

makes his decision—and the decision, of course, by the Constitution is solely his—as to whether that nominee would get broad acceptance or whether that nominee is likely to cause quite a stir in the Senate.

Let us hope this is not the end of the consultation process but the beginning. Let us hope there will be that kind of dialog. I reiterate my call to the President to have a summit, to call a good number of Democrats and Republicans together for a day at Camp David or an evening or dinner at the White House and have a real back-and-forth where we roll up our sleeves and really get into a serious, detailed discussion of how we all feel. Who will benefit if that happens? Who will benefit if there is real consultation? Certainly the President, certainly the Senate, certainly the Supreme Court, but, most of all, certainly the American people.

Mr. President, I yield the floor.

#### RESERVATION OF LEADER TIME

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

#### DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2006

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 2360, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2360) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes.

Pending:

Reid (for Murray) amendment No. 1129, to provide emergency supplemental funds for medical services provided by the Veterans Health Administration for the fiscal year ending September 30, 2005.

Collins amendment No. 1142, to provide for homeland security grant coordination and simplification.

Feinstein amendment No. 1215 (to amendment No. 1142), to improve the allocation of grants through the Department of Homeland Security.

The ACTING PRESIDENT pro tempore. The Senator from California is recognized.

#### AMENDMENT NO. 1215

Mrs. FEINSTEIN. Mr. President, I rise to call up amendment No. 1215.

The ACTING PRESIDENT pro tempore. That amendment is currently pending.

Mrs. FEINSTEIN. Thank you very much, Mr. President.

Mr. President, this amendment is offered on behalf of the Senator from Texas, Mr. CORNYN, and myself. It is identical to the Homeland Security FORWARD Funding Act of 2005. That is S. 1013.

I am very pleased to be joined not only by my colleague from Texas but, as well, by Senators BOXER, HUTCHISON, KERRY, MARTINEZ, SCHUMER, CLINTON,

CORZINE, KENNEDY, LAUTENBERG, and NELSON of Florida. And, Mr. President, I ask unanimous consent to add Senator MIKULSKI to the list of cosponsors.

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

Mrs. FEINSTEIN. Mr. President, a great deal has been said about how homeland security dollars should be allocated. I think it is pretty clear that the American people, and certainly major opinionmakers such as major newspaper editorials, major mayors and major Governors, believe it is time our Nation adopt risk-based analysis to guide critical resource allocation of homeland security efforts.

This legislation will do exactly that. The Cornyn-Feinstein amendment is extremely simple in approach. Its key language, which appears at its beginning, is clear. Let me quote it:

The Secretary [of Homeland Security] shall ensure that homeland security grants are allocated based on an assessment of threat, vulnerability, and consequence to the maximum extent practicable.

This legislation will ensure that these priorities are set, and set according to analysis of risk and threat.

This bill accomplishes this through five basic mechanisms.

First, the law requires the Secretary of the Department of Homeland Security to allocate grants based on risk. The legislation will mandate that funding decisions be designed according to an assessment of risk. This is a key element of the law, which makes this in its very first section, entitled “Risk-Based Funding For Homeland Security,” which reads—and I want to repeat it—

The Secretary [of Homeland Security] shall ensure that covered grants are allocated based on an assessment of threat, vulnerability, and consequence to the maximum extent possible.

The bill defines “covered grants” as including the four major first responder grant programs administered by the Department of Homeland Security. That is: First, the State Homeland Security Grant Program; second, the Urban Area Security Initiative; third, the Law Enforcement Terrorism Prevention Program; and, fourth, the Citizens Corps Program.

In addition to these four core grant programs, the legislation also covers grants “provided by the Department for improving homeland security,” including grants for seaport and airport security.

The bottom line is that if Federal funds are going to be distributed to improve first responders’ ability to “prevent, prepare for, respond to, or mitigate threatened or actual terrorist attacks,” those funds should be distributed in accordance with a risk-based analysis. Al-Qaida and its allies do not attack based on a formula. This bill rejects the formula approach in favor of a framework that is flexible and risk focused.

Second, the legislation requires that covered grants be designed to meet “es-

sential capabilities.” “Essential capabilities” is a concept defined in this law. It is what we get for the money spent: The ability to meet the risk by reducing vulnerability to attack and diminishing the consequences by effective response.

Third, the bill requires States to quickly pass on Federal funds to where they are needed. States should not hold Federal funds back from where they are most needed. This bill will ensure that States quickly and effectively move the funds through to the location.

And, fourth, the bill addresses the small State minimum issue. The underlying bill requires each State to get .75 percent of the grant funding. Now, what does that mean? That means that 37.5 percent of the funds go on a formula basis to areas that might not have risk, threat, or vulnerability. For instance, under the current appropriations bill, of the \$1.918 billion appropriated, \$548 million is taken right off the top, allocated to States regardless of whether they are vulnerable, whether they have risk, or whether they have threat. Thus, that \$548 million is not available to meet risk.

This legislation will significantly reduce this large set-aside. It will reduce it from 37.5 percent to the .25 percent. Now, I must admit I am uncomfortable even with the .25 percent minimum and would prefer to eliminate any impediment to risk-based funding. I believe it is the right thing to do. I would believe this regardless of what State I came from. We set up a huge Department of Homeland Security and have given them the basis and the ability to do the analyses that are required and the intelligence that has moved in to determine what is vulnerable, where it is, where the threats are, and what the risks are. And these are going to be ever changing. But I understand the realities of the Senate, so we decided to track what the President requested in his budget.

In this post-Cold-War world of asymmetric threat, there are two fundamental understandings which apply to efforts to make our Nation more secure against a terrorist attack.

The first understanding is that predicting what terrorists will do requires risk analysis. It is an uncomfortable fact that even with the best intelligence we will never know exactly how, when, and where terrorists will strike. The best we can do is to adequately assess risks and threats and make predictions.

The second understanding is that our defense resources are not infinite. The sum total of money, time, and personnel that can be devoted to homeland security is limited.

Together these two understandings define the task for our Nation: We must accurately assess the risks of an array of possible terrorist attacks, measure the vulnerability of all of these possible targets, and then divide up resources based on that assessment,