so much of the debate thus far has been about granting additional rights to unions. Is this going to make us any safer? Is it worth all the time we are spending on it? Of course not.

Rather than debating all aspects of union rights associated with our national security, we should be considering some other proposals that have been offered, such as increasing penalties for those found to be financially supporting the families of suicide bombers or granting additional subpoena authority to Federal terrorism investigators so they can find individuals who wish to do us harm and then bring them to justice. This debate should be about strengthening our national security; it should not be about strengthening unions. This should not be about political payback; it should be about making America safer. Anything less would be a disservice to this body and do little to further the safety and security of those we are elected to represent.

Mr. President, I yield the floor, and 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. LEAHY. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

IMPROVING AMERICA'S SECURITY ACT OF 2007

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 4, which the clerk will report.

The bill clerk read as follows:

A bill (S. 4) to make the United States more secure by implementing unfinished recommendations of the 9/11 Commission to fight the war on terror more effectively, to improve homeland security, and for other purposes.

Pending:

Reid amendment No. 275, in the nature of a substitute.

Sununu amendment No. 291 (to amendment No. 275), to ensure that the emergency communications and interoperability communications grant program does not exclude Internet Protocol-based interoperable solutions.

Salazar/Lieberman modified amendment No. 290 (to amendment No. 275), to require a quadrennial homeland security review.

DeMint amendment No. 314 (to amendment No. 275), to strike the provision that revises the personnel management practices of the Transportation Security Administration.

Lieberman amendment No. 315 (to amendment No. 275), to provide appeal rights and employee engagement mechanisms for passenger and property screeners.

McCaskill amendment No. 316 (to amendment No. 315), to provide appeal rights and employee engagement mechanisms for passenger and property screeners.

Dorgan/Conrad amendment No. 313 (to amendment No. 275), to require a report to Congress on the hunt for Osama Bin Laden, Ayman al-Zawahiri, and the leadership of al-Qaida.

Landrieu amendment No. 321 (to amendment No. 275), to require the Secretary of Homeland Security to include levees in the list of critical infrastructure sectors.

Landrieu amendment No. 296 (to amendment No. 275), to permit the cancellation of certain loans under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

Landrieu amendment No. 295 (to amendment No. 275), to provide adequate funding for local governments harmed by Hurricane Katrina of 2005 or Hurricane Rita of 2005.

Allard amendment No. 272 (to amendment No. 275), to prevent the fraudulent use of social security account numbers by allowing the sharing of social security data among agencies of the United States for identity theft prevention and immigration enforcement purposes.

McConnell (for Sessions) amendment No. 305 (to amendment No. 275), to clarify the voluntary inherent authority of States to assist in the enforcement of the immigration laws of the United States and to require the Secretary of Homeland Security to provide information related to aliens found to have violated certain immigration laws to the National Crime Information Center.

McConnell (for Cornyn) amendment No. 310 (to amendment No. 275), to strengthen the Federal Government's ability to detain dangerous criminal aliens, including murderers, rapists, and child molesters, until they can be removed from the United States.

McConnell (for Cornyn) amendment No. 311 (to amendment No. 275), to provide for immigration injunction reform.

McConnell (for Cornyn) amendment No. 312 (to amendment No. 275), to prohibit the recruitment of persons to participate in terrorism.

McConnell (for Kyl) amendment No. 317 (to amendment No. 275), to prohibit the rewarding of suicide bombings and allow adequate punishments for terrorist murders, kidnappings, and sexual assaults.

McConnell (for Kyl) amendment No. 318 (to amendment No. 275), to protect classified information.

McConnell (for Kyl) amendment No. 319 (to amendment No. 275), to provide for relief from (a)(3)(B) immigration bars from the Hmong and other groups who do not pose a threat to the United States, to designate the Taliban as a terrorist organization for immigration purposes.

McConnell (for Kyl) amendment No. 320 (to amendment No. 275), to improve the Classified Information Procedures Act.

McConnell (for Grassley) amendment No. 300 (to amendment No. 275), to clarify the revocation of an alien's visa or other documentation is not subject to judicial review.

McConnell (for Grassley) amendment No. 309 (to amendment No. 275), to improve the prohibitions on money laundering.

Thune amendment No. 308 (to amendment No. 275), to expand and improve the Proliferation Security Initiative while protecting the national security interests of the United States.

Cardin amendment No. 326 (to amendment No. 275), to provide for a study of modification of area of jurisdiction of Office of National Capital Region Coordination.

Cardin amendment No. 327 (to amendment No. 275), to reform mutual aid agreements for the National Capital Region.

Cardin modified amendment No. 328 (to amendment No. 275), to require Amtrak contracts and leases involving the State of Maryland to be governed by the laws of the District of Columbia.

Feinstein amendment No. 335 (to amendment No. 275), to improve the allocation of grants through the Department of Homeland Security.

Schumer/Clinton amendment No. 336 (to amendment No. 275), to prohibit the use of the peer review process in determining the allocation of funds among metropolitan areas applying for grants under the Urban Area Security Initiative.

Schumer/Clinton amendment No. 337 (to amendment No. 275), to provide for the use of funds in any grant under the Homeland Security Grant Program for personnel costs.

Collins amendment No. 342 (to amendment No. 275), to provide certain employment rights and an employee engagement mechanism for passenger and property screeners.

Coburn amendment No. 325 (to amendment No. 275), to ensure the fiscal integrity of grants awarded by the Department of Homeland Security.

Sessions amendment No. 347 (to amendment No. 275), to express the sense of the Congress regarding the funding of Senate approved construction of fencing and vehicle barriers along the southwest border of the United States.

Mr. LEAHY. Mr. President, is there a pending amendment?

The ACTING PRESIDENT pro tempore. The pending amendment is amendment No. 347.

AMENDMENT NO. 333 TO AMENDMENT NO. 275

Mr. LEAHY. Mr. President, I ask to set that aside and call up amendment No. 333.

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

The bill clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for himself, Mr. THOMAS, Mr. STEVENS, Mr. ROBERTS, Mr. PRYOR, Mr. SANDERS, and Mr. ENZI, proposes an amendment numbered 333 to Amendment No. 275.

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

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

The amendment is as follows:

(Purpose: To increase the minimum allocation for States under the State Homeland Security Grant Program)

On page 69, lines 19 and 20, strike ''0.45 percent'' and insert ''0.75 percent''.

Mr. LEAHY. Mr. President, I can explain this easily. It is a bipartisan amendment. I offer it on behalf of myself and Senators THOMAS, STEVENS, ROBERTS, PRYOR, SANDERS, ENZI, HATCH, and WHITEHOUSE to restore the minimum allocation for States under the State Homeland Security Grant Program. Right now, in the underlying bill, it is proposed at .45 percent. Our amendment would restore it to current law which is .75. That means that every State would have, of the homeland security money, at least .75 percent of it.

I should point out, incidentally, as with current law, our State minimum, under our amendment, would apply only to 40 percent of the overall funding of this program. This may sound somewhat tricky, but what it means is

we have special funding for certain unique areas—ports areas, large cities and all—but this applies to only 40 percent of the overall funding. The majority of the funds would continue to be allocated based on risk assessment criteria—again, the idea of a major port, or something like that, as are the funds under the several separate discretionary programs which Congress has established for solely urban and high-risk areas. These are also governed by risk assessment calculations. That is not something that is going to be affected by the so-called small State minimum.

The underlying bill before the Senate would reduce the all-State minimum for SHSGP in the Law Enforcement Terrorism Prevention Program to .45 percent. In the other body it is reduced even further, to .25 percent. So we know this is going to be a matter in conference under any circumstances. In fact, due to the formula differences—it is somewhat complicated, but as a result, there is no guarantee that the minimum would not even be further reduced during conference negotiations.

