Appropriations Committee. We will consider them, and we will accept those that we can accept. We hope we will be able to have the full cooperation of all Senators in that respect.

MORNING BUSINESS

Mr. COCHRAN. Madam President, since there is not much time left between now and the weekly luncheons both sides have planned for today, it is my suggestion that we go into a period for morning business so Senators can speak if they choose to between now and 12:30 p.m.—I think is the time for the luncheons to begin—and then we can come back in at 2:15 p.m. and resume consideration of the bill at that time.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I think this is wise. We have two of the most senior Members of the Senate who are managing this bill. It has been said, and I will say it again, we are doing everything we can on this side to limit amendments. There are people who have amendments, and we want them to be able to offer them to this most important piece of legislation.

We just finished a leadership meeting, and those there who had a number of amendments indicated they would be willing to agree to short time agreements on them. I think it is something on which we can move forward.

I know Senator BYRD has a statement that is—I won't say long, but it is weighty. I think it would be better if we came back after the break and let him begin his statement. Personally, I want to be here to do that. I would agree to be in morning business until 12:30 p.m. with the time evenly divided, and come back at 2:15 p.m. If it is all right with Senator COCHRAN, Senator BYRD can have the floor at 2:15 p.m.

Mr. COCHRAN. That is certainly fine with me, and I join with the Senator in making that request. I ask unanimous consent that the Senate be in a period for morning business until the hour of 12:30 p.m.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The journal clerk proceeded to call the roll.

The PRESIDING OFFICER. In my capacity as a Senator from Alaska, I ask the quorum call be rescinded.

Without objection, it is so ordered.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 having arrived, the Senate will stand 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. SUNUNU).

DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2005—Resumed

The PRESIDING OFFICER. For the information of the Senate, under a previous order, following the adjournment of the Senate yesterday, H.R. 5005, making supplemental appropriations, was received from the House and considered passed by the Senate.

Also for the information of the Senate, all after the enacting clause of H.R. 4567, the Homeland Security appropriations bill, has been stricken. The text of S. 2537 has been inserted in lieu thereof and considered original text for the purpose of further amendments, and no points of order have been waived.

The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I am very pleased to present this appropriations bill to the Senate. It is the culmination of a lot of hard work by all of the members of our subcommittee, as we conducted hearings to review the proposed budget from the Department of Homeland Security, and as we listened to those who have responsibilities for managing the various directorates and other agencies and activities that come within the ambit of the responsibilities of the Homeland Security Department.

We learned a lot in the hearings. We learned about new procedures that were being developed and deployed. We learned about new technologies that were being explored. In the bioterrorism area, we were learning about the research that is being done to make our capacity more sophisticated and capable of protecting the health and safety of all Americans from attacks in that area.

We have been challenged as we have never been challenged before to look again carefully at how we go about protecting the citizens of our great country. The experience of September 11, of course, stays in our mind as something that is unthinkable. The fact that it did happen is still unbelievable, and we realize that we have the responsibility—representatives of the people of this country serving in Congress today—to try to get it right so that kind of thing can't happen again.

We are blessed to be served in the administration by people such as Tom Ridge, the new Secretary of the Department of Homeland Security. The President recommended this new Department be created. The Congress responded. The Governmental Affairs Committee, on which I served at that time, dealt with the challenge of the legal framework of defining the responsibilities of a new department and what activities would come under the Department. We brought together under this one Department 22 different Federal agencies, or at least parts of 22 different agencies. Some, such as the U.S. Coast Guard, were transferred underneath the jurisdictional responsibility of the Department to help make our effort more coherent, more effectively and efficiently managed, and to achieve the goal of making our country safer and more secure for the citizens who live in the United States. I think we have made great progress.

This bill specifically provides funding of $33.1 billion for the Department of Homeland Security for this next fiscal year, 2005. This is the second appropriations bill to fund the Department which began its operations short of a year and a half ago. The new Department has made substantial progress to merge the agency functions and the employees who were transferred under its responsibilities and to undertake its new duties to better secure and more effectively protect our great Nation.

We also have seen a new system put in place called the US VISIT Program to screen visaholders and to stop potential terrorists and those who may be dangerous, because they have committed crimes in the past, from entering our country to start with. US VISIT, through biometrics and other new innovations, has already identified, apprehended, or arrested more than 400 individuals. Through the science and technology directorate, the Department has aggressively moved forward on the successful testing of the first commercial portal monitors and handheld radiological identifiers to detect the smuggling of materials which could be used to build weapons of mass destruction. Federal air marshals have been deployed. State-of-the-art technologies have been introduced, and cockpit doors have been modified to increase the safety of air travel.

I know there can be criticism leveled at the efforts of the Transportation Security Administration which has been the agency identified with the responsibility for overseeing aviation security and many other areas of responsibility. But let me remind Senators—and this is contained in our committee report—I invite the attention of the Senate to the report, on page 31, where we talk about aviation security. My good friend, the distinguished Senator from West Virginia, mentioned people who might bring in bombs or material that can be used as explosives to blow up planes and otherwise harm us.

> The Transportation Security Administration aviation security account [in this legislation] provides for Federal aviation security by employing the most efficient screening of all passengers and baggage, deployment of onsite law enforcement, continuation of a uniform set of background requirements for airport and airline personnel, deployment of the most current explosive detection technology, and creation of a model workplace.
>
> The aviation security activities include funding for Federal and private contract passenger and baggage screeners, including personnel compensation and benefits, training, and human resource services; passenger checkpoint support; air cargo security; procurement and maintenance of explosive detection systems; and checkpoint support.

I suggest that the $4,386,083,000 for aviation security contained in this bill is designed to meet the needs we have for improved and safer air travel, working with the airlines who are spending

their own money in many of these and other areas. I suggest we have the safest air transportation system in the world. And we are going to continue to monitor the activities. We are going to continue to engage in oversight and interaction with the Federal agencies involved, as well as Department of Homeland Security officials, to see that we stay on course and that we continue to upgrade, improve, and take advantage of the latest technologies to guarantee the safety and security of American citizens.

Looking at another area, efforts have been undertaken to increase our stockpile of antibiotics, vaccines, and other medications to protect Americans in the event of a terrorist attack and to identify and develop new countermeasures to protect Americans against new biological threats. Today our first responders, those who work at the fire departments, the police departments, the emergency medical centers, have been provided with resources from the Federal Government to buy necessary equipment, to increase training to better protect our communities throughout the country.

Including the resources in this bill we are presenting today to the Senate, over $12 billion will have been appropriated to our State and local partners across the country, over $2.5 billion to firefighters alone.

The Department of Homeland Security has made important strides in this last year. The bill we present to you today will allow the Department to continue to build on its success and make our Nation even more secure.

If Senators look at the provisions in the bill, they will see that it reflects suggestions made by Senators on both sides of the aisle. This is a bipartisan bill. It is not a Republican bill or a Democratic bill, it is an American bill. It is a bill to protect the safety and security of all Americans. Our committee held hearings and listened to every suggestion made by all Senators for the levels of appropriations for all of these activities.

This is the second year of this bill, as I said, but I think we have made important strides forward. I particularly thank again the distinguished Senator from West Virginia for his cooperation, his support, and his assistance during the development of this bill and the conduct of our hearings and the presentation of the final work product to the Senate today.

I am going to close my remarks—and I will be prepared to receive any suggestions for changes in the bill or amendments or other statements from Senators—by quoting from something Tom Ridge said with which I was particularly impressed. Our Secretary of the Department of Homeland Security said:

> Homeland security is about the integration of a nation, everyone pledged to freedom's cause, everyone its protector, and everyone its beneficiary. It's about the integration of people and technology to make us smarter, safer, more sophisticated, and better protected. It's about the integration of our national efforts, not one department or one organization, but everyone tasked with our Nation's protection. Every day, we work to make America more secure. Every day, the memories of September 11th inspire us to live our vision of preserving our freedoms, protecting America, enjoying our liberties, and securing the homeland.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I thank the Chair.

Mr. President, the Senate now has before it the fiscal year 2005 Homeland Security appropriations bill. I commend subcommittee Chairman COCHRAN and I commend him highly. I commend his staff for their work on this important legislation. We had an excellent series of hearings this year that I believe helped the subcommittee to produce a bill that contains significant improvements to the President's request.

I also commend the thousands of men and women who are on the front lines of homeland security. We need to give these men and women the tools they need to do their jobs in order to support their strong commitment to serve the Nation every hour of every day of every week of every month.

On August 1, 2004, Secretary Tom Ridge increased the threat level for New York, New Jersey, and our Nation's Capital, to Code Orange, a high risk of terrorist attacks. This is the sixth time since September 11, 2001, that the threat level has been increased to Code Orange.

On July 14, Acting CIA Director John McLaughlin said, ''In the Summer of 2001, we had ample warning of attack, but we didn't know anything about specificity: timing, targets, and so forth. But we did have conviction that something big was coming at us. We have that same conviction now.''

On July 8, Secretary Tom Ridge and FBI Director Robert Mueller announced that al-Qaida cells are operating in the United States and that multiple simultaneous attacks are possible before the November elections.

In late May, the Attorney General announced that he had credible intelligence from multiple sources that al-Qaida plans to hit the United States hard in the next few months.

In the weeks following the Madrid railway bombings, the Washington Post reported that the President informed the Republican congressional leadership that he was all but certain that terrorists would attempt a major attack on the United States before the November elections.

It is past time that we begin debating this legislation as we approach the 3 year anniversary of the 9/11 terrorist attacks and as Congress reviews the recommendations of the 9/11 Commission. The Commission concluded that the terrorists who are intent on doing us harm are so cunning and agile, and sufficiently knowledgeable about this country that they would schedule their attacks when Congress was in session. These reports also indicate that on September 11, 2001, our Government agencies were not prepared to deter or respond to such attacks. I believe that we are still not prepared.

The bill before the Senate provides $33.1 billion, a level that is $896 million above the President's request. Regrettably, the allocation that is available for homeland security programs is inadequate. This is not a criticism of Chairman COCHRAN, nor is it a criticism of full committee Chairman TED STEVENS.

The fact is that limits placed on homeland security funding by the Bush White House constrain our ability to address known threats to the safety of the American people.

In response to the danger of terror attacks so often invoked by the President, the Attorney General, the Secretary of Homeland Security, and the FBI Director, it is hard to believe that the President would not request supplemental appropriations for securing our mass transit systems, for screening airline passengers for explosives, for inspecting more containers coming into our ports, for increasing inspections of air cargo, or for increasing the number of Federal air marshals. When the threat level was elevated to Code Orange, why did the President not seek a supplemental? Why does he not amend his fiscal year 2005 budget request to increase his anemic 2-percent proposed increase for the Department of Homeland Security? Why in Heaven's name?

Why, indeed, does the Department seem satisfied with a go-slow, business-as-usual approach to homeland security? The Department issued advice to mass transit systems for improving security, but provided no funding to increase law enforcement presence, or to deploy canine teams. Despite a 6-percent increase in airline flights this year, the Department has allowed the number of Federal air marshals to shrink precipitously—by 9 percent—and the President's budget would result in even deeper reductions next year. Despite concerns about the safety of our borders, the Department, in March, imposed a hiring freeze on Customs officers and immigration inspectors. What could possibly drive such decisions?

Millions of dollars that Congress approved for port security, bus security, and hazardous materials grants 11 months ago have not been awarded. Why? Millions of dollars that Congress approved in February of 2003, 18 months ago, for the purchase of additional emergency equipment for the 28 Urban Search and Rescue teams have not been spent. Why? Having this money sit in Washington, DC, does not make American citizens any safer.

As a result of the President's decision not to seek supplemental appropriations, the Transportation Security Administration was forced to cut funding for training passenger and baggage screeners and for purchasing equipment for airport checkpoints by $38

million. I am one Senator who believes that this administration is playing with fire.

It has been 2½ years since Richard Reid, the so-called shoe bomber, tried to blow up an aircraft in flight over the ocean with explosives that he carried onto the aircraft. Just 2 weeks ago, two Russian planes were simultaneously blown out of the sky. Preliminary investigations indicate that the planes were destroyed by explosives carried onto the planes by passengers. The 9/11 Commission concluded that we must give priority attention to screening passengers for explosives. Are we any closer to deploying a national system that could check passengers for explosives? The answer is no.

It has been over 2½ years since the Congress passed the USA PATRIOT Act and set a goal of tripling the border patrol and customs officers on the northern border. Have we met the goal? Again, no. We are 1,428 officers short of the goal.

It has been nearly 3 years since 9/11, when police and firemen in the World Trade Center could not talk to each other on their radios. As the 9/11 Commission concluded, many first responders failed to get the order to evacuate the towers, causing hundreds of them to perish. Are we any closer to providing police and firemen across the nation with interoperable communications equipment? Sadly, the answer is no.

The EPA has estimated that there are 100 chemical plants in this country, each of which, if attacked, could harm over 1 million people. In February of 2003, the National Infrastructure Protection Center, which is now part of the Department of Homeland Security, issued a threat warning that al-Qaida may attempt to launch conventional attacks on nuclear or chemical plants. A year and a half later, has the Department actually hardened the security of the chemical plants? You guessed it, no.

I simply do not understand why this administration thinks that homeland security is not important enough to fund. The President campaigns on being the best candidate to protect this Nation, yet each and every budget that he sends to Capitol Hill shortchanges the safety and security of whom? You guessed it, the American people.

Similarly, I am very concerned that we are about to make the same mistakes with our Nation's intelligence services.

The 9/11 Commission offered a large number of proposals to change our intelligence system, each of which needs to be carefully evaluated. Some may work and some may not, but adopting them all lock, stock, and barrel without carefully scrutinizing each proposal simply to beat the political clock is a surefire recipe for disaster. We should not create sheer chaos and bureaucratic turf battles within the very structure that is trying to ferret out another attack before it happens.

For instance, last month, the President signed three Executive Orders to begin implementing the 9/11 Commission reforms. But the Bush administration has not sent a single budget amendment to the Capitol to pay for those changes. Where is the money to operate the new National Counterterrorism Center that the President created by Executive Order? And if there is no new money, isn't the President just reshuffling the deck chairs? Is this the same old story being played out?

This is what we have seen with homeland security. There is great fanfare when the President signs a homeland security authorization bill. But then the appropriations bills and amendments are rejected by the Bush White House as ''extraneous spending''—the very amendments that would keep the promise of the administration's fanfare. When are we going to break this cycle of false promises to the people of this Nation?

Our intelligence services have problems that must be addressed. We have far too few people on the ground in key places on the globe. We have terribly inadequate intelligence technologies. We do not have sufficient backup facilities for our one-of-a-kind intelligence assets. The FBI Director has told every person who would listen about the critical vulnerabilities that he must address to meet today's threats. Yet, instead of taking on these tasks which we know must be done, this government seems all too eager to satisfy itself with shifting boxes and creating bureaucracies.

In the legislation before the Senate today, we try to break that cycle. The $896 million increase that is in the Senate bill will help to address some of the gaps in the President's homeland security budget. The bill includes $150 million for mass transit security, none of which was requested by the President. Instead of cutting port security by 62 percent, as proposed by the President, we are providing at least a modest increase over last year for port security. We are providing $98 million more than the President requested for replacing the Coast Guard ships and planes that are deteriorating at a dangerous pace. Funds are included to stop the loss of Federal air marshals. Additional funding is also provided for air cargo security and explosives-detection equipment and for additional radiation detectors that can be deployed at our ports.

We continue to fund effective programs that the President wanted to cut or reorganize, such as the fire grants program and the All Hazards Emergency Management Performance Grants program.

In addition, the bill contains an important protection for the privacy rights of Americans. I thank Chairman COCHRAN for his support of my amendment in subcommittee concerning CAPPS II, the Department's proposed new airline passenger profiling system. By restating the language that was in the 2004 act, this bill allows testing of the project to move forward, but ensures that the system will not be deployed until GAO confirms that privacy rights will be protected, that an appeals process is in place, that the data in the system is accurate, and that the data is protected from unauthorized use. On July 15, Secretary Ridge announced that CAPPS II, in its current form, would not be deployed. I am encouraged that he finally got the message that the Congress has been sending him for over a year about balancing our need for protection with our rights to privacy. On August 26, the Department announced a replacement program called Secure Flight, but details are not yet available. I look forward to hearing the details of the plan so that we can determine whether the privacy rights of our citizens are protected.

With the limited funds that were made available to the subcommittee under our allocation, Chairman COCHRAN has produced a good bill. And I commend him for it.

