

(c) RESPONSIBILITIES OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.—

(1) IN GENERAL.—The Director of the Office of Management and Budget, in consultation with the Secretary and affected entities, shall develop—

(A) a comprehensive enterprise architecture for information systems, including communications systems, to achieve interoperability between and among information systems of agencies with responsibility for homeland security; and

(B) a plan to achieve interoperability between and among information systems, including communications systems, of agencies with responsibility for homeland security and those of State and local agencies with responsibility for homeland security.

(2) TIMETABLES.—The Director of the Office of Management and Budget, in consultation with the Secretary and affected entities, shall establish timetables for development and implementation of the enterprise architecture and plan under paragraph (1).

(3) IMPLEMENTATION.—The Director of the Office of Management and Budget, in consultation with the Secretary and acting under the responsibilities of the Director under law (including the Clinger-Cohen Act of 1996), shall—

(A) ensure the implementation of the enterprise architecture developed under paragraph (1)(A); and

(B) coordinate, oversee, and evaluate the management and acquisition of information technology by agencies with responsibility for homeland security to ensure interoperability consistent with the enterprise architecture developed under subsection (1)(A).

(4) UPDATED VERSIONS.—The Director of the Office of Management and Budget, in consultation with the Secretary, shall oversee and ensure the development of updated versions of the enterprise architecture and plan developed under paragraph (1), as necessary.

(5) REPORT.—The Director of the Office of Management and Budget, in consultation with the Secretary, shall annually report to Congress on the development and implementation of the enterprise architecture and plan under paragraph (1).

(6) CONSULTATION.—The Director of the Office of Management and Budget shall consult with information systems management experts in the public and private sectors, in the development and implementation of the enterprise architecture and plan under paragraph (1).

(7) PRINCIPAL OFFICER.—The Director of the Office of Management and Budget shall designate, with the approval of the President, a principal officer in the Office of Management and Budget, whose primary responsibility shall be to carry out the duties of the Director under this subsection.

(d) AGENCY COOPERATION.—The head of each agency with responsibility for homeland security shall fully cooperate with the Director of the Office of Management and Budget in the development of a comprehensive enterprise architecture for information systems and in the management and acquisition of information technology consistent with the comprehensive enterprise architecture developed under subsection (c).

(e) CONTENT.—The enterprise architecture developed under subsection (c), and the information systems managed and acquired under the enterprise architecture, shall possess the characteristics of—

- (1) rapid deployment;
- (2) a highly secure environment, providing data access only to authorized users; and
- (3) the capability for continuous system upgrades to benefit from advances in technology while preserving the integrity of stored data.

Mr. DURBIN. Madam President, let me clarify one point. Recent news stories indicate the former national security adviser John Poindexter is working at the Department of Defense to develop a plan to shift private database research in fear that it might be useful for intelligence purposes. That proposal raises some privacy questions, I concede. Another mistaken news story suggests that homeland security will facilitate that kind of investigation into private databases.

My proposal has nothing to do with this DOD plan. My proposal focuses only on making sure the Federal Government computer databases can communicate with one another when necessary to make certain, for example, that the INS and the FBI can share internal information—not information on private databases—to help protect against terrorist risk.

I yield the floor.

VISIT TO THE SENATE BY MEMBERS OF THE EUROPEAN PARLIAMENT

Mr. DASCHLE. Madam President, one of the privileges accorded to the majority leader is the opportunity to welcome and to introduce our fellow legislators from the European Parliament. This is a tradition that began in 1972, and it has continued every year since.

Earlier this year in July, we welcomed the President of the European Parliament to the Senate. Today, I am pleased to welcome another 16 of his colleagues representing countries from across that great continent. As I said when Mr. Cox visited in July, this tradition is especially meaningful, because although the Atlantic Ocean separates us from our European friends, we are certainly connected—connected in beliefs and in the rule of law, and a commitment to the betterment of the people we serve and the world we share.

Today's visit has added significance, coming as it does at a period of heightened concern across Europe about the potential new terrorist attacks.

So we reiterate today our strong determination to stand together, united by our shared values and by our commitment to stand, as we have for now so long, on issues related to commerce, on issues related to trade, and on issues related to war.

I ask unanimous consent that the names of our colleagues from the European Parliament be printed in the RECORD.

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

EUROPEAN PARLIAMENT DELEGATION FOR RELATIONS WITH THE UNITED STATES, 55TH EP/US CONGRESS INTERPARLIAMENTARY MEETING, 11–17 NOVEMBER 2002, WASHINGTON, DC, AND SAN DIEGO

[List of participants (16) in protocol order]

Group	Country
Mr. Jim Nicholson, Chair .....	PPE–DE United Kingdom.

EUROPEAN PARLIAMENT DELEGATION FOR RELATIONS WITH THE UNITED STATES, 55TH EP/US CONGRESS INTERPARLIAMENTARY MEETING, 11–17 NOVEMBER 2002, WASHINGTON, DC, AND SAN DIEGO—Continued

[List of participants (16) in protocol order]

Group	Country
Mr. Bastiaan Belder, 1st Vice-Chair .....	EDD Netherlands.
Mr. Harlem Desir, 2nd Vice-Chair .....	PSE France.
Mr. Renzo Imbeni .....	PSE Italy.
Mr. José Pacheco Pereira .....	PPE–DE Portugal.
Mr. Jorge Salvador Hernandez Mollar .....	PPE–DE Spain.
Ms. Erika Mann .....	PSE Germany.
Mr. Jas Gawronski .....	PPE–DE Italy.
Ms. Imelda Mary Read .....	PSE United Kingdom.
Mr. Dirk Sterckx .....	ELDR Belgium.
Ms. Nuala Ahern .....	Verts/ALE Ireland.
Mr. Peter William Skinner .....	PSE United Kingdom.
Ms. Arlene McCarthy .....	PSE United Kingdom.
Mr. Brian Crowley .....	UEN Ireland.
Mr. Marco Cappato .....	NI Italy.
Ms. Piia-Noora Kauppi .....	PPE–DE Finland.

PPE–DE Group of the European People's Party (Christian Democrats) and European Democrats.

PSE Group of the Party of European Socialists.

ELDR Group of the European Liberal, Democrat and Reform Party.

Verts/ALE Group of the Greens/European Free Alliance.

GUE/NGL Confederal Group of the European United Left/Nordic Green Left.

UEN Union for Europe of the Nations Group.

EDD Group for a Europe of Democracies and Diversities.

NI Non-attached.

Mr. DASCHLE. I would also like to notify Senators that our colleagues from the European Parliament are available now to meet on the floor. I welcome them. I am delighted they are here.

Madam President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Chair recognizes the majority leader.

Mr. DASCHLE. Mr. President, I reiterate again our thanks to our colleagues for their willingness to join us on the Senate floor. It is a real pleasure for us to have the opportunity to talk with them. We wish them well in their travels within the United States.

We again reiterate how welcome they are and how hopeful we are that we can continue to maintain the dialog, the friendship, and the partnership that we have as countries interested in a mutual goal.

We thank them for being here.

HOMELAND SECURITY ACT OF 2002—Continued

Mr. DASCHLE. Madam President, I now ask that we return to the regular order.

The PRESIDING OFFICER (Ms. CANTWELL). Regular order.

The Senator from Pennsylvania.

Mr. SPECTER. Madam President, I have sought recognition to comment on the bill generally, and to discuss three amendments which I have filed.

I believe it is vitally important that the Senate conclude action on homeland security at the earliest possible date. And I believe, regrettably, but importantly, that we should accept the

bill which was passed by the House of Representatives because if we do not, we will not have a bill this year.

The House has passed a homeland security bill and has given notice that it intends to depart. This has left the Senate with the choice of take it or leave it. I believe that the national interest and the public welfare requires that we take it, even though I believe we would have a much better bill if it were to be amended in certain respects.

I have filed three amendments which I think would vastly improve the House bill.

If these amendments are offered and accepted, then there will have to be a conference. The prospects for having a conference, with the House of Representatives having departed, is remote, and the likelihood of passing this bill this year would be virtually nonexistent.

It is with reluctance that I say these amendments will not be offered, but these are amendments which I intend to pursue next year. In coming to this conclusion not to offer these amendments, I have done so at the request of President Bush who is very anxious that this legislation be enacted and sent to his desk so that the country may proceed to reorganize the Government to provide for homeland security.

Earlier today, I talked to President Bush, I talked to Vice President CHENEY, and I talked to Governor Ridge about these three amendments. The President urged me not to offer these amendments so that this legislation could be passed. The President stated that he would be willing to sit down and discuss the concerns I have and the amendments I have proposed, with a view to possible action on them next year. He is obviously not committing to accept these amendments until he has had a chance to review them, but did say there would be full review by the President. The President said that. And the Vice President also said he would review the matters.

I talked at length to Governor Ridge, to whom I have talked on many occasions. These are amendments which I have had an opportunity to discuss with the President in the past, in meetings in the White House. As soon as the homeland security bill was introduced, he brought in a number of Members who were interested. I have had a chance to discuss the amendments with him at several leadership meetings, and when he traveled to Pennsylvania recently to campaign, I had a chance to discuss the matter with him.

One of the amendments I have filed, designated amendment No. 4920, provides that the Secretary of Homeland Defense, subject to the disapproval of the President, would have the authority to direct the agencies to provide intelligence information, analysis of intelligence information, and such other intelligence-related information as the Assistant Secretary for Information Analysis determines necessary.

This language is important because it would empower the Secretary of

Homeland Defense to "direct." That is very different from asking. My experience as chairman of the Intelligence Committee in the 104th Congress convinced me about the turf battles which go on among the various intelligence agencies. Those turf battles are endemic and epidemic.

In chairing the Judiciary Committee Subcommittee on Department of Justice Oversight, I have seen the same turf battles going on in the FBI and know of the turf battles which have gone on in other intelligence agencies.

I believe that had all of the dots been put on a big screen prior to September 11 of 2001, 9/11 could have been prevented. We knew the FBI had an extensive report coming out of Phoenix about a suspicious individual taking flight training. The man had a big picture of Osama bin Laden in his apartment. That FBI memorandum was buried, and never reached appropriate personnel at headquarters.

We know the Central Intelligence Agency had information on two al-Qaida men in Kuala Lumpur. That information was not transmitted to the FBI or the Immigration and Naturalization Service. Those al-Qaida terrorists got into the United States and piloted one of the suicide bombers on 9/11.

We know the computer of Zacharias Moussaoui had a tremendous amount of useful information in his possession which was not obtained because the FBI did not use the proper standard applying for a search warrant under the Foreign Intelligence Surveillance Act. We know that a Pakistani al-Qaida member by the name of Murad had stated in 1995 that al-Qaida planned to have airplanes loaded with explosives fly into the CIA. We know the National Security Agency had a warning on September 10, 2001, about something to happen the next day, and it was not translated until September 12. I believe there was a veritable blueprint, had all of these dots been on the same screen and put together.

When FBI Director Mueller came to testify before the Judiciary Committee in early June of this year and was questioned about the Foreign Intelligence Surveillance Act and I saw the entire picture, I stated at that hearing that I thought there was a veritable blueprint.

I do not agree with CIA Director George Tenet that another 9/11 is imminent. The CIA Director testified to that at a public hearing before the Intelligence Committee a few weeks ago. Perhaps it is an effort to inoculate the CIA so that if there is an attack, somebody can say: Well, after all, we are not surprised.

But I do not believe in the defeatist attitude that we have to sustain another attack. I believe our intelligence services are capable, if they are under one unified direction and they have one screen and put all of the dots on one board, that we have an excellent chance of preventing another September 11.

While it is important to have antidotes for anthrax and to deal with smallpox and to deal with the problems of bacteriological warfare or chemical warfare, that if we are attacked, most of the damage will already have occurred. So a very sharp focus of our attention should be to prevent another 9/11.

To accomplish that, I believe the current bill is not the best of the bills. It does bring all of the analysis agencies under one umbrella, but it does not give the Secretary of Homeland Defense the authority to direct them. If the Secretary of Homeland Defense does not have the authority to direct the head of the CIA or to direct the head of the FBI or to direct the head of the Defense Intelligence Agency or to direct the head of the National Security Agency or the other intelligence agencies, then we are likely to have the same old turf battles which we have had up until now.

That is why I believe this amendment, which I had wanted to offer and have discussed on this floor on many occasions, would vastly improve this bill.

But we all know that the better is often the enemy of the good. I believe it is of sufficient importance to move this bill ahead now that I am prepared to wait until next year and to accept the offer the President has made—and the Vice President and Governor Ridge—to sit down and go over the concerns I have expressed and these amendments, if we can get administration support on these amendments.

There has been enormous controversy on the issue of labor-management relations. This was the subject of extensive debate when this bill was on the floor from September 3 until October 4. This Senator engaged in extensive discussions with Senator LIEBERMAN, the manager of the bill for the Democrats, and Senator THOMPSON, the manager of the bill for the Republicans, as to what the Nelson-Chafee-Breaux amendment meant. That amendment had incorporated the essence of what Representative CONNIE MORELLA had put in with two paragraphs, and the issue was whether or not those two paragraphs were in place of, or in addition to, the paragraphs of existing law.

The paragraphs of existing law, under section 7103 of title 5, provide that there can be a national security waiver of collective bargaining, that the President can make a determination to deny collective bargaining coverage for national security reasons. When the colloquy was entered into with the Senator from Connecticut, Mr. LIEBERMAN, he agreed that the two paragraphs of the Nelson amendment were in addition to and not in place of existing law, and these two additional paragraphs made it a little more difficult for the President to exercise the national security waiver; but still the national security waiver could have been exercised and there could have

been harmony with the employees had that change been made.

Then, with respect to the provisions for personnel flexibility, the amendment I have submitted as No. 4921 would have taken the format for denying collective bargaining coverage with the national security determination and added the additional two paragraphs which, again, would have provided for harmony, meeting the concerns that had been expressed by governmental employees.

It is my hope that we will yet have an opportunity next year, in consultation with the President, the Vice President, and Governor Ridge, to have consideration of this amendment and have the law changed next year.

In addition, I have filed amendment No. 4936, which contains provisions for a Presidential override but has, as a compensating factor, provisions for the utilization of the Federal Services Impasse Panel, and that again would bring harmony with the concerns and objections that have been raised by Federal employees.

So, in essence, what I am proposing to do is not to offer these amendments, Nos. 4920, 4921, and 4936; but I do believe they are important amendments, and I intend to press them in the 108th Congress. To repeat, I have discussed these issues directly with the President, who asked that I not put these amendments forward in the interest of expediting passage of this bill and avoiding a possibility of having a Senate bill different from the House bill, which would then require a conference and, most probably, preclude the enactment of legislation on homeland security this year.