Small- and medium-sized States face a loss of millions of dollars for our first responders if the minimum is lowered. If you reduce the all-State minimum to .45 percent, the underlying bill would reduce the guaranteed dollar amount for each State by 40 percent. With the appropriations for the formula grants having been cut by 60 percent since 2003—it was $2.3 billion in 2003; it is $900 million in fiscal year 2007—if you have a further reduction in first responder funding, it is going to hinder, actually, every State's effort to deal with potential terrorist attacks. That applies to fiscal year 2007 homeland security and law enforcement terrorism grants which were funded at $525 million and $375 million, respectively, for a total of $900 million.

Under the current all-State minimum, the base amounts States receive is $6.75 million. Under the 2007 levels, each State would face a loss of an estimated $2.7 million or 40 percent under this new formula, and this is assuming we do not go even lower when we go to conference with the other body. For small States—one that comes to mind is Montana. Why that particular one came to mind I don't know. Maybe looking at the distinguished Presiding Officer made me think of it. But the cuts would be even deeper should the President's budget requests for next year be approved. He requested only $250 million for these two important first responder grant programs.

Under the .45 percent minimum proposed by the underlying bill and the .25 percent minimum proposed by the Feinstein-Obama amendment, the guaranteed amount for each State would drop to $1.125 million and $625,000 respectively.

Again, these are all numbers and percentages you talk about. But what it means is it would be a loss of millions of dollars in homeland security funding for fire, police, and rescue departments in small and medium-sized States. At the same time we are being told, you have got to prepare to be able to do this and do that; we have to be able to have a unified response around our Nation, we are going to have to call on you first and foremost; you have got to have your radios, your equipment, your training. Oh, by the way, find the money somewhere. You are part of a national effort, but find the money somewhere in your small communities or States to do it.

It deals a crippling blow to launch federally mandated multiyear plans for terrorism preparedness. Basically we can say from Washington what you should do in these multiyear plans. We tell you how to coordinate, how you train and plan, and it may be a small town on the border, the Federal border, you could be on a major waterway, but find the money somewhere. We want you to do this because the Nation needs you, we just cannot help you.

Now, I understand there is a budget crunch. We need a lot of money to send over to Iraq so the Iraqis can prepare for national defense. We need a lot of money to send over to Iraq so they can spend it on their police departments. We need a lot of money to send over to Iraq so they can spend it on their fire departments. I don't know, maybe I am old-fashioned in this regard, but I think maybe we kind of ought to look at our police departments first, our fire departments first. If I have a burglar in the middle of the night, I am not going to call the Iraqi police department, I am going to call my local police department. If we have a fire, I am not going to call the Iraqi fire department, I am going to call my own fire department. If we have a terrorist attack, if we have a terrorist attack coming across our border or on one of our major waterways, I am not going to call the Iraqi fire department or police department, I am going to call our own. We are going to be the first responders. It is not going to do much good to say, sorry, we do not have the money for you because we needed it for your counterparts in Iraq.

Even if the current .75 percent minimum is applied to the President's budget request, as my amendment does, States would still see a major drop. They would be guaranteed a minimum amount of $1.875 million. That is a drop of $4.875 million from the fiscal year 2007 guaranteed minimum amount.

Now, I have voted for, I have supported, antiterrorist efforts for our large States. We have seen what terrorism can do in larger States. In Oklahoma, it was, of course, homegrown. In Oklahoma City it was an American, former member of our armed services who attacked. But the damage to our people was as great as somebody coming from outside.

In New York City, it was from outside our Nation, the Twin Towers, and every one of us who goes to work in this building that was targeted for destruction by the terrorists. I have no problem in giving special funding to places that might be seen as being possible high-profile targets. But I wrote the current all-State minimum formulas as part of the USA PATRIOT Act in 2001 to guarantee each State receives at least a fraction of 1 percent, three-quarters of 1 percent of the national allotment to help meet their national domestic security needs. Some States may have many times that, of course. But each State receives some kind of a minimum amount because every State—rural, urban, small or large—has basic security needs. They are going to have basic security requests from the Federal Government, and they deserve to receive Federal funds under this partnership to meet both those needs and the new homeland security responsibilities the Federal Government demands.

As I said before, high-density urban areas have even greater needs, and that is why this year alone we provided $1.3 billion for homeland security programs which Montana cannot apply for, Vermont cannot apply for. I don't have any problems with that. There is only a small number of urban areas that can, and we have a special pot of money for that.

Those needs deserve and need to be met. We are talking about the amount of money for homeland security which is a fraction of what we currently are spending in Iraq anyway. At some point we have to talk about what our needs are here inside the homeland.

I worked very hard over the years to help address the needs of larger States and high-density areas. I have done it on the Appropriations Committee, I have done it in the Judiciary Committee, and I have opposed the administration's efforts to pit our States against each other as they have tried to mask their efforts, the administration's efforts, to cut overall funding for first responders.

Smaller States especially would never be able to fulfill the essential duties they are asked to do by the Federal Government on top of their daily responsibilities without some Federal support, such as DHS currently suggesting that States will have to pay for REAL ID implementation, this idea they have come up with, which is basically having a national identification card. No matter what you call it, it is the first time in our history that we have a national identification card. But you know that is going to cost the States, this idea that was cooked up out of an office here in Washington. It is going to cost our individual States $16 billion. If you cut down the minimum even more at the same time you are making substantial drops in overall first responder funding, then small and medium-sized States are not going to be able to meet these Federal mandates for terrorism prevention, preparedness, and response.

Some from urban States argue that Federal money, the Federal money to

fight terrorism, is being spent in areas that do not need it; it is wasted in small towns. They claim the formula is highly politicized and insist on the redirection of funds to urban areas that they believe face these heightened threats of terrorist attacks.

Well, what the critics of the all-State minimums seem to forget is that since the September 11 terrorist attacks, the Federal Government has asked every State, every State and every local first responder, every local first responder, to defend us as never before on the front lines in the war against terrorism.

Emergency responders in one State have been given the same obligations as those in any other State to provide enhanced protection, preparedness, and response against terrorists. The attacks of 9/11 added to the responsibilities and risks of first responders across the country.

In recent years, due to the .75 all-State minimum allocation for formula grants, first responders have received resources to help them meet their new responsibilities. They have made their neighborhoods safer. They made our communities better prepared. A lot has been done.

I hope my colleagues will support my amendment to restore the .75 percent minimum base and give us the kind of support and resources for our police, fire, and EMS services in every State if we want them to carry out the responsibilities.

I see the distinguished senior Senator from Utah, one of our cosponsors on the floor.

I yield the floor.

Mr. HATCH. Mr. President, I ask unanimous consent that immediately following my remarks, Senator COBURN be given an opportunity to make his comments, and then immediately following him Senator DEMINT be given his opportunity to speak here on the floor.

The PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. HATCH. I thank the distinguished President of the Senate.

Mr. HATCH. Mr. President, last week I shared some of my thoughts and concerns regarding section 803 of S. 4. I am referring to the section that was inserted into this important piece of legislation during the committee consideration; this section would permit TSA's Transportation security officers, our Nation's airport security screeners, to engage in collective bargaining—a change that was not recommended by the 9/11 Commission.

During those remarks, as a former union member, I argued that collective bargaining would adversely affect one of the greatest weapons that our Transportation security officers employ: the flexibility to change tactics quickly.

Why? Because we all know that one of the central aspects of any collective bargaining agreement is a determination of the conditions by which an employee works; when a person works, where he or she works, and how he or she works are all matters which are open to negotiation. Obviously, efficiency and productivity can be dramatically affected—for better or worse—by a collective bargaining agreement.

In my last address on this issue, I also pointed out that flexibility has been one of the central tenets of our Nation's successful antiterrorism response, as was shown so well last August when the security services of the United Kingdom discovered a well-organized conspiracy that reportedly sought to blow up commercial aircraft in flight using liquid explosives disguised as items commonly found in carry-on luggage.

As that case showed only too well, quick and decisive action was required to protect our citizens and commerce from a very real threat. That action was taken by our Transportation security officers, who, within 6 hours of learning of the plot, made quick use of this highly classified information and trained and executed new security protocols designed to mitigate this threat.