However, this Nation faces a turning point, as we are challenged, once again, by the threat of attack on our shores. We know that terrorists live among us. Yet we do not know where they will strike, we do not know when they will strike. We do not know. What we have are warnings from the Attorney General, from the FBI Director, and even from the President that al-Qaida is planning an attack here within our shores. Are we prepared to prevent such an attack? Are we prepared to respond to such an attack? Look at the funding levels and decide.

The bill that is before the Senate contains an increase of about 5 percent above the fiscal year 2004 level. The President is certain that America is going to be attacked again soon, yet the Senate is debating a bill that provides for a 5-percent increase. If an attack occurs, it will be on the head of this White House to explain why they pinched pennies with homeland security.

Congress has a responsibility to protect the Nation. So does the President. The country's serious vulnerabilities demand that we invest dollars where they are most needed.

That is why I intend to offer an amendment to this bill to target increased funding to those programs that have the most impact on well-documented vulnerabilities, such as rail security, port security, chemical security, fire and other first-responder programs, and border protection.

Mr. President, more than 95 percent of the Nation's overseas cargo moves through our ports. The U.S. Coast Guard estimates that a one-month closure of a major U.S. port would cost our national economy $60 billion. We inspect only 9 percent of the cargo containers that come into our seaports. The 9/11 Commission concluded that we must do better, and I agree. In order to

help secure those ports, the Coast Guard estimates that $1.1 billion is required to implement the Maritime Transportation Security Act in the first year, and $5.4 billion over 10 years. Yet the President requested only $46 million for port security grants, and this bill only provides $150 million. We need to do more.

On March 11 of this year, terrorists attacked commuter trains in Madrid, Spain, killing nearly 200 innocent passengers. The President has not requested a dime for mass transit security. We should be investing in additional guards, better training, additional canine teams and better surveillance. Chairman COCHRAN has initiated a $150 million program for mass transit security, but the Senate Banking Committee has reported a bill authorizing over $3.5 billion for fiscal year 2005 for mass transit security and the Senate Commerce Committee has reported a bill authorizing $1.2 billion for rail and Amtrak security. Americans use public transportation over 32 million times per workday. We need to do more.

The Hart-Rudman report on the terrorist threat in this country recommended a $98 billion investment in equipping and training for our first responders over the next 5 years. Yet, this bill cuts first-responder funding below the levels enacted last year. The committee report calls on the Department to finally issue Federal guidelines to assist State and local governments in making wise purchases with first responder funding, but guidelines are not a substitute for money. The bill would reduce first-responder funding by $778 million from the fiscal year 2004 level, including cuts in the fire grant program. That is not acceptable.

This is a good bill but it simply does not do enough. My amendment, which I shall offer, will not simply throw money at homeland security. It will address specific, known vulnerabilities. It will fund a number of the security weaknesses identified by the 9/11 Commission.

Last week, the President said:

> This election will also determine how America responds to the continuing danger of terrorism—and you know where I stand. Three days after September 11, I stood where Americans died in the ruins of the Twin Towers. Workers in hard hats were shouting to me, ''Whatever it takes.'' A fellow grabbed me by the arm and he said, ''Do not let me down.'' Since that day I wake up every morning thinking about how to better protect our country. I will never relent in defending America, whatever it takes.

Whatever it takes? Well, Mr. President, it takes more than empty promises to protect this country from attack. If President Bush meant what he said last week, he would not accept a bill that cuts funds for first responders, that leaves first responders unable to communicate, that leaves airline passengers worrying about whether a fellow passenger has the means whereby to destroy the plane, whether a passenger has brought explosives on board, or that fails to adequately invest in securing our ports, our chemical facilities, and our trains.

Again, I commend Chairman COCHRAN for his work on this important legislation. He conducted hearings. He conducted fair hearings. I encourage Members to bring their amendments to the floor so that they can be considered and so that we can bring this bill to final passage and go to conference. We need to get a good freestanding bill to the President's desk. We have waited far, far too long.

Mr. President, I ask the Senate to support this bill.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. NELSON of Florida. Mr. President, we are considering a must-pass piece of legislation, the Homeland Security bill. Because of that, it is an appropriate vehicle to amend to pass other must-pass appropriations. The appropriation I am speaking of is hurricane relief for the battered State of Florida and, in some cases, parts of Georgia, as well, but particularly the State of Florida because of not only one hurricane but two hurricanes. Hopefully, the good Lord is not going to make it three hurricanes.

Hurricane Ivan is on a track, as of the latest advisory from 11 this morning from the National Hurricane Center, to come across Jamaica, up over the western side of Cuba and into the Gulf of Mexico, which is almost the identical track Hurricane Charley took 4 weeks ago.

Let us hope if it continues on that track that it continues on into the Gulf and does not take a right turn, which is what Hurricane Charley did, hitting the coast of Florida at Ground Zero, which was Punta Gorda, FL, with winds of 145 miles an hour coming straight off of the Gulf of Mexico and right up Charlotte Harbor.

We cannot do anything about that because that is the forces of Mother Nature, but what we can do is respond as a Federal Government in times of natural disaster emergency.

We started that process last night when we passed a $2 billion supplemental appropriation. That is not nearly enough for the first hurricane, let alone the second hurricane. The $2 billion appropriation was a figure the President requested, which is the ordinary procedure. Senator GRAHAM of Florida and I had first ballparked only the FEMA portion at $2.5 billion and requested that of the President. The President chose a $2 billion figure and it is our normal custom, in times of national emergency, to go with the President's request. So with bipartisan unanimous support, we passed a $2 billion appropriation last night. That was quite timely because FEMA's coffers were running dry today.

Four weeks ago, FEMA had only $837 million in its emergency disaster relief fund. As of Monday, when I met with the FEMA director and his regional director who is now in place in a headquarters in Florida, they were down to less than $100 million and they were not able to pay bills and order supplies because they were fast running out of money. Thanks to the majority leader and minority leader and the leadership of the various committees of this body, the Senate passed what had been sent over from the House and $2 billion has now replenished the emergency disaster relief fund.

That is going to be used pretty quickly. That was only for FEMA. That does not say anything about the $500 million we are estimating through the Department of Agriculture in crop losses and all of the assistance from the Department of Agriculture not only for crop losses but for damage to equipment and buildings. Of course, that does not say anything about assistance to the Department of Transportation, where there was significant damage to airports in Florida, including the Orlando International Airport that got hit not once but twice.

That does not even say anything about a lot of that assistance that comes through the Small Business Administration, which is not only assistance for businesses but assistance to individuals, as well as low-interest loans to help people get back on their feet. That does not say anything about assisting the American Red Cross, which has been down there not once but twice now in helping people who are walking around in a daze with no power, with a home that has been completely destroyed.

So in times of natural disaster, the costs begin to mount up. I will give a means of comparison. Twelve years ago in the monster hurricane, Hurricane Andrew, that savaged south Florida, it was a hurricane that went over a relatively unpopulated part of the State, south Miami, south Dade County, the city of Homestead, but then it exited over the Everglades, an unpopulated part of Florida. Yet, 12 years ago, the cost of that hurricane to the Federal Government, just for FEMA, was $2.9 billion. The total cost to the Federal Government, including all of these other agencies, some of which I have mentioned, was over $6 billion, some $6.3 billion.

We are now dealing with not one hurricane, which was not as destructive as Hurricane Andrew for comparison, but now we are dealing with the second hurricane.

Now I will speak about this second hurricane, Hurricane Frances. By the time it hit the shore at Fort Pierce, its winds were down to 105 miles an hour. There were gusts of up to 120 miles an hour and those gusts were recorded at the Cape, what we refer to as the Cape,

Cape Canaveral, the Cape Canaveral Air Force station at the Kennedy Space Center. That center sustained considerable damage. The big vehicle assembly building, which used to be the largest building in volume in the world when it was constructed in the 1960s, used today to stack the space shuttle vertically to all of its component parts, was ravaged to the point of losing 1,000 panels, each panel being 10 feet by 4 feet, a total of over 50,000 square feet that is now open into the building.

I do not need to paint the picture of the disaster that could occur if this third hurricane were to come and hit the Kennedy Space Center, with the thousand huge, open windows allowing the forces of Mother Nature to go inside the vehicle assembly building. That could set back the American space program considerably if there were significant damage.

I had a little prayer session in the Commerce Committee with the administrator of NASA today about what we are going to do about this and how NASA itself has got to be a part of this emergency appropriation, as the Department of Defense was 12 years ago when Hurricane Andrew did so much damage to Homestead Air Force Base. So, too, we have this problem at the Space Center. By the way, it is not only the vehicle assembly building.

There is no excuse for why the building that manufactures the delicate silicon tiles that go on the underbelly of the Space Shuttle Orbiter was ripped apart when these winds came across the Cape. My colleagues should see pictures of it. Our ability to produce the thermal protection system for the space shuttle was savaged by these winds. There is no excuse for not having a building that is constructed to withstand hurricane force winds, and I have asked NASA to answer to that. The fact is, it has happened and it is going to have to be repaired, as is the roof of the building that handles the central computers that has now been ripped off. What I am saying is there are going to be a lot of costs because Mother Nature has dealt us a very savage blow.

The gentleman handling this legislation is the distinguished Senator from Mississippi, who is also an expert in agricultural appropriations.

I am sure the Senator has already gotten the reports that the first hurricane savaged the citrus crop 100 percent. Even more, because the young trees that snapped, that were loaded down with fruit, by the way, now have to be pruned back. So the loss of the orange crop is not just this year, 100 percent of the crop, but that loss will be sustained over several years as those pruned-back orange trees will take years to grow back. So that is the agricultural loss.

If that were not enough—let me call this to the attention of the chairman of the Agricultural Subcommittee of the Appropriations Committee. If that were not enough, here comes the second hurricane, and it ravages another part of the citrus growing region in Florida called the Indian River citrus region, where the delicacy fresh grapefruit is grown. There is no telling, I have not gotten the estimates of what happened, but if it is like the first one, even those grapefruits still on the tree, with the root rot going on with the floods, it is likely it is a 100 percent loss as well.

We can see the extraordinary destructive force of nature that has hit us. Lord forbid a third one, Ivan, comes to our State. We don't wish it to go to anybody's State.

Floridians are tired; they are stressed; they are hot; their patience is wearing thin. Yet they have been very appreciative of the response. One of the lessons that we learned from Hurricane Andrew was that it was total chaos afterward. One level of government was not talking to another level. That has been changed. There is communication and cooperation efficiently going on between all levels of government. However, when you get hit not once but twice, with the possibility of a third time, then the human endurance and the ability to respond to natural disaster begins to have a finite limit.

If there is one reason for the Federal Government to exist, it is to help its people in times of disaster. I will later on be offering some amendments to this bill. Most of what I have proposed here I would prefer that we strip off this bill and we handle it as a free-standing bill so it doesn't get mired in all of this. But I am only going on the instructions that the majority leader has given me, which is that we passed the $2 billion last night and he wanted to—and it was his words, many times over—attach it to the Homeland Security bill. So we can discuss what is the appropriate venue.

I yield to the distinguished Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. I am happy to compliment the distinguished Senator for his description of the damages in Florida. We are all keenly aware, because the of the images on television, and the description in the newspapers, conversations with friends and family members in that State, how terrible those storms have been and the devastation that has been caused.

One thing that reminds me of the history of my own State is the terrible force of the wave action. I can remember when Hurricane Camille struck the Mississippi Gulf Coast in, I think, 1969, that storm did more damage than any other hurricane that had ever hit that part of the gulf of Mexico. I recall going down to the gulf of Mexico and visiting that area, seeing how devastating the damage was and how long it took to recover from it. As a matter of fact there are still scars. There is one shrimp boat about 2 blocks inland now that is sitting there as a reminder of the force of that hurricane.

The fact of the matter is, and the Senator is correct, the $2 billion the Congress has approved for a supplemental appropriation for the Federal Emergency Management Agency is targeted just to the Disaster Relief Fund. This is, as the Senator knows, to provide emergency assistance of food, shelter, debris cleanup—taking care of the emergency situation that exists. That fund was going to be exhausted this morning when the President signed the bill appropriating this additional money. So, with this funding, that account is taken care of.

As the Senator indicates, there is a lot of other damage that is outside the jurisdiction of the Federal Emergency Management Agency. The Department of Agriculture and other Federal agencies may have responsibilities and they may not have sufficient funds to meet all the needs for which some people are entitled to reimbursement or some kind of disaster relief under Federal law. For that reason the President indicated in his request to Congress which he submitted on September 6—and I'll read this. He said:

> The enclosed request requires immediate action by the Congress to ensure that the immediate response efforts to these recent disasters continue uninterrupted. I anticipate making a further request in the coming days that will provide for a comprehensive response and recovery effort addressing the impact of both of these hurricanes. In addition, federal government agencies will continue their response and recovery efforts using existing resources and programs.

What we get from that is the President is submitting and, we have been advised by the President's staff, that in the coming days there will be another supplemental appropriations bill requested by the President. It will not be the bill that we are considering today, though. This is the annual appropriations bill that funds the entire Department of Homeland Security, Coast Guard, the Secret Service—the 22 various agencies that are combined within the ambit of the Department of Homeland Security.

I suggest to the Senator we would welcome any suggestions he has for inclusions in the additional supplemental that will be before the Congress soon, at the request of the President.

Mr. NELSON of Florida. I thank the Senator for his comments. It would be this Senator's preference that we have an emergency supplemental just for the hurricane damage, including all of these agencies as well as—I didn't even mention the Army Corps of Engineers. We had severe beach erosion; in some cases, beaches disappearing. I just mentioned, for example, citrus, but we are talking about huge losses in nurseries, in vegetables, in cattle, hogs, the oyster/clam industry, timber—just to mention a few. It would be this Senator's preference clearly to have a stand alone supplemental. However it was Senator FRIST, the majority leader, who called me saying he wanted to use this vehicle, the Department of Homeland Security, to which to attach those

additional emergency supplemental requests.

If there is a change in that, and I get assurance that in fact this other legislation will move because of the necessity of it—I remind you the $2 billion last night was just FEMA for the first hurricane, Charlie. That doesn't address all these other agencies and it doesn't address FEMA for the second hurricane, Hurricane Frances.

I will certainly work with the Senator. But I am one way or another going to make sure we have this appropriations request before the Senate under the emergency conditions that we find ourselves facing.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, Senator SCHUMER is here. He has a very important amendment to offer. I think we could probably agree on a time for debate. We of course will ask the majority what time we want to vote. But I gather the Senator from New York would be in agreement to a time limit on his amendment.

Mr. SCHUMER. I thank my colleague from Nevada. I would be happy to set a time limit and then have a vote on the amendment.

Mr. REID. Could the Senator give us an idea about how much time it might take? Senator COCHRAN usually likes to work under time agreements. Could we have a general idea?

Mr. SCHUMER. That is fine with me. Maybe we could have a few minutes for the majority and a few minutes for the minority.

Mr. REID. We have a general idea about how much time it would take. If we could have a vote sometime before 5 o'clock?

Mr. COCHRAN. Mr. President, before we start agreeing on times for votes, that is above my pay grade. We have a distinguished majority leader, and we will have to consult with him and other Senators.

Mr. REID. I did mention that, but to give Members an idea of when there might be a vote, Senator SCHUMER is ready to offer his amendment.

Mr. COCHRAN. It depends on what his amendment is. We may all rejoice and vote for it. Who knows? Again, we may not.

Mr. SCHUMER. If my colleague will yield, I can assure him it is a good one.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Thank you, Mr. President. I will be offering an amendment on nuclear security in a few minutes. But first I would in general address this bill.

Let me first say at the outset I am glad we are doing this bill now. As you know, many of us on this side of the aisle asked that this bill come up much sooner. But to do it right here as our first order of business when we return from the summer break after the two conventions I think is very good. I am glad we are on this bill.

The second point I would make is this: I don't think anyone on this side—certainly not the senior Senator from New York—wants to obstruct or not have this bill pass. We want it to move forward. So there is no intention to delay. As my good friend from Mississippi has seen by my asking for a short period to debate this amendment, having spent 18 years in the House of Representatives, 45 minutes is a lifetime there, but here in the Senate it is a relatively short amount of time. There is no intention for dilatory tactics or anything of that sort.

I believe, being head of our Democratic Task Force on Homeland Security, and having talked to many of my colleagues about further amendments, my friend, our chairman of the Subcommittee on Homeland Security Appropriations, will find similarly short time limits are being called for. That is all the good news. The bad news is many of us think this amendment being brought before us is woefully inadequate. I would like to discuss that in general.