There will be a number of amendments offered. There are already amendments that are pending, and some of them, frankly, I agree with. But I believe that the better is the enemy of the good here, and it is very much in the national interest for national security that this Senate move ahead and pass a bill.

I do not like the fact that the House enacts passage of a bill, sends it here, and then leaves town, which is just an example of legislative blackmail. But that is where we are. It is not an unusual occurrence. Although we had a full month to debate these issues and to vote on them, that never occurred, notwithstanding the fact that this Senator and others were on the floor. And I made these arguments about the necessity for a Secretary of Homeland Defense to have the authority to direct, and I made the arguments that when you added the two paragraphs of the so-called Morella amendment to the existing language, the President's national security waiver remained intact.

At this point, that is all history. Now we are faced with the alternatives of either accepting the House bill and moving on and getting this Department established, so that we can make our maximum effort to protect the

American people, or to offer amendments and try to get them passed and improve the bill, which will lead to the conclusion of no legislation this year. So, with great reluctance, I have acceded to the requests of the administration. I will not offer these amendments.

I exhort and urge my colleagues not to change the bill, no matter how good their amendments may be, but to take this bill; and if there are matters that ought to be changed, let's work on them next year. Before we leave town—hopefully this week, but in any event not later than next week—let's put the legislation in a posture where it can be sent to the President, be signed and become law, to do our utmost to protect the American people and to secure our homeland from another terrorist attack.

I yield the floor.

The PRESIDING OFFICER (Mrs. CARNAHAN). The Senator from Tennessee is recognized.

Mr. THOMPSON. Madam President, I thank the Senator from Pennsylvania for his statesmanlike approach to this matter. He is absolutely right that the way we are proceeding is not a usual occurrence. It is also a fact, however, that these are not usual times. I agree with him that it is vitally important we move forward. We have had a month or so of discussion and debate on this bill. We have a small window of opportunity now to do what we all know we need to do, and that is to go ahead and pass a homeland security bill. The Senator's actions that he has just taken will help that along immeasurably, and I thank him for that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. ALLEN. Madam President, I ask unanimous consent that I may speak up to 15 minutes on the amendment.

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

Mr. ALLEN. Madam President, I rise today to thank my colleagues in the House and in the Senate, as well as the leaders in the White House, who have worked very well together to arrive at a reasonable plan to allow this President the opportunity to properly establish a Department of Homeland Security and meet this threat before the 107th Congress adjourns.

I especially want to thank Senators FRED THOMPSON and PHIL GRAMM for their tireless work and their dedication, commitment and, as always, their very thoughtful leadership. Both of these gentlemen, Senator THOMPSON of Tennessee and Senator GRAMM of Texas, are concluding their distinguished service in the Senate, and what a perfect way to do it, with such a strong finishing kick in their sterling record of leadership.

I believe the Department of Homeland Security proposal that we are now considering—the same one passed by the House last evening—preserves the essential functions outlined in the

President's plan while also addressing several changes that will help ensure successful implementation.

Specifically, the new provisions clarify the roles and responsibilities of the Department and help form a top-notch workforce within the civil service framework. They also enhance research and development opportunities and protect civil liberties.

I am hopeful that my colleagues will come together and support this proposal as soon as possible. Let's get the job done. The job needs to get done without any further dilatory or political delays. Since September 11 of 2001, we have all seen the need to improve our homeland security. This matter has been debated for many months. As Senator SPECTER said—I will paraphrase him—as far as I am concerned, it has been fine-tuned to near perfection. It may not be 100 percent of what everybody wants, but 98 or 99 percent is pretty good work.

Madam President, as you may know, I am the chairman of the Republican high-tech task force, and I am very pleased to see that this proposal highlights the vital role technology and innovation play in our Nation's war to protect the people of our homeland from a variety of permutations of terrorism and terrorist threats.

This measure recognizes the importance of information technology and research and development in achieving the most effective homeland security.

There has been a lot of talk and a lot of focus on flow charts that talk about which department is here and which box goes here and this subagency there. All those flow charts are very interesting and relatively important, but most important is the flow of information, the ability of various Federal agencies to analyze the volumes of information and bits and facts and details—analyze all those thousands or tens of thousands of bits of information, analyze it, flag it, then act on it and, in some cases, also share that information within that Federal agency and also other Federal agencies, as well as State and local law enforcement agencies that also have a need to know that information.

New technologies are being developed every day that can help save lives and improve the ability of our Government to fight and respond to terrorist threats. It is incumbent upon us as elected leaders to ensure our team, in fighting terrorism, is equipped with the best available and the most advanced technology.

I have consistently maintained the Federal Government should and, indeed, must procure, adopt, and use these innovative technologies in an efficient and flexible manner in addressing this country's defense and homeland security needs.

I wish to briefly touch on a few of the important provisions I have worked on with representatives from the technology community and my colleagues in the Senate, such as Senators

BENNETT, WARNER, and WYDEN, which, I am happy to say, are addressed in this legislation. Again, I thank Senator THOMPSON and Senator GRAMM and their staffs for listening—listening to me and listening to my staff as well, and in particular I thank Frank Cavaliere—to these ideas in addressing these important provisions.

Let me highlight a few of the more salient provisions.

First, this proposal protects companies developing advanced technologies that help detect and prevent terrorism from assuming unlimited liabilities for claims arising from a terrorist strike. This provision helps ensure that effective antiterrorism technologies that meet stringent requirements are commercially available.

The reality is that without these safeguards, the threat of unlimited liability prevents leading technology companies from providing their best products to protect American citizens, American businesses, and governmental agencies.

The liability protections in this legislation are responsible to the Government, the industry, and also, very importantly, to the American taxpayer. I thank my colleague from Virginia, Senator WARNER, for all his assistance, experience, and constructive leadership in this important aspect of the bill.

Second, along with Senator BOB BENNETT of Utah, I am very pleased to see this legislation remove some of the legal barriers to information sharing between private industry and the Government. The threat to this country's critical information systems is extraordinary and this bill establishes procedures that encourage private industry to share infrastructure vulnerability information with the Government. The dialog between the Government and the private sector will ultimately help identify and correct weaknesses in our Nation's critical infrastructure while not compromising any of the provisions or protections provided under the Freedom of Information Act in other government agencies.

Information-sharing protections are particularly important in the area of cyber-security and threats. Taking preemptive measures to disclose vulnerabilities with the Government will help both the private and public sectors develop strategies to combat the numerous and constantly evolving cyber attacks threatening our Nation's critical infrastructure.

I encourage industry, law enforcement, and Federal officials to continue to work to build trust-based relationships and processes that will foster more information-sharing reporting.

Removing legal obstacles—which is what this bill does, which is very good—removing legal barriers to information sharing is very important and essential, but so is building trust.

A national forum on combating e-crime and cyber-terrorism was held at the Computer Sciences Corporation offices in Northern Virginia just 2 weeks

ago by the Information Technology Association of America and the U.S. Attorney's Office for the Eastern District of Virginia where they brought together law enforcement and private sector leaders from all around the country to address some of the remaining obstacles to improving cooperation. These are the types of efforts I encourage, and I am hopeful this legislation will continue to promote.

Also included in the Thompson-Gramm amendment is the Federal Information Security Management Act, or FISMA, which will strengthen and protect the Federal Government's information and communications networks. FISMA establishes guidelines that are performance based. Let me repeat that. The guidelines are performance based so they can quickly adapt and respond to the fast-changing cybersecurity threats. Strengthening the Government's information security is a vital component and piece of the homeland security puzzle. FISMA will foster accountability and make sure that every agency and department in our Federal Government prioritizes information security and promotes the use of commercially available technologies while avoiding technology-specific or product-specific government-wide security standards.

This is vitally important in making sure we get procurement that is good for the taxpayers and allowing all those who have great ideas to offer their programs, their systems, their products, and their efforts.

I am also happy to see this compromise proposal establishes a national technology guard or NET Guard. This is a bill that Senator WYDEN and I introduced earlier this year to help local communities respond and recover from attacks on their information systems and communications networks.

After the September 11 attacks, I, along with other Senators, received volumes of information from numerous companies about their varied products, their systems, their programs, and their ideas regarding the defense of our homeland. As public servants, we want to be sure the Government has the necessary structure and process in place to test and apply new technologies to meet our homeland security needs.

The new Department of Homeland Security will have a designated center—and this is part of this bill—to serve as a technology clearinghouse to encourage and to support private sector solutions that enhance our homeland security.

Lastly, the Thompson-Gramm amendment makes the coordination of our Federal, State, and local officials charged with protecting our homeland a national priority. Over the last year, I have strongly advocated that any homeland security plan focus on interaction with local public safety officials as they are really on the front line of combating terrorist threats and attacks.

Specifically, I have worked in the Senate to promote the development at

the local level of a voice and data interoperable communications system for Federal, State, and local emergency responders. Last year, this Congress appropriated \$20 million for the CapWIN project. CapWIN has started to award contracts for the development of an interoperable communications system for Federal, State, and local public safety organizations in the greater Washington, DC area. That is Northern Virginia, the Maryland suburbs, and the District.

The CapWIN project is a real-life example of adapting technologies, specifically communications technologies, to address and overcome existing national security concerns, as well as homeland security concerns in this region.

I again thank my colleagues for listening to me, and to the tech community for their persistence and their positive leadership on this historic legislation. I respectfully urge all of my colleagues to support this carefully crafted measure that will help the President, Federal, State, and local agencies, and the private sector utilize the best innovations of technology, to analyze and respond and, thereby, protect the security of our American homeland.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, this homeland security bill has been debated for 7 weeks. We have pretty well talked about the issue enough. I do believe we are on the verge of acting on it, so I wanted to come over this afternoon, given that we are going to have a vote on cloture tomorrow, to make a few comments.

First, I do not think anybody set out with the goal of turning this into a partisan issue. We came very close to that happening. In the aftermath of the election, I think we have pulled back from that.

I thank the President for that. In the aftermath of an election where the President triumphed—I do not think there is another fair word—there might have been some who in those circumstances would have said: Let's take this over to next year and I will write it exactly like I want it. I think we could have all understood had the President taken that approach.

In the aftermath of the election, he had the right to take that approach, but I would have to say I admire the President for the fact he did not take that approach. There are not many people, after validating an issue in an election, who are still willing to compromise, but that is what the President did.

We now have a bill that will give the President the tools he needs. We have responded to legitimate concerns that have been raised. We have strengthened to some degree the ability of those people who are going to be affected by the second largest governmental reorganization in the history of our country to be heard, but on the other hand not

have the power to obstruct; to have input but not the ability to dictate. I think that represents a reasonable compromise.

Senator BYRD raised probably the most significant issue in that the original proposal would have dramatically transferred power from the legislative branch to the executive branch by giving the President the ability to reorder priorities in appropriations. If the Constitution is clear on one subject, it is that Congress has the power of the purse. I believe we have reached a reasonable compromise in that area. I know Senator BYRD is not for this bill, but I believe a major concern he raised has been dealt with, and I think his input improved the bill.

If I were writing the bill by myself, it would be different than the compromise we have reached, but to be honest it would not be much different. I say to people who are opposed to this bill to look at the alternative as we come down to the final moments before it is adopted. The alternative, it seems to me, is to wait for another bill until next year. For those who oppose the bill and for those who believe it gives the President too much power, I ask them to honestly ask the question: Do they believe waiting 3 more months in a new Congress, under new leadership, they will get a bill more to their liking than the bill that is before us? I believe an honest answer to that question is no.

I also believe 3 months does make a difference. Finishing the work in this Congress is important. Getting on with this Department is the right thing to do. So whichever side my colleagues are on—whether they are on the side of Senator THOMPSON and the President and believe that this is a good bill that ought to be adopted now, or whether they oppose it because they believe it gives the President too much power—it seems to me the right thing to do is to finish this job now, because if we wait until we come back in the next Congress, it will be February before we can get to it. The bill that will be adopted in February will be less to the liking of the President's opponents on this issue than the bill before us, and we will have squandered 3 months.

This is an incredible issue that does not come along very often, where at this point in time, no matter where one stands on the issue, it seems to me a plausible, logical, reasonable, and I believe correct case can be made that we should go ahead and act.

I am not expecting 100 Senators to vote for the bill, but I do hope people will allow us to go forward and adopt the bill. I do hope we get a strong vote. It does make a difference whether a bill passes 51 or 65, especially when we are trying to do something that is going to be very difficult and the President is going to need all the help he can get.

I thank Senator THOMPSON for his leadership and his in-depth knowledge on this issue which has been an indis-

pensable ingredient for those of us who have tried to work on it.

I thank Senator LIEBERMAN. Earlier, when I was off doing something else, I understand Senator LIEBERMAN said he intended to vote for cloture. I think that is an act of leadership, and I applaud him for it.

I thank my dear colleague ZELL MILLER, who has worked with me on the substitute that Senator THOMPSON has offered on our behalf. I think Senator MILLER's leadership has been indispensable on this bill. He has a way of getting down to the bottom line of what an issue is about and express it in terms that people can understand, and that has been a very important ingredient in getting us to this point.

I am ready to move forward. It is my understanding we are going to vote on cloture tomorrow. I hope after that cloture vote we could move to a vote on final passage tomorrow. If that is not to be the case and we carry it over until early next week, then we carry it over into early next week. But I do believe it is important we pass this bill in this Congress.

The House will finish its business this afternoon and will leave town. They have no intention of coming back. This is not really a take it or leave it kind of deal because this deal was negotiated over the weekend. We had broad input. We have some 53 Members who are committed to voting for this compromise. So it clearly has a majority, and I am hopeful that we will see that majority prevail.

I yield the floor.

The PRESIDING OFFICER (Mr. MILLER). The Senator from Tennessee.

Mr. THOMPSON. Madam President, I thank Senator GRAMM of Texas for his strong leadership on this issue. He is one of the most eloquent, logical, and persuasive Senators who has ever served in the Senate, I am sure of that. The Senate is going to miss his strong voice. He is fierce in battle and he is magnanimous in victory. I am proud he is my friend, and I thank him for his comments.

It does look as if we are at a point where we can come together on a homeland security bill. I hope it is not done in a way that is a grudging concession for some, that they believe it is a bad bill but must on balance vote for it. I hope the employees who are going to be in this Homeland Security Department do not feel they are going to be taken advantage of or this bill in some way strips them of basic rights. Those sorts of things have been alluded to, but they are simply not accurate.