What would have been the result if collective bargaining had been in effect? Very real questions and uncertainties can be raised about the impact that a TSA subject to collective bargaining could have had on the discovery of that plot. Should the Government have to bargain in advance over what actions it can or cannot take when dealing with an emergency situation? If so, how would we know what to bargain for? Would there be time to conduct this negotiation? I think not.

One of the TSA's great strengths in responding to the U.K. plot was the fact that a fundamental change in our tactics was accommodated in a short period of time. Would not the vital capability of a uniform response to emerging threats be drastically curtailed if Transportation security officers were permitted to join different unions at various airports? Think about that. There would be separate collective bargaining agreements at various locations which would force TSA to implement dissimilar procedures in order to meet the legal requirements of each agreement. That obviously will not work.

I can see the posters now: ''Defend America, but only during the hours and under the conditions that my union negotiated.''

What about the relationship that will be created between supervisors and Transportation security officers? Might not collective bargaining create an atmosphere of us-versus-them? During a war, is this the attitude that we wish to foster? Rather, should we not attempt every day to enhance all of our agency's capabilities by building a team mentality?

What about training?

What about training? One of TSA's great successes took place in 2005 when the agency, in fewer than 6 weeks, was able to train 18,000 transportation security officers in new methods to discover explosives.

What would have occurred if a collective bargaining agreement had been in place? Rules governing training are often found in collective bargaining agreements—rules that require further negotiation as to the need, method, and time of training. It is common to hear in other situations that these negotiations require 60 to 180 days before training is implemented. Would that be a change for the better? I think not.

As I mentioned before, during the U.K. plot transportation security officers were retrained in 6 hours, and in fewer than 6 weeks they received new explosive training. Are we to sacrifice this impressive capability for an ad hoc system that might work after 60 or 180 days of negotiation? I would think not. Now, that would be a true gift to al-Qaida.

Additionally, many collective bargaining agreements require that an employer only judge if a worker has learned a new technical skill on a ''pass or fail'' basis. Imagine that. Would you feel safe traveling in an aircraft knowing that all a security screener had to do was get 1 point above failing to be certified in a technical skill or would you feel safer under the current system that rewards technical skill, readiness for duty, and operational performance? I know which system gets my vote.

Then there is the question of the law. Can the Federal Government prevent employees, especially those with national security functions, from engaging in collective bargaining? The law and decisions reached by our Federal courts are clear. Under section 111(d) of the Aviation and Transportation Security Act, the Under Secretary of Transportation for Security—which is the position now held by the Assistant Secretary of Homeland Security for the Transportation Security Administration—has the discretion:

> To employ, appoint, discipline, terminate, and fix the compensation, terms and conditions of employment of the Federal service for such a number of individuals as the Under Secretary determines to be necessary to carry out screening functions.

In 2003, the then-Under Secretary signed an order that stated:

> In light of their critical national security responsibilities, Transportation Security Officers shall not, as a term or condition of their employment, be entitled to engage in collective bargaining.

Unions, of course, challenged this law before the Federal Labor Relations Authority and the Federal courts, charging that it violated the transportation security officers' constitutional rights and Federal law that allow workers to join unions.

The Federal Labor Relations Authority upheld the opinion that:

> There is no basis under law to reach any result other than to dismiss the union's petitions. Congress intended to treat security screeners differently than other employees of the agency.

On appeal to the Federal courts, the D.C. Circuit Court affirmed the decision of the district court that the Federal Labor Relations Authority was the correct venue for the union's complaint and that the union's constitutional claims should be dismissed.

As I have said on many occasions, I support collective bargaining, but I will not support collective bargaining under these conditions.

We are at war. The decisions we make will mean the difference between life and death. I will not risk the lives of Americans so that an important constituency of the other party—or both parties, for that matter—can receive a political reward.

I hope my colleagues will join me in opposing this section and supporting the DeMint amendment that will remove it from that bill.

Mr. President, I understand the distinguished Senator from Oklahoma wishes to speak next, and I yield the floor.

The PRESIDENT pro tempore. Who seeks recognition?

The Senator from Connecticut is recognized.

Mr. LIEBERMAN. Mr. President, I rise to express my strong support for the section of S. 4, our committee's legislation, which will extend to transportation security officers—so-called TSOs who screen passengers and baggage at airports throughout our country—the same employee rights most everybody else in TSA and most everybody else in the Department of Homeland Security already has.

I am going to stop for a moment. I note the presence on the floor of the Senator from Oklahoma. I believe there was an order for him to be called on next. I want to ask him if he intends to address the motion to table that will be made at noon.

Mr. COBURN. I do.

Mr. LIEBERMAN. I am going to yield the floor to him, and I hope I can take some time back after he is finished.

Mr. COBURN. Mr. President, the unanimous consent request was for myself, followed by Senator DEMINT, and I will be happy to yield if I have remaining time.

I need to do a little housekeeping first. I ask unanimous consent that the pending amendment be set aside to call up amendment No. 345.

The PRESIDENT pro tempore. Is there objection?

Mr. LIEBERMAN. I object, Mr. President. I don't know which amendment the Senator wants pending. I need to have a conversation with the Senator from Oklahoma about which amendment this is.

The PRESIDENT pro tempore. The Senator from Connecticut objects.

Mr. COBURN. Mr. President, I note the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

Mr. LIEBERMAN. Mr. President, I have had a conversation with the Senator from Oklahoma, and I remove my objection to his request.

AMENDMENT NO. 345

Mr. COBURN. Mr. President, I ask unanimous consent that amendment No. 345 be called up and the pending amendment be set aside.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 345.

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

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

The amendment is as follows:

(Purpose: To authorize funding for the Emergency Communications and Interoperability Grants program, to require the Secretary to examine the possibility of allowing commercial entities to develop public safety communications networks, and for other purposes)

At the appropriate place, insert the following:

SEC. ___. TRANSFER OF FUNDS FROM DTV TRANSITION AND PUBLIC SAFETY FUND.

(a) IN GENERAL.—Section 3006 of the Deficit Reduction Act of 2005 (Public Law 109-171; 120 Stat. 24) is repealed.

(b) AUTHORITY OF SECRETARY TO MAKE PAYMENTS FROM FUND.—The Secretary may make payments of not to exceed $1,000,000,000, in the aggregate, through fiscal year 2009 from the Digital Television Transition and Public Safety Fund established under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) to carry out the emergency communications operability and interoperable communications grant program established in section 1809 of the Homeland Security Act of 2002, as added by section 301(a)(1).

(c) LIMITATIONS.—Grants awarded under section 1809 of the Homeland Security Act of 2002, and funded by sums made available under this section may not exceed—

(1) $300,000,000 in fiscal year 2007;

(2) $350,000,000 in fiscal year 2008; and

(3) $350,000,000 in fiscal year 2009.

SEC. ___. REPORT TO CONGRESS.

(a) IN GENERAL.—The Secretary, in cooperation with the Chairman of the Federal Communications Commission, shall study the possibility of allowing commercial entities to develop national public safety communications networks that involve commercially based solutions.

(b) CONTENT OF STUDY.—The study required under subsection (a) shall examine the following:

(1) Methods by which the commercial sector can participate in the development of a national public safety communications network.

(2) The feasibility of developing interoperable shared-spectrum networks to be used by both public safety officials and private customers.

(3) The feasibility of licensing public safety spectrum directly to the commercial sector for the creation of an interoperable public safety communications network.

(4) The amount of spectrum required for an interoperable public safety communications network.

(5) The feasibility of having 2 or more competing but interoperable commercial public safety communications networks.

(c) SUBMISSION TO CONGRESS.—Not later than 12 months after the date of enactment of this Act, the Secretary shall report to Congress—

(1) the findings of the study required under subsection (a); and

(2) any recommendations for legislative, administrative, or regulatory change that would assist the Federal Government to implement a national public safety communications network that involves commercially based solutions.