I have been quite hawkish on the war on terrorism, having supported the President's request to go into Iraq. I supported the $87 billion and I believe we need a strong and muscular foreign policy overseas. Mistakes are often made. We should do a lot better in terms of those mistakes. But inaction is perhaps the greatest mistake of all.

I am for fighting a vigorous war on terror overseas. I believe what our President said—former President Bill Clinton—is exactly right. To have strength and intelligence—that is exactly what he said, something to that effect—are not mutually exclusive categories when fighting a war on terror. If we are fighting a strong war on terror overseas, we are certainly not doing it here at home.

If I had to choose perhaps the greatest weakness of this administration in its war on terror, it would be the inadequacy of what we are doing here at home. The bottom line is this: We get a lot of rhetoric. We don't get the focus, the thoughtfulness, or the resources, the dollars to do what we need to do. Sure, if you think this is a 20-year plan, maybe we are doing enough. But we sure don't think it is a 20-year plan when we go overseas, nor should we. It is not a 20-year plan here.

Let me say this. This is my own view. We have a window in this global war on terror. In other words, my view is that this war on terrorism we face can be described in a single sentence; that is, the very technology which has blessed our lives and accounted for so much of the prosperity we have seen over the last two decades here at home has an evil underside, and that is that small groups of bad people can get hold of that technology and use it for terrible purposes. You can be in a cave in Afghanistan, and as long as you have a wireless connection to the Internet you can learn as much about America as any of us knows. If you took 500 random people anywhere on the globe from the most highly intelligent and well-read and studied to maybe the guy who sweeps the floors at night and injected them all with an evil virus so that they all decide to spend the next 5 years figuring out how to do terrible damage to the United States and then implement it, the odds are too high they can succeed.

This is not simply a war against al-Qaida. Al-Qaida is the first group who learned how to use this technology to cause the terrible events in the city from which I hail and which I so love. Al-Qaida is on the run. We have not done enough maybe in Afghanistan and Pakistan, but clearly al-Qaida is weaker today than it was then. But it is only a matter of time before new groups—maybe the Chechens, maybe the East Timorese, maybe even the skinheads in western Montana—figure out they can use this technology and do terrible damage. So we have a window. It may be 2 years, it may be 4 years, it may be 6 years, but it sure as heck ain't 10 or 20 where we can tighten up our defenses, because even though we have to fight the war on terror overseas we also have to prepare a defense at home.

If 500 people can do such terrible things, the odds we will be able to catch all of them before any of them implement the first strike against us is rather small.

Like anyone who follows sports knows, to win a game you need a good defense and a good offense. Whether you agree with this administration or disagree, you can't take away that they are focused on that offense. When it comes to defense, they are not home. They would be ranked as one of the worst defenses around. I have tried to figure out why this is, why we are doing so little on homeland security at home; why when it comes to our ports or our trucks or our rails or our borders, we are making such slow and halting progress, almost grudging progress, if you will.

I am not a person inside the brain of the President or his chief advisers, but having talked to people who have worked there and left—some of them in disgust—I can tell you that part of it is a lack of desire to spend the dollars necessary. Spend whatever it takes overseas, fine; spend whatever it takes here to make us secure, the money is not there.

There is also the mistrust of Government, a sort of antigovernment view that Government is not a good thing, that Government is not going to do it right, that Government should be the place of last resort. Unfortunately, when it comes to the war on terror, it is only the Government that can do it, whether it be overseas or here at home.

But as a result, this administration, in my judgment, whatever grade you give them in fighting the war overseas, would get a D or an F in most areas in terms of fighting the war here at home.

Let me give some general places where we are not close to doing

enough. Regarding the air, we have done a good job making sure another September 11 does not happen specifically in the way it did; in other words, simply bolting the cockpits of all our planes greatly cuts down the average of a plane being hijacked. Putting air marshals on the planes makes a great deal of sense. We have made progress inspecting baggage and luggage. In fact, I think the TSA has done a good job and is an example that Government can do a good job. They are doing better than the private sector did when they were hiring people at minimum wage who hardly spoke English. However, even in the air we are vulnerable to terrorists using shoulder-held missiles and taking down our planes. We can stop that.

There will be an amendment offered here either by me or by somebody else that will push us to do more, much more quickly. Are we doing nothing in these areas? Absolutely not. We are doing a little bit. Again, if you believe that we can take 20 years to tighten our defenses before, God forbid, terrorists strike again, that is fine. If you believe we have a window that may be 3 or 4 or 5 years, it is a dereliction of duty. It is a dereliction of responsibility, the same as not protecting our troops overseas.

Take the rails. We learned in Madrid that terrorists may want to hurt people by blowing up trains and railway stations. The best way they do that, the most efficacious way, is by using regular explosives. We have the technology to develop devices that can be like smoke detectors. They can be put on every railroad car, in every railway or subway station. If someone walks in with nitrates, they will be detected. We do this, of course, on airplanes. We have sniffing devices which are now used in a few airplanes. I went through one of the devices in Rochester. It works well. That does not work for crowded trains and commuter rails and subways. We can increase the technology and it can be like a smoke detector. Place it on the ceiling, and it goes off if somebody carries explosives, thereby thwarting a blowing up of a train or a railroad station. We are not doing that.

Nor are we protecting the egress and ingress at most of our train stations in case, God forbid, something blows up. Penn Station, the busiest rail station in the country, still has tunnels a mile and a half long without ventilation and without escape routes. Two or three years ago we allocated $500 million to improve that. Only $100 million has been spent.

My colleague from California, Senator BOXER, will have an amendment on rail security that will address some of these concerns. She and I will be talking about that.

What about the ports? We are still only inspecting, at best, 5 percent of all incoming containers. I was speaking to a few people who run the container operations in parts of New York. They say it is more like 1 percent that we are inspecting. Who knows what is in the containers? Shoulder-held missiles, nuclear weapons, terrorists themselves. They caught someone actually in a container trying to smuggle himself into Toronto. We do not inspect these containers. Almost anything can be in them. Again, the technology is there to do more, quicker, and better inspections, to detect explosives or biological or radiological compounds and to put a lock on the container so it cannot be opened again and something be placed in it. My colleague from Washington will be offering an amendment on port security.

How about trucks? We have learned al-Qaida is now using truck bombs as a weapon of choice. This is what our intelligence picked up when we had the last scare that said something might occur during the political season, either at the conventions—which, thank God, it didn't—or maybe closer to the political season. There were indications that truck bombs might be used. There are things that can be done, things that are technologically available and feasible to deal with truck bombs. We can, for instance, require any truck that carries hazardous material have a GPS system so we know exactly where they are going. If they go off course, we will know. If they are stolen, we will know. A truck was stolen in Pennshauken, NJ, my neighboring state, that contained hazardous material. It is missing. It has been missing for 3 months. Who knows who has it. The odds are it was robbery, but it is always possible someone for far more evil purpose was stealing that truck.

In Brazil, a country hardly as technologically advanced as we, every truck has a GPS system. When they go off course, it cuts off so the truck cannot run any further if they are worried. Brazilian truck companies did this to prevent theft. Why aren't we requiring it here? The cost is minimal. Put a GPS system in your new Cadillac, it costs a couple hundred bucks more. We can do the same thing for trucks.

We can have some controls on how ammonium nitrate is sold, which is used in truck bombs. We cannot stop it or limit it; our farmers need it. But certainly when someone buys a lot we could require they identify themselves and call an 800 number to make sure they are not on a terrorist watch list or a previously convicted felon.

We can put taggants in the explosions. With nanotechnology, the marking devices are very tiny and do not interfere with either the cost or the effectiveness of the explosive. That way, we can find out who tried to buy certain materials. It serves as a deterrent, as well. We are doing virtually none of that.

By the way, there will be an amendment on truck security.

Are our chemical plants secure? Absolutely not. My colleague from New Jersey, Senator CORZINE, has been the leader on this issue. His State is one of the leading chemical producing States in the country. A terrorist can easily scout out a chemical plant and make plans to blow it up, creating huge damage. All these areas are not areas where we do not know what to do. We know what to do. They are not areas where the technology is not yet able to be developed. It is able to be developed.

I have talked to experts in all of these areas until I am blue in the face. We do not have the urgency coming from this administration when, time and time and time again the Senator from West Virginia, who has been such a leader on this issue, Senator BYRD, or any who have been focused on this area, have brought amendments to the Senate to provide the dollars to make these things feasible, we have been told we do not have enough money.

I ask, would most Americans rather see these things being done and have maybe half a percent less cut on the top tax rate? In other words, say we go, instead of from 39 to 35.5 percent, that would give us enough money to do all of these things. This is not a political choice. This is hardly pork. This is protecting our homeland every bit as much as providing our soldiers overseas with the weaponry, the backup, that they need. Yet no one is home. There is some rhetoric, but every time the dollars aren't there, there is not the focus, there is not the alarm, the sense of urgency some Members feel.

As we debate this bill, many Members will offer a series of amendments on each of the areas I have talked about and then some others.

These amendments are not intended for any political purpose. They are intended out of a sense of urgency, out of a sense of anxiety, out of a sense of even anguish that we are just not doing enough. I will be here making sure we vote on every one of these amendments. It will probably take us a day to debate them all, a full day, and if others say we do not have that kind of time, I would argue we do. If the majority leader thinks we have to work late to consider these amendments, so be it. But we are just not doing the job.

One final issue which I will be bringing up is our first responders. Our hospitals, our police departments, our fire departments—Senator MIKULSKI will have an amendment on the fire grants—are stretched. They have done a great job in their respective areas. Our police do a great job on the war on crime. Our fire departments keep us safe. Our hospitals are more and more advanced. But each of them has been asked to do special things since 9/11. Each of them has new burdens placed upon them and we are not giving them the dollars they need to do it.

Now, you may say, well, let the localities pay for it. But the hospitals in the localities are not paying. With Medicare and Medicaid reimbursements what they are, with the HMOs being more and more efficient, they do not have the money on their own. So if we do not do it, no one will.

With police and fire, it is not much different. We all know how our localities' budgets are strapped. We all know that the property taxes are a huge burden on people. To ask them to raise the property tax burden to do this means it either will not be done or will not be done in the full way that it should. Yet we are not helping our first responders: our police, our firefighters, our hospitals.

So there will be another amendment, I neglected to mention, which I will offer to increase funding overall for first responders. Senator MIKULSKI will have an amendment on the fire grants. But the bottom line is this: There is, as I said, a dereliction of duty, a dereliction of responsibility on homeland security. This administration almost has a disconnect. Dollars do not matter when it comes to fighting the war overseas, when it comes to defending our soldiers. Dollars cannot because their lives are precious. But dollars almost are the end-all and be-all when it comes to homeland security, and we do not do close to what we should be doing.

So in terms of my general remarks, I look forward to debating this bill. I hope some of my colleagues on the other side of the aisle will join us in supporting these amendments.

The bottom line is very simple: No one knows how the war on terror is going to twist and turn over the next generation. That is why I tend to like proactive policies both abroad and at home. But no one is a genius. There are a few geniuses, but not enough of them. No one can foresee the future, so we do not know what is in store for us. We certainly want to cut down the odds of a terrible, terrible incident occurring again the way one did on 9/11 in my city.

I wear this flag in memory of those who we lost. I put it on September 12, and I wear this very flag every day. I knew some of the people. I was friends with a firefighter who died, a guy who I played basketball with in school who died, a businessman who helped me as I was on my way up politically. So it is sort of personal. But the anguish I feel is maybe one-tenth the anguish, one-one-hundredth the anguish, one-one-thousandth the anguish of the families who live with this every day. But they would want us to do everything we can, and we are not.

It is my hope this debate will, at the very least, elucidate places where we are not doing what we should, and maybe even provide the kind of dollars, resources, and focus that have been so sorely lacking thus far.

AMENDMENT NO. 3580

With that, Mr. President, I now send an amendment to the desk to address the critical issue of nuclear security in our ports in terms of research and development.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER] proposes an amendment numbered 3580.

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

The PRESIDING OFFICER. Is there objection?

Mr. COCHRAN. Mr. President, a point of order. I have no objection to the dispensing of the reading of the amendment, but a point of order. Is there already an amendment pending from the Senator at the desk? Is this the second amendment or is this a different amendment?

The PRESIDING OFFICER. There are no other amendments pending.

Mr. COCHRAN. Fine.

The PRESIDING OFFICER. Without objection, it is so ordered. The reading will be dispensed with and the amendment will be considered as read.

The amendment is as follows:

(Purpose: To appropriate an additional $150,000,000 for port security research and development grants)

On page 19, strike ''$2,845,081,000'' and all that follows through ''grants;'' on page 20, line 11, and insert the following: ''$2,995,081,000, which shall be allocated as follows:

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

''(2) $1,550,000,000 for discretionary grants for use in high-threat, high-density urban areas, as determined by the Secretary of Homeland Security: *Provided,* That $300,000,000 shall be for port security grants;''.

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

Mr. SCHUMER. Mr. President, this amendment deals with, to me at least, the greatest nightmare that—how much time does our side have, Mr. President?

The PRESIDING OFFICER. There is no pending order for time.

Mr. SCHUMER. Oh, we did not have a time agreement? Thank you, Mr. President. I only intend to take another 10 to 15 minutes on my own, and then maybe if my colleague from Mississippi speaks in favor of the amendment I will not even speak further. But if he speaks against it, I will try to answer what he has to say.

Mr. President, if you think of all the terrible things that terrorists could do to us—and there are so many you almost run out of mental space thinking about them—perhaps the worst that I can imagine is that a nuclear weapon, and I am not talking about a dirty bomb, which would be bad enough, but a real nuclear weapon would be smuggled into this country and exploded anywhere in the country, but particularly in one of our large cities.

The damage would be unimaginable. It is guessed if it were even a 10-kiloton device—smaller than the devices that were exploded in Hiroshima and Nagasaki—that over 100,000 people would die immediately, hundreds of thousands more in the next month, and then perhaps even millions over the years from the radiation. The economic loss would be incredible, not just in the city where it was exploded but wherever the wind currents blew in terms of where the radiation blew. It would probably, in many ways, change the way of life that we cherish for every American, no matter in what part of the country you lived.

So it seems to me we should be doing everything we can to prevent a nuclear weapon from being exploded here. Part of that, of course, is to try to buy up the nuclear weapons we know parts of the former Soviet Union have had and a few other countries have had. We should be funding Nunn-Lugar. But the amendment does not go to that. The other is to prevent them from being smuggled in.

There is good news and bad news about nuclear material. The good news is, in terms of detection, every one of them emits something called gamma rays which can be seen and detected through metal, through anything but lead. Lead is very heavy, so it is hard to detect a device totally surrounded by lead. And then you can detect lead anyway.

The bad news is, right now the detection devices we have are not very proficient. They still have to detect the nuclear material at relatively close range. A Geiger counter needs 3 feet. Some of the other ones that have been developed need a little bit more space.

They are not foolproof, to say the least. I have talked to scientists in my State at Brookhaven National Laboratory and to scientists in many other States, and devices could be developed that, No. 1, detect any kind of nuclear materials from 70 or 80 feet away and detect them in a far more foolproof way than the present devices.

Now, the only way a nuclear device can be smuggled into this country very easily—the only remaining way—is in large containers that come into our ports by the tens of thousands every day or in a truck that goes over the Mexican or Canadian border.

It is very easy to imagine that we could place these detection devices on every crane that loads a container coming to our country. You may say: Well, there are thousands of cranes all over the world. That is true, but already we only allow containers to come into this country that are loaded from 15 ports. I do not have the list of them, but it is Antwerp, Singapore, places such as that. You do not want to detect them here because then they could be exploded while the ship approaches our shores and is not yet here. It could be placed on every toll booth. We would basically prevent any nuclear weapon from being smuggled into the country.

But the devices that really work well and can detect radiation far enough away and do it well and sensitively are not yet developed.

Scientists say that with a couple of years of research they can do it. They right now detect small amounts of nuclear material in cyclotrons and atom smashers at a great distance, but those devices are too large and delicate. They can't be bounced around very much to work.

All it takes is spending some dollars, maybe $150 million, maybe $250 million—it sounds like a lot, but it is not in terms of the $1.7 trillion budget—and then installing them in the ways that I have stated.