This bill preserves the antidiscrimination provisions and protections of title V—for example, discrimination based on color, race, religion, sex, age, handicap, marital status, or political affiliation; those protections are preserved. Those were never at issue. Protection from political coercion, a basic right that is set forth in title V, is preserved. Fair competition for employment is preserved, protection from nep-

otism whistleblower protection is preserved. Those rights are not trampled upon in any way. Workers are not being deprived of those rights. Veterans preference provisions are preserved. Equal pay for equal work provisions are preserved.

I hope we do not go down this road together, but still separate, in our feeling for the need for this bill because we feel in some way we can still draw lines between management and workers and play on any hostility or misunderstanding that might be out there. It is not based upon reality. It is based upon a recognition that our Government is simply not working very well in some areas, in some basic provisions. Many of our departments have troubles.

Senator DURBIN, with whom I will engage in a colloquy shortly concerning some technology provisions, is absolutely right when he talks about the problems our Government has with regard to getting our computers to talk to each other. This is simply another example of our Government not working very well. We have spent billions of dollars in the IRS trying to get the computers to talk to each other, to upgrade them and incorporate technology capabilities that private industry has employed for a long time. We had great difficulty in doing that. That is one small area of the problem. The other side of that problem coin has to do with personnel.

When the IRS was in such bad shape, we gave them additional flexibility to pay people more, to go outside the personnel rules and pay people more and give them more flexibility as to who they could hire. That is the sort of thing you do to solve the problem. Do not just identify the problem; try to solve the problem.

In department after department, agency after agency, we have looked at the problems our Government has as it grows, as the bureaucracy grows, and we get bogged down and cannot hire the people we need and we cannot fire the people we do not need. We get bogged down in endless disputes over minute matters such as smoking facilities and the color of the carpets in offices and things of that nature. We have given flexibilities to get around those things. That is what we are doing in this bill.

It is not a heavy-handed cram down that violates people's rights. It is simply a response to the fact that this Nation is in a different era now. We recognize the difference we are in, the different threat this Nation faces, one that it has never faced before. We are not fearful of vast armies and tanks and battalions rushing across Europe anymore and threatening our friends and our troops in that part of the world. It is much more insidious and much more dangerous than that, where a handful of people with modern technology can destroy the lives of thousands of people. We are just in the baby steps phase of even beginning to deal with that.

That is what the homeland security bill is about. It is taking the first baby step to organize ourselves to deal with that. We have a big battleship of a government and we are trying to turn it around a little bit. Oftentimes it is wasteful, inefficient. As Senator DURBIN points out, the computers cannot talk to each other. We have all the things that make it difficult to face the high-tech threats we are facing. That is what homeland security is all about.

We simply cannot exist in this environment in the world when, while we are the world's superpower, we are also the world's supertarget. We cannot exist the same way we have in times past, being willing to pay a few billion here and a few billion there because of waste and inefficiency in government, knowing things may not work—so be it—and we simply add another bureaucracy on top of that, have another election, and spend a few more billion dollars and absorb it because of our economic strength. We cannot do that anymore. We have to do things differently.

It goes back to equipment, computers, technology, and personnel and the flexibility to use and interchange those things to meet the modern conditions we are facing. We cannot go along anymore with a system that takes 6 months to hire someone and 18 months to fire someone. That does not work. Where, if you want to transfer someone to the front and get your best people in certain crucial places you have endless appeal rights that take years to resolve. We cannot do that anymore. It is not a matter of trying to take advantage of someone, it is a matter of trying to protect this country. That is what this is all about.

I hope this is not viewed as a take-it-or-leave-it proposition that has not been compromised. Some have said this is not a compromise, this is an agreement—meaning, apparently, the President was not willing to bend; or our side was not willing to compromise in any way, but we did agree to disagree and we are going to vote for the bill. That is the way I interpret that. It should not be that way. I don't think that is a justifiable response to the situation.

Going back to the beginning of this legislation, we must go back to Senator LIEBERMAN. Senator LIEBERMAN began this process. He should get great credit for that. He and a few others heightened our awareness to the need to take a different look. It was in the Governmental Affairs Committee, the committee that deals with Government organizations and reorganizations. Goodness knows, many Members have known the whole Government has needed a reorganization for many years. He said we should look at a reorganization with regard to the parts of Government regarding homeland security. We did not agree on exactly how to do that.

We had several hearings. We had committee consideration. I offered sev-

eral amendments as ranking member on the Governmental Affairs Committee. Some of the amendments simply were trying to incorporate current law into the Homeland Security Department and were voted down pretty much along partisan lines. We tried to negotiate the personnel flexibility issue at that point. We did not meet with any success at that point in trying to negotiate any of those things out. Senator LIEBERMAN had the votes. He passed the bill. He is to be commended for that. We might not be here today if it was not for him.

The fact is, there was disagreement and discussion and his side prevailed along party lines on just about every vote when we tried to get some authority for the President that other Presidents had. The answer was no. We tried to get personnel flexibility; some of the unions opposed that, but I think the people support it. The answer was no, all along the line. This has not been a totally one-sided proposition from our standpoint. I voted against the proposal in committee at that time. It was before a national strategy had been submitted by the President. I thought the President ought to have an opportunity, at a minimum, to analyze the nature of the problem and come forth with a comprehensive national strategy. That is what happened.

This bill, today, not only is not what Senator LIEBERMAN proposed, it is not what the President originally proposed, either. The President had more flexibility in his original proposal than is found in this amendment. The original bill did not have the various provisions in title V, nonwaivables. I do not think there was an intention to make them expendable at all, the various protections were not in the bill, but we wound up putting those in the bill. The President wanted appropriations transfer authority, up to 5 percent of appropriated funds. The President did not get that. That is not in this bill.

When it came down, Senator GRAMM and Senator ZELL MILLER, the two Senators who made the major proposal and response to the Lieberman bill, and whose work was so effective and we certainly would not be here today without their work, they suggested 2 percent, the President be given appropriations transfer authority up to 2 percent. We are going to have to create a new Department. We have to have some flexibility, some money to make these changes up to this amount. That is not in the bill either. An indemnification provision that was in Gramm-Miller, that is not in this bill either.

So there are things that each side wanted that are not in this bill. It has been compromised and discussed all along the way. It is true that somewhere along the line someone has to prevail on certain key issues. It is true that the President stood pat, pretty much, on his national security authority and took the position from day 1, and maintained that position through-

out, that he simply was not going to relinquish any authority that all other Presidents had since the time, really, of John F. Kennedy, when there was an Executive order that gave him that authority, and since the time of Jimmy Carter, that there has been a statute that gave them that authority. Democrat and Republican Presidents both exercised that authority. It passes down to George W. Bush, and the proposal on the other side was that there be new hurdles the President might have to go jump over before he could exercise that authority.

It made no sense to us or to the President that in a time of war we would be giving the President additional hurdles and roadblocks in order to, on occasion, exercise his national security authority in certain areas. He maintained that provision. He prevailed on that position. That is the position that is in this bill, and rightfully so.

The same thing is true with respect to personnel flexibility. I will discuss that perhaps in some detail. We have had a lot of discussion about this agreement or compromise, or whatever you would call it, that we introduced yesterday, but we really have not gotten into the details of what is in it to any great extent. If anyone wants to come down and speak on this bill, I will be glad to let them do so. But until that time, I will just go over a few of the provisions that are in this amendment that we filed.

With regard to the issue of personnel flexibility, as we know, the bill to create a Department of Homeland Security consolidates 22 Federal agencies comprising 170,000 employees, 17 different unions, 77 existing collective bargaining agreements, 7 payroll systems, 80 different personnel management systems. It is a monumental job under any circumstances—a monumental job. Reorganizing an agency with all the vested interests and positions that involves is a big job. This is a monumental job. It is imperative that some sort of procedure is put in place to enable the Secretary to create one unified Department to prevent terrorist attacks and protect our homeland.

We all agree that flexibility is needed. We have not been able to come to agreement, up until now, as to how much flexibility is required—flexibility meaning the guy who is going to run the agency, have to take the responsibility, have the accountability but be given the tools to get the job done with. That is a big job—the most important job, probably, in Government, outside the Presidency itself, in light of the world in which we live.

The idea of providing agencies with some increased flexibility with regard to personnel management is not revolutionary. Almost half of all Federal executive branch employees already work in agencies with human resource management programs that operate, in



whole or in part, outside the framework of Federal employees laws that are in title V.

I think we need to realize on the one hand that employees probably should not have an equal seat at the table with managers when it comes to running a Department; on the other hand, we need to emphasize in the law that some employee rights are basic they are basic and should not be subject to the whim of a manager.

An employee is entitled to appeal rights. We can discuss whether it ought to take 5 years to get something resolved or whether we ought to have five different levels of appeal. I think that is ridiculous in the day and age we live in now. We can do better than that but still keep those appeal rights. The manager should not be the judge and jury and executioner but should have the right to manage and then some appeal rights if he oversteps his authority.

This new bill sets up a consultation process for the creation of a human resources management system. It sets four steps management must take in order to create the new system. There is detailed language that provides for a preimplementation congressional notification, consultation, and mediation process the Department must go through, involving the management and employees of the Department, the Office of Personnel Management, Congress, Federal employee unions, and the Federal Mediation and Conciliation Service. So there is quite an elaborate process of consultation and even mediation where these views have an opportunity to be aired.

It is not all one sided. Sometimes reasonable people can actually sit down and modify their views when they have a chance to talk. It is not as if all the employees are going to look at it the same way. If I were a good employee, the way most of the employees are, and I were offered the opportunity of my management, my Department, having some more flexibility so that I could move more toward the things I am interested in and good at, that had a chance of higher pay and more recognition and a more significant mission, such as homeland security, but in exchange I had to agree that if I did something that caused disciplinary action I would only have, let's say, three levels of appeal instead of five, I think I would take that deal. I think most employees would take that deal.

In the first place, the overwhelming number of employees do not even get in that position because they are good employees. This is not something about which most employees are going to be concerned. I think it is going to be something most employees will embrace, if some of their leadership will be honest with them about what this is all about.

We are not talking about lower pay. We are talking about potentially higher pay. We cannot get good technicians in the modern marketplace to work for

the Government at the salaries we are paying now. We are going to have to do better.

There is good news in this bill. It is not an onerous thing, looking for a way to fire a bunch of people. That would never work. Natural attrition is going to take a tremendous toll on Federal employees anyway. We are going to be looking for good people. But a manager simply has to have the right in any kind of organization, especially one this big, especially one this complex, especially one that has this troublesome track record that so many of our Departments and Agencies already have—a manager must have some flexibility. We cannot incorporate the mess we have created in so many areas of Government into homeland security.

We have a golden opportunity to take the first steps toward doing something different, doing something right, something that can be a template, an example for other parts of government.

Also in this amendment is a provision concerning reorganization authority. It is important for Congress to consider granting the Secretary the ability to make programmatic reorganizations within the Department. It will take many years for the Department to get up and running efficiently. There may be many instances, for example, in which the various functions within the Department can be consolidated in order to eliminate overlap and duplication.

If you listen to GAO, and you ever read any of those reports—and you could fill this room to the ceiling with GAO reports talking about inefficiency, waste, fraud, abuse, overlap and duplication, year after year, Department after Department after Department. But in order to deal with this, a manager ought to have a right to do some consolidation.

While waiting for Congress, both Houses, with its 88 committees and subcommittees of jurisdiction, to hold hearings, introduce legislation, consider their proposal in subcommittee and committee, debate on the issue, vote, and then hold a conference on the legislation, it is important the Secretary be able to implement these changes in a timely manner.

Gramm-Miller was somewhat broader. The Secretary could go outside the agency, reporting to Congress. This does not allow going outside an agency. But it does not require a report to Congress. So there is an adjustment there. There is a compromise there. There is another indication that this is not a cram-down. This is the product of serious discussions back and forth, just as was Gramm-Miller. That whole process was a product of Senator GRAMM and Senator MILLER and others of us sitting down across tables and working out minute details.

That work product, which is the basis of where we are today, was moved further toward the positions of some of our other colleagues in order to get something that people not only could

grudgingly support but something they really thought was a good product and still got the job done.

You can always compromise and get an agreement just about on anything if it is meaningless enough and inconsequential enough. That is not the only key—getting a deal. The key is to get a deal that will get the job done and people can feel good about.

The bill before us today would enable the Secretary to initiate an internal reorganization that would reallocate functions among the offices of the Department so long as the Secretary submits a comprehensive reorganization plan to Congress.

I think this language goes a long way toward giving the Secretary the flexibility needed to ensure the long-term viability of this new Department.

Procurement flexibility is another important area. It is important throughout Government. It is especially important here. All of these problems need to be looked at with a magnifying glass. All these problems we see in these other areas—all of these, well, we need to do better here or there—become really magnified when you realize a handful of people with modern technology can murder tens of thousands or hundreds of thousands of people when you consider the vast ranging infrastructure that we have which is 90 to 95 percent in private hands. It is not something the Government can turn a switch and change overnight. When you consider that, all of these difficulties that we have had become greatly magnified.

Procurement is another issue that, for many years, we have accepted that the Federal Government has paid a premium, both in dollars and in time spent for goods and services it buys solely because of the unique requirements it places on contractors.

While the Federal procurement system has been streamlined and simplified over the last several years, much redtape and barriers still exist. This is due in part to trying to maintain the proper balance between an efficient procurement system and accountability when spending taxpayer dollars.

Last year, Congress provided the Defense Department with the authority to quickly and efficiently purchase the most high-tech and sophisticated products and services in support of the warfighter. I am pleased that the present bill includes provisions giving the Department of Homeland Security similar authority in its efforts to defend against terrorism and provide flexibility to buy technologies or products that are cutting edge but that may not have made it through the commercial marketplace yet.

Further, the bill also includes language that gives similar flexibilities to Federal agencies Governmentwide to support antiterrorism efforts and to defend against biological, chemical, radiological, or other technology attacks. Although these Governmentwide flexibilities are more limited than those

provided for in the new Department, all agencies of Government will be able to better avail themselves of the most sophisticated technologies in order to successfully fight against terrorism—one of the things Senator DURBIN was talking about just a while ago.

The bill before us today includes a provision that requires the Secretary to develop and submit to Congress a plan for consolidating and collocating the more than 1,000 field offices that will fall under the new Department's jurisdiction. Previous versions of the legislation required the Secretary to come back to Congress to ask permission to change these field offices. The language in this bill is more proactive, requiring the Secretary to take the initiative to come up with a way to unify the Department's front line of defense.