SEC. ___. REPEAL.

Section 4 of the Call Home Act of 2006 (Public Law 109-459; 120 Stat. 3400) is repealed.

SEC. ___. RULE OF APPLICATION.

Notwithstanding any other provision of this Act, section 1381 of this Act shall have no force or effect.

AMENDMENT NO. 301

Mr. COBURN. Mr. President, I ask unanimous consent that the pending amendment be set aside and amendment No. 301 be called up.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 301.

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

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

The amendment is as follows:

AMENDMENT NO. 301

(Purpose: To prohibit grant recipients under grant programs administered by the Department from expending funds until the Secretary has reported to Congress that risk assessments of all programs and activities have been performed and completed, improper payments have been estimated, and corrective action plans have been developed and reported as required under the Improper Payments Act of 2002 (31 U.S.C. 3321 note))

On page 106, between the matter preceding line 7 and line 7, insert the following:

SEC. 204. COMPLIANCE WITH THE IMPROPER PAYMENTS INFORMATION ACT OF 2002.

(a) DEFINITIONS.—In this section, the term—

(1) ''appropriate committees'' means—

(A) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(B) the Committee on Oversight and Government Reform of the House of Representatives; and

(2) ''improper payment'' has the meaning given that term under section 2(d)(2) of the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note).

(b) REQUIREMENT FOR COMPLIANCE CERTIFICATION AND REPORT.—A grant recipient of funds received under any grant program administered by the Department may not expend such funds, until the Secretary submits a report to the appropriate committees that—

(1) contains a certification that the Department has for each program and activity of the Department—

(A) performed and completed a risk assessment to determine programs and activities that are at significant risk of making improper payments; and

(B) estimated the total number of improper payments for each program and activity determined to be at significant risk of making improper payments; and

(2) describes the actions to be taken to reduce improper payments for the programs and activities determined to be at significant risk of making improper payments.

AMENDMENT NO. 314

Mr. COBURN. Mr. President, I ask unanimous consent that amendment No. 301 be set aside and we return to the pending amendment that we had prior to my asking that those two amendments be called up.

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

Mr. COBURN. Mr. President, I wish to spend a little bit of time talking about the process.

Yesterday, curiously, we had a hearing on the opportunity for labor representation for TSO officers. It is curious in that we had the hearing after the bill was on the floor because we didn't have the hearing before to know what we were talking about before we formulated the bill. That is because we wanted to rush this bill, and rather than do it right, we did the process backward.

But I think it is very instructive for us to hear what the testimony was yesterday. Kip Hawley is the Administrator of TSA. Some very important things were brought out in that hearing that most Americans probably don't think of often. Let me quote some of the things he said:

The job of the Transportation Security Officer is one in which you don't know whether you have an emergency until it is over, and in the aviation business, that is too late. There are a bedeviling array of dots out there and we have the responsibility to make sure that not one of them is allowed to progress and become an attack on the United States. So we constantly try to move and adjust and change and you cannot be sure until it is too late that you have had an emergency. You do not get an advanced warning.

In response to Senator AKAKA regarding TSA's collaboration with employees on the decision to double the amount of bonus money that would be made available under their bonus performance plan, the question by Senator AKAKA was:

Did you invite any union representatives to the initial development efforts?

In response to his question, he said:

No, sir. Our employees didn't have to pay union dues to get that service.

One of the other key points Secretary Hawley made is his concerns about his ability to move and sustain their strategy and flexibility.

Also coming out of that was the note that the union which would represent security officers won't be negotiating for pay. Well, what will they be negotiating for? They will be negotiating over everything else other than pay. Why is it important? Everything else is what matters.

What matters is—and specifically the reason this was not allowed when the 9/11 Commission Report was written and when the bill establishing TSA was set up—there is a moving target, and that flexibility in work rules, in relationships, in movement of people, in tier job training, and in multifaceted interface of those officers with any situation on the ground has to be able to be done and done on the move, all the time—not in an emergency because every day has to be thought of as an emergency. What we do know is all that is what they want to negotiate. That is the last thing we should be negotiating.

It comes down to this point, and the point is this: Do people who work for the Federal Government have rights? Absolutely. Should they be treated fairly and have the opportunity to have a good wage, a good appeal process, whistleblower protection? Yes. But is that right greater than the right of the American people to have secure and safe air travel? I would put forth for this body that it is not, that the betterment of the whole and the protection of the whole far outweighs any individual right within TSA to collectively bargain on the very things that are going to keep the flying American people safe.

What we do know is there are only 1,300 members out of 42,000 screeners now. They can all join a union, and they can have that representation in terms of their interface with management. What we also know is that the people who really want this opportunity are not the transportation security officers. Who wants this opportunity is the union and the politics of payback.

So this isn't really about responding. As a matter of fact, all of the claims that have been made, we fleshed all those out yesterday in the hearing. As to severance rates, as to work injury, as to movement, as to wage rates, as to bonus, as to productivity—all that was fleshed out. It should have been fleshed out before this bill ever came to the floor but, unfortunately, it wasn't. All that was fleshed out yesterday, and what came down is we have a very responsive agency that in the vast majority of the cases is doing a great job with their employees. We have great transportation security officers who are being remunerated properly and don't want to pay $360 a year for something that wants to negotiate the very thing that will take away the safety of our air transport system.

With that, I yield to the Senator from South Carolina.

The PRESIDENT pro tempore. The Senator from South Carolina is recognized.

Mr. MENENDEZ. Mr. President, I ask the Senator from South Carolina to yield briefly so I can offer an amendment and then return to the regular order.

Mr. DEMINT. Mr. President, if he is offering the amendment without an attached speech, I am fine with that. The majority leader limited our time and he will take the floor at 12. I will yield for the offering of an amendment.

AMENDMENT NO. 352

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the present amendment be set aside and I send an amendment to the desk.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. MENENDEZ] proposes an amendment numbered 352.

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

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

The amendment is as follows:

(Purpose: To improve the security of cargo containers destined for the United States)

On page 219, between lines 7 and 8, insert the following:

SEC. 804. PLAN FOR 100 PERCENT SCANNING OF CARGO CONTAINERS.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall develop an initial plan to scan 100 percent of the cargo containers destined for the United States before such containers arrive in the United States.

(b) PLAN CONTENTS.—The plan developed under this section shall include—

(1) specific annual benchmarks for—

(A) the percentage of cargo containers destined for the United States that are scanned at a foreign port; and

(B) the percentage of cargo containers originating in the United States and destined for a foreign port that are scanned in a port in the United States before leaving the United States;

(2) annual increases in the benchmarks described in paragraph (1) until 100 percent of the cargo containers destined for the United States are scanned before arriving in the United States;

(3) the use of existing programs, including the Container Security Initiative established by section 205 of the Security and Accountability For Every Port Act of 2006 (6 U.S.C. 945) and the Customs–Trade Partnership Against Terrorism established by subtitle B of title II of such Act (6 U.S.C. 961 et seq.), to reach the benchmarks described in paragraph (1); and

(4) the use of scanning equipment, personnel, and technology to reach the goal of 100 percent scanning of cargo containers.

Mr. MENENDEZ. I yield the floor.

AMENDMENT NO. 314

Mr. DEMINT. Mr. President, I ask unanimous consent that the following Senators be added as cosponsors of the DeMint amendment: Senators VITTER, CRAIG, ROBERTS, BUNNING, ENZI, HATCH, and GRAHAM.

The PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. DEMINT. Mr. President, I want to speak about the DeMint amendment and make sure all of my colleagues are clear on what is about to happen.

The majority leader has said at 12 o'clock today he will make a motion to table or to kill the DeMint amendment to the 9/11 bill. It would be a large mistake for this body to kill this amendment, because it enables our airport security personnel to keep Americans safer.

One of the biggest threats we have now as a nation is we are beginning to forget 9/11 and what happened and what could happen. We are forgetting we are under a constant threat, that we live under alerts every day. It is not a matter of saying one day is an emergency and one day is not. It is not a matter of saying one passenger is an imminent threat but the other one might not be.