I have tried for 3 years to get this body to do it. A few years ago we accepted an amendment that would have at least put in $150 million for these devices. But when it came back from conference, only $35 million was left. Guess what. That was in the 2003 budget. They still haven't spent it. Is that amazing? It is $35 million to start on this research, and Homeland Security still has not let the contracts.

What is going on here? This is a huge catastrophe that could, God forbid, happen, and we are just asleep at the switch.

This amendment seeks to rectify that. This amendment will provide all of the necessary funding to develop the devices and then install them in places we need them. My guess is the whole process would take 2 to 3 years, if we really put the energy and the muscle into it. It is true that there are a few places where we are doing this with rudimentary, more primitive types of detection devices. Yes, one of them is in my harbor, Howland Hook on Staten Island. I have visited. I see how it works. It is better than nothing. But it isn't close to good enough. That is one container port, and there are 40 or 50 in New York alone.

We all know the terrorists have access to the Internet, and they know exactly where nuclear devices are being detected, the few ports that they are, and the huge number where they are not. They also know that the detection devices could be a lot bigger.

What we really want to do is develop a super Geiger counter, one that can detect nuclear materials from a distance and one that is more accurate. Again, you put it on every crane that loads a container bound for the U.S., on every toll booth that has a truck that will go into the U.S., you have dramatically reduced the odds of this type of catastrophe occurring.

Is there anyone who doesn't believe we should do that? Is there anyone who thinks the funding we are asking here, which is an additional $150 million, isn't worth the cost? Yet my guess is that when we have this rollcall vote in a short while, people will just march up to the podium and vote no, and there is no good answer.

I hope my colleagues will not do that. One hundred fifty million dollars is not going to break this bank. It is quite broken already. It is not going to break it much further, and it will do a world of good.

I urge my colleagues to support this amendment. I hope, if we are going to support the amendment, that we will see it through in conference and not do what happened a couple of years ago where it was knocked out in conference and a much smaller amount of money was provided for and then that money was not spent.

I am ready to sit down. I know my colleague from Mississippi wants to move the bill forward. I do not disagree with that. I think the argument is pretty clear and pretty succinct. I hope we will be off to a good start on this bill by supporting this amendment and by not ignoring homeland security, particularly a catastrophe that could occur if a nuclear weapon were smuggled into this country.

AMENDMENT NO. 3580, AS MODIFIED

Mr. President, I have a modification of my amendment at the desk, and I ask unanimous consent that it be so modified. It is just changing one number.

The PRESIDING OFFICER (Mr. CORNYN). The Senator has that right. The amendment is so modified.

The amendment, as modified, is as follows:

On page 19, strike "$2,845,081,000" and all that follows through "grants;" on page 20, line 11, and insert the following: "$2,995,081,000, which shall be allocated as follows:

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

"(2) $1,350,000,000 for discretionary grants for use in high-threat, high-density urban areas, as determined by the Secretary of Homeland Security: *Provided,* That $300,000,000 shall be for port security grants;".

Mr. SCHUMER. It is actually a reduction in the amount of money by $50 million.

I urge my colleagues to support this deeply significant but, in terms of dollars, modest amendment so we can cut down the odds of a nuclear weapon being smuggled into this country and, God forbid, creating a catastrophe.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, it is always instructive to listen to the distinguished Senator from New York talk about programs and activities that are of major concern to his constituents, particularly in the New York City area, but New York State generally. We appreciate his observations and his expression of concern about technologies and advancements and new ways of protecting the citizens of his State and our country against nuclear threats or other threats to our security. We think the Department has made important progress in these areas, analyzing and understanding the technologies that are available.

We have included, for example, encouragement for additional investigations in this area. I am reading from page 84 of the committee report now. It says:

The Committee expects a significant expansion of the Countermeasures Test Bed being conducted with the Port Authority of New York and New Jersey in testing technologies to detect radiation/nuclear threats to include railway, general aviation facility monitoring, expanded roadways coverage, and an additional seaport.

The Committee is aware of technology proposals developed with national laboratories to facilitate the inspection of containerized cargo for fissile materials as a part of the normal off-loading process at the Nation's seaports.

The Department is focused on the importance that we all believe should be paid to this area of interest and concern. We know that existing technologies are being deployed by agencies at ports of entry, including the U.S. Coast Guard and the Bureau of Customs and Border Protection. They provide an effective nuclear countermeasure system, but continued focused development can considerably extend these capabilities in order to develop technologies for application to specific locations, including those in the intermodal transportation system, in the maritime domain, at border ports of entry, and in the aviation industry.

Specifically, the committee included in this section of the bill to which this amendment is directed great latitude in approving grants that can be the subject of applications from not only States but local jurisdictions such as port security areas.

Of the total provided by the committee for urban area security initiative grants, $150 million is for port security grants; $150 million is included for rail and transit security grants; $10 million is available for inner city bus security grants for the improvement of ticket identification, the installation of driver shields, the enhancement of emergency communications, and further implementation of passenger screening; $15 million is also included for trucking industry security grants to continue the Highway Watch Grant Program.

This committee had the responsibility of trying to help ensure that across the broad range of urban area security concerns funds were available for grants to local areas and to States to deal with these new challenges.

The committee believes the Department's practice over the past 2 years to allocate appropriated funds could be improved. We suggested, for example, that they all not be made available

early in the fiscal year but to leave some opportunities for later grantmaking authority so that if any new discoveries or intelligence of recent terrorist threat information became available, these funds could be targeted to higher risk areas and where we would get more for our money.

It is easy to offer an amendment to double an appropriation, and that is what this amendment does. We have $150 million in the bill for this one particular grant program within the broad urban area security initiative grants. What the Senator from New York is doing is asking that be doubled.

You can just about go through this bill, I suggest, and find every incremental amount that is in this bill and pick out one and offer an amendment to double it and make a good persuasive case why it would be better off if we could spend twice as much money as we have allocated for that one activity. That is a pretty easy argument to make. But it is also a cheap shot, and the reason I am calling it a cheap shot is that we have within this Urban Area Security Grant Program $1.2 billion for discretionary grants to high-threat urban areas. The Secretary has to make these decisions on the basis of the applications and the proposals that are submitted to the Department.

If we in the Congress are going to go back through the bill and try to second-guess every one of these accounts and double it and ask for a vote, you could easily double the whole cost of the bill. We have a $33.1 billion bill. It probably would be harder to get a vote to double that to $66 billion, but you could make some arguments why we could spend that amount of money. But could we spend it in a thoughtful way that would efficiently and responsibly use the taxpayers' dollars in this area of concern, homeland security?

We have had 2 years of experience in writing this bill. Last year, we ended up having to make points of order on the basis of the fact that some of the amendments were in excess of the allocation that was given to this subcommittee.

I understand the full committee has been meeting this afternoon during the last hour to review the amount of funding that would be available to each subcommittee of the Senate Appropriations Committee. And I understand soon, if it has not already been done, there will be filed with the Senate this allocation, and this subcommittee will have a limited amount of money to use in writing this bill.

I am not suggesting we have gotten the cart before the horse, but I am suggesting that before we vote on this amendment, I want to be sure I know what the allocation amount is for this subcommittee. It is not just targeted to the amendment of the distinguished Senator from New York that I do this, but any amendment that would come in and double an amount without any more justification than it would be good if we could spend twice as much as we are spending. And that is really the argument.

Sure, it would be good if we could spend twice as much as we are spending in a lot of areas, but we have to make the choices within a framework of funds available to the committee for a wide range of activities, all of which are very important. We have to choose among programs of the U.S. Coast Guard, programs of the Transportation Security Administration, of the Secret Service, of the Federal Emergency Management Agency, and many others whose accounts are funded in this annual appropriations bill.

I am hopeful we can withhold action on this particular amendment and let us have an opportunity to review the committee's work.

So awaiting the further advice of the chairman of the Appropriations Committee or his staff, 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. SCHUMER. Mr. President, I ask unanimous consent that the order for the quorum be dispensed with so I might answer my friend from Mississippi.

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

Mr. SCHUMER. Mr. President, I make this point. We were here 2 years ago, and a year ago, and my good friend from Mississippi, with the same eloquence, made the same argument: The amount of money is the amount of money we have; yes, we could double it, but let's leave it up to the wisdom of the Department and the committee.

We did that, and in the last year, we have had no money spent on developing better nuclear detection devices. That is a cheap shot? In all due respect to my colleague from Mississippi, and I would say in all due respect this could happen in New York and it could happen in Houston, TX, and blow over to Mississippi—this could happen anywhere in the country, and I am sure just as I would want to protect the citizens of every other State, so would my colleague from Mississippi.

This is hardly an urban issue. Chernobyl did not occur in an urban—it may have been in an urban setting, but it ruined millions of acres of farmland, which I know my colleague cares a great deal about, as do I.

We are asking not for $33 billion, although maybe that would be spent. If I were the President, I would spend a lot of time figuring out what we needed and then spend it. I would not just ask for extra money. This is a small amount of money, $150 million, specifically directed to nuclear security, when in the past we have not done it. And my colleague argues we have enough money and leave it to the wisdom of the Department to do.

By my good friend's logic, we should not have a Congress. Let's have one broad allocation for homeland security and let them do what they want. And let's not even look, if they do not do something we all think is necessary, and come back and say let them do it again.

This is not a typical request. This is not something that just benefits one specific area or one specific company. This is dealing with one of the greatest dangers America faces, and spending a small amount of money after we have learned that Homeland Security will not do it themselves seems to me to be a reasonable request.

I greatly understand my colleague's nose-in-the-tent argument: If I am for this, well, I have to be for it for so many other things. But I ask him to look at the substance of this amendment and its cost, and I cannot think of an argument against it.

Yes, there is $1.2 billion for all kinds of threats. This is the greatest threat we face, perhaps, and there is no specific money that says we have to do this. In the past, when we have had these broad categories, again Homeland Security has done virtually nothing. Why, I don't know. I have asked them. They say: Yes, we are working on it, just as my good friend from Mississippi has said, but nothing happens.

So we wait another year and another year. I hope we do not have to wait until something terrible happens. That is not what anybody wants. To say that Congress should not be modifying what the administration has done says we should not have a Congress, and to say that this amendment is either frivolous or regional or unnecessary does not make any sense to me.

If my colleague could assure me that the Homeland Security Department would do this out of the existing allocation, I would say, sure, but we had that kind of assurance 2 years ago. My friend, the chairman of the Appropriations Committee, Senator STEVENS, said to me: You are right. Let us make sure we get this done.

Well, it has not been done. So I would simply say, I know the committee has labored under what the administration has sent them on the issue, for instance, of rail security. Where the Rail Association says we need $6 billion to thoroughly protect our rails, the administration asked for zero, and the committee comes up with $150 million. That is a lot better than zero but is not close to what we need.

I say to my friend from Mississippi, the bottom line is, my premise is we are not doing enough, we are not spending enough dollars, and we should have a significant increase.

When we came and found we needed $25 billion more for the war in Iraq, nobody said, well, we could double the number, let's not. Nor should they have. Well, it is the same thing when it comes to homeland security. The difference is, it is not a day-to-day issue. Nothing happens, nothing happens, nothing happens, nothing happens, thank God, and then something terrible happens and we say, why did we not do it?

I am trying to prevent that scenario. I am trying to prevent it for my city and my State and the Senators' cities and the Senators' States, and everybody.

So I ask that my colleagues look at this amendment. Do not be swayed by the logic, well, if we double this one we will have to double every one. Let us look at every one and see what we need. Certainly this one, which is $150 million more, aimed at a specific program that no one could object to, makes a great deal of sense. I hope it will pass. I urge my colleagues to vote for it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, the Senator talks about we have sort of rubberstamped what the President has asked for in some of these areas. We have agreed with the President on some of his initiatives because we thought he was right, but when we thought the administration was wrong or where they have requested funds, as he pointed out, in the railroad area, for security programs there, this committee has recommended and the Congress has agreed to add funds over and above what has been requested by the President.

In this particular area, where the Senator is coming in now and doubling the amount of money we have in this one particular grant program—we have appropriated for this program almost $500 million, specifically for port security grants, since fiscal year 2002. We are addressing this issue. This is the point, and I am not apologizing for the decisions this committee has made and that have been ratified by both Houses of Congress and approved in the appropriations conference report. We have appropriated almost $500 million specifically for this program. We have asked for another $150 million this year. That is not enough, he says; double it.

We can talk about it on and on and on and go into all the other accounts that involve security in urban areas, high threat areas, but we have to realize there is a limit. Some Senators think we can come in and double the amounts in individual accounts and it will not matter, but if we keep on doing that before this bill is passed, we will have added no telling how much to the deficit. We would have put the administration in a position where they are going to have to either ask for deferrals or recisions of funds. If they cannot possibly get grants out to people who are qualified to use the money or can justify the use of the funds, we cannot pour the money on the ground, and I am not going to stand here and go along with suggestions that amount to spending more because it sounds as if we are going to be doing more. It does not necessarily follow.

I am hopeful we will have in place within the next few minutes some information about the total allocation of funding to this committee, because without that we can continue to add money for individual accounts in this bill for the rest of today and tonight and on into the weekend and then we will have to go back through and start striking funds that have been added so we will be consistent with the allocation to the subcommittee.

What I am asking the Senate to do, and the reason I put in the suggestion for a quorum when I first made the point of order, is to await the advice of the Committee on Appropriations. I am told they sent the information over electronic device, but we need it written on paper so Senators can read it and can understand what the limitations are. So I am hopeful we can await the advice of the full committee on the action that has been taken today. I would appreciate it very much.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. COCHRAN. Mr. President, I indicated earlier that the Senate Appropriations Committee met earlier this afternoon to approve the subcommittee funding allocations. The allocations approved are the same as those provided earlier by the full committee, for this subcommittee's information. For Homeland Security appropriations, the approved fiscal year 2005 discretionary spending allocation is $32 billion in budget authority and $29.873 billion in outlays. The bill reported by the committee is at the $32 billion discretionary budget authority allocation and $144 million below the outlay allocation. The allocations for this bill are $897 million in budget authority and $730 million in outlay above the President's request, showing the priority the committee has placed on Homeland Security accounts and its appropriations.

This is a fiscally responsible allocation and Members will be required to provide offsets for any additional spending proposed by amendments to be added to this bill, or the amendment will be subject to a 60-vote Budget Act point of order, I am advised. Therefore, I make a point of order against the Schumer amendment under section 302(f) of the Congressional Budget Act that the amendment provides spending in excess of the subcommittee's 302(b) allocation.

Mr. SCHUMER. Mr. President, parliamentary inquiry: My friend from Mississippi said the outlays were still $144 million below what had been allocated by the committee. If I were to ask unanimous consent to make this amendment instead of $150 million, $144 million, within the outlays, would a point of order still lie?

Mr. COCHRAN. Mr. President, I think the Senator asked for a parliamentary inquiry. I don't have standing to rule on parliamentary inquiries. That is the responsibility of the Chair.

Mr. SCHUMER. I ask the Chair. Given the Budget Act, if this amendment were to be modified instead of $150 million of new money, given what we just heard, if the outlays were below $144 million, below the full committee allocation to the subcommittee, would a point of order still lie?

The PRESIDING OFFICER. The Chair is advised that depends on whether it would affect the change in outlays as well as budget authority. It is the understanding of the Chair that there is no room with regard to budget authority.

Mr. SCHUMER. Continuing my parliamentary inquiry, that would mean a point of order would lie even if we were within the outlays?

The PRESIDING OFFICER. That is correct.

Mr. SCHUMER. Just one further parliamentary inquiry: If we said zero budget authority but $144 million in outlays, would that be in order?

The PRESIDING OFFICER. The Chair would have to check with the Budget Committee on the specific numbers.

Mr. SCHUMER. Mr. President, I imagine it is not. So pursuant to section 904 of the Budget Act of 1974, I move to waive the applicable section of that act for purposes of the pending amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Senate vote on the motion to waive in relation to the pending Schumer amendment at 4:45 p.m. today, with the debate until that time equally divided in the usual form.

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

Who yields time?

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. COCHRAN. Have the yeas and nays been ordered?

The PRESIDING OFFICER. They have. The question is on agreeing to the motion to waive the Budget Act.

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from New York (Mrs. CLINTON), the Senator from North Carolina (Mr.

EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

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

The yeas and nays resulted—yeas 50, nays 46, as follows:

[Rollcall Vote No. 166 Leg.]