As to congressional oversight structure, we know what the situation is there. We have to have a sense of the Senate. Congress is beginning to acknowledge the obvious. As I mentioned before, the Department of Homeland Security will have 88 committees and subcommittees claiming jurisdiction over various aspects of this Department. It is bad enough for departments that must answer to two or three different committees. I can't imagine how much energy will have to be focused on reporting to Congress rather than to the Department. That oversight responsibility is important. It is just not the amount; it is the quality of it.

There is a provision in this bill for a sense of Congress rather than an actual requirement for Congress to revise its committee structure. That at least is a step in the right direction and an acknowledgment that Congress really should address the question of revising its committee structure and doing something about the fact that there are 88 committees and subcommittees that deal with this matter. That is not going to work. I think Congress would acknowledge that.

Another issue that is important to highlight is the compromise proposal for securing our Nation's borders.

There has been little dispute that the Immigration and Naturalization Service needs much improvement. On the one hand, there have been problems with INS enforcement functions and ensuring that those who may want to enter the United States to do us harm are not admitted. On the other hand, the INS has experienced big problems in backlogs in the processing of applications for visas and other immigration benefits for those qualified aliens who lawfully want to enter the country. So we have a law enforcement function and a services function.

This bill both strengthens the INS functions and promotes a stronger border. It places all of the INS enforcement functions, including Border Patrol inspections, within the Border and Transportation Security Director. This will allow the Border Under Secretary to effectively coordinate immigration efforts at the border with Customs and

the Transportation Security Administration allowing the Department to create a seamless border.

In addition, it establishes a bureau of citizenship and immigration services which will report directly to the Deputy Secretary.

The services part is not getting lost in the shuffle. It is important and will report directly to the Deputy Secretary.

This bureau will focus on immigration service, including the processing of visas and naturalization applications and administering other immigration benefits. The separating and restructuring of the immigration enforcement and service functions within this new Department will help establish the framework for increased security at our borders, as well as improve services for lawful immigrants.

I picked up the New York Times this morning, and I read a story that starts out as follows:

"The Immigration and Naturalization Service has begun an internal review to determine how a man suspected of having ties to the Islamic radical group Hezbollah was able to become a naturalized United States citizen," several agency officials said yesterday.

There is story after story after story. We must—must—do better, and hopefully this will be a significant step in the right direction.

During my tenure on the Governmental Affairs Committee, I spent a lot of time on legislation and oversight to protect the security of Federal computers and information systems. Senator LIEBERMAN and I worked very closely together in this regard for some years. I am pleased that this bill includes the Federal Information Security Management Act which will require Federal agencies to utilize information security best practices to ensure the integrity, confidentiality, and availability of Federal information systems. This language builds on and makes permanent the foundation laid by the Government Information Security Reform Act, a relatively new law which Senator LIEBERMAN and I sponsored, which requires every Federal agency to develop and implement security policies that include risk assessments, risk-based policies, security awareness training, and periodic reviews.

Now, that sounds like a big mouthful that is hard to understand, but what it means is our computers are very vulnerable to cyber-attack. As a part of our infrastructure, it is very vulnerable. A lot of people think the next big attack, if we ever have one in this country, will be preceded by this kind of cyber-attack. We must do more and do better in that regard.

At a time when uncertainty threatens confidence in our Nation's preparedness, the Federal Government must make information security a priority. The language in this bill is vitally important to accomplish this objective.

Law enforcement authority for inspectors general may seem like a small item, but it is an important item, and it is a part of an even more important thing; that is, the homeland security bill itself. I am pleased this bill includes a provision, which again Senator LIEBERMAN and I sponsored, to codify law enforcement authority for certain Presidentially appointed inspectors general.

In the wake of September 11, the FBI is diverting resources and agents to fight against terrorism like we have never seen before. As a result, the Bureau will rely even more heavily on the work of inspectors general to investigate fraud and other crimes in the Federal Government. This provision will ensure that the IGs have the tools they will need to carry out these investigations.

Now, this is not exactly the bill I would have drafted myself. I think almost anybody who speaks on behalf of it would say that. Some would say that is an earmark of a good bill. Some would say that is an earmark not of something that is being forced down folks' throats but is the earmark of something that has been compromised and worked out.

The intelligence issue is an extremely important one. How do we handle the intelligence issue with regard to the Department of Homeland Security? It is a big issue. It is a big problem.

Throughout this process, there have been a couple of different approaches to the creation of an intelligence directorate for the new Department. Some have sought to create a superintelligence agency that could direct other agencies that would be responsible for connecting the counterterrorism dots. It is a complicated problem.

We talk about connecting the dots. If the dots had been connected and had been there on the board for one person to connect, we would have avoided 9/11. The problem with that is these dots were within a sea of dots. For every dot we now know was significant, there were scores of dots right around it that looked the same that we now know apparently were not significant. So it is a big problem, much bigger than just putting somebody in charge of dot connecting.

Others, like myself, have argued for a structure much more modest that would be responsible for conducting threat and risk analysis and producing vulnerability assessments; in other words, look at our infrastructure. We have problems enough just assessing the vulnerability of our farflung infrastructure in this country, and then working with intelligence to figure out how best to protect it.

The emphasis of this structure would be on a critical infrastructure. One of my chief concerns, which I have repeatedly expressed in the Governmental Affairs Committee and on this floor, is that we not act too broadly in regard to creating this intelligence directorate. It is imperative we do not lull



Members into believing we have taken comprehensive reform of our intelligence community when so much, in my opinion, remains to be done in that regard.

But, for the most part, I am satisfied with the intelligence provisions in the compromise legislation that is before us. These provisions combine the directorates for information analysis and critical infrastructure, as requested by the President. It would be responsible for analyzing terrorism threat information, assessing the vulnerabilities of the American homeland, and producing risk assessments, something not being done anywhere else in the Federal Government.

These assessments tell us of the likelihood that a target will be attacked and will help us best allocate our limited resources. I believe this is the proper emphasis for this directorate.

Still, this bill goes further than I would prefer in the amount of information that is provided to the new Department. Specifically, the access-to-information provisions provided in this new directorate mean they will receive all information on terrorist threats, even if the provider of the information considers such information to be highly sensitive or not particularly useful or raw material. The only way to avoid this requirement is for the provider to convince the President the information should not be shared. If the President says this information is not to be shared, it will not be shared.

So I would prefer the burden be on the recipient to show a need for this information rather than the burden being on the President to stop it, but it is not a major consideration.

The fact of the matter is, we are going to try this out for a while to see what is best. We are not going to have it right in a lot of these areas, no matter which direction we take. But we will only learn how we can improve by getting started. That is why this bill right now is so important. We need to get started and see how it works.

Even our Constitution, as the Framers of our Constitution knew, is not a perfect document in that it would be exactly the way we would want it for 200 years without any changes. We saw some ways we could improve it. And that will not be any different with this legislation.

This provision will radically alter the current relationship between consumers and providers of intelligence information. I certainly agree with those who suggest the traditional means of sharing intelligence information with the community must be revamped. But I think it should be done next year as a part of a larger look at our intelligence community. I am concerned. The intelligence community is no different than the rest of our Government in that you live and you learn and you adjust. And we are undergoing a big adjustment now because of the change in the nature of the primary threats to this country, and the reprioritizing

that is going on, and the fact that for well over a decade we saw a decline in emphasis of some of the things we know are very important now, such as human intelligence, such as signals, intelligence capabilities, and still have the same operation. There is much more out there for that same operation to collect and deal with. They are swamped with information, and there are big adjustments to make. I admire the men and women who are valiantly trying to deal with it, but they have not dealt with it well in some respects.

We simply have to let the chips fall where they may after we have done a thorough analysis of what we are doing right and what we are doing wrong, and to what extent we need to reorganize, to what extent leadership has to be different. How do we get the good people we need? How do we keep them motivated? What should Congress do to give them political support?

Congress is great about seeing the horse running out of the barn and down the road and pointing out that the horse is out of the barn. We need to see how we can do a little bit better in terms of helping to resolve the problem instead of criticizing the way we have done it, and causing our intelligence community to hunker down and have as their No. 1 goal, which is the impression I get sometimes, not getting in trouble, not getting in trouble with us. I think that is a good goal, but it is not an exclusive goal. It is not even the most important goal.

All that needs to be looked at. If we think, in creating this Homeland Security Department, and a little Intelligence component emphasizing our infrastructure, that we have really dealt with all of that, we are fooling ourselves. That is a job for a little further down the road.

I notice the Senator from Illinois in the Chamber. I have a bit more, but if the Senator wanted to comment, I would be glad to relent.

I yield the floor.

Mr. DURBIN. I thank the Senator from Tennessee. I also thank him for his dialog with me during the last hour or two concerning my pending second-degree amendment which, as we noted in the RECORD, relates to modernizing information technology in the Federal Government to protect our Nation against terrorism.

I have discussed this with the Senator from Tennessee, and I know from some experience in this body that there are moments in time when you should try to find a good exit strategy which achieves as closely as possible your goals. I believe the Senator from Tennessee and I have agreed on such a strategy. I would certainly like to see my amendment adopted as part of the Department of Homeland Security legislation. It would be a valuable addition.

The Senator from Tennessee and I have discussed it. He has supported my amendment in committee, and I believe he agrees with it at least in prin-

ciple. However, we are faced with an extraordinary legislative responsibility to pass this bill literally in the closing hours of this session with very limited opportunities, if any, for amendment, or conference committee, resolving differences with the House.

So what I have agreed to with the Senator from Tennessee is to take a different approach and to be prepared to withdraw the amendment with an understanding and a colloquy between us on the floor relative to the issue. I thank the Senator from Tennessee for agreeing to that.

I believe there is a serious omission in this bill in that it does not address directly the issue of modernizing and coordinating information technology. The amendment which I have suggested, however, adds little more to the existing Federal statutory requirement of the Office of Management and Budget.

In 1996, two colleagues I have served with, former Congressman Bill Clinger of Pennsylvania and former Senator Bill Cohen of Maine, passed the Clinger-Cohen Act related to information technology management reform—1996, 6 years ago. If you read this and what they said in the law and required of the Office of Management and Budget, you reach the inescapable conclusion that this agency already has been tasked with the responsibility of modernizing information technology in the Federal Government. The sad reality is that after the passage of this legislation in 1996, it appears that little has been done, certainly not nearly enough has been done to meet the challenge we currently face since September 11, 2001, in terms of modernizing our computers.

The Director of the Office of Management and Budget is required, under the Clinger-Cohen Act of 1996, to make plans for information technology acquisition. Note that I said 1996. The reason I believe this amendment is necessary is that many years have passed with relatively little progress on improving Federal information systems and their interoperability. I believe that we can't wait any longer. In the name of national security, in the name of homeland security, we must demand that the Director of the Office of Management and Budget take the steps that would have been required by my amendment and by the Clinger-Cohen Act of 1996.

OMB must, in consultation with the Secretary of this new Department, develop a comprehensive enterprise architecture plan for information systems, including communications systems, to achieve interoperability between and among information systems of agencies with responsibility for homeland security, including the agencies inside the new Department and those that are outside of it but key to homeland security, such as the FBI and the CIA.

OMB must develop time lines, realistic and enforceable time lines, that are met to implement this plan. And a

particular person must be designated to be responsible for this effort. There has to be someone in charge of this project beyond Mr. Daniels, who serves as head of the Office of Management and Budget. There needs to be a person who is well skilled and versed in information technology with the authority, the power, and the responsibility of dealing with this issue. This person has to carry out the duties of the Director of OMB.

I also believe OMB must keep Congress informed on the development and implementation of this plan. My amendment would have required a yearly report.

I am fortunate that the people of my home State of Illinois have renewed my contract a week or so ago and given me an opportunity to serve for another 6 years. It will give me an opportunity to stay on top of this issue. I will pursue this issue and others of law and order in this venue, while my colleague from Tennessee pursues them in another venue. But I believe that what we are doing here is to at least serve notice on OMB that under Clinger-Cohen of 1996, they have the power and the responsibility, and with this new Department, they have a new imperative to meet these guidelines, these schedules, these time lines, and to really make significant progress.

We need to do more than just ask for a report. We need action. I will revisit this issue again in the next Congress, if significant progress is not made, but I trust that Mr. Daniels and members of the administration who share my concern about information technology will put their best efforts to work to make certain that it is met.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. Mr. President, as I understand it, my colleague from Illinois has withdrawn his amendment.

AMENDMENT NO. 4906 WITHDRAWN

Mr. DURBIN. Mr. President, if I may at this point, pursuant to the agreement I had with the Senator from Tennessee, I ask unanimous consent to withdraw my amendment.

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

The Senator from Tennessee.

Mr. THOMPSON. Mr. President, I appreciate my colleague's withdrawal of his amendment. As he knows, I agree with what he is trying to do with this amendment. I was a cosponsor of it when he offered it in the Governmental Affairs Committee. I agreed to cosponsor his amendment in committee because the problem of interoperability of Government information systems is a real problem and one we have tried to address for years. I mentioned the IRS a while ago as being a very good example of that.

Congress passed the Clinger-Cohen Act of 1996 in response to concerns about how the Federal Government was managing and acquiring information technology. Clinger-Cohen built

on the information management requirements of the Paperwork Reduction Act. The Director of the Office of Management and Budget, under both of these laws, is charged with the responsibility of overseeing and evaluating agencywide information technology management and acquisition. It is certainly consistent with OMB's own implementing guidance to expect that the Director will develop, in consultation with the new Secretary of Homeland Security, a comprehensive enterprise architecture plan for information systems, including communications systems to achieve interoperability. I agree with Senator DURBIN that OMB should develop and meet time lines to implement this plan.

Senator DURBIN's amendment would have required a particular person to be designated to be responsible for this effort. Certainly with all those people they have at OMB, I am sure they have someone with the expertise to be responsible for the success of this effort. I do know this is something that the folks at OMB are concerned about, and I have full faith that they will do the right thing about it.

I thank Senator DURBIN for his leadership on this important issue. I am confident the administration hears this and will be responsive on this issue.

On a couple of other issues having to do with our amendment that is under consideration today, as we attempt to wrap up the homeland security bill, there are provisions here dealing with the Department of Energy National Laboratories on which I would like to comment for a moment.

I strongly believe the new Department of Homeland Security, and particularly the Science and Technology Directorate, can benefit greatly from the cutting edge research and development being performed at our National Laboratories in this country—crown jewels of this Nation—much of which is directly related to homeland security.

Senator DOMENICI, Senator BINGAMAN, and I have worked hard to craft language that will allow the new Department of Homeland Security to take advantage of the expertise that is resonant at our National Laboratories in order to strengthen homeland security. I must say, however, I am disappointed that the compromise bill included language allowing the new Department to select a so-called "headquarters laboratory" from the National Laboratory system to serve as the focus for homeland security R&D.

