(h), of the U.S. Code,

appoints the following Senators to the Board of Visitors of the U.S. Merchant Marine Academy: the Senator from Mississippi, Mr. LOTT, from the Committee on Commerce, Science, and Transportation, and the Senator from Hawaii, Mr. INOUE, from the Committee on Commerce, Science, and Transportation.

### MEASURE READ THE FIRST TIME—S. 3637

Mr. FRIST. Mr. President, I understand there is a bill at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the title of the bill for the first time.

The legislative clerk read as follows:

A bill (S. 3637) to require the submittal to Congress of any Presidential Daily Briefing relating to Iraq during the period beginning on January 20, 1997, and ending on March 19, 2003.

Mr. FRIST. Mr. President, I now ask for its second reading, and in order to place the bill on the calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection is heard.

### RECOGNIZING SENATOR JOHN THUNE FOR 100 HOURS OF PRESIDING

Mr. FRIST. Mr. President, I wish to take a moment to recognize the Presiding Officer, Senator John Thune, for tonight reaching 100 hours of presiding. Senator THUNE should be commended for his perseverance. He often rushes to the floor to preside for only 10 minutes as we close our business for the day, making 100 hours seem almost unattainable. Congratulations to our Presiding Officer.

### ORDERS FOR WEDNESDAY, JULY 12, 2006

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Wednesday, July 12. I further ask unanimous consent that the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate proceed to a period for the transaction of morning business for up to 60 minutes, with the first 30 minutes under the control of the majority leader or his designee and the final 30 minutes under the control of the Democratic leader or his designee; further, that following morning business, the Senate resume consideration of H.R. 5411, the Homeland Security appropriations bill.

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

### PROGRAM

Mr. FRIST. Mr. President, tomorrow the Senate will continue its work on the Homeland Security appropriations bill. Today we had several votes relating to the bill, and tomorrow we can expect additional votes throughout the day. We will finish the bill this week. Therefore, I expect tomorrow to be a busier voting day than today. Senators should be working with the two managers if they intend to offer amendments.

### ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:52 p.m., adjourned until Wednesday, July 12, 2006, at 9:30 a.m.