YEAS—50

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

NAYS—46

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

NOT VOTING—4

Akaka	Edwards
Clinton	Kerry

The PRESIDING OFFICER. On this vote, the ayes are 50, the nays are 46. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

The PRESIDING OFFICER. The Senator from Vermont.

AMENDMENT NO. 3581

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for himself, Mr. NELSON of Nebraska, Mr. LIEBERMAN, Mr. JEFFORDS, and Mrs. FEINSTEIN, proposes an amendment numbered 3581.

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

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

The amendment is as follows:

(Purpose: To prohibit funds from being used to process or approve a competition under Office of Management and Budget Circular A–76 for services provided as of June 1, 2004, by certain employees of the Bureau of Citizenship and Immigration Services of the Department of Homeland Security)

At the appropriate place, insert the following:

SEC. ____. None of the funds appropriated by this Act may be used to process or approve a competition under Office of Management and Budget Circular A–76 for services provided as of June 1, 2004, by employees (including employees serving on a temporary or term basis) of the Bureau of Citizenship and Immigration Services of the Department of Homeland Security who are known as of that date as Immigration Information Officers, Contact Representatives, or Investigative Assistants.

Mr. LEAHY. Madam President, I have offered this amendment on behalf of myself, Senator NELSON of Nebraska, Senator JEFFORDS, Senator LIEBERMAN, and Senator FEINSTEIN.

I rise today to offer an amendment that would end an ill-advised attempt by the Department of Homeland Security to privatize jobs that are vital to keeping Americans safe. This amendment would prohibit DHS from spending money to contract out immigration information officer, contact representative, or investigative assistant positions. I am pleased to have Senators BEN NELSON, LIEBERMAN, and JEFFORDS as cosponsors. The House voted for this exact amendment earlier this year by a vote of 242 to 163, with 49 Republicans supporting it. I trust that we will have a similar bipartisan majority in the Senate.

Immigration information officers, IIOs, are responsible for screening applications for immigration benefits for fraud and for performing criminal background checks on applicants. There are more than 1,200 IIOs and contact representatives around the Nation working for the Citizenship and Immigration Services, CIS, branch of DHS. The work they do in attempting to discover and prevent immigration fraud—and prevent dangerous people from abusing the immigration system—is clearly ''inherently governmental,'' making them an inappropriate target of a privatization effort.

As our Nation continues to face the threat of terrorism, CIS carriers a heavy burden in its attempt to process immigration and naturalization applications while ensuring that terrorists—along with other fraudulent actors—do not abuse our immigration system. Information officers have played a vital role in meeting this burden. Indeed, the agency's own job description requires that IIOs have the ''[s]kill to identify fraudulent documents in order to prevent persons from appealing for benefits for which they are not eligible,'' a skill that is obviously all the more important in this era. They are also required by DHS to have ''[k]nowledge and skill in interviewing techniques and observation of applicants in order to determine if an applicant is misrepresenting the facts in order to appear eligible for a benefit.'' I am offering this amendment because I believe that weeding out potential fraud in our immigration system must remain a responsibility of Government employees, especially when the perpetrator of the fraud may be a dangerous criminal or terrorist.

In addition to their security-related work, these IIOs perform duties that are directly related to achieving President Bush's goal, stated during his 2000 campaign and since, of providing more efficient services to lawful immigrants. IIOs increase efficiency by, as their job description states, exploring ''all avenues of assistance available to the customer; determin[ing] the benefit most advantageous if more than one exists, and try[ing] to motivate the customer to file the appropriate application(s).'' IIOs also have extensive knowledge and use discretion in their positions—they are required to have ''knowledge of the exclusion and deportation regulations'' and ''knowledge and familiarity with the immigration and nationality laws.'' As CIS continues its efforts to reduce the backlog faced by immigration applicants to 6 months, the last thing we should be doing is replacing knowledgeable immigration professionals with inexperienced contract workers.

Should a private contractor win the work currently performed by IIOs, that contractor will be responsible for adjudicating immigration benefits and detecting fraud and criminal activity, requiring the contractor to make decisions that are both sensitive to national security and have a huge impact on the lives of millions of immigrants. This would be a bad idea in any era, but it is particularly inappropriate now.

I have a personal interest in this issue because about 100 fine Vermonters currently work as IIOs. I know the fine work they do, and I know that my staff and, indeed, all of our staffs rely on them and their counterparts throughout the country when we are seeking to help our constituents. I know that our Nation will be better off if these fine men and women remain in their current positions.

Thirty-five members of this body are already on record in opposition to contracting out the IIO positions. We wrote to Secretary Ridge a year ago, seeking the cancellation of the A–76 process. I have since joined with Senators LIEBERMAN, BYRD, and KENNEDY in obtaining documentation from DHS about its decision to launch the A–76 process to hire private contractors to perform the work currently done by IIOs. The documents the Department has provided have proven illuminating. They have shown that officials within CIS did not think there should be private sector competition for these jobs, and believed that the IIOs were performing inherently governmental work. These officials took their concerns to the leadership at DHS, but their views were overruled, and the competition proceeded.

Grant Thornton and PEC Solutions, outside consultants hired by DHS, drafted memoranda and presentations to demonstrate that going forward with the job competition was unwise. These views, too, were ignored.

The decision to contract out these positions is all the more disturbing because it has the hallmarks of a decision made simply to meet a quota. The Bush administration set a goal of privatizing 15 percent of Government jobs shortly after it took office. When the original decision to submit the IIO positions to competition was made, they were still INS and Department of Justice employees. According to a senior official at CIS, that original decision was made when the Office of Management and Budget informed DOJ that it had only hours to submit 1,200 positions that could be privatized. Only James Ziglar, then the INS Commissioner, even knew that the IIO positions would be submitted to OMB.

After the INS was transferred to DHS, the new Department had to decide whether to continue with the competition. DHS announced its decision to subject the jobs to competition in August 2003, and DHS documents suggest that the 15-percent goal remained a major factor in the decision, with the leader of the DHS privatization office referring to the need to meet OMB's 15-percent goal as recently as October 2003. This was true even though Congress prohibited agencies in February 2003—10 months earlier—from applying or enforcing any numerical goals or targets for subjecting employees to public-private competition, and even though the administration grudgingly announced it would abide by the law forbidding this quota in July 2003.

This amendment would also protect the jobs of investigative assistants. These CIS employees work in the Fraud Detection Unit, searching a variety of private, governmental, and criminal databases to find information about applicants for immigration benefits. These positions were created in the aftermath of the September 11, 2001, attacks, to ensure that only qualified personnel would have access to highly sensitive databases. Despite the nature of the position and the circumstances under which it was created, DHS has demonstrated interest in privatizing these positions as well. This amendment would put a stop to that misguided effort as well.

In conclusion, this amendment would protect Federal employees who are trying to weed out fraud in the immigration system and assist lawful immigrants seeking benefits to which they are entitled. It had overwhelming bipartisan support in the House, passing with nearly 50 Republican votes. I urge my colleagues to support this amendment.

Madam President, I will summarize what this is about for my colleagues. There is an attempt to privatize a number of jobs in the Department of Homeland Security. These jobs are vital to our American security. I do not believe they should be privatized. A majority of the other body feels the same way.

My amendment would prohibit DHS, the Department of Homeland Security, spending money to contract out immigration information officer, contact representative, or investigative assistant positions. That is why I am glad Senators NELSON of Nebraska, LIEBERMAN, JEFFORDS, and FEINSTEIN have cosponsored this amendment.

This is not a partisan issue. The House voted for this exact amendment. They just copied the wording of it. They voted overwhelming for it, 242 to 163, with 49 Republicans supporting it. I hope we will have similar bipartisan support in the Senate.

Let me explain immigration information officers. We call them IIOs. They are the people who screen applications for immigration benefits for fraud. They perform criminal background checks on applicants. There are more than 1,200 of these IIOs and contact representatives around the Nation. They work for the Citizenship and Immigration Service, a branch of DHS.

The work they do in attempting to discover and prevent immigration fraud and prevent very dangerous people from abusing the immigration system is clearly inherently governmental.

This is not a custodial service. This is not a landscape service. These are things preventing immigration fraud. It is clearly inherently governmental. So it should not be part of a privatization effort.

As we all know, our Nation continues to face the threat of terrorism. CIS carries a heavy burden to attempt to process immigration and naturalization applications, but they have to ensure that terrorists, along with a lot of fraudulent actors, do not abuse our immigration system. They play a vital role in meeting this burden. In fact, the agency's own job description requires that ''they have the skill to identify fraudulent documents in order to prevent persons from appealing for benefits for which they are not eligible.'' That is a skill obviously all the more important in this era.

They are also required by DHS to have knowledge and skilled interviewing techniques in observation of applications. What they have to do comes from years of experience. They have to be able to find those people who are seeking a benefit who are not eligible.

I have spent a lot of time on immigration matters and I believe that weeding out potential fraud in our immigration system is a major responsibility of our Government. It is a major responsibility of our Government employees. We do not turn it over to somebody else, especially when the perpetrator of that fraud could be a very dangerous criminal or a terrorist. I do not want to have it turned over to Fraud Catchers USA. I want it within our Government so we know what standards are being followed.

They also perform duties that are directly related to achieving President Bush's goal of providing more efficient services to lawful immigrants. They increase efficiency, explore all avenues of assistance available to the customer to determine the benefit most advantageous when more than one exists, again based on vast experience.

The administration wants to reduce the backlog faced by immigration applicants to 6 months. Well, suddenly putting in a whole new service to do it makes little sense. If a private contractor does it, that contractor is going to be responsible for adjudicating immigration benefits and detecting fraud and criminal activity that will require the contractor to make decisions that are sensitive to our national security. It is also going to have a huge impact on the lives of millions of immigrants. I think this would be a bad idea in any era, but with the terror threat we face now, I think it is a very bad one.

The amendment would also protect the jobs of investigative assistants who work in the fraud detection unit. These positions were created in the aftermath of September 11 attacks. Despite the nature of the position, despite the circumstances under which it was created, DHS has demonstrated interest in privatizing these positions as well. I think that is a mistake.

As I said, this passed overwhelmingly in the other body, Republicans and Democrats alike supporting it. I hope we would do the same.

I see the distinguished Senator from Nebraska on his feet, and I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. Madam President, I have cosponsored, as my distinguished colleague from Vermont has indicated, an amendment to the Homeland Security appropriations bill, and I ask unanimous consent that Senator HARRY REID of Nevada be added as a cosponsor.

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

Mr. NELSON of Nebraska. I believe this is a matter of great importance to the security of our country. The amendment would eliminate funding for an A–76 competitive outsourcing study of immigration information officer, contact representative, and investigative assistant positions within the Bureau of Citizenship and Immigration Services, or the BCIS, at the Department of Homeland Security.

As a general principle, I do not oppose privatization of Government jobs where doing so clearly is in the best interest of the most efficient use of taxpayers' dollars and is in the best interest of not only our Government but of the taxpayers. I do believe, though, that there are some types of jobs that can and should be performed by Government, as well as some jobs and services that can be performed by private contractors. I believe that deciding which jobs are appropriate for privatization should be a very careful and deliberative process. It should not be done to meet arbitrary quotas. In the

case of these particular BCIS jobs, I believe DHS has made a mistake in subjecting them to an A–76 study.

In this instance in particular, I do not believe privatizing these particular jobs is appropriate or will best serve the interests of our country. I believe these jobs are intricately tied to the national security of our country and therefore are inherently governmental. These jobs require a high level of discretion and of very specific knowledge of immigration laws to determine who is eligible for immigration benefits. These workers are charged with weeding out fraud in the immigration system and identifying those with criminal histories or those who could be potential terrorists. These are the types of jobs that are inherently governmental in that they are vital to protecting our country from security threats.

The DHS's own job descriptions for these positions illustrate why these positions are inherently governmental. For example, immigration information officers are required to have the ''skill to identify fraudulent documents in order to prevent persons from appealing for benefits for which they are not eligible.'' They are also required to have ''knowledge and skill in interviewing techniques and observation of applicants in order to determine if an applicant is misrepresenting the facts in order to appear eligible for a benefit.''

In addition, according to the DHS's own job descriptions, workers in these positions are exposed to highly confidential information and may at times be exposed to national security information. They must exercise their discretion by observing and questioning individuals for the purpose of determining if those individuals are attempting to submit applications under fraudulent situations and reasons. This can lead to the arrest or detention and subsequent deportation of those aliens and may lead to the prosecution of cases.

In Nebraska alone, there are 100 workers within the BCIS performing these functions, and I have heard from them directly about why they believe their duties are inherently governmental. Quite frankly, I agree with them. I believe it would be unwise, especially in our country's current heightened state of alert to terrorist threats, to outsource jobs that are so closely linked to the security and safety of our country. Weeding out potential fraud in our immigration system must indeed remain a responsibility of Government employees, especially when the perpetrator of the fraud may be a dangerous criminal or a terrorist.

Therefore, I urge my colleagues to support Senator LEAHY's and my amendment and prevent these jobs from being privatized.

I thank the Senator from Vermont.

AMENDMENT NO. 3582 TO AMENDMENT NO. 3581

Mr. THOMAS. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. THOMAS] proposes an amendment numbered 3582 to amendment No. 3581.

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

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

The amendment is as follows:

(Purpose: To require the Secretary of Homeland Security to submit to Congress, at least 60 days prior to award, a report on the results of an Office of Management and Budget Circular A–76 competition, to include estimated savings, performance improvements, and the impact on jobs and Federal Government employees)

Strike all after the word ''Sec.'' and insert the following:

SEC. ____. None of the funds appropriated by this Act may be used to make an award, pursuant to a competition under Office of Management and Budget Circular A–76, to a source for the performance of services that were provided as of June 1, 2004, by employees (including employees serving on a temporary or term basis) of the Bureau of Citizenship and Immigration Services of the Department of Homeland Security known as of that date as Immigration Information Officers, Contact Representatives, or Investigative Assistants unless—

(1) the Secretary of Homeland Security submits to Congress, not later than 60 days before making such award, a report that describes—

(A) the performance requirements for the services;

(B) the estimated savings to be derived from the performance of such services by that source;

(C) the actions that are to be taken to effectuate the transition to performance either by Federal Government employees under the applicable most efficient organization plan or by a contractor, as the case may be; and

(D) the strategy for mitigating the adverse effects of such award, if any, on Federal Government employees; and

(2) the making of the award to that source will not result in the closure of an immigration information service center that was in operation on June 1, 2004.

Mr. THOMAS. Madam President, I offer this as a second degree to the pending amendment of the Senator from Vermont. The amendment specifically restricts the Department's ability to conduct competitions under President Bush's competitive sourcing initiative, which is an integral part of his management agenda. As a strong supporter of the competitive sourcing process and consistent advocate for a smaller and more efficient government, I offer this second degree to ensure that any attempts to restrict the Department of Homeland Security in implementing its competitive sourcing efforts are limited.

The positions in question, immigration information officers, have been identified by the Department as noninherently governmental functions. They have been identified by the Department in that category. They are commercial activities and can be performed in the private sector without endangering our homeland security efforts.

The Department of Homeland Security is simply complying with the FAIR Act by subjecting these positions to public/private competition in order to determine if they could best be performed by the private sector or remain in house. This competition was initiated by the Department of Justice prior to the transfer to DHS. It is critical to significantly improving first line services associated with processing immigration applications and benefits. DHS is in the process of completing its competition in these very positions, and the amendment of the Senator would prohibit DHS from completing this competition. Numerous studies have confirmed that competitions create opportunities for innovative, improved data management, economic, and performance improvements. They are confident that competition has already provided a powerful incentive for both the public and the private sector sources to identify new and better ways of meeting the requirements.

This information has to do with these positions. The IIOs are GS–5s, 7s, and 8s, with supervisors at the GS–9 level, who perform only first line procedural processing for a range of immigrant applications/benefits. They are not performing inherently governmental work, are not policymakers or regulators, do not bind the Government to a course of action. Adjudicators, who have authority to investigate, correct, overrule and make final decisions regarding immigration status, are a separate function within the Citizenship and Immigration Service, but are not covered by this proposed, or any other, DHS competition.

The DHS has opened its commercial activity currently performed by Government employees to competition from the private sector in order to improve services, improve the opportunity for innovation, improve levels of security, and create the possibility of cost savings. The Government and private sector will compete for the work based on quality and cost.