Our transportation security agency is charged with making sure we screen every passenger, every bag, and that we have an alert system based on intelligence and other information that allows them to move toward possible threats.

Unfortunately, we have heard Members of this Senate saying the war on terror is not an emergency, that al-Qaida is not a new imminent threat, when we know that every day al-Qaida may have a new plan to attack Americans at different points.

When the Homeland Security agency was formed, we had a debate about whether the transportation security agencies, the officers working for them, the screeners, should have collective bargaining. It was agreed at the time, because of the need for flexibility and constant change, that screeners would have the freedom to join a union, and a number of workers' rights and protections were put into place, but that they would not have collective bargaining arrangements as some of our other agencies do.

I point out we have heard some in this Chamber use border security as an example of collective bargaining working. What I hold in my hands is only one example of a collective bargaining agreement for our Customs Service.

We cannot make a case that our border security has worked well. We have over 12 million illegals in this country that testify it is not. Our customs system is becoming well known as being one of the slowest in the world. Collective bargaining will not work for our airports. I am afraid, again, we are beginning to forget we are in an emergency situation. The 9/11 Commission didn't recommend we change current airport security.

My amendment is designed to keep current law the same. The majority leader will ask this Chamber to kill that bill, which would mean we would lose the 9/11 security bill we have all worked on.

I ask unanimous consent that several items be printed in the RECORD. First is a letter from the Assistant Secretary of Homeland Security, Kip Hawley, who tells us if collective bargaining is implemented with the transportation security agency, it will significantly reduce their ability to keep our country safe. Next is a letter with over 36 Senators signing it, saying they will sustain the President's veto of the 9/11 bill if it hampers our security by injecting collective bargaining into the process. Next is a letter from the House of Representatives, with 155 signatures, saying they will sustain the veto.

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

U.S. DEPARTMENT OF HOMELAND SECURITY, OFFICE OF THE ASSISTANT SECRETARY,

Arlington, VA.

Hon. JIM DEMINT,
U.S. Senate,
Washington, DC.

DEAR SENATOR DEMINT: In the aftermath of 9/11 when the Transportation Security Administration (TSA) was created, Congress gave the TSA extraordinarily flexible human resource tools. Congress recognized—and the 9/11 Commission reinforced—that the terrorist threat is adaptive and that in the post-9/11 era, our security systems must be fast and flexible.

The Senate is now considering legislation to replace these effective human resources tools with collective bargaining. Its effect would have serious security consequences for the traveling public.

In the post-9/11 environment, TSA's mission requires that its Transportation Security Officers (TSOs) be proactive and constantly adaptive, able to quickly change what they do and where they do it. After the liquid explosives incident in the United Kingdom, TSOs reported for work on August 10 and, without prior notice, trained for and implemented the most extensive security changes rolled out since 9/11—and they did it in real time, literally live and on television.

Implementing an outdated system that brings bargaining, barriers, and bureaucracy to an agency on whom travelers depend for their security does not improve security. A system that establishes outside arbitrators to review TSA's constant changes after the fact—without the benefit of classified information that might explain the rationale—would be ineffective, unwieldy, and detract from the required focus on security. Today, TSA is able to make necessary personnel changes to ensure topnotch performance; under collective bargaining, ineffective TSOs could be screening passengers for months while the process runs its course.

The TSO position itself has been improved recently. Training has been more professional so TSOs can exercise independent judgment in their work. TSOs are accountable for their performance—with significant pay raises and bonuses available ($52 million just awarded for 2006), and a clearly defined path to promotions and career development.

TSA depends on the capabilities granted by Congress to mitigate the real and ongoing terrorist threat. Dismantling those tools and replacing them with a cumbersome, ineffective system would have a troubling, negative effect on security. I urge you oppose provisions that remove from TSA's arsenal the resources and tools that so significantly contribute to our ability to fulfill the security mission.

Sincerely yours,

KIP HAWLEY.

U.S. SENATE,
Washington, DC.

Hon. GEORGE W. BUSH,
President of the United States,
Washington, DC.

DEAR MR. PRESIDENT: We are concerned that one of the provisions in S. 4, the 9/11 Commission Rccommendations bill, will undermine efforts to keep our country secure. Like you, we believe we need an airport security workforce that is productive, flexible, motivated, and can be held accountable. S. 4 would introduce collective bargaining for Transportation Security Administration (TSA) workers, which would reverse the flexibility given to TSA to perfonn its critical aviation security mission. Removing this flexibility from TSA was not recommended by the 9/11 Commission and it would weaken our homeland security. If the final bill contains such a provision, forcing you to veto it, we pledge to sustain your veto.

Sincerely,

(SIGNED BY 36 SENATORS).

CONGRESS OF THE UNITED STATES,
Washington, DC, March 5, 2006.

President GEORGE W. BUSH,
Washington, DC.

DEAR PRESIDENT BUSH: One of the provisions in S. 4 will severely complicate efforts to keep the traveling public safe and secure.

We believe that providing a select group of federal airport security employees with mandated collective bargaining rights could needlessly put the security of our Nation at risk. Moreover, nowhere in the 9/11 Commission Report did the Commission recommend that Transportation Security Administration (TSA) employees be allowed to collectively bargain. We need an airport security workforce that is productive, flexible, and accountable.

TSA employees at our Nation's airports currently enjoy the ability to unionize and are afforded a fair and balanced working environment.

If a bill is sent to you with such a provision, forcing you to veto the bill, we pledge to sustain your veto.

Sincerely,

(SIGNED BY 155 MEMBERS OF CONGRESS).

Mr. DEMINT. Mr. President, a vote to kill the DeMint amendment is a vote to kill the 9/11 bill we have all worked on. Let there be no question about it, the vote should be no. There is no reason to change the operation of the transportation security agency and to inject third party negotiations, particularly when it involves sensitive information.

So let us be clear that the motion to table my amendment is a motion to make our airports less secure. I urge my colleagues to vote no on the motion to table.

Mr. President, I see our minority leader is here. I will yield to him for comments at this time.

The PRESIDENT pro tempore. The minority leader is recognized.

Mr. COBURN. Will the leader yield for a parliamentary procedure?

Mr. MCCONNELL. Yes. The Senator from Oklahoma wants to modify an amendment, I believe.

AMENDMENT NO. 294

Mr. COBURN. Mr. President, earlier we called up an amendment that was pending. I ask unanimous consent that the pending amendment be set aside for the moment while we call up amendment No. 294.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 294.

Mr. COBURN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with, and I ask that we return to the pending amendment.

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

The amendment is as follows:

(Purpose: To provide that the provisions of the Act shall cease to have any force or effect on and after Dcember 31, 2012, to ensure congressional review and oversight of the Act)

After title XV, add the following:

TITLE XVI—TERMINATION OF FORCE AND EFFECT OF THE ACT

SEC. 1601. TERMINATION OF FORCE AND EFFECT OF THE ACT.

The provisions of this Act (including the amendments made by this Act) shall cease to have any force or effect on and after December 31, 2012.

AMENDMENT NO. 314

Mr. HARKIN. Mr. President, one thing I have learned in my years in public service is that if you want answers to the big problems in our society, you have to ask the people who work with those problems every day. When there is a meth crisis in my State, the first people I want to talk to about it are the police chiefs and sheriffs because they are the ones that have to think every day about how a meth distributor might think, where they hide, and how they operate. When I want to know how education policy is affecting children in the classrooms, I talk to teachers and parents.

So it only stands to reason that if we want to know where the holes in our TSA screening processes are, then we ought to be talking to the transportation security officers, or TSOs. These are the people who are responsible for screening airline passengers. A good way for the screeners to band together and share their collective thoughts on how to improve safety in our airports is by allowing them to collectively bargain. I realize that some members of this body have antiunion sentiments. They think that if folks come together and try to negotiate for better pay and working conditions that we won't be able to expect consistently high results.