I believe all the National Laboratories have something to offer this new Department and that the DHS should be able to directly access whichever laboratory it believes can best serve a given need. There should be a level playing field in this regard.

For example, if the Oak Ridge National Laboratory in Tennessee—just to pick a laboratory at random—has developed a technology that would help to strengthen our homeland security, or is conducting research in an area of

particular interest in the new Department, the Secretary should be able to go to this laboratory directly and take advantage of that. The Senate bills—the Gramm-Miller bill and Lieberman bill—set up a mechanism to allow this type of interaction.

The compromise includes many of our principles in these bills but doesn't place the same emphasis on this level playing field. I will note that the language in the compromise is permissive; that is, it allows the new Department to select a headquarters laboratory but doesn't require it to do so. I encourage the new Secretary, whoever he or she may be, not to do so. I hope the new Department will look at all of the National Laboratories for assistance and fully utilize the tremendous capabilities they have to help strengthen our homeland security.

On the issue of risk sharing and indemnification, which has been referred to earlier, I am disappointed the bill doesn't include language that would give the President the ability to exercise existing discretionary authority to indemnify contractors and subcontractors for Federal agencies' procurement of antiterrorism technologies and services. I had hoped this bill would clarify that the President, if he chooses, may use the indemnification authority of current law to provide companies supplying goods and services to the Government some certainty about the risk involved when developing cutting edge counterterrorism tools.

The law now covers wartime products and services—certain products and services having to do with wartime, and they are defined in the law and in the bill. But there are other items, such as mail sorters, and things of that nature, that may not fit into the same category I think ought to be covered, too. Instead of the indemnification provisions included in the Gramm-Miller amendment, this bill includes some limited tort reform provisions to protect the manufacturers and sellers of antiterrorism technologies that satisfy certain requirements.

Under the principles of federalism on which our country is based, tort laws are traditionally reserved to the authority of several States. I have never been one, just because I liked a certain policy, to federalize something that had been the province of the States for 200 years, simply because I wanted to conform it to my idea of national policy. That is inconsistent with our position on federalism. There comes a point on balance where the need for the development and deployment of effective antiterrorism technologies throughout the Nation supports the creation of national or Federal standards, upon the determination by the Secretary, of the technology if it meets the statutory criteria.

As time goes on, things change, certain things become national issues, certain things become matters of concern of even national security. We are

living in a different world, and I think we must respond to that. We make some progress toward doing that, without wholesale so-called reform that would totally federalize the areas that have been under the province of States since the creation of our Government.

Corporate inversion is another area that is dealt with in this bill. I am disappointed that the bill includes language to prohibit the Secretary from entering into contracts with U.S. firms that have reincorporated outside the U.S. through a series of transactions, commonly referred to as inversion. It is a very popular idea to punish folks who go outside and incorporate. We would do a whole lot better if we concentrated on improving the tax that caused it to happen. It is going to be part of this bill, and I wish it was not.

The Committee on Governmental Affairs, which has jurisdiction over Federal procurement policy, has not held a single hearing to consider this issue and its impact on the procurement process.

There are consequences to what we do around here. I think we will discover there are some consequences to this—maybe unintended—and they will be addressed later. So be it. One result of the language would be—get this—to allow foreign companies that have always been foreign based to bid on Department of Homeland Security contracts, but it would preclude foreign companies headquartered in the U.S. before the Department was created from bidding on U.S. Department of Homeland Security contracts, even if the work would be performed in the U.S. by American workers.

Maybe somebody will step up and tell me how that makes sense. It is in there, and it is not nearly as important an area as these other very beneficial sections of this bill.

In the interest of full disclosure, as I go through these provisions, I have to state my honest beliefs about them. This provision is not one of our finer moments in the bill.

In conclusion, I think we have come a long way since the Governmental Affairs Committee, under Senator LIEBERMAN's leadership, first considered legislation to create a Department of Homeland Security back in June. I look forward to the Senate's final consideration in the next few hours, days, or whatever, of this compromise amendment that I have introduced on behalf of Senators GRAMM, MILLER, and myself. I do not believe we will necessarily get everything right the first time around. But it is important that we come to agreement as soon as possible. I think this bill does that and, for that, I am happy.

Thank you, Mr. President. I yield the floor.

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

Mrs. CLINTON. Mr. President, I come to the floor in support of Senator LIEBERMAN's amendment to strike the provisions in the homeland security pack-

age that have nothing to do with homeland security.

Mr. President, we are here for the most critical and compelling of public interests; namely, our homeland security. But I have to say that we make a mockery of our duties if, instead of focusing our attention, our time, as we end this session, on this absolutely essential issue, we let the Homeland Security Department bill become a vehicle for other matters, special interests, pet projects that Members in either House have, instead of focusing on the business at hand.

Senator LIEBERMAN has eloquently listed a number of these provisions that have been inserted into the homeland security bill in the other House. I know my colleague from Connecticut is here to talk about something taken out of the bill that has direct implications for homeland security, which makes the shell game going on even harder to understand.

Among the many provisions that have no business being in this bill at this late hour of this session is one that offers special protection against litigation for pharmaceutical companies that manufacture childhood vaccines by using the homeland security bill to dismiss existing lawsuits. Now, I, along with Senators DODD and DEWINE, have legislation that we think is very important when it comes to pharmaceuticals and children.

We believe that protecting our children against shortages in the universally recommended childhood vaccines for diseases such as measles, tetanus, and polio is absolutely critical. Our bill would provide stockpiles and advance notice so that the Centers for Disease Control can manage shortfalls without having to turn children away when they come for immunizations.

There are very few public health achievements in the last century more significant than protecting children against vaccine-preventable diseases. Yet as we meet today, we are struggling with a vaccine shortage which clearly we need to deal with as soon as possible. It is a very important, sensitive issue.

We have bipartisan consensus around what we should do. Yet we could not put it on the homeland security bill. We were not given an opportunity to try to deal with a real problem, namely, the shortage of vaccines. We were told it was an unsuitable vehicle. Yet we find that others have not shown the same degree of respect for our Nation's security and have added all kinds of unrelated provisions.

I specifically want to focus on the vaccine liability provision. By excluding our vaccine supply proposal, they cannot even argue with a straight face that these provisions are needed to protect our children and protect their access to required vaccines.

The few one-sided provisions that have been snuck into this bill not only fail to protect or advance homeland security, they even fail to adequately

protect our children against preventable diseases. All they do is protect manufacturers of vaccines against lawsuits.

What is really sad is that we in the HELP Committee had been working on a comprehensive approach to dealing with these vaccine issues. Senator FRIST from Tennessee had such a bill that would include many of these provisions because he acknowledged, as a physician, that we not only needed to figure out what was appropriate to protect manufacturers from unnecessary liability, but, first and foremost, how to benefit children, consumers, and families.

We have worked very closely over a number of months with the Senators and their staffs—Senator FRIST, Senator GREGG, Senator KENNEDY, as well as Senator DEWINE and Senator DODD—to try to figure out how we would deal with these vaccine issues. They have been very productive discussions. We fully expect we will reach a bipartisan resolution early in the next session.

Unfortunately, we are now confronted with a homeland security bill that not only undermines our discussions but, once again, puts the health of our pharmaceutical companies in front of the health of our children. That is by no definition I am aware of homeland security. In fact, it is just the opposite. It is home insecurity. What are our families supposed to do? Many of us read the article in last week's New York Sunday Times magazine about the potential link between this very ingredient that the House has decided to protect against lawsuits, a compound known as thimerosal which is made of mercury that was put into a number of pharmaceutical preparations to preserve them, including into vaccines.

My colleagues read the article. We do not know what the right conclusion is. We do not know whether this has any effect on the rather alarming increase in the number of children who are diagnosed with autism and the related problems associated with the autistic condition, but we know it is a problem. Now all of a sudden, we are taking one provision out of all of the hard work that Senator FRIST and others have done to deal in a comprehensive way with our vaccine issues of shortage, liability, manufacturing standards, and everything else, plucking one thing the pharmaceutical companies wanted out and sticking it in homeland security. It is not surprising I guess after being here now for nearly 2 years. It is still stunning that in the midst of a debate about how to protect ourselves, by George, we are going to protect our pharmaceutical companies from what may or may not be fair questions about liability.

Now we will never know because it was those parents of children who had developed autism who were bringing the lawsuits to get to the information to figure out what was going on with this compound. Now they will be foreclosed from pursuing their lawsuits.

They will be told: Sorry, whatever research and work you have done to come up with some answers—and these parents deserve these answers—apply to the vaccine liability fund and we will take care of you, but we are not going to go any further; we are not going to try to find out what really is at the root of this increase in autism.

It is a very sad commentary that this is where we have come with this debate. As I listened to my colleague from Connecticut, whose idea it was to have the Homeland Security Department, whose legislation he masterfully maneuvered through the Governmental Affairs Committee, against the opposition of the administration, list all of these extraneous untested provisions that have been stuck into this bill at the last minute is disheartening because there has been no one who has believed more strongly in homeland security and the need to get our Federal Government smarter and quicker and more flexible than Senator LIEBERMAN.

I urge my colleagues to support the Lieberman amendment to strike unrelated provisions. If what we are concerned about is homeland security, if what the administration and the President have been talking about during this past election season about protecting our homeland is absolutely what we are supposed to be doing, then let's do that job. Let's do the job that needs to be done on homeland security without undermining other important issues that should go through the legislative process to reach the kind of bipartisan resolution they deserve.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, before my colleague from New York leaves the floor, I wish to join with her in this call for support of the striking amendment. I am going to try to offer a couple of amendments—I do not know what kind of success I am going to have—to put some provisions back into the homeland security legislation dealing with the professional firefighters, as well as some law enforcement officials.

I have letters I will read into the RECORD shortly from the International Association of Firefighters and from Federal Law Enforcement Officers Associations urging in the strongest words possible that these amendments be included as part of the homeland security bill.

The point my colleague from New York has made, the great irony she has pointed out is that we now have provisions in the bill that have nothing to do with homeland security. They are a backdoor effort to undermine legislation being developed in a bipartisan fashion. We had cooperation.

We are now being told in this bill that we are going to undo efforts made dealing with children's safety and children's health and exclude the very provisions that are asked for by the first responders to homeland security

threats—firefighters and law enforcement.

Mrs. CLINTON. Will the Senator from Connecticut yield for a question?

Mr. DODD. I will be happy to yield.

Mrs. CLINTON. I am well aware of the Senator's longtime support for firefighters and the work he has done throughout his career to make sure our firefighters have the resources they need.

Isn't it ironic that we stand here debating a homeland security bill which has no money for first responders, and the only money that was in there they have now taken out? There is not a single penny that is going to the firefighters, the police officers, the emergency responders on the ground, and we are going to leave with a continuing resolution that also has no additional resources.

Since September 11 of last year, with our firefighters and police officers having faced many more challenges, is it not the Senator's understanding they have not received additional resources?

Mr. DODD. My colleague is absolutely correct. In fact, one of the things we find—I am sure the Presiding Officer has had the same experience—are simple things such as interconnectivity so that firefighters can talk to police departments. One of the problems we discovered in New York, the State that our distinguished colleague so ably represents, in the wake of 9/11 in New York City, was that the firefighters could not speak to each other—incompatibility of systems. They have been asking for some Federal help so police departments could talk to fire departments, could talk to emergency medical services and get some help in doing so. That was one of the provisions we wanted. That has been included in this bill.

It is incredible that we are faced with provisions in this bill to protect—and I say this as someone who represents many of them—the pharmaceutical companies that have objected to the idea of having to face a potential liability as a result of efforts to protect children from dreadful health problems. Yet the bill excludes language that would do exactly what the Senator from New York has described, and that is to see to it we have additional new firefighters on the ground. We have asked for it.

Reading from a letter from the International Association of Fire Fighters, they state:

On behalf of the 250,000 professional fire fighters who are members of the International Association of Fire Fighters, I want to express our deep gratitude—

And I apologize we are not going to be able to fulfill their sense of gratitude.

for your leadership and effort in amending the homeland security bill to provide for fire fighter staffing. Your fire fighter staffing amendment expands upon the FIRE Act Grant program . . .

And then it goes on to say:

As fire fighters in New York and Washington demonstrated on September 11, fire

fighters save lives and are the linchpin to an effective terrorism response. Fire fighter staffing must be part of the homeland security bill.

It has been stricken. It is no longer a part of this bill at all. The Federal Law Enforcement Officers Association efforts are also not reflected in this bill now. They have been trying to get some help and support and that is not in here.

I ask unanimous consent that the correspondence from the International Association of Fire Fighters, the International Association of Fire Chiefs, and the Federal Law Enforcement Officers Association be printed in the RECORD so our colleagues can have the benefit of reading what these national and international organizations are calling for.

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

INTERNATIONAL ASSOCIATION OF  
FIRE FIGHTERS,

Washington, DC, November 14, 2002.

Hon. CHRISTOPHER DODD,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR DODD: On behalf of the more than 250,000 professional fire fighters who are members of the International Association of Fire Fighters, I want to express our deep gratitude for your leadership and effort in amending the homeland security bill to provide for fire fighter staffing.

Your fire fighter staffing amendment expands upon the FIRE Act Grant Program to allow for the hiring of thousands of new additional career fire fighters. Currently, inadequate staffing is the major crisis facing the fire service. Two-thirds of all fire departments currently do not have enough fire fighters to meet industry standards for safe fire ground operation. This exposes fire fighters to increased hazards when they respond to emergencies. Your amendment addresses this major firefighting hazard.

As fire fighters in New York and Washington demonstrated on September 11, fire fighters save lives and are the linchpin to an effective terrorism response. Fire fighter staffing must be part of the homeland security bill.

Again, thank you for your time and leadership on this important issue.

Sincerely,  
HAROLD A. SCHAIBERGER,  
General President.

INTERNATIONAL ASSOCIATION OF  
FIRE CHIEFS,  
Fairfax, VA, November 14, 2002.

Hon. CHRISTOPHER J. DODD,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR DODD: The International Association of Fire Chiefs (IAFC) strongly supports your amendment to Department of Homeland Security bill (HR 5005) which would create a federal grant program to assist local governments in hiring career fire service personnel.

As you well know, our nation's first responders have been historically short-handed on the front line in responding to fire and life safety emergencies within our communities, as well as to emergencies involving the nation's critical infrastructure. Response to fires, medical emergencies, specialized rescue, releases of hazardous materials, and now threats and acts of terrorism have placed significant stresses on our limited personnel. The need for additional training,

staffing and equipment has increased dramatically over the last several years as the nation's first responders have accepted these additional critical response roles.