The agency has written that on a governmentwide basis, competitions completed in fiscal year 2003 are estimated to generate savings and cost avoidances of over $1 billion over the next 3 to 5 years. The House version of the bill contains a provision that would block DHS from using competition to choose the best public or private sector sources to handle tasks associated with the processing of immigration applications. We understand an amendment may be offered on the Senate floor that would preclude public-private competition and turn back DHS efforts to significantly improve customer service for immigrants. If the final version of the bill were to contain such a prohibition, the President's senior advisor would recommend he veto the bill.

We have been through this a number of times. It always is presented as if these are replacing Government jobs

with private sector jobs which, first of all, I don't think is a bad idea but nevertheless that is not the case. This is competition. This is an opportunity for both those in the Government service and in the private sector to have an opportunity to deal with these administrative first level jobs—these are people who do not make the decisions, they simply go through the details of this—and to allow this agency to continue to seek to make their work more effective and more efficient. Somehow, every time this comes up we have this opposition to this program that has been in place, is in place, and the fact is it has already been proven to save considerable amount of money. It is already proven in most cases, as a matter of fact, because of the improvement on the part of the Federal employees; they remain there through the competition.

It just seems to me it is a mistake for us to get into this program and say you can't do that anymore. Clearly these people are not the people who are decisionmakers. They are the folks who are doing the administrative work that brings it to the decisionmakers.

Additionally, my amendment would not result in the closure of any immigration service centers or district offices currently in operation, which appears to be the concern of some of the sponsors.

I hope we can take a long look at this and that we can try to allow this program of efficiency, of cost saving, to be continued by this department. Let them make the decision as to who can best do this task.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, I have great respect for the Senator from Wyoming. He is a friend. I understand what he is saying. Unfortunately, the reason why this position was not taken in the other body is what he has asked for is something they could do anyway, simply ask for a reporting requirement. What they have done, in asking for that, they simply put it over for another 60 days and then do exactly what they want. I don't think anybody questions the reporting that would come back from the very department that wants to do this would be to say: Do what you want to do. They accept the report, they accept the way it will be done. Rather than needing 60 days, they could probably do it in 6 minutes.

What I am concerned about is the reason why there is such a bipartisan support for this in the other body—not for the gutting amendment of the Senator from Wyoming but for our amendment—was this makes sure that these very critical services are in the hands of Government agencies.

There are jobs that can be privatized but I think sometimes we privatize what we should not. We sometimes privatize law enforcement and we have seen some of the problems we have had in our prisons when we have done that. Otherwise we privatize investigations and we find that people have their records and their reputations ruined by private companies that do not meet the standards they are supposed to follow and afterwards they say, Sorry, we made a mistake.

Frankly, if you vote for the second-degree amendment you are voting to outsource positions that are critical to our security. We have had 35 Senators who have already written to Secretary Ridge, asking him not to do this. Basically the second-degree amendment simply says tell us why you think you should do it and just go ahead and do it anyway.

I hope we would not vote for it.

Mr. JEFFORDS. Mr. President, I strongly support the amendment offered by Senator LEAHY, myself, and other colleagues that would prohibit opening up the Immigration Information Officers, IIO, position for commercial competition.

This position was opened for commercial competition after a determination that the IIO position was not performing an ''inherently governmental activity,'' and thus capable of being filled through commercial competition. This decision was fundamentally flawed and will, if implemented, be an impediment to national security.

While a very basic description of the functions performed by an IIO might include telephonic and written responses to questions from the public, a closer look at the duties actually performed by IIOs results in a more varied list of duties. My staff and I have had the pleasure of being helped by IIOs on numerous occasions over the years in our attempts to assist my constituents. It is my experience, that IIOs not only provide basic immigration information to the public, but they also have the ability to advise petitioners on the type of petition to file; they have the authority to correct mistakes made in Citizenship and Immigration Services, CIS, records and computer systems; they can reject petitions for various reasons; and it is my understanding that many IIOs adjudicate petitions.

As anyone who is familiar with United States immigration law knows, interpreting regulations and offering advice is a complicated business. When dealing with immigration law, the potential is great for making a mistake that could severely impact a business or a family for a lifetime. Thus, it is inconceivable to me that CIS would consider opening this position to commercial competition.

In the interest of security, following the 2001 terrorist attacks, the Federal Government decided that airport passenger screeners should be Federal employees. Consistent with that decision, I believe that maintaining the IIO position as a Federal employee position strengthens our protection against future terrorist attacks.

In reality, IIOs have the ability to determine who can or cannot remain in this country. When dealing with the public, they draw from a wealth of institutional knowledge that benefits not only the petitioner, but also the entire Nation. IIOs also have access to agency records and can, in fact, modify such information when appropriate.

For many years, the Immigration and Naturalization Service, INS, struggled to live up to the word ''service'' in its name. It is my hope that at the beginning of this new era, with the creation of the Department of Homeland Security, including the CIS, we will not weaken our ability to provide persons seeking immigration benefits with the service they deserve. Having the important duties of Immigration Information Officers performed by individuals selected through commercial competition will only hinder the service provided, not improve it.

A similar amendment passed in the House of Representatives during its consideration of the Department of Homeland Security Appropriations bill this year, and I am hopeful that my Senate colleagues will join us in supporting this important amendment.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Madam President, it occurs to me that this is an issue that probably ought not be on this bill. As a matter of general principle, it is a legislative decision. It seems to me the committee of jurisdiction would probably be the committee chaired by the distinguished Presiding Officer.

Having said that, that doesn't make this amendment go away by itself. We have to dispose of it. We have to deal with it. Frankly, I am confused about how the amendment got added to the House Appropriations Committee bill. I am told it was an amendment offered on the floor and it was adopted by the House. This seems to me an amendment that ought to be at least discussed in conference. If we adopt the Leahy amendment without changing it at all, then we are stuck with the language, it seems to me. I don't know how you get away from having this provision in the final version of the bill, and this appropriations process would have been subverted and it would have been distorted.

This is not an appropriations amendment. We are not talking about an amount of money to be appropriated for any particular purpose. Immigration services are provided, of course, by the Department of Homeland Security and apparently the Department feels it ought to have flexibility in the administration of that program. We are singling out an employment circular to prohibit its effectiveness on an appropriations bill. I think it is fairly convoluted.

I don't like the process. The Senator from Wyoming comes in and offers a modification, which basically requires the Department to provide information on its intentions.

It must submit to Congress not later than 60 days before making an award.

This is an award for providing services under the auspices of the Bureau of U.S. Citizenship and Immigration Services. Before it makes an award to someone to provide these services, it has to go through certain steps and make this disclosure to the Congress.

It seems to me that this is an appropriate place to at least call time out and let us put this issue on hold and give the Appropriations Committee an opportunity to consider it in conference. We would have to resolve the differences between this amendment and this provision in the Senate and the one adopted by the House.

I fully support the amendment offered by the Senator from Wyoming.

Let me add one other note. The administration submits to the committee after we write a bill in the Appropriations Committee a Statement of Administration Policy. Looking at their Statement of Administration Policy on the bill as reported by our Appropriations Committee, you get down to the bottom of page 2 where it talks about competitive sourcing, it states:

> The administration has adopted a reasonable and responsible approach for ensuring the fair and effective application of public-private competition. On a government-wide basis, competitions completed in fiscal year 2003 are estimated to generate savings, or cost avoidances, of more than $1 billion over the next 3 to 5 years. The House version of the bill contains a provision that would block DHS from using competition to choose the best public or private sector source to handle basic administrative tasks associated with the processing of immigration applications and benefits. We understand an amendment may be offered on the Senate floor that would also preclude public-private competition and turn back DHS' efforts to significantly improve customer service for immigrants. If the final version of the bill were to contain such a prohibition, the President's senior advisers would recommend that he veto the bill.

So I can't stand idly by and see this provision be included in the bill and risk the veto of this Homeland Security appropriations bill that we have worked very hard to craft, after hearings and hearings, and with the good assistance of other Senators on the subcommittee such as the distinguished Senator from Vermont. I would hate to see all of our work go for naught and have to start over with a vetoed bill.

I am urging Senators to vote for the Thomas amendment and let us take this issue to conference and see if it can be resolved in a way that gets the bill signed and takes care of the concerns expressed by the distinguished Senator, my very good friend from Vermont.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, I have served for over a quarter of a century on the Appropriations Committee with the distinguished senior Senator from Mississippi. I hope this doesn't hurt him back home when I can state unequivocally that nobody works harder than he does. Nobody is more conscientious in going through legislation. I know he has worked very hard on the appropriations bill before us. As he knows, I have supported him in the subcommittee on a great deal of measures in this bill. We have similar views.

On the question of vetoes, I can remember the last time a piece of legislation I was working on with the White House, saying they would veto legislation if we put in the TRICARE provisions to provide health care for our National Guard and Reserve members and their families, even at a time when an extraordinary, unprecedented number of National Guard and Reserve members were being called up for the war in Iraq and were being required to serve way beyond the time anyone ever anticipated. Nobody could understand why the White House would do that which basically undercuts the brave men and women who are going over there. Fortunately, Republicans and Democrats came together in this body and the other body and passed the legislation with very strong bipartisan support and somehow the veto threat disappeared.

I suspect the same thing. This bill is not going to be vetoed on this issue. I understand the threats. I have been here for 30 years, and I have seen Democratic Presidents and Republican Presidents and administrations. It never comes through the Presidents. It says their senior advisers would recommend a veto threat. I have seen hundreds of these in my 30 years I have been in the Senate. I have probably seen about a dozen vetoes come out of the hundreds and hundreds of threats, even though they have been ignored.

The distinguished chairman of the subcommittee has a responsibility to bring that forward. But he knows, as I do, that we hear veto threats almost as though they were being printed and cranked out when any bill comes along.

I think it never would have passed a body as tightly controlled by the Republicans as the House of Representatives, it would never have passed with the overwhelming support had they really thought there would be a veto.

I ask unanimous consent that the distinguished Senator from Wisconsin, Mr. FEINGOLD, be added as a cosponsor to my amendment to the underlying amendment.

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

Mr. LEAHY. Madam President, I would say only this: If the Thomas amendment is adopted, it effectively kills the Leahy amendment and allows the outsourcing to go forward on what is a critical governmental responsibility.

As I have said before, I would be happy to see a private enterprise stake. As we know, this administration has dramatically increased the number of Government employees. They went down substantially during the 8 years of President Clinton's administration, and they have increased more than any time in a dozen years by this administration. Maybe they could look for areas of outsourcing but not outsourcing in those areas that are critical to our lives and our national security and fight against terrorism.

I am perfectly willing to go to a vote on the Thomas amendment, but I would remind everybody that it kills the Leahy-Nelson et al amendment and allows at a time of heightened terrorist threat the Department of Homeland Security, which dramatically increased the number of employees, to take some very key governmental employees and turn them over to the private sector and say the private sector can handle our security from terrorists who might try to come in under the immigration rubric better than our own Government could do.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COCHRAN. Madam 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. THOMAS. Madam President, are we going to vote? Fine. I would like to be able to make a closing statement pretty much as my friend from Vermont did.

I want you to remember that this is an effort that is being made throughout the Government to try to find a way to be more efficient. It is not outsourcing; it is competition; and whoever does the best job ends up doing this activity.

I further remind you that these are not people who make decisions with regard to terrorism. These are the people who do the detail work and report to folks who make the decisions.

I also remind you that this Department is in the process of doing this now, is willing to come to the Senate as we proceed and report where they are. This is part of the program that has been ongoing. It has been proven to work. We ought to continue to do it here.

I yield the floor.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. Mr. President, we have a situation where an amendment has been offered. Eventually, there will be a vote on the amendment offered by Senator LEAHY and Senator NELSON. It may not be tonight. Before this bill is finished, they have a right to have their amendment heard, which it has been, and voted on.

Everyone should understand this amendment will not go away. People will vote on outsourcing. That is the way it is. So everyone understands, there will be another opportunity for Senators NELSON and LEAHY to offer the amendment. If the majority wants to second-degree the amendment and filibuster their own bill, we would have to do it some other time.

We, in good faith offered, an amendment. Time was very limited. These two men spoke very short periods of time. There are many others who wanted to speak, but in the context of what the two leaders said, we should try to move this bill along. We tried to do that. At least we should have an opportunity to vote on these amendments.

It appears the majority is attempting to not allow us an opportunity to vote on this amendment. And it will happen, sooner or later.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, so there is no illusion about who is responsible for suggesting we have a vote on the Thomas amendment, it is me. It is not the majority leader. As the manager of this bill, I think we ought to follow the regular order. The Senator from Vermont laid down an amendment. The Senator from Wyoming offered an amendment to the amendment. It is in order.

We have had a debate on it. He is entitled to a vote on his amendment. We ought to have it. If his amendment prevails, then we vote on the amendment as amended. Nobody is going to filibuster the bill on this side. I am not going to. I am not going to filibuster my own bill because of this amendment. I want people to understand it is not this big an issue. It is not going to bring down the Senate and block consideration of this bill as far as I am concerned.

Mr. LEAHY. I wonder if I might ask the senior distinguished Senator from Mississippi a question. He has said this matter has to go to conference. He is absolutely right. He will hold the majority votes in the conference. Why not this: Why not set both the Thomas amendment as a freestanding amendment, the Nelson-Leahy, et al, amendment, as a freestanding amendment, take them both to conference?

Mr. COCHRAN. I will give a quick answer. I am not going to, by unanimous consent, deprive any Senator of a right to offer an amendment. That is what I would be doing if I would, by agreement, say that you can offer an amendment and have a vote on it without any other Senator having an opportunity to modify it.

That is not in the rules of the Senate. It is inconsistent with the traditions of the institution to do that.

Mr. LEAHY. The reason I suggest it is because the Senator from Wyoming is in the Senate, and it is his amendment. That way he could be part of it.

The Senator from Mississippi is absolutely right. We go forward with a vote—I was suggesting a way to save having to put the other amendment up at another time. It still becomes a matter of conference. If the distinguished Senator from Mississippi wishes to go forward with the vote on the Thomas, that is fine with me.

I would state, as I have before, that is a defeat of the underlying Nelson-Leahy, et al, amendment which will come up in another form at a later time. I am perfectly willing to go ahead and vote now.

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. The question is on the second-degree amendment offered by the Senator from Wyoming.

The clerk will call the roll.

The legislative clerk called the roll.

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

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

The result was announced—yeas 49, nays 47, as follows:

[Rollcall Vote No. 167 Leg.]

YEAS—49

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

NAYS—47

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

NOT VOTING—4

Akaka	Edwards
Clinton	Kerry

The amendment (No. 3582) was agreed to.

The PRESIDING OFFICER. The Senator from Vermont.

AMENDMENT NO. 3584 TO AMENDMENT NO. 3581, AS AMENDED

Mr. LEAHY. Mr. President, I send an amendment to the desk on behalf of myself, Mr. NELSON of Nebraska, Mr. LIEBERMAN, Mr. JEFFORDS, and Mrs. FEINSTEIN, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for himself, Mr. NELSON of Nebraska, Mr. LIEBERMAN, Mr. JEFFORDS, and Mrs. FEINSTEIN, proposes an amendment numbered 3584.

Mr. LEAHY. 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.

The amendment is as follows:

(Purpose: To prohibit funds from being used to process or approve a competition under Office of Management and Budget Circular A–76 for services provided as of June 1, 2004, by certain employees of the Bureau of Citizenship and Immigration Services of the Department of Homeland Security)

At the end of the amendment add the following:

SEC. ____. Notwithstanding any other provisions of this Act none of the funds appropriated by this Act may be used to process or approve a competition under Office of Management and Budget Circular A–76 for services provided as of June 1, 2004, by employees (including employees serving on a temporary or term basis) of the Bureau of Citizenship and Immigration Services of the Department of Homeland Security who are known as of that date as Immigration Information Officers, Contact Representatives, or Investigative Assistants. This section shall take effect one day after the date of the bill's enactment.

Mr. LEAHY. Mr. President, if I could have the attention of the managers, we have had the basic debate on this amendment. I ask that we have 2 minutes on each side and then go to a vote, if that is agreeable. I will make that request.

I ask unanimous consent that we have 4 minutes equally divided and that it then be in order to request the yeas and nays and go to a vote.

The PRESIDING OFFICER. Is there objection?

Mr. COCHRAN. Reserving the right to object, Mr. President.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I do not know what the amendment is. It was sent to the desk. It would be nice to know what it is so we would know whether we should agree to the unanimous consent request to limit 2 minutes to a side.

Mr. LEAHY. I apologize. I thought the distinguished Senator from Mississippi had been advised of this amendment. It is basically my underlying amendment as freestanding.