Let me remind my colleagues that before we created a Department of Homeland Security, we routinely heard horror stories about the non-Federal airport screeners making near minimum wage pay and working in terrible conditions resulting in high turnover and a lack of experience and dedication to our shared goal of keeping our airways safe.

So we created a Federal workforce. We knew that the pay and benefits that the Federal Government provides can attract top notch workers. I strongly feel that Federal TSOs are the first people to care about safety in our airports.

I would remind my colleagues that many Federal workers who are critical to our Nation's security, such as Capitol Police, Border Patrol agents, Customs agents, and immigration enforcement officers are all allowed to collectively bargain while ably serving our Nation's security interests. We are simply saying that TSOs should have the same rights and responsibilities as other Federal workers performing similar functions who also are allowed to collectively bargain but not to strike or disclose information that would somehow jeopardize national security.

I would also like to point out that last fall, the United Nations International Labor Organization opined that TSOs should have the right to organize. This is a disgrace, that we are allowing fear to override rationality in supporting our need for a well-trained, well-compensated workforce that can more ably make suggestions about how to improve security in our Nation's airports.

One of the most critical protections that the DeMint amendment would strip is protection from retaliation against whistleblowers. Whistleblowers are some of our most valuable assets in identifying and eliminating systemic fraud. I, for one, want to see a vigilant Federal workforce ready to shed as much sunlight as possible on any practices at any agency that are in contradiction to our goal of promoting the national defense. I don't see a need to explicitly limit TSO whistleblower authority when the Administrator already has the ability to expressly prevent TSOs from divulging information that jeopardizes national security. Most notably, FBI whistleblower Coleen Rowley's invaluable information about failures in our intelligence system led to a reworking of the agency in a way that can hopefully help the flow of information that could prevent another September 11-type attack. One whistleblower can change the world. Stifling that activity can and will do more harm than good.

Here is the irony—administration officials threatening out of one side of their mouths to halt legislation containing important homeland security improvements over an irrational disposition against unions, while out of the other side of their mouths calling supporters of the right to organize enemies of security. I ask this: Is it so important to strip away TSO collective bargaining rights that we must sacrifice all of the other important components of this legislation? The truth is that we all want more security. This is precisely why we want TSOs to have fair pay and benefits and a channel for their concerns for everyone's safety. We need seasoned personnel with reasonable work hours and benefits. A good way to keep good people on the job is by giving them a voice at work. What we are fighting for is a security enhancement, not a detraction.

The truth is that there is nothing in the collective bargaining process that would make TSOs less capable of serving the public. We have nothing to lose and everything to gain by giving them collective bargaining rights and the clear ability to communicate their concerns about screening protocols with the TSA.

I ask my colleagues to defeat the DeMint amendment—to support our constitutionally granted freedom of association, and to protect the millions of Americans who rely on TSOs to protect their safety every day.

Mr. KENNEDY. Mr. President, the men and women who serve as transportation security officers, TSOs, are on the front lines of our effort to keep America safe. They do backbreaking, difficult work, day and night, to preserve our national security. Yet for years they have been treated as second-class citizens.

These officers do not have the same rights and protections enjoyed by most Federal employees, including other employees at the Department of Homeland Security. They don't have a voice at work. They don't have protections if they speak out about safety conditions or security issues. And they have no right to appeal if they are subject to discrimination or unfair treatment.

Because they lack these basic protections, TSOs often labor in disgracefully poor working conditions. In 2006, they had the highest rate of injury among all DHS agencies—more than twice that of any other security agency. Inadequate staffing means TSOs are often forced to work mandatory, unscheduled overtime, leaving them exhausted and creating unsafe conditions. They can be fired for speaking out about unfair treatment, unsafe working conditions, or national security issues, and they have no effective way to appeal such unfair treatment.

As a result, TSOs have the lowest morale and highest rate of turnover among Federal agencies. In 2006, the attrition rate for TSOs was 16 percent—more than 3 times that of any other security agency, and more than 6 times the national average for the Federal government. They have a higher attrition rate than even high turnover private sector employers. The chances are good that the person preparing your coffee at the airport has more experience than the screener who checked your bags for bombs.

These sky-high attrition rates are alarming. The lack of experienced security screeners threatens our national security. Constant turnover reduces institutional knowledge and undermines the agency's ability to implement effective security procedures. It also has a high financial price—the cost of training new employees has risen so high that TSA has had to request an additional $10 million in funds from Congress for this year to address these turnover concerns.

Low morale and high turnover at a front-line security agency is a recipe for disaster. We have to solve the problem. Our Nation, and these hard-working federal employees, deserve better.

TSOs have earned the right to be treated with respect. They deserve the same fundamental workplace rights as other Federal security employees, including whistleblower protections, appeal rights, and collective bargaining rights. The issue is one of basic respect for this valuable workforce.

I have heard some deeply disturbing rhetoric from my Republican colleagues about the effect of restoring these collective bargaining rights. It has been suggested that if these rights are restored, workers will try to hide behind their contracts and not respond in an emergency. It has been suggested that collective bargaining rights keep security workers from performing their jobs effectively.

These suggestions are an insult to every man and woman in uniform who works under a collective bargaining agreement across this country. To suggest that union workers will not do what is best for our country in the event of an emergency is scandalous, particularly in light of recent history.

Every New York City firefighter, EMT and police officer who responded to the disaster at the World Trade Center on 9/11 was a union member under a collective bargaining agreement. No one questions these employees' loyalty or devotion to duty because they are union members.

On 9/11, Department of Defense employees were required to report to wherever they were told, regardless of their usual work assignments. No Federal union tried to hold up this process in any way to bargain or seek arbitration. Not a single grievance was filed to challenge the assignments after the fact.

Other Federal security employees already have the protections that the bill would provide, including Border Patrol agents, Capitol police officers, Customs and Border inspection officers, and Federal Protective Service officers. Many of these officers—particularly customs and border inspection officers who work at airports, seaports, and border crossings—perform fundamentally similar tasks to TSOs and have been performing them effectively with collective bargaining rights for years. It is an insult to each of these men and women to suggest that they will not be capable of fully performing their important duties if they are given a voice at work.

Collective bargaining is the best way to bring dignity, consistency, and fairness to the workplace. It will make our TSO workforce safer and more stable, and enhance our security. Restoring these essential rights is long overdue, and I urge my colleagues to oppose the DeMint amendment that would remove these valuable protections from the bill.

Mr. AKAKA. Mr. President, I rise today to speak in opposition to the amendment offered by Senator DEMINT that would continue to deny basic employee rights and protections to transportation security officers, TSOs, at the Transportation Security Administration, TSA.

Yesterday, I chaired a hearing of the Senate Oversight of Government Management Subcommittee to review TSA's personnel system. Very quickly, the discussion turned to collective bargaining. Despite claims that collective bargaining would be a threat to national security, TSA Administrator Kip Hawley said that the San Francisco International Airport, which uses private sector screeners who engage in collective bargaining, is safe. In addition, Mr. Hawley cited the London bombing plot and how TSA needed the flexibility to move TSOs to respond to that situation. When asked, he also admitted that the airports in the United Kingdom, which have screeners who engage in collective bargaining, are also safe.

I, along with every other American, want TSA to have the flexibility to move staff and resources as necessary to keep air travel safe. However, I do not believe that this flexibility precludes workers from having basic rights and protections. In 2002, when Congress created the Department of Homeland Security, we debated this very issue. The President argued that he needed flexibility in the areas of pay, classification, labor relations, and appeals in order to prevent and respond to terrorist attacks. While the Homeland Security Act gave the President that flexibility, it also explicitly provided for full whistleblower protections, collective bargaining, and a fair appeals process. I fail to see why TSA employees should be denied these same protections.