The federal government stepped forward in 2000, recognizing that the fire service's expanded role needed support beyond that which most communities were capable of providing. The Firefighter Investment and Response Enhancement (FIRE) Act provided much needed funding to purchase basic equipment and safety programs for communities unable to afford them.

But, our most critical resource is people. National studies have shown that a crew of four (4) on a responding apparatus is the most efficient crew when attacking a structure fire. The same studies showed that there was not only a higher level of efficiency in carrying out the department's mission, but a higher margin of safety for the public and emergency response personnel. However, there are few communities capable of providing that level of staffing. National statistics show that sixty percent (60%) of fire departments operate at emergency scenes with inadequate staffing. In addition, many of our members also serve in our nation's armed forces as reservists and national guardsmen and women. When they are called to duty in defense of our country they are no longer available to serve their communities in the fire department. This places an additional strain on our already limited human resources.

The LAFC greatly appreciate your leadership on this issue.

Very truly yours,

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

FEDERAL LAW ENFORCEMENT  
OFFICERS ASSOCIATION,  
*Washington, DC, November 14, 2002.*

Hon. CHRISTOPHER J. DODD,  
*U.S. Senate,  
Washington, DC.*

DEAR SENATOR DODD: On behalf of the 20,000 federal agents who are members of the Federal Law Enforcement Officers Association (FLEOA), we respectfully request that SA 4839 be attached to the pending legislation creating a Department of Homeland Security. As you know, SA 4839 is an extension of S. 2770 introduced by you in May 2002 with bi-partisan support. FLEOA believes this is an urgently needed solution to the grievous problems existing in the federal agent pay structure.

FLEOA is a non-partisan professional association representing federal agents from the agencies listed on the left masthead. We are on the front line of fighting terrorism and crime across the United States and abroad. The current pay structure for federal law enforcement does not enable us to recruit the best and brightest to our ranks and retain senior agents in high cost of living areas. SA 4839 is the first step to rectifying this tremendous problem. SA 4839 only amends the locality pay for federal agents that were specified in Public Law 101-509. This proposal is supported by the Fraternal Order of Police (FOP), National Association of Police Organizations (NAPO), National Troopers Coalition (NTC), International Brotherhood of Police Organization (IBPO), and the Police Executives' Research Forum.

Again, FLEOA respectfully requests that SA 4839 be attached to the legislation creating the Department of Homeland Security. We thank you for your leadership on this issue.

Sincerely,

RICHARD. J. GALLO.

Mr. DODD. I ask unanimous consent that we temporarily lay aside the pend-

ing amendment so I may offer two amendments en bloc.

Mr. THOMPSON. I would have to object.

The PRESIDING OFFICER. The objection is heard.

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

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

AMENDMENT NO. 4951 TO AMENDMENT NO. 4902

Mr. DODD. Mr. President, I will send to the desk an amendment in the second degree. This does not strike any provisions of the underlying amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD] proposes an amendment No. 4951 to amendment No. 4902.

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

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

The amendment is as follows:

(Purpose: To provide for workforce enhancement grants to fire departments)

At the end insert the following:

**SEC. . GRANTS FOR FIREFIGHTING PERSONNEL.**

Section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229) is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively;

(2) by inserting after subsection (b) the following:

“(c) PERSONNEL GRANTS.—

“(1) DURATION.—In awarding grants for hiring firefighting personnel in accordance with subsection (b)(3)(A), the Director shall award grants extending over a 3-year period.

“(2) MAXIMUM AMOUNT.—The total amount of grants awarded under this subsection shall not exceed \$100,000 per firefighter, indexed for inflation, over the 3-year grant period.

“(3) FEDERAL SHARE.—

“(A) IN GENERAL.—A grant under this subsection shall not exceed 75 percent of the total salary and benefits cost for additional firefighters hired.

“(B) WAIVER.—The Director may waive the 25 percent non-Federal match under subparagraph (A) for a jurisdiction of 50,000 or fewer residents or in cases of extreme hardship.

“(4) APPLICATION.—An application for a grant under this subsection, shall—

“(A) meet the requirements under subsection (b)(5);

“(B) include an explanation for the applicant's need for Federal assistance; and

“(C) contain specific plans for obtaining necessary support to retain the position following the conclusion of Federal support.

“(5) MAINTENANCE OF EFFORT.—Grants awarded under this subsection shall only be used to pay the salaries and benefits of additional firefighting personnel, and shall not be used to supplant funding allocated for personnel from State and local sources.”; and

(3) in subsection (f) (as redesignated by paragraph (1)), by adding at the end the following:

“(3) SUPPLEMENTAL APPROPRIATION.—In addition to the authorization provided in paragraph (1), there are authorized to be appropriated \$1,000,000,000 for each of fiscal years 2003 and 2004 for the purpose of providing personnel grants described in subsection (c). Such sums may be provided solely for the purpose of hiring employees engaged in fire protection (as defined in section 3 of the Fair Labor Standards Act (29 U.S.C. 203)), and shall not be subject to the provisions of paragraphs (10) or (11) of subsection (b).”.

Mr. DODD. Mr. President, I thank my colleague from Tennessee.

I wanted to offer two amendments in one slot. I thought creatively of having one amendment en bloc, but that was not acceptable, so I made a choice on the two amendments, both of which are very important. I will explain both of them. The one pending deals with the firefighters and the tremendous need that exists to expand the workforce of first responders. I don't care which State you go to, when you talk of responding to terrorism, those called upon first to respond are State police, local police, firefighters, emergency medical service providers.

That point hardly needs to be made. Those who watched the scenes of 9/11, know who were the first responders to the World Trade Center and the first responders to the Pentagon. It is ironic, as we consider this homeland security legislation, the provisions struck by the other body as they sent the bill over were the provisions for assistance to the local first responders in the case, God forbid, of a terrorist attack.

I wanted to include an amendment to amend the Law Enforcement Pay Reform Act of 1990 to adjust the percentage differentials payable to Federal law enforcement officers in certain high-cost areas. The Presiding Officer is sensitive to this question, as we represent neighboring States. There, we are losing people from our Federal law enforcement agencies because of the pay differentials. It is impossible to meet the costs of living in certain areas of the country. I will make another effort before this bill is completed to see if we can consider that critically important amendment to the homeland security effort.

For purposes of this debate, the only amendment that will be under consideration is the amendment dealing with firefighters. Both of these amendments fix glaring omissions in the pending substitute. The amendment I am offering on behalf of the firefighters provides Federal assistance to local fire departments to hire 75,000 new firefighters to address new homeland security needs.

Senator JOHN WARNER, my friend and colleague from Virginia, and I recognized the problem of firefighter understaffing shortly after September 11 and we wrote legislation to help solve the problem. The amendment is based on the bill Senator WARNER and I wrote. This amendment also builds on the

FIRE Act, which Senator DEWINE and I authored in 2000. With the support of Senators WARNER and LEVIN the FIRE Act became law, and has provided some \$400 million to tens of thousands of firefighters around the country. Today's amendment is also nearly identical to an amendment authored by Senator CARNAHAN, which was accepted by the Governmental Affairs Committee earlier this year.

One aspect of being prepared is to have the men and women on the ground who can put out the fires and respond to the injuries and the tragedies that may occur. Just as we call upon the National Guard to meet the increased needs of more manpower in the military, we must make a national commitment to hire additional firefighters necessary to protect the American people on the homefront. The legislation we proposed would put 75,000 new firefighters on America's streets over 7 years.

Since 1970, the number of firefighters as a percentage of the U.S. workforce has steadily declined. Today in the United States there is only one firefighter for every 280 citizens. We have fewer firefighters per capita than nurses and police officers, and we need to turn this around now more than ever. Understaffing is such a problem that according to the International Association of Fire Fighters, nearly two thirds of all fire departments cannot meet minimum safety standards. OSHA standards require that for every team of two firefighters in a burning structure, another team of two be stationed outside to assist men in the event of collapse. Sadly, too many men and women are lost because there is no second team outside the unstable buildings. We saw this in Worcester, Massachusetts a few years ago.

I will not go down all of the provisions that emphasize the importance of having the additional personnel on the ground. I mentioned earlier we had a letter from the International Association of Fire Fighters, and that letter is printed in the RECORD, along with a letter from the International Association of Fire Chiefs. So this is a case where you have both labor and management making the same request as we consider this homeland security legislation.

I do not want to belabor the point. I am struck by the fact we would drop provisions which have been almost universally supported in this Chamber even prior to 9/11, the need for additional personnel on the ground to provide assistance to local communities through grant applications. To give an idea of the pent-up need, when we originally authored the FIRE Act which was to provide grant moneys to local departments, the 33,000 around the country, paid, volunteer, or combination departments, there was \$100 million put into the budget to provide grants to local communities. In excess of \$3 billion in applications in the first year came to FEMA because of the

pent-up need that exists across the country for additional equipment, and to provide additional personnel, additional training, so firefighters can respond.

Most Americans today are aware, obviously, that the role of firefighters and EMS services are vastly different than even a few years ago. Today, firefighters are called upon to respond to situations where highly toxic chemical materials are involved. The degree of sophistication to be brought to the trade of firefighters is so much more complicated than before, as the demands have increased dramatically. When we speak of volunteer departments, for instance, we rely on the good will and the spirit of volunteerism. In many of our rural and local communities, people volunteer to serve. Yet today they are called upon to respond to very complicated and dangerous situations.

There was an overwhelming degree of support when Senator WARNER and Senator LEVIN took the bill that Senator DEWINE, myself, and others fashioned and included as part of the Defense authorization bill. Then, of course, the appropriations were forthcoming and the demand was evident. After 9/11, the demand increased dramatically as a result of the new threats of terrorism.

I am deeply troubled and saddened that we are talking about homeland security and yet there is nothing in this bill, nothing, that provides one red penny to hire first responders of terrorist attacks. How ludicrous is that? We are talking about a homeland security bill and we have nothing in here to go to local police, fire, and EMS services, and we will call this a homeland security bill. The great irony, as our colleague from New York pointed out, is there are provisions in this bill to protect the pharmaceutical industries from lawsuits where vaccines are developed for kids. How do you explain that to the American public? We sneak provisions in this bill to protect corporate America, yet we will not provide money to those who are called upon to respond, God forbid, if another terrorist attack occurs. How do you explain that to the American public?

Under these procedures we are dealing with—and it gets confusing even for those who have been here a while with post cloture and other procedural roadblocks—I am probably not going to get a vote on this amendment dealing with the firefighters. I probably should not waste the time to bring it up, but people ought to know that while people go around and beat their chest about homeland security in this bill, you should not be deluded by the name. The name may sound pretty good, but underneath it are a lot of problems. There are things that are in this bill that have nothing to do with homeland security, and there are things that should be in here that are not. These firefighters need our help and support and backing.

I regret I was not able to include the problem dealing with law enforcement, an amendment which has—I will not bother listing everyone here, I will include these names for the Record—a broad-based constituency here of some 30 Members of this Chamber who have supported this bill, S. 2770: Senator BAUCUS, Senator BIDEN, Senator SNOWE, Senator DEWINE, Senator DURBIN, Senator COLLINS, Senator CORZINE, Senator SCHUMER, Senator MURRAY, Senator WARNER—the list goes on here, of our colleagues who have supported this law enforcement provision that I mentioned earlier about the great disparity in pay. We are losing these people.

I am not allowed under the procedures to offer that amendment now. I will try to find a chance to do it in the next few days, at least to make an effort to have it as part of this bill. Again, I have a very strong letter from the law enforcement agents, asking for some assistance here.

I don't know how you explain to people what we are doing in homeland security as law enforcement and firefighters here are basically going to be left out of this bill. I regret that is the case.

I am faced now with this particular second-degree amendment, and we will see what happens over the next day or so and whether or not we can actually get a vote on it, but I wanted to take a few minutes to explain my concerns about it.

Earlier this year, of course, we had adopted funding for the FIRE Act as a separate appropriation. It was not vetoed, but it was tantamount to a veto. It was what we call sequestered by the President. He took those moneys and basically said I am not going to sign this into law. So the grant money for communities in Rhode Island and New Jersey and Michigan—all across the country—who were looking for us to be a partner in getting better prepared to deal with the threats of terrorism, I am sorry to tell you, are not included in here. I don't know who you are including in homeland security, but you are not part of the deal. Apparently the pharmaceutical industry is, but we are not. We will try our best in the next few days to rectify this, but under the rules and procedures I don't think it is going to happen, I am sad to report. Maybe we can try in the next Congress.

But I am saddened we are passing a homeland security bill and firefighters and law enforcement officials are not going to be a part of this effort, at least as far as these amendments are concerned.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, first I thank the Senator from Connecticut for his eloquent remarks. I could not agree with him more.

When we look at this bill, a bill that I fully want to support—I support setting up a Department of Homeland Security and the goals involved, and have



supported moving this forward. But as we look at the details of what has been given to us from the House, it is unbelievable. When we look at first responders, people in Michigan on the front lines on the ground—not only police and firefighters and EMS but our Border Patrol who are working double time and triple time, and those from local law enforcement who have been assigned—we have been trying to provide some reimbursement for their overtime and the costs to local units of government. It is amazing to me that in the name of homeland security we have a bill in front of us that does not include many things that are critical to our security in this country but that includes items, frankly, that are outrageous special interest items that are being stuck in the bill, hoping we will not notice.

We all are concerned about homeland security and want to move forward together to put together the strongest safety and security for our citizens. I want to speak to one of those today that colleagues have already spoken to that is a provision, unfortunately, in this bill, that protects the financial security of the pharmaceutical industry, not the homeland security of the people of America. This provision I find absolutely outrageous and I intend to support the Lieberman amendment to withdraw this from the bill.

The homeland security bill contains a provision that will expand the liability protections that currently exist for vaccines to include other components such as vaccine preservatives like thimerosal. This was included in the bill with no debate, no committees.

How many times have we heard on this floor as we were debating so many bills—I remember on prescription drugs—we heard over and over again that we should not be adding important provisions that would lower the prices of prescription drugs because, colleagues on the other side of the aisle were saying, we had not gone through the regular legislative process. We had not had hearings. There had not been votes in committees.

Yet now, in the 11th hour of the session of this Congress, we see a provision added that nobody has looked at other than a few people, I would argue, operating on behalf of one of literally the strongest special interests in this country today.

There are six drug company lobbyists for every one Member of the Senate. They certainly have earned their pay on this bill.

When we look at this particular provision and we look at the fact that we have an industry that has stopped a bill that we sent to the House, S. 812, that was a bipartisan bill to create more competition for the industry through generics, opening the border to Canada, giving States the ability to negotiate on behalf of the uninsured, a bill that would lower prescription prices today, immediately when passed—they are successful in killing that bill that passed last July in the Senate. Yet they are able to place a

provision in the homeland security bill that will virtually exempt from liability a company that is making a product over which there is great concern as it relates to the safety of children.