Mr. COCHRAN. Mr. President, parliamentary inquiry. If this is an amendment that has already been before the Senate and to which an amendment has been added, is it in order for the Senator to put before the Senate the same amendment as an amendment?

The PRESIDING OFFICER. It is in order because the amendment is now in a different posture as a second-degree amendment.

Mr. COCHRAN. Mr. President, I have no objection to the request for the time agreement.

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

The Senator from Vermont.

Mr. LEAHY. Mr. President, as I said before, the amendment I have offered is the same amendment that passed overwhelmingly in the House of Representatives, with strong Republican support.

It says on these very critical—very critical—steps based in the former INS in which they try to weed out possible terrorists on immigration applications that this not be contracted out to a private company but be done by professionals. That is really the bottom line. We can talk about it for hours. We have had the debate before.

I withhold the remainder of my time, and I will ask for the yeas and nays once time is yielded back.

The PRESIDING OFFICER. Time is not yielded back.

The PRESIDING OFFICER. Who yields time?

The Senator from Wyoming is recognized.

Mr. THOMAS. We just voted on this same issue. We have voted on it a dozen times. What we have here is an effort by this Government to try to be more efficient, more cost saving, by having competition. That is what is involved.

Let me say that these immigration information officers are GS–5s, 7s, and 8s, with supervisors at the GS–9 level, who perform only first-line procedural processing. They are not performing any ''inherently governmental'' work. They are not policymakers or regulators. They do not bind the Government to a course of action. This is already underway in this administration. They have looked at doing this. Who knows who is going to do it more efficiently? We are saying to the Government that you cannot do that. You have to leave things the way they are, and we don't want to have any opportunity to do things better than we have been doing them. That is what it is all about. I urge a ''no'' vote.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. I strongly urge Senators to vote against the Leahy amendment.

Mr. LEAHY. Mr. President, do I have time remaining?

The PRESIDING OFFICER. The Senator has 56 seconds.

Mr. LEAHY. Mr. President, we are talking about people who attempt to discover and prevent immigration fraud, prevent dangerous people from abusing the immigration system. This is inherently governmental. We have kept inherently governmental things like law enforcement within the Government. We should do it here with these 1,200 immigration information officers who contact representatives around the Nation. We have an inherent body of expertise that we need in this fight against terrorism.

I yield back my remaining time and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

All time is yielded back.

The question is on agreeing to the amendment of the Senator from Vermont.

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

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

The result was announced—yeas 49, nays 47, as follows:

[Rollcall Vote No. 168 Leg.]

YEAS—49

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

NAYS—47

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

NOT VOTING—4

Akaka	Edwards
Clinton	Kerry

The amendment (No. 3584) was agreed to.

Mr. REID. 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.

AMENDMENT NO. 3581, AS AMENDED

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3581, as amended.

The amendment (No. 3581), as amended, was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote and I move to lay that on the table.

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 3586 THROUGH 3588, EN BLOC

Mr. COCHRAN. Mr. President, I send to the desk three amendments that are making technical changes to the bill. They have been cleared on both sides of the aisle. I ask they be considered and agreed to en bloc.

I ask my statement on each of these amendments be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendments by number.

The assistant legislative clerk read as follows:

The Senator from Mississippi (Mr. COCHRAN) proposes amendments en bloc numbered 3586 through 3588.

The amendments (Nos. 3586 through 3588), en bloc, are as follows:

AMENDMENT NO. 3586

(Purpose: To make technical corrections to provisions of the bill related to verification of air carrier calendar year 2000 security cost)

On page 11, strike ''Provided further'' on line 13 down through and including ''proviso'' on line 23, and insert the following:

''*Provided further*, That the Government Accountability Office shall review, using a methodology deemed appropriate by the Comptroller General, the calendar year 2000 cost information for screening passengers and property pursuant to section 44940(a)(2) of Title 49, United States Code, of air carriers and foreign air carriers engaged in air transportation and intrastate air transportation and report the information within six months of enactment of the Act but no earlier than March 31, 2005, to the Committees on Appropriations of the Senate and House of Representatives and Committee on Commerce, Science, and Transportation: *Provided further*, That the Comptroller General, or any of the Comptroller General's duly authorized representatives, shall have access, for the purpose of reviewing such cost information, to the personnel and to the books; accounts; documents; papers; records (including electronic records); and automated data and files of such air carriers, airport authorities, and their contractors; that the Comptroller General deems relevant for purposes of reviewing the information sought pursuant to the provisions of the preceding proviso: *Provided further*, That the Comptroller General may obtain and duplicate any such records, documents, working papers, automated data and files, or other information relevant to such reviews without cost to the Comptroller General and the Comptroller General's right of access to such information shall be enforceable pursuant to section 716(c) of Title 31 of the United States Code: *Provided further*, That the Comptroller General shall maintain the same level of confidentiality for information made available under the preceding provisos as that required under section 716(e) of Title 31 of the United States Code: *Provided further*, That upon the request of the Comptroller General, the Secretary of the Department of Homeland Security shall transfer to the Government Accountability Office from appropriations available for administration expenses of the Transportations Security Administration, the amount requested by the Comptroller General, not to exceed $5,000,000, to cover the full costs of any review and report of the calendar year 2000 cost information conducted by the Comptroller General, with 15 days advance notice by the Transportation Security Administration to the Committees on Appropriations of the Senate and House of Representatives: *Provided further*, That the Comptroller General shall credit funds transferred under the authority of the preceding proviso to the account established for salaries and expenses of the Government Accountability Office, and such amount shall be available upon receipt and without fiscal year limitation to cover the full costs of the review and report: *Provided further*, That any funds transferred and credited under the authority of the preceding provisos that are not needed for the Comptroller General's performance of such review and report shall be returned to the Department of Homeland Security and credited to the appropriation from which transferred.''.

On page 11, line 25, strike ''audit'' and insert ''review''.

AMENDMENT NO. 3587

On page 7, line 3, strike ''General Accounting'' and insert ''Government Accountability''.

AMENDMENT NO. 3588

(Purpose: To make modifications to the Government Accountability Office study of the Transportation Security Administration's Computer Assisted Passenger Prescreening System/Secure flight program)

On page 37, line 6, strike all after ''(a)'' down through and including ''2005.'' on page 39, line 5 and insert the following:

''None of the funds provided by this or previous appropriations Acts may be obligated for deployment or implementation, on other than a test basis, of the Computer Assisted Passenger Prescreening System (CAPPS II) or Secure Flight or other follow on/successor programs, that the Transportation Security administration (TSA) plans to utilize to screen aviation passengers, until the Government Accountability Office has reported to the Committees on Appropriations of the Senate and the House of Representatives that—

(1) a system of due process exists whereby aviation passengers determined to pose a threat and either delayed or prohibited from boarding their scheduled flights by the TSA may appeal such decision and correct erroneous information contained in CAPPS II or Secure Flight or other follow on/successor programs;

(2) the underlying error rate of the government and private data bases that will be used both to establish identity and assign a risk level to a passenger will not produce a large number of false positives that will result in a significant number of passengers being treated mistakenly or security resources being diverted;

(3) the TSA has stress-tested and demonstrated the efficacy and accuracy of all search tools in CAPPS II or Secure flight or other follow on/successor programs and has demonstrated that CAPPS II or Secure flight or other follow on/successor programs can make an accurate predictive assessment of those passengers who may constitute a threat to aviation;

(4) the Secretary of Homeland Security has established an internal oversight board to monitor the manner in which CAPPS II or Secure flight or other follow on/successor programs are being developed and prepared;

(5) The TSA has built in sufficient operational safeguards to reduce the opportunities for abuse;

(6) substantial security measures are in place to protect CAPPS II or Secure Flight or other follow on/successor programs from unauthorized access by hackers or other intruders;

(7) the TSA has adopted policies establishing effective oversight of the sue and operation of the system;

(8) there are no specific privacy concerns with the technological architecture of the system; and

(9) the TSA has, pursuant to the requirements of 49 USC 44903 (i)(2)(A), modified CAPPS II or Secure flight or other follow on/successor programs with respect to intrastate transportation to accommodate States with unique air transportation needs and passengers who might otherwise regularly trigger primary selectee status.

(b) During the testing phase permitted by paragraph (a) of this section, no information gathered from passengers, foreign or domestic air carriers, or reservation systems may be used to screen aviation passengers, or delay or deny boarding to such passengers, except in instances where passenger names are matched to a government watch list.

(c) The Government Accountability Office shall submit the report required under paragraph (a) of this section no later than February 15, 2005.''.

AMENDMENT NO. 3586

Mr. COCHRAN. Madam President, this amendment makes necessary technical changes in the bill language authorizing the Government Accountability Office—GAO—to perform review activities to verify air carriers' calendar year 2000 security costs and makes funds available to GAO for this purpose.

AMENDMENT NO. 3587

This amendment makes a technical correction to the bill in conformance of Public Law 108–271 renaming the General Accounting Office the Government Accountability Office.

AMENDMENT NO. 3588

This amendment makes technical corrections to bill language for the Government Accountability Office to report on the progress of the Secure Flight program.

The PRESIDING OFFICER (Ms. MURKOWSKI). Without objection, the amendments are agreed to.

The amendments (Nos. 3586 through 3588), en bloc, were agreed to.

Mr. REID. Madam President, while the distinguished manager of the bill is in the Chamber, I wonder if the Senator would agree—I talked to him personally, but so Senator BYRD knows—that Senator BYRD could offer his amendment during morning business in the morning. Would that be appropriate?

Mr. COCHRAN. Madam President, it is certainly OK with me for Senator BYRD to offer his amendment any time he wants to offer it. We are not putting one Senator in front of another. But he is the distinguished ranking member of the subcommittee, and we would be happy to see him offer his amendment when he wants to in the morning.

Mr. REID. I would say through the Chair to the distinguished manager of the bill that Senator BYRD is planning to be here when morning business finishes around 10:30 tomorrow. Our next amendment in order will be that offered by Senators DODD and STABENOW on first responders. That would be the next one that we would offer, just so the distinguished manager of the bill knows that.

Mr. COCHRAN. If it suits Senator BYRD, it suits me. There are some amendments on the list that we have been reviewing hoping to agree those would be the only amendments in order to the bill. I don't know how close we are to reaching an agreement on that or whether the acting leader is empowered to sign off on those agreements. We probably should wait until Senator BYRD is here though.

Mr. REID. We are working on a list of amendments, and we are not ready to do it at this time, but maybe tomorrow sometime we could do that. We will do our very best.

Mr. COCHRAN. Madam President, I encourage Senators to let us know if they intend to offer an amendment to this bill. We would like to have a finite list of amendments so we can expedite final conclusion of this bill tomorrow or as soon as possible.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Madam 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. SPECTER. Madam President, I have sought recognition to discuss an amendment which I have been discussing with the manager of the bill which would allocate $50 million for high-risk organizations as defined under section 501(c)(3) of the Internal Revenue Code with the priority of that $50 million to be determined by the Secretary of Homeland Security. The $50 million figure is firm, and there is no doubt that there will be a need for more than $50 million. This is a start. This is a start on the protection of 501(c)(3)s and the discretion of the Secretary of Homeland Security is limited to establishing the priority for the use of the $50 million. The Secretary does not have the authority to put up the $50 million. The $50 million will be firm under this amendment, with the discretion of the Secretary to establish the priority.

This amendment, which is currently being reworked, is expected to have $50 million dedicated for assistance to nonprofit organizations as defined under section 501(c)(3) of the IRS Code 1986 which are at high risk of international terrorist attack, with priority funding to be determined by the Secretary of Homeland Security.

An earlier draft of this amendment was to be cosponsored by Senator MIKULSKI, Senator SANTORUM, Senator MURRAY, Senator LUGAR, Senator KENNEDY, and Senator LIEBERMAN, but they are not being added as cosponsors at this point because they have to look over the change in wordage. But the substantive thrust is exactly the same, to provide $50 million for these 501(c)(3) institutions which are at high risk.

The Director of Central Intelligence has stated that al-Qaida has turned its attention to so-called ''soft targets.'' Al-Qaida's willingness to attack soft targets of all kinds has been made readily apparent with the attacks in the United States, England, Canada, Spain, Germany, Iraq, Tunisia, Kenya, Morocco, and Turkey, including an International Red Cross building, synagogues, train stations, hotels, airplanes, restaurants, nightclubs, and cultural and community centers.

There is broad national support for this initiative with the following organizations illustrative of the support: the American Association of Homes

and Services for the Aging; the American Jewish Committee; the American Jewish Congress; the American Red Cross; the American Society of Association Executives; the Association of Art Museum Directors; the Association of Jewish Aging Services of North America; Independent Sector; National Assembly of Health and Human Service Organizations; National Association of Independent Colleges and Universities; Theater Communications Group; Union of Orthodox Jewish Congregations; United Jewish Communities, representing 155 Jewish federations; the United Synagogue of Conservative Judaism; the United Way of America; and the YMCA of the United States of America.

This assistance would be delivered pursuant to pending legislation which Senator MIKULSKI and I have introduced as Senate bill 2275 which was marked up by the Governmental Affairs Committee and is now on the docket of the Senate.

I would have waited until tomorrow to make this presentation, but I will be traveling with President Bush in Pennsylvania so I will not be here to offer the amendment. The amendment has been discussed, as I say, with the manager. I believe it is going to be accepted, but it cannot be offered at the present moment because the senior Senator from West Virginia, Senator BYRD, has an amendment which he intends to offer which is broader in scope and, if enacted, may well cover this amendment. It is hard always to say what is going to happen if any amendment is offered in the future, but in the event the Byrd amendment is not accepted, then this amendment will be offered.

To repeat, I think it will be acceptable to the managers; however, no commitments were made. If the Byrd amendment is not accepted, or voted for and adopted, this amendment may still be in order, depending on the precise language of the amendment to be offered by Senator BYRD.

I wanted to lay out the provisions. It is very important that churches, synagogues, YMCAs, and other religious institutions have some specified protection under this Homeland Security bill.

The authorizing legislation which Senator MIKULSKI and I produced has been marked up and approved by the Governmental Affairs Committee. It authorizes some $100 million. But in discussions with the manager, the $50 million figure appears to be acceptable. We want to proceed on that basis.

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

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

MARITIME PATROL AIRCRAFT REQUIREMENTS

Mr. SHELBY. Madam President, I seek recognition for the purpose of engaging Senator COCHRAN, Chairman of the Homeland Security Appropriations Subcommittee, in a discussion on the U.S. Coast Guard's Deepwater program.

The chairman of the subcommittee, Senator COCHRAN, has the good fortune of representing a coastal State on the Gulf of Mexico very similar in geography to my State of Alabama. The chairman is an outstanding steward and supporter of the United States Coast Guard and in particular the ongoing Deepwater modernization program in the Coast Guard. This bill addresses numerous issues related to Deepwater and I appreciate the chairman's support and leadership on this vital issue to every coastal State, as well as the Nation.

Mr. COCHRAN. I thank the Senator from Alabama for his kind words. He is both a colleague and a neighbor to my State of Mississippi. As neighbors, our two States have a strong appreciation for a strong and capable Coast Guard.

Mr. SHELBY. I note that this bill contains a provision to address a continuing issue of concern over the provision of Maritime Patrol Aircraft assets for the United States Coast Guard. Last year, the chairman wisely and judiciously included funding in his bill for a third Maritime Patrol Aircraft. This year, the subcommittee bill includes a total of $15.25 million for the Maritime Patrol Aircraft requirement. This amount, together with available balances from previous appropriated funds for maritime patrol purposes, will enable the Coast Guard to place the third CN–235 Maritime Patrol Aircraft under contract and to fund long-lead items for the next series of CN–235 aircraft to be purchased, thereby reducing the cost of these next aircraft.

Mr. COCHRAN. As the Senator from Alabama is well aware, the Coast Guard has been moving slowly on the Maritime Patrol Aircraft Modernization pending a review of their requirements for specific types of aircraft throughout the Coast Guard. I am very sensitive to the Senator's concerns with this slow pace of Maritime Patrol Aircraft modernization. I would say to the Senator, that I firmly believe and am committed to the Coast Guard's modernization effort under the Deepwater program, which includes the Maritime Patrol Aircraft requirement.

Mr. SHELBY. I thank the chairman for his support for the Maritime Patrol Aircraft and the recognition of the importance of the CN–235 to the Coast Guard's mission requirement to achieve maritime domain awareness through aerial surveillance. Clearly, the security of the United States is improved through any effective means to push our borders farther out and extend our zone of security. The CN–235 is one such effective method of extending our borders.