Since 2001, TSA has faced high attrition rates, high numbers of workers compensation claims, and low employee morale which, in my opinion, are a direct result of a lack of employee rights and protections. Without collective bargaining, employees have no voice in their working conditions, which could drastically reduce attrition rates. Moreover, without a fair process to bring whistleblower complaints, employees are constrained in coming forward to disclose vulnerabilities to national security. At our hearing yesterday, Mr. Hawley said that he knew of only one TSO whistleblower case that was investigated by the Office of Special Counsel, OSC, in the past 2 years. For non-TSOs, the number of whistleblower cases is 12. However, OSC informs me that it has received 124 whistleblower complaints since OSC began investigating TSO whistleblower cases. This demonstrates to me that even without full rights and protections, employees are trying to come forward and disclose wrongdoing and threats to public health and safety. However, a lack of protections may keep others from coming forward when only one TSO has seen a positive resolution to their case.

Granted, TSA has made improvements in managing the screening workforce, but we must build upon these efforts and give employees a real place at the table. Protecting employees from retaliatory action complements efforts to secure our nation. Strong employee rights and protections ensures that we have a screener workforce focused on their mission and not preoccupied by fear of retaliatory treatment by management. As such, I urge my colleagues to ensure that TSOs, who work to provide safe air transportation for all Americans, receive basic worker rights and protections.

I have a letter from the Federal Law Enforcement Officers Association which opposes the premise that collective bargaining could adversely affect national security. I ask unanimous consent that the letter be printed in the RECORD.

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

FEDERAL LAW ENFORCEMENT OFFICERS ASSOCIATION,
Lewisberry, PA, March 2, 2007.

Hon. DANIEL AKAKA, *Chairman,*
Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia, U.S. Senate, Washington, DC.

DEAR CHAIRMAN AKAKA: As the President of the Federal Law Enforcement Officers Association (FLEOA), representing over 25,000 Federal law enforcement officers, I am writing to you regarding a potential threat of a veto of vital law enforcement legislation (H.R. 1 and S. 4) that Congress is about to pass, because of the provision giving TSA employees collective bargaining rights.

We have sat back in silence and watched the on-going debate over collective bargaining rights for TSA employees, since this does not directly impact our members. However, now that this issue has the potential to stop implementation of the final 9/11 Commission Recommendation Bill, we deem it appropriate to weigh in.

The absurd premise put out by both DHS and TSA that being a union member precludes someone from serving our country in a national security capacity is unacceptable. There are currently hundreds of thousands of law enforcement officers on a Federal, State and local level who are all members of a union and have collective bargaining rights. This has never impacted their ability to react to terrorist threats, respond to terrorist incidents or impaired their ability to fulfill their critical mission of homeland security. This was quite evident on September 11, 2001.

FLEOA supports and agrees with the recent statement of AFGE President John Gage, when he stated, "The notion that granting bargaining rights to TSOs would result in a less flexible workforce is just plain nonsense, and is also an insult to the hundreds of thousands of dedicated public safety officers with collective bargaining rights from Border Patrol Agents to firefighters to Capitol Hill Police."

Senator Akaka, thank you for your support in this matter and your continued support for the entire Federal workforce. You truly are a friend to all of us in Federal law enforcement and we appreciate all of your efforts on our behalf.

Sincerely,

ART GORDON,
National President.

The PRESIDENT pro tempore. The minority leader is recognized.

Mr. MCCONNELL. Mr. President, the vote we are about to have should give all Members of the Senate a sense of deja vu; we have been here before. We are about to vote on an amendment that is reminiscent of a rather significant debate we had in the fall of 2002 in connection with the creation of the Department of Homeland Security. The

issue at that time, as is the issue this morning, is the question of whether we are going to have collective bargaining for the transportation security agency.

The public spoke rather loudly in the fall of 2002 in the form of Senate elections that year. They thought collective bargaining for transportation security workers was not a good idea. The public was correct then, and I think that is the public view today. In the ongoing debate over Iraq, it is easy to forget the success we have had in fighting terrorism, and chief among that is the fact that America has not seen a terrorist attack at home in 5½ years since 9/11. There is one reason, and that is the heroic work of our soldiers in Afghanistan and Iraq and the tireless efforts of our homeland defenders in detecting, preventing, discouraging, and disrupting those attacks in our country. Yet, today, these two pillars of our post-9/11 security are being put at risk by those who have the audacity to put union work rules above the national security.

It is no secret that big labor expects something in return for last November's elections. But America's security should not be on the table. It is ironic that Democrats who campaigned on the pledge that they would implement all of the recommendations of the 9/11 Commission are now forcing us to consider something that wasn't in the report at all. This measure was not in the report and they are blocking us from considering something that was in the report. I am talking about the proposal to give all 43,000 airport screeners the ability to collectively bargain. Not only was this proposal not in the 9/11 report, it would end up undermining the commission's recommendation.

A key recommendation of the 9/11 Commission said:

> The United States should combine terrorist travel intelligence, operations, and law enforcement in a strategy to intercept terrorists, find terrorist travel facilitators, and constrain terrorist mobility.

That is in the 9/11 report. We saw this during the U.K. bombing threat in August. TSA workers who showed up for work at 4 a.m. that morning in the United States were briefed on the plot and trained immediately in the new protocol. Within 12 hours, we had taken classified intelligence and adapted to it. There was no noticeable impact on U.S. flights.

It was a different situation over in Great Britain, where unionization is the norm. Dozens of flights had to be canceled as they worked out an understanding on how they would respond to the new threat, travelers were delayed, and backups ensued literally for days. We saw the importance of mobility earlier that year when TSA acquired new technologies for bomb detection. It trained nearly 40,000 airport screeners in the new methods in less than 3 weeks. The TSA says that under collective bargaining the same training would take 2 to 6 months.

We are not going to let big labor compromise national security. The President has said he will veto a 9/11 bill if it includes collective bargaining. We have the votes to sustain that veto. The House has just announced it has the votes to sustain a Presidential veto.

This bill will not become law with this dangerous provision in it. The only question now is why we are being kept from passing a 9/11 bill that focuses on security alone. The President made it clear he will veto the bill if it includes a provision that compromises security. The American people have already made clear where they stand on collective bargaining.

Remember, as I stated, we have been down this road before. We had a huge debate in Congress over collective bargaining when we created the Department of Homeland Security. Americans didn't like the idea of labor slowdowns among security personnel in 2002. They said so at the polls in November of 2002. The answer, I am afraid, is clear: This new attempt to insert this into the 9/11 bill is a show that was meant to appease a voting bloc. We know how this charade is going to end. Republicans won't let security be used as a bargaining chip. We are not going to let it happen.

It is too bad Americans will have to wait even longer for this bill to be signed into law because of the efforts to satisfy organized labor.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. REID. Mr. President, I move to table amendment No. 314, and I ask for the yeas and nays.

The PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON) is necessarily absent.

Mr. LOTT. The following Senators are necessarily absent: the Senator from North Carolina (Mrs. DOLE) and the Senator from Wyoming (Mr. ENZI).

Further, if present and voting, the Senator from North Carolina (Mrs. DOLE) would have voted ''nay.''

The result was announced—yeas 51, nays 46, as follows:

[Rollcall Vote No. 60 Leg.]

YEAS—51

Akaka	Durbin	Menendez
Baucus	Feingold	Mikulski
Bayh	Feinstein	Murray
Biden	Harkin	Nelson (FL)
Bingaman	Inouye	Nelson (NE)
Boxer	Kennedy	Obama
Brown	Kerry	Pryor
Byrd	Klobuchar	Reed
Cantwell	Kohl	Reid
Cardin	Landrieu	Rockefeller
Carper	Lautenberg	Salazar
Casey	Leahy	Sanders
Clinton	Levin	Schumer
Conrad	Lieberman	Specter
Dodd	Lincoln	Stabenow
Dorgan	McCaskill	Tester
		Webb
		Whitehouse
		Wyden

NAYS—46

Alexander	DeMint	McConnell
Allard	Domenici	Murkowski
Bennett	Ensign	Roberts
Bond	Graham	Sessions
Brownback	Grassley	Shelby
Bunning	Gregg	Smith
Burr	Hagel	Snowe
Chambliss	Hatch	Stevens
Coburn	Hutchison	Sununu
Cochran	Inhofe	Thomas
Coleman	Isakson	Thune
Collins	Kyl	Vitter
Corker	Lott	Voinovich
Cornyn	Lugar	Warner
Craig	Martinez	
Crapo	McCain	

NOT VOTING—3

Dole	Enzi	Johnson

The motion was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. CASEY). The Senator from New Jersey.