Thimerosal, which is manufactured by Eli Lilly and Company, is the subject of several class action lawsuits based on increasing research connecting this preservative, which contains mercury, to the rising incidence of autism in children. Just this weekend the New York Times ran a very comprehensive six-page story about the growing body of evidence connecting thimerosal with autism and other developmental disorders in children. While the research is far from conclusive, is this narrowly written special interest provision, unrelated to homeland security, the way to respond to concerns that relate to this issue and concerns about mercury as it relates to vaccines and additives and the whole question of autism in children and what contributes to it? Is this the way to do that?

Don't children and their families merit the full protection under the law and due process to be able to sort through some very serious issues and to allow the courts to work their will, looking at the evidence? The provision in this homeland security bill, brought to us from the House of Representatives, would severely limit parents' ability to get justice for their children. How is that homeland security?

The provisions include vaccine components in the National Vaccine Injury Compensation Program. It is a program in which awards are given and they are limited to funds available through a special trust fund so liability is limited. Instead, it is a no-fault system. That would now include vaccine components, which is a far broader definition than vaccines.

In 1988, Congress enacted the National Vaccine Injury Compensation Program as a no-fault alternative to the tort system for resolving claims resulting from adverse reactions to mandated childhood vaccines. This Federal no-fault system is designed to compensate individuals or families of individuals who have been injured by childhood vaccinations, whether administered in the public or private sector. Damages are awarded out of a trust fund that is financed by excise taxes of 75 cents per dose imposed on each vaccine covered under the program.

This bill seems to be protecting the financial interests of a company, Eli Lilly, rather than the taxpayers who will now see, through this fund, a greater subsidy, and families and children across this country.

What I find particularly disturbing is we are looking at a company whose CEO is in the top five for compensation with \$4.3 million in compensation last year and unexercised stock options valued at \$46 million in the year 2001. A 2001 study of the top 50 drugs marketed to seniors shows that Eli Lilly and Company posted \$115 billion in revenue. I do not in any way object to successful business, although I guess in this case

I would say given the inability of people to receive medicines, I find that kind of salary and others across the industry disturbing.

But what I am particularly concerned about is that a company which is so successful, an industry that is the most successful in the country, and highly subsidized by taxpayers, would now be in a situation to protect themselves from liability, and to jeopardize families and children who are asking that their case be heard about potential threats of mercury placed into vaccines and the possible connections to autism.

The protection in this bill is included for an industry that gets a higher return on its revenue than any other industry in this country, or in the world. If we are looking at protection, certainly we ought not to be adding another subsidy to an industry that is so heavily subsidized by all of us now—highly subsidized. And, yet, most people, many people in this country cannot afford the product they make.

I support the Lieberman amendment to strike this provision. This provision does not belong in the homeland security bill. This provision should go through the process of hearings so both sides can be heard. We also have a court process going on that we need to respect and allow to continue.

I am hopeful my colleagues will join with us to exempt this provision from the bill so we can in fact focus on homeland security, and not a very clear special interest provision put in by an industry that already receives many special provisions.

An issue as serious as potential mercury poisoning of children certainly deserves serious deliberation and deserves the full legislative process.

Let me say again that colleagues earlier this year on the Medicare prescription drug bill—on our generic bill as well as on many other bills—have come to the floor from the other side of the aisle expressing concern about issues that had not gone through committee. If this is a serious issue—and I believe it is a very serious issue—doesn't it merit that same high standard? Subsidizing Eli Lilly and taking away the ability of families to recover from liability because of potential mercury poisoning of their children does not belong in this homeland security bill. I find it shameful that it was put in.

I hope my colleagues on both sides of the aisle will join with us to remove this provision.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, may I say to the distinguished Senator from Michigan, Senator STABENOW, that I have listened to what she has said. I am not surprised by what she has indicated that she has found in this reservation. I think it supports my viewpoint; namely, that we ought not vote

on cloture tomorrow on this bill—cloture at some point, undoubtedly. But I hope we don't vote for it tomorrow. This bill needs further scrutiny. It needs a microscope upon it. We need to study it. We need to know what is in this bill which has suddenly been foisted upon us within the last 48 hours—a new bill.

There are those who maintain we have been on this subject matter for 5, 6, or 8 weeks, or more. That is one thing. But we haven't been on this bill. This is a new bill. Senator STABENOW is talking about provisions that are in this bill that haven't seen the light of day before. These are new and disturbing. And yet we are being asked on tomorrow to apply cloture to shut off debate so there can only be 30 hours remaining for debate on this bill.

I hope Senators will listen to Senator STABENOW. I hope they will not vote for cloture tomorrow. We ought to do our duty. Our duty is to stay on this bill until the American people know what is in it, and so we Senators know what is in it. There are 484 pages in this bill which just came to light on yesterday. It is a new bill. There are some provisions in it that have been in other bills that have been discussed in the Senate earlier in the fall and in the summer. But there are many provisions in this bill that are absolutely new. We really do not know what else is in the bill. Things are being discovered as we go along. But who knows what else is in the bill?

I compliment the distinguished Senator from Michigan, a Senator who is absolutely able and always dedicated, always serving her constituents and the people of this country, who has a fine mind, and who is a tremendous legislator. I have so much admiration for her. I sit with her on the Budget Committee. And what she has said with respect to this particular bill I think we should hear. We should listen to her. I hope Senators will not vote for cloture on tomorrow.

Is there anything the distinguished Senator wishes to add?

Mr. President, I ask unanimous consent to yield to the Senator without losing my right to the floor.

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

Ms. STABENOW. Mr. President, first of all, I thank the Senator for his kind words. Second, I simply say, as Senator BYRD has said so many times on the floor, we need to look at details. We need to know what is in this bill. It is a different bill that came back. I was deeply disturbed as I looked through it. I want to support homeland security. I support developing a department. We all share that. This is not a partisan issue. We want to have maximum safety, security and ability, communicate it effectively and efficiently, and create the kind of confidence people expect us to create in terms of the ability to respond and ideally prevent attacks. But my fear is that under the name of homeland security we are saying spe-

cial interest provisions are put in this bill which are outrageous and should not have the light of day. I think it is our responsibility to shine the light of day on those provisions.

I thank the Senator from West Virginia. I appreciate his good work.

Mr. BYRD. Mr. President, I thank the distinguished Senator. She has performed a tremendous service. I congratulate her, and I again thank her.

Mr. President, we hear this is a compromise bill. It is a compromise, all right. It is a compromise in many ways. It is a compromise of our civil liberties. It is a compromise of our separation of powers. It is a compromise of our checks and balances. It is a compromise of workers' rights. There are many compromises in this bill.

To express it as a compromise is a term that is often used around here in the legislative halls. Legislation is the art of compromise. We often compromise on legislation. Compromise on legislation is a series of compromises among Republicans and Democrats, and among committees. But, in this sense, this is a far different animal we have here. By passing this legislation, we are all complicit in a giant hoax. This is the worst kind of game playing possible in trying to foist this Department onto the American people as a substitute for real action on homeland security.

This Congress and this administration are both being irresponsible. Instead of providing the American people with real security, we are offering them a placebo, a sugar pill that will not protect them and will not make them safer, not by even the slightest measurement.

There will be an uncertain sound of the trumpet. And when I refer to the "uncertain sound of the trumpet," let me refer more specifically to the Book of 1st Corinthians, the 14th chapter. And I read from the 8th verse:

For if the trumpet give an uncertain sound, who shall prepare himself to the battle?

Mr. President, Congress is about to give an uncertain sound to the American people. Based on what we shall all too soon, I am afraid, pass as a homeland security bill, they are going to feel more secure. They will not be. They are going to feel that Congress has enacted legislation that will make their homes safer, make their schools safer, make their communities safer, make them safer on the jobs. This legislation will not make jobs or schools or homes or communities one whit safer, not one whit safer.

The same people who will be employed in implementing the homeland security legislation to make the people safe are out there now, right this minute. They are on the northern border. They are on the southern border. They are in the ports of this country. They are in the hospitals. They are in the fire departments. They are in the law enforcement agencies. They are in the FBI. They are in Customs. They

are already out there now. And tonight, at midnight, when you and I are in our beds and on our pillows, they will be out there.

We are not waiting until this bill passes for them to be out there. They have been out there for weeks and months. They have been doing a good job with what they have had placed in their hands by way of resources that they could use.

We saw the FBI arrest the persons in the cell in New York. The FBI was on the job. The FBI did not wait for this legislation to pass this Senate or the House and be sent down to the President and signed. The FBI was on the job.

People are not going to be one whit safer with the passage of this bill. They are going to feel a lot safer because we are trying to make them believe they are going to be safer. We are trying to make the American people believe that with the passage of this bill—and the administration is complicit, absolutely complicit in this.

The President himself has been out there all throughout the land, especially during the campaign, raising money for campaign purposes for electing their candidates, and all the while they have been with a nice backdrop of American Marines or soldiers or airmen, or whatever, but a patriotic backdrop, trying to make the American people believe that with the passage of this—if the Congress would only pass this homeland security bill, they, the people out there in the plains, in the mountains, in the valleys, on the prairies, will all be safer. They will not be 10 cents safer, Mr. President. They might be even less safe because in the next year, during which time these various and sundry agencies are going to be phased into this new Department of Homeland Security, during that time there is going to be chaos in a lot of these agencies. They will be moving phones, moving desks, moving chairs, trying to get accustomed to the new visions, the new objectives, and the people themselves are going to be less secure.

So we are offering the American people a placebo, a sugar pill. It is a political pill. It will not make the people safer.

We ought to be taking real action to protect lives now. Sadly, we are walking away from that responsibility. I only pray our irresponsibility does not result in lost lives.

Now, this is not how the American people expect this Congress to operate. When we were Members of the House of Representatives, or earlier than that, perhaps, or at some point, we have sent out letters, we have sent out booklets, telling the young people in this country—we tell these young pages up here—how your laws are made.

I remember years ago, when I was in the House of Representatives, sending out a little booklet to the people in my then-congressional district of how our laws are made. It is a joke.

We tell our young people that, first of all, a bill is offered by a Member of the Senate or the House. That bill is referred to a committee. And at a certain date, at a certain time, the chairman of that committee will have his committee called together, and he will place the bill before the committee for its consideration. And the members on both sides of the tables in that particular committee which has jurisdiction over that particular legislation will debate it back and forth, and they will offer amendments in the committee. They will talk about the bill. They will have their staffs seated around them. They will have good discussions of this bill that has been introduced by the legislature. Then the bill will be amended, perhaps, or, perhaps, in any event, it will finally be reported by the committee to the Senate or to the House for action. There it will be placed on the calendar.

Sometimes these beautifully written pieces on how our laws are made are illustrated by cartoons. We have all seen those cartoons. We then see that the bill is off to the Senate, and it is placed upon the calendar. And at some point in time, the majority leader or a Member, according to those cartoons, will call up the bill, and then will ensue a debate, a heated debate, Republicans on one side, Democrats on the other. And they will all work together. They will offer amendments again, and they will have a heated debate. They will answer questions. The witnesses, which first appeared in committees and testified on the bills, may then be seated in the galleries listening to the debate as it goes forward in the Senate and in the House.

After a while, then, after they amend, after that bill is appropriately amended, it finally reaches a vote, and it is passed by that body.

Then, according to the booklet on how our laws are made, that bill then goes to the other body. If it originated in the Senate, it goes to the House. If it originated in the House, after going through the workings of the committees, and so forth, and the debate on the floor, after its passage, it is sent over to the Senate. It goes through the same procedure then in the other body, where it is amended. And if there are differences in the House bill and the Senate bill, the bill is sent to a conference made up of Members of the two bodies, and the areas that are not in agreement will be worked on in the conference between the representatives of the two legislative bodies. Agreement will finally be reached as to every difference that was to be found between the two bodies. So all those differences will be resolved.

Then the conference report will be brought back to the House and brought back to the Senate and brought up at the appropriate time by the managers of the legislation on whatever committee had jurisdiction over the legislation, and then conference reports are brought up. Conference reports are de-

bated, and they are agreed upon in both Houses.

Off goes the bill which is now an act. It goes by special messenger down to the President of the United States. It appears on his desk where he may sign it or he may veto it.

So we all remember how those laws are made according to the script as prepared there in those handsome little booklets that we send out.

That is how the American people expect this Congress to operate. That is the way we are supposed to operate. But the way this bill was brought in here, less than 48 hours ago, a brandnew bill. It had not been before any committee. It had undergone no hearings, not this bill. It is a bill on our desks that has 484 pages. There are 484 pages in this bill. It has not been before any committee. There have been no hearings on this bill. There have been no witnesses who were asked to appear to testify on behalf of the bill or in opposition to it. It did not undergo any such scrutiny. It was just placed on the Senate Calendar. It was offered as an amendment here. And so here it is before the Senate now. There it is.

That is not the way in which our children are taught how we make our laws—not at all. The American people expect us to provide our best judgment and our best insight into such monumental decisions. This is a far, far cry from being our best. This is not our best. As a matter of fact, it is a mere shadow of our best. Yet we are being asked, as the elected representatives of the American people, those of us who are sent here by our respective States are being asked on tomorrow to invoke cloture on these 484 pages.

If I had to go before the bar of judgment tomorrow and were asked by the eternal God what is in this bill, I could not answer God. If I were asked by the people of West Virginia, Senator BYRD, what is in that bill, I could not answer. I could not tell the people of West Virginia what is in this bill. There are a few things that I know are in it by virtue of the fact that I have had 48 hours, sleeping time included, in which to study this monstrosity, 484 pages.

If there ever were a monstrosity, this is it. I hold it in my hand, a monstrosity. I don't know what is in it. I know a few things that are in it, and a few things that I know are in it that I don't think the American people would approve of if they knew what was in there. Even Senator LIEBERMAN, who is chairman of the committee which has jurisdiction over this subject matter, even he saw new provisions in this legislation as he looked through it yesterday and today. As his staff looked through it, they saw provisions they had not seen before, that they had not discussed before, that had not been before their committee before.

Yet we are being asked on tomorrow to invoke cloture on that which means we are not going to debate in the normal course of things. We are going to have 30 hours of debate. That is it, 30

hours. That is all, 30 hours; 100 Senators, 30 hours of debate. And this is one of the most far-reaching pieces of legislation I have seen in my 50 years.