Mr. COCHRAN. I share the Senator's assessment that the extension of our maritime surveillance is critical to our security interests. The Coast Guard selected the CN–235 as the optimal solution for the Maritime Patrol Aircraft mission and I continually encourage the Commandant to aggressively pursue the modernization of all assets to address the mission needs of the Coast Guard. It is clear that the Maritime Patrol Aircraft requirement has been delayed due to the Coast Guard review and I support any expedited effort to ensure that the long-term maritime patrol mission requirement is addressed.

Mr. SHELBY. I thank the Senator for his time and attention and I yield the floor.

Mr. NICKLES. Madam President, the pending Department of Homeland Security appropriations bill for Fiscal Year 2005, S. 2537 as reported by the Senate Committee on Appropriations provides $32.867 billion in budget authority and $30.736 billion in outlays in Fiscal Year 2005 for the Department of Homeland Security. Of these totals, $867 million is for mandatory programs in Fiscal Year 2005.

The bill provides total discretionary budget authority in Fiscal Year 2005, of $32 billion. This amount is $1.05 billion more than the President's request, it matches the 302(b) allocations adopted by the Senate Appropriations Committee, and is $2.812 billion more than Fiscal Year 2004 enacted levels excluding Fiscal Year 2004 supplemental appropriations.

I commend the distinguished chairman of the Appropriations Committee for bringing this legislation before the Senate. I ask unanimous consent that a table displaying the Budget Committee scoring of the bill be printed in the RECORD.

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

H.R. 4567, 2005 HOMELAND SECURITY APPROPRIATIONS

[Spending comparisons—Senate-reported bill (Fiscal Year 2005, $ millions)]

	General purpose	Mandatory	Total
Senate-reported bill:			
Budget authority	32,000	867	32,867
Outlays	29,729	863	30,952
Senate committee allocation:			
Budget authority	32,000	867	32,867
Outlays	29,873	863	30,736
2004 Enacted:			
Budget authority	29,188	1,020	30,208
Outlays	26,771	850	27,621
President's request:			
Budget authority	30,950	867	31,817
Outlays	28,990	863	29,853
House-passed bill:			
Budget authority	32,000	867	32,867
Outlays	29,813	863	30,676
SENATE REPORTED BILL COMPARED AT:			
Senate 302(b) allocation:			
Budget authority			
Outlays	−144		−144
2004 Enacted:			
Budget authority	2,812	−153	2,659
Outlays	2,958	13	2,971
President's request:			
Budget authority	1,050		1,050
Outlays	739		739
House-passed bill:			
Budget authority			
Outlays	−84		−84

Note: Details may not add to totals due to rounding. Totals adjusted for consistency with scorekeeping conventions.

Mr. GRAHAM of Florida. Madam President, I ask unanimous consent to speak for 15 minutes as in morning business.

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

INTELLIGENCE REFORM

Mr. GRAHAM of Florida. Madam President, there are now fewer than 72 hours from this hour, on this Wednesday afternoon, until we observe the third anniversary of the terrorist attacks on this Nation when 19 hijackers took control of commercial airliners, converted them into weapons, and struck the symbols of our economic and military might.

When the House and Senate Intelligence Committees began the Joint Inquiry into the attacks of September 11, the first witness we called in public session was Kristen Breitweiser. Kristen's husband Ronald, who worked in the World Trade Center, was one of the 3,000 innocent lives lost that day. In his memory, she helped found the family group September 11th Advocates.

In her brave testimony, she described her husband's last words to her. She described her daughter placing flowers on an empty grave. On her right hand, she was wearing her husband's wedding band—charred, scratched, but intact—recovered from Ground Zero with a part of her husband's left arm.

Her testimony was deeply moving. Her closing words presented a call to action. This is what she said:

> All we have are tears and a resolve to find the answers because we continue to look into the eyes of our young children who ask us why.
>
> We have an obligation as parents and as a nation to provide these innocent children with answers as to why their mother or father never returned home from work that day.
>
> We need people to be held accountable for their failures.
>
> We need leaders with the courage to take responsibility for what went wrong.
>
> Mistakes were made and too many lives were lost.
>
> We must investigate these errors so that they will never happen again.
>
> It is our responsibility as a nation to turn the dark events of September 11th into something from which we can all learn and grow, so that we, as a nation, can look forward to a safe future.

As we debate the scope of reforms of our intelligence community, I hope we will keep in mind the challenge laid down by Kristen Breitweiser and the others whose lives have been touched by this tragedy.

Today, and over the next several days, I want to discuss with my colleagues the question of whether we have met her challenge. I, for one, do not believe we have. And then we need to look at the question of where do we go from here?

I will start my discussion this evening with a look at the history of our intelligence efforts and what that history tells us about the challenge of the future.

While America has understood the utility of intelligence since Paul Revere's midnight ride from Boston to Lexington, warning that the British were coming, America has never embraced intelligence. It was contrary to a nation that had fought a 7-year war to secure liberty from the very things that were the stock and trade of King George III's intelligence gathering: the late night knock on the door to separate a husband, father, or son from a frightened family; the use of torture to discover the rebellious plans of patriots; the clandestine search of private effects without notice or permission.

So it is of little surprise that the United States was the last advanced nation in the world to establish a permanent civilian intelligence agency—not until 1947—and that came only after two world wars when we realized that a new era—the cold war—was dawning.

When the Berlin Wall came down, the Soviet Union dissolved and the cold war ended, we had lost our single clear enemy, and our intelligence capabilities were allowed to wither.

There was no reliable and consistent source of funding for intelligence agencies, and the agencies failed to anticipate and adapt to the new threats of the 21st century.

That is clear from what we have come to know about the attacks of September 11. All Americans now realize that in this new world, an attack can come not only from an army of an enemy, but also in the form of a boat, a backpack, or a vial.

Now all Americans realize that intelligence has become a crucial shield, an evermore integral part of our national and personal security.

In this century, effective intelligence will be more important than it has ever been to this Nation for six reasons.

First, our adversary is different from any we have engaged in the past. It is not a nation but a tribe of tribes united by an ideology. The terrorists are not constrained by the global standards and values of the West but are instead a foe for which death and an afterlife in paradise are the highest goals of life. To know this enemy is essential to defeating this enemy, and Americans will be dependent on effective intelligence to gain that knowledge.

Second, we learned on September 11 that the Atlantic and Pacific are not the protective barriers to our domestic security they have been in the past.

Our new enemy was capable of insinuating 19 or more of its trained killers into our Nation, where they were able to refine a plan, practice and execute the most deadly attack on the continental United States in our history, and to do all of that in anonymity.

America will look to alert intelligence to do what two oceans can no longer do: protect us here at home.

Third, America can no longer abide by the rule of never striking first, waiting only until we have been acted upon. The consequences of waiting for threats to gather is too risky. But to be anticipatory, to be preemptive, requires the highest quality of intelligence, or we risk something else—the loss of lives of soldiers and civilians and the loss of our global credibility.

If we are to adhere to a doctrine of preemption, we have to be certain we know what it is we are preempting. We cannot afford to be deceived, manipulated, or blinded by ideology, as we have been in Iraq, or to waste time and resources fighting threats that are not real.

Fourth, sound intelligence will enhance our long-term security. America's political, economic, and security interests now span the globe. A vigilant intelligence community will alert us to emerging threats against our interests beyond the homeland. Through both strategic and actionable intelligence, we will be better able to confront terrorist threats abroad before those threats materialize at home.

But we face threats beyond terrorism—most especially the spread of weapons of mass destruction, including nuclear weapons. Accurate and actionable intelligence is absolutely necessary if we are able to make what many think is inevitable, an attack in the United States by terrorists with nuclear weapons, preventable.

Fifth, effective intelligence is important to maintaining our international relationships. Success in the 21st century will require alliances with nations that share our vision and our values, if not our views on all subjects. Credible information upon which wise judgments can be founded must be the bedrock of those alliances.

Sixth and finally, with better intelligence, our Nation and its leaders will be more able to focus on the challenges of the future rather than the failures of the past. The pace of technological change will only continue to accelerate, and the rising tide of globalization will lead to a new and complex web of relationships between state and nonstate actors. Better intelligence will help us keep up with the pace of change as we continue to identify new challenges.

For all of these reasons, in the 21st century, intelligence will have a role to play in almost every way we seek to provide greater security at home and advance our interests abroad.

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

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

Mr. McCONNELL. Madam President, I ask unanimous consent that the list of amendments I will send to the desk be the only first-degree amendments in order to the bill; provided further that they be subject to second degrees that are relevant to the first degrees; finally, that all other provisions of the previous order governing this bill remain in effect.

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

The list is as follows:

Allard—Reports from DoHS, Allard—Reports from DoHS, Baucus—Border Air Bases Security Money, Baucus—Relevant, Baucus—Relevant, Bennett—U.S.-Customs Service, Biden—AMTRAK, Boxer—Air Marshals, Boxer—Air Marshals, Boxer—Interoperable Communications, Boxer—Port Security Grants, Boxer—Related to Homeland Security, Bunning—Aviation Security, Bunning—Relevant and Germane, Byrd—Additional Funds for Homeland Security.

Byrd—Relevant, Byrd—Relevant, Byrd—Relevant, Byrd—Relevant, Byrd—Relevant, Byrd—Relevant to any on the list, Carper—Rail Security, Clinton—Funding for FDNY and NYPD, Clinton—Insert language requiring Homeland Security funds beyond small State minimum to be allocated based on threat and risk, Clinton—Strike requirement that Homeland Security funds be allocated on per-capita basis (this language is in the Senate report, not the bill), Clinton—High threat urban areas, Cochran—Managers Amendments, Cochran—Relevant, Cochran—Relevant, Cochran—Relevant, Cochran—Relevant, Cochran—Relevant, Collins—Relevant, Collins—Relevant, Corzine—Relevant, Daschle—Relevant, Daschle—Relevant, Daschle—Relevant to any on the list, Daschle—Relevant to any on the list, Dayton—Relevant, Dayton—Relevant, DeWine—Firefighters Assistance, Dodd—Fire Fighters, Dodd—First Responders and other Homeland Security needs, Dole—Textile Transshipment Fundings.

Dorgan/Conrad—Ag., Durbin—Customs, Durbin—Homeland Security Management, Feingold—Data Mining, Feingold—Emergency Responders, Feingold—Relevant, Feingold—Relevant, Feingold—TSA, Feinstein—Relevant, Feinstein—Relevant, Fitzgerald—CFO Appointee, Fitzgerald—CFO Political Appointee, Fitzgerald—CFO Political Appointee, Fitzgerald—CFO Reporting, Frist—Relevant or Relevant to the list.

Frist—Relevant or Relevant to the list, Frist—Relevant or Relevant to the list, Frist—Relevant or Relevant to the list, Frist—Relevant or Relevant to the list, Harkin—Increase Hazardous Mitigation Grant Program, Harkin—Relevant, Hatch-Dugway Proving Ground, Hatch—Homeland Security, Hollings—Port Security, Landrieu—Barge Tracking, Landrieu—Personnel, Lautenberg—Coast Guard, Lautenberg—Color coded threat system, Lautenberg—Port Security, Lautenberg—Port Security.

Lautenberg—Rail Security, Lautenberg—Reimbursement due to convention and elevated alert levels, Lautenberg—Transportation Security Information, Leahy—Immigration (House Version), Levin—Contracting with Corporate Ex-Patriots, Levin—Relevant, Lieberman—Port Security, McConnell—Related, McConnell—Related, McConnell—Related, Mikulski—Fire Grants, Mikulski—Overtime for Border Agents, Murkowski—FEMA Disaster Assist Employee CADRE, Murray—Related, Murray—Related.

Murray—Related, Murray—Related, Murray—Related, Nelson-Florida—Ag., Nelson-Florida—American Red Cross, Nelson-Florida—Economic Assistance, Nelson-Florida—FAA, Nelson-Florida—FEMA, Nelson-Florida—SBA, Nelson-Nebraska—First Responders, Reed—Congressional Notification, Reed—LNG Shipment Security, Reed—Transit Security, Reed—Transit Security, Reid-Hazardous Material Truck Tracking.

Reid—Interoperable Communication, Reid—Relevant, Reid—Relevant to any on list, Reid—TSA Funding, Reid—Waterfall Fire, Schumer—Buffalo Peace Bridge, Schumer—High Threat Urban Area Funding, Schumer—Hospitals, Schumer—Immigration, Schumer—Northern Border, Schumer—Port Security, Schumer—Rail and Transit Security, Schumer—Relevant, Schumer—Relevant, Schumer—Relevant.

Schumer—Rochester Fast Ferry, Schumer—Signal Corps, Schumer—Stingers, Schumer—Truck Security, Shelby—Marine Patrol Aircraft, Specter—Homeland Security, Specter—Homeland Security, Stabenow—Funding for Non-urban Border Crossing, Stabenow—Rundmond/Hart Funding, Stabenow—Rural Volunteers/First Responders, Stevens—Relevant, Stevens—Relevant, Talent—Homeland Spending Allocation, Talent—Threat-Based Assessment, Voinovich—EMPG, Voinovich—First Responders Med. Screening, Warner—Storm Damage, Warner—Storm Damage.

Mr. REID. Madam President, if I may have the attention of the distinguished majority whip, as he can see, there are scores of amendments. We are going to be as cooperative as we can. We have a number of ours that are relevant amendments, and we will work with our side to see how many are serious about offering amendments. It is going to be a real heavy lift to finish this by next Tuesday, which is what the leaders want.

Mr. MCCONNELL. Madam President, I say to my friend, I hope we will have the cooperation to try to winnow down the list and finish up the bill prior to the Jewish holiday, which begins next Wednesday.

MORNING BUSINESS

Mr. MCCONNELL. Madam President, I ask unanimous consent that there now be a period for morning business for debate only with Senators permitted to speak therein for up to 10 minutes each.

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

IN MEMORY OF SALLY KABISCH

Mr. REID. Madame President, there are times in history when one person can and does make a difference.

The recent death of Sally Kabisch reminded me of one such person and one particular period of time.

Sally Kabisch dedicated herself to a remarkable career of conservation. She worked at various times as a grassroots organizer and advocate for conservation efforts in Nevada, California and Alaska.

One of Sally's great achievements was in Nevada.

Perhaps more than any other citizen, Sally is responsible for Nevada's Forest Service Wilderness bill, which I had the opportunity to pass through Congress in 1989.

From 1986 until President Bush signed the Nevada Wilderness Act on December 5, 1909, Sally was an indomitable and ever-optimistic force for protecting wild places in Nevada.

She worked doggedly to build support for wilderness. She organized, she advocated, and she traveled.

As she worked to pass that law, she was patient, positive, enthusiastic, stubborn and determined.

As her friend and another great advocate for Nevada's outdoors, Marge Sill, says, ''she was a constant inspiration to all of us.''

Sally's husband Tom Kizzia and her children Emily and Ethan know what the rest of us should remember: One person can make a difference.

Sally was one person who made a great difference. Nevada and America are better and wilder for it, forever.

INTERNATIONAL MARIACHI CONFERENCE AND FESTIVAL

Mr. REID. Madam President, today I celebrate the Clark County School District's inaugural International Mariachi Conference and Festival. This event, promoting cultural awareness and appreciation in the Las Vegas community through the performance of mariachi music, will be held in Henderson, NV, this September.

The Clark County School District, already highly regarded for its progressive approach to music education, serves close to 1,000 mariachi students in 12 schools through its newly formed Secondary Mariachi Education Program.

Thanks to the tireless efforts of Jesus Javier Trujillo, Marcia Neal and many others in the Clark County School District, the conference and festival will offer participants a quality musical experience and help foster a lifelong interest in music. For performers, such as the members of Mariachi Cobre, Mariachi Los Arrieros del Valle, and the Clark County School District Mariachi Task Force, the event will offer an opportunity to promote their culture and showcase their musical talents.

I salute Mr. Trujillo, Ms. Neal, and the Clark County School District on establishing the International Mariachi Conference and Festival, and extend my best wishes that this event will enjoy a successful future.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Madam President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

In Fort Worth, TX, on October 21, 2000, a high school student was hospitalized after two 17-year-olds allegedly attacked him in a parking lot, beating him and scratching antigay epithets into his car. The victim suffered a broken nose and numerous other injuries, including cuts, bruises and two blood clots on his brain.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.