AMENDMENT NO. 352

Mr. MENENDEZ. Mr. President, just a little while earlier, I offered an amendment that deals with trying to move us forward in a middle ground on the question of cargo screening.

Last week, this body voted down an amendment that I offered with Senator SCHUMER that would have set some strong, clear deadlines to achieve 100 percent scanning of cargo coming into our Nation's ports. While I wish we could have persuaded more of our colleagues to support this framework for expanding scanning of our cargo containers, I understand a number of our colleagues have serious concerns about the consequences of setting a strict timeline to achieve 100 percent scanning. I hope this body will take a step forward toward achieving that goal rather than take no action at all.

With that in mind, the amendment I have offered I hope will find a middle ground. This amendment would ensure that we are indeed on the road to 100 percent scanning of cargo, but it would not do so within the confines of any strict deadline. Instead, it builds upon the framework of the SAFE Port Act to call for a plan to meet the goal of 100 percent scanning. The SAFE Port Act already requires the Department of Homeland Security to report on the lessons learned from the pilot program currently underway at six ports. This amendment would simply expand that reporting requirement by calling on the Department to submit a plan for achieving 100 percent scanning of cargo before it reaches U.S. ports.

I think all of us agree that we want to obtain the goal of 100 percent scanning of cargo containers. We may disagree on how to implement that goal or what timeline we should set, but at the end of the day I think we all know that 100 percent scanning is the ideal that we should strive for. That is essentially what this amendment is

about. It simply prods the Department to come up with a plan to take the lessons learned from the pilot project and submit a proposal for reaching 100 percent scanning.

We have to look at a few contradictions in our national security. Not everyone who walks into the White House is a high threat. Yet we screen 100 percent of people. We need to apply the same understanding to other aspects of our security. We must recognize that the terrorists will come to understand what we consider as high-risk cargo. As we say we are looking at high-risk cargo and we do 100 percent of that, that still leaves 95 percent of all the cargo unscanned. Eventually, the terrorists will adapt and they will determine that they should go and try to place their device in that which is not considered high-risk cargo. Without 100 percent scanning, we will not be able to adapt to terrorists as they change their tactics.

We have seen in aviation security how they have changed their strategy from box cutters, to shoes, to liquids. The methods they use to infiltrate our security continue to evolve. So must we. We are naive to think only high-risk cargo should be scanned. We need to be able to be as adaptable as they are so we can stay one step ahead.

My colleagues, in noting their opposition to the Schumer-Menendez amendment last week, did not object to the goal of reaching 100 percent scanning. In fact, the distinguished Senator from Maine stressed the importance of moving forward with vigorous implementation of the SAFE Port Act, including the requirement that 100 percent of all high-risk cargo be scanned. I would argue this amendment helps achieve that goal and will ensure that we continue to move forward toward 100 percent scanning.

Last year, I offered an amendment that would have required the Department to develop a similar plan to achieve 100 percent scanning, and there were a few provisions my colleague from Maine took issue with, and so we have amended this version. In the scheme of things, this is a very small additional requirement for the Department, but in my opinion it takes us a significant step forward toward a very crucial goal.

Finally, this amendment does not ignore the progress we are making because of the SAFE Port Act. In fact, it would build upon the SAFE Port Act's goal of expanding scanning at foreign ports on a reasonable timeline.

I also hope my colleagues will not look at the 9/11 Commission Report as a way to argue that improving security of our cargo is not in line with the 9/11 Commission recommendations. There is no doubt our ports remain one of the most vulnerable transportation assets. The 9/11 Commission recognized this. Let's take a step back and look at what the Commission actually said.

First, I think it is important to keep the Commission's report in context. It runs nearly 600 pages and covers an incredible amount of material, from a factual accounting of the events leading up to September 11, an assessment of the weaknesses of our national security, and, finally, what the Commission itself calls a limited number of recommendations. The recommendations are wide ranging in scope, and there is no way we can expect each recommendation to carry out each detail of what that recommendation should entail and the action that should be carried out.

In discussing cargo security, the Commission lumped it together with aviation and transportation security. Given the nature of the attacks, we understand the obvious focus on aviation security. However, the Commission also noted the vulnerabilities in cargo security and lamented the lack of a strategic plan for maritime security.

In making its recommendations on transportation security, the Commission called on Congress to do two very specific things: Set a specific date for the completion of these plans, and hold the Department of Homeland Security accountable for achieving them.

I could not agree more. We come to the floor calling for the opportunity to work our way, building upon the present port security initiative—to work our way to see the Department of Homeland Security give us a plan to achieve that final goal, recognizing all of the challenges. In doing so, we move closer and closer to that day in which, in fact, we will be adaptable to the reality that at some point the terrorists will come to understand that only going after high-risk cargo leaves them a huge opening, 95 percent of all the other cargo, to get in their weapon of mass destruction.

That is not a risk that we can afford. We need to be right all the time. They only need to be right once. Therefore, I believe this is an amendment that creates a middle ground and moves us forward to that 100 percent scanning opportunity and therefore improves our national security. I hope when the time comes to vote on it we will have the support of our colleagues in this body.

I yield the floor.

RECESS

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

Thereupon, the Senate, at 12:30 p.m., recessed until 2:16 p.m. and reassembled when called to order by the Presiding Officer (Mr. CARPER).

The PRESIDING OFFICER. The Senator from Connecticut.

AUTHORIZING USE OF THE ROTUNDA OF THE CAPITOL

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Rules Committee be discharged from further consideration of S. Con. Res. 15 and that the Senate then proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 15) authorizing the Rotunda of the Capitol to be used on March 29, 2007, for a ceremony to award the Congressional Gold Medal to the Tuskegee Airmen.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. LIEBERMAN. I ask unanimous consent that the concurrent resolution be agreed to, the motion to reconsider be laid on the table, and that any statements be printed in the RECORD with no intervening action.

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

The concurrent resolution (S. Con. Res. 15) was agreed to, as follows:

S. CON. RES. 15

Resolved by the Senate (the House of Representatives concurring), That the Rotunda of the Capitol is authorized to be used on March 29, 2007, for a ceremony to award a Congressional Gold Medal collectively to the Tuskegee Airmen in accordance with Public Law 109–213. Physical preparations for the ceremony shall be carried out in accordance with such conditions as the Architect of the Capitol may prescribe.

IMPROVING AMERICA'S SECURITY ACT OF 2007—Continued

AMENDMENT NO. 352 WITHDRAWN

Mr. LIEBERMAN. Mr. President, on behalf of Senator MENENDEZ, I ask unanimous consent to withdraw amendment No. 352, which he had introduced earlier today.

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

AMENDMENT NO. 354 TO AMENDMENT NO. 275

Mr. LIEBERMAN. On his behalf, I send another amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. LIEBERMAN], for Mr. MENENDEZ, proposes an amendment numbered 354 to amendment No. 275.

Mr. LIEBERMAN. 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 improve the security of cargo containers destined for the United States)

On page 219, between lines 7 and 8, insert the following:

SEC. 804. PLAN FOR 100 PERCENT SCANNING OF CARGO CONTAINERS.

Section 232(c) of the Security and Accountability For Every Port Act (6 U.S.C. 982(c)) is amended—

(1) by striking ''Not later'' and inserting the following:

''(1) IN GENERAL.—Not later''; and

(2) by inserting at the end the following new paragraph:

''(2) PLAN FOR 100 PERCENT SCANNING OF CARGO CONTAINERS.—