I will have been in Congress 50 years come January 3. God help me to reach that date of January 3, 2003, the year of our Lord. In my 50 years here, that is the most far-reaching, certainly one of the most far-reaching pieces of legislation that I have seen in my 50 years. I have been on this Hill longer than anybody else in this Capitol on either side of the aisle in either body. In both bodies, I am the only person, 50 years. I have been here longer than all of you, staff people, Members, Members' wives. Take it or leave it, ROBERT BYRD has been here longer than anybody else—the security personnel, any policemen, whatever you call it, pull them out here, nobody, nobody in the House. JOHN DINGELL, he is the dean of the House; I served with his father in the House.

Never have I seen such a monstrous piece of legislation sent to this body. And we are being asked to vote on that 484 pages tomorrow. Our poor staffs were up most of the night studying it. They know some of the things that are in there, but they don't know all of them. It is a sham and it is a shame. We are all complicit in going along with it.

I read in the paper that nobody will have the courage to vote against it. Well, ROBERT BYRD is going to vote against it because I don't know what I am voting for. That is one thing. And No. 2, it has not had the scrutiny that we tell our young people, that we tell these sweet pages here, boys and girls who come up here, we tell them our laws should have.

Listen, my friends: I am an old meat-cutter. I used to make sausage. Let me tell you, I never made sausage like this thing was made. You don't know what is in it. At least I knew what was in the sausage. I don't know what is in this bill. I am not going to vote for it when I don't know what is in it.

I trust that people tomorrow will turn thumbs down on that motion to invoke cloture. It is our duty. We ought to demand that this piece of legislation stay around here a while so we can study it, so our staffs can study it, so we know what is in it, so we can have an opportunity to amend it where it needs amending.

Several Senators have indicated, Senator LIEBERMAN among them, that there are areas in here that ought to be amended.

What the people of the United States really care about is their security. That is what we are talking about.

We don't know when another tragic event is going to be visited upon this country. It can be this evening, it can be tomorrow, or whatever. But this legislation is not going to be worth a continental dime if it happens tonight, tomorrow, a month from tomorrow; it is not going to be worth a dime. There are people out there working now to secure this country and the people. They

are the same people who are already on the payroll. They are doing their duty right now to secure this country.

This is a hoax. This is a hoax. To tell the American people they are going to be safer when we pass this is to hoax. We ought to tell the people the truth. They are not going to be any safer with that. That is not the truth. I was one of the first in the Senate to say we need a new Department of Homeland Security. I meant that. But I didn't mean this particular hoax that this administration is trying to pander off to the American people, telling them this is homeland security. That is not homeland security.

Mr. President, the Attorney General and Director of Homeland Security have told Americans repeatedly there is an imminent risk of another terrorist attack. Just within the past day, or few hours, the FBI has put hospitals in the Washington area, Houston, San Francisco, and Chicago on notice of a possible terrorist threat. This bill does nothing—not a thing—to make our citizens more secure today or tomorrow. This bill does not even go into effect for up to 12 months. It will be 12 months before this goes into effect. The bill just moves around on an organizational chart. That is what it does—moves around on an organizational chart.

Mr. President, do you really believe Osama bin Laden cares whether the associate commissioner for border enforcement will have his title changed to the Assistant Secretary of the Bureau of Border Security? Will that make any difference to Osama bin Laden? Do you think the al-Qaida organization cares one whit whether that Assistant Secretary works for the Commissioner of the Immigration and Naturalization Service or for the new Under Secretary for Border and Transportation Security? No. Osama bin Laden doesn't give a whit what his title is going to be. The al-Qaida doesn't care about that. They are tickled to sit back and watch us be fooled into complacency by virtue of our passing this piece of trash.

That is not to say there are not some parts of the bill that are good. This whole thing is being rushed through, and we are all being pressured to pass it, vote for cloture. Let's get out of here. We have to go home, let's go. Let's get this thing out of the way. What Osama bin Laden would care about is whether there are more security guards, better detection equipment at our ports and airports. What Osama bin Laden would care about is whether we have enough border patrol agents to capture his terrorists as they try to enter this country. What Osama bin Laden would care about is whether we have sufficient security at our nuclear powerplants to deter his efforts to steal nuclear material or blow up a nuclear facility.

The Senate Appropriations Committee, on which Senator STEVENS and I sit, along with 27 other Senators, in-

cluding the distinguished Senator who presides over the Chamber at this moment, the Senator from Rhode Island, Mr. REED, tried to provide funds to programs to hire more FBI agents, to hire more border patrol agents, to equip and train our first responders, to improve security at our nuclear powerplants, to improve bomb detection at our airports. That committee of 29 Senators—15 Democrats and 14 Republicans—voted to provide the funds for these homeland security needs. Those funds have been in bills that have been out there for 4 months. This administration, right down here at the other end of the avenue, has had its leaders over in the Republican-controlled House sitting on those bills. The chairman in the Appropriations Committee in the House saw the need for these bills. He tried to get the leadership in the House to take the cuffs off his hands and wrists and let him go forward with these appropriations bills. The answer was no. So the money has been there. All that needed to be done, all we needed in order to release those funds—I can remember in one bill we had \$2.5 billion in homeland security funds. All the President had to do was sign his name to the effect that this was an emergency. That money would have flowed; it would have been out there now—not next week, not next year, but now it would have been out there.

Various people at the local level—the firemen, the policemen, people on the borders, border patrol, people in the ports, securing the ports, people at the airports that help the emergency personnel—all of these people would have had the advantage of that money flowing immediately for homeland security.

But the President said no—no, he would not sign it. President Bush is the man I am talking about. He would not sign that as an emergency. These monies have been reported by a unanimous Appropriations Committee. But this administration said no. So that is what happened. These are actions that would make America more secure today. Did the President help us to approve these funds? No. Instead, the President forced us—forced us—to reduce homeland security funding by \$8.9 billion, and he delayed another \$5 billion.

This is shameful; this is cynical; this is being irresponsible. It is unfair to the American people. And then to tell them Congress ought to pass that homeland security bill—that is passing the buck.

Mr. President, I call attention to a column in the New York Times. This is entitled "You Are A Suspect." It is by William Safire. I will read it:

If the homeland security act is not amended before passage, here is what will happen to you:

Listen, Senators. This is what William Safire is saying in the New York Times of November 14, 2002. That is today. This is what the New York Times is saying to you, to me, to us:

If the Homeland Security Act is not amended before passage, here is what will happen to you:

Every purchase you make—

Hear me now—

Every purchase you make with a credit card, every magazine subscription you buy and medical prescription you fill, every Web site you visit and e-mail you send or receive, every academic grade you receive, every bank deposit you make, every trip you book and every event you attend—all these transactions and communications will go into what the Defense Department describes as "a virtual, centralized grand database."

To this computerized dossier on your private life from commercial sources, add every piece of information that government has about you—passport application, driver's license and bridge toll records, judicial and divorce records, complaints from nosy neighbors to the F.B.I., your lifetime paper trail plus the latest hidden camera surveillance—and you have the supersnoop's dream: a "Total Information Awareness" about every U.S. citizen.

Every U.S. citizen, and that is you, that is you, that is you, that is you, that is you.

This is not some far-out Orwellian scenario. It is what will happen to your personal freedom in the next few weeks if John Poindexter gets the unprecedented power he seeks.

Remember Poindexter? Brilliant man, first in his class at the Naval Academy, later earned a doctorate in physics, rose to national security adviser under President Ronald Reagan. He had this brilliant idea of secretly selling missiles to Iran to pay ransom for hostages, and with the illicit proceeds to illegally support Contras in Nicaragua.

A jury convicted Poindexter in 1990 on five felony counts of misleading Congress and making false statements, but an appeals court overturned the verdict because Congress had given him immunity for his testimony. He famously asserted, "The buck stops here," arguing that the White House staff, and not the president, was responsible for fateful decisions that might prove embarrassing.

This ring-knocking master of deceit is back again with a plan even more scandalous than Iran-Contra. He heads the "Information Awareness Office" in the otherwise excellent Defense Advanced Research Projects Agency, which spawned the Internet and stealth aircraft technology. Poindexter is now realizing his 20-year dream: getting the "data-mining" power to snoop on every public and private act of every American.

Even the hastily passed U.S.A. Patriot Act, which widened the scope of the Foreign Intelligence Surveillance Act and weakened 15 privacy laws, raised requirements for the government to report secret eavesdropping to Congress and the courts. But Poindexter's assault on individual privacy rides roughshod over such oversight.

He is determined to break down the wall between commercial snooping and secret government intrusion. The disgraced admiral dismisses such necessary differentiation as bureaucratic "stovepiping." And he has been given a \$200 million budget to create computer dossiers on 300 million Americans.

When George W. Bush was running for president, he stood foursquare in defense of each person's medical, financial and communications privacy. But Poindexter, whose contempt for the restraints of oversight drew the Reagan administration into its most serious blunder, is still operating on the presumption that on such a sweeping theft of privacy rights, the buck ends with him and not with the president.

This time, however, he has been seizing power in the open. In the past week John Markoff of *The Times*, followed by Robert O'Harrow of *The Washington Post*, have revealed the extent of Poindexter's operation, but editorialists have not grasped its undermining of the Freedom of Information Act.

Political awareness can overcome "Total Information Awareness," the combined force of commercial and government snooping. In a similar overreach, Attorney General Ashcroft tried his Terrorism Information and Prevention System (TIPS), but public outrage at the use of gossips and postal workers as snoops caused the House to shoot it down. The Senate should now do the same to this other exploitation of fear.

The Latin motto over Poindexter's new Pentagon office reads "Scientia Est Potentia"—"knowledge is power." Exactly: the government's infinite knowledge about you is its power over you. "We're just as concerned as the next person with protecting privacy," this brilliant mind blandly assured *The Post*. A jury found he spoke falsely before.

If the American people, if the American public is to believe what they read in this week's newspapers, the Congress stands ready to pass legislation to create a new Department of Homeland Security. Not with my vote. Passage of such legislation would be the answer to the universal battle cry that this administration adopted shortly after the September 11 attacks: Reorganize the Federal Government.

How is it that the Bush administration's No. 1 priority has evolved into a plan to create a giant, huge bureaucracy? How is it that the Congress bought into the belief that to take a plethora of Federal agencies and departments and shuffle them around would make us safer from future terrorist attacks?

Osama bin Laden is still alive and plotting more attacks while we play bureaucratic shuffle board after we have already spent about \$20 billion in Afghanistan to capture or to obliterate Osama bin Laden. He has surfaced on audio tapes boasting about how he is plotting additional terrorist attacks against the United States. Yet our only response is to reorganize the Federal Government. That is our only response, reorganize the Federal Government.

Right here it is, 484 pages of it, reorganizing the Federal Government. Am I missing something here?

Eleven of the thirteen appropriations bills have not yet been passed. Together they contain over \$25.6 billion in funds to improve our homeland defense. That is money to hire additional

border security personnel. That is money to purchase equipment at our seaports and airports to inspect packages for weapons of mass destruction. That is money for protection against cyber-attacks. That is money to protect our nuclear facilities, not a year from now but now. That is money to assist local police, local firefighters, local health care workers in case of additional terrorist attacks.

Yet the administration is refusing to allocate this money, refusing to turn on the spigot and let it flow, let it roll.

This is real money to improve America's safety, but instead of pushing for these resources, the administration's top and seemingly only priority is a bureaucratic reshuffling of agencies. So this administration will continue holding up the money needed to protect Americans—your children, your grandchildren, your wife, your in-laws, your friends—at home and it will be allowed to do so because it will have this flimsy 484 pages of legislation to cover its political backside.

The design of this hulking bureaucracy has been the administration's focus for the past several months. That is where it wanted Congress to focus its attention. That is where the administration wanted the American people to focus, not on providing real homeland security but, rather, on playing bureaucratic shuffle board.

We have witnessed a great show. We have been told that if only we pass this 484 pages of legislation—this political hoax that I hold in my hand, that many of us have not seen before yesterday—the American people have been told that if only we pass this legislation, all would be well.

But like the great and powerful Wizard of Oz, with his terrifying smoke, flames and roar, the reality of this too-good-to-be-true proposal will eventually be unveiled.

Mr. President, my concerns about this legislation and its several iterations are many. It gives the President too much unchecked authority. It gives the Secretary of the new Department too much unchecked authority. It makes massive changes in Government structure with little scrutiny, and it allows those changes to be made without the approval of the Congress.

It threatens changes to worker protections that could have enormous and detrimental effects. It extends the cloak of secrecy that has been a hallmark of this White House.

The PRESIDING OFFICER (Mr. DAYTON). The Senator will suspend. Senators will kindly take their conversations off the floor.

The Senator from West Virginia.

Mr. BYRD. Mr. President, this legislation not only cuts the Congress out of the loop, it also includes provisions to keep the people and the press—and the press had better take notice—it includes provisions to keep the people and the press, the members of the fourth estate, in the dark.

I don't think the media realize this about this bill. And the media has apparently swallowed the line that this is a compromise. It is more than that. It is a compromise of our personal liberties. It is a compromise of the privacy rights of our people. It is a compromise of the checks and balances. It is a compromise of the separation of powers. It is a compromise of the American people's right to know—the American people's right to know. It is a compromise of that.

For those who do not understand what I am saying, they should get this bill, 484 pages of it. It is a new bill. It did not exist anywhere until yesterday.

We have talked about how this whole idea of a Homeland Security Department, presented to us by this administration, we have talked about how it was hatched in secrecy in the bowels of the White House, how it was hatched in secrecy, cooked up by four different persons in the White House. I have named them earlier today: Mr. Card, Mr. Gonzales, Mr. Mitch Daniels, and Mr. Ridge. No disrespect to any of them—they are all fine people; they are all fine public servants—but they are not anything extraordinary, I would say that, insofar as people go. They hatched this thing. They hatched it in secrecy.

We understand from the newspapers this was talked about among the people in the administration, down in the secrecy of the White House. It had been talked about. It had been developed. And then it sprang forth like Minerva from the forehead of Jove, fully clothed, fully armed. There it was.

We could say the same thing about this bill that we are passing here. We have little right to complain about the White House and about the way in which it developed in secrecy this whole egg that was hatched and sprung upon us as the homeland security bill.

## NOTICE

*Incomplete record of Senate proceedings. Except for concluding business which follows, today's Senate proceedings will be continued in the next issue of the Record.*

ADJOURNMENT UNTIL 9:45 A.M.  
TOMORROW

Mr. REID. Madam President, if there is no further business to come before the Senate, I ask unanimous consent

that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 10:46 p.m., adjourned until Friday, November 15, 2002, at 9:45 a.m.

## NOMINATIONS

Executive nominations received by the Senate November 14, 2002: