

Mr. David Price, NC (Ranking Member).  
 Mr. Silvestre Reyes, TX.  
 Ms. Lois Capps, CA.  
 Mr. Rush Holt, NJ.  
 Mr. Adam Schiff, CA.  
 Mr. Artur Davis, AL.  
 Ms. Allyson Schwartz, PA.  
 Best regards,

NANCY PELOSI,  
 Democratic Leader.

#### GENERAL LEAVE

Mr. COX. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1817.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

#### DEPARTMENT OF HOMELAND SECURITY AUTHORIZATION ACT FOR FISCAL YEAR 2006

The SPEAKER pro tempore (Mr. THORNBERY). Pursuant to House Resolution 283 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1817.

□ 1231

#### IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1817) to authorize appropriations for fiscal year 2006 for the Department of Homeland Security, and for other purposes, with Mr. SIMPSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from California (Mr. COX) and the gentleman from Mississippi (Mr. THOMPSON) each will control 30 minutes.

The Chair recognizes the gentleman from California (Mr. COX).

Mr. COX. Mr. Chairman, I yield myself 7 minutes.

Mr. Chairman, we begin today a historic debate on the floor of this House that commences the annual authorization process for the Department of Homeland Security. This annual process is designed to recognize that the function of the Department of Homeland Security is the essence of our government's national security mission, protecting the American people and our territory.

This is the same national security mission ultimately that is performed in different ways by the Pentagon and by the intelligence community. Both the Pentagon and the intelligence community for this same reason undergo an annual authorization process in the Congress. That is a collaboration between the executive and the legislative branches that is necessary to ensure that we fulfill this most vital function.

We must remember that the Department of Homeland Security in the executive branch and the Committees on Homeland Security in this House and in the other body were formed because the congressional leadership and the President recognized that neither branch of government as then constituted was properly organized to deal with the 21st century threat of terrorism directed against Americans on our own territory. On an ongoing basis, the Congress and the executive need to focus together on this vital process and the annual authorization is the means for doing so.

The Department of Homeland Security authorization bill that is before the House today reflects an impressive bipartisan effort. That is due, in large part, to the strong and able leadership of the gentleman from Mississippi (Mr. THOMPSON). The Members on both sides of the aisle have never forgotten for a single day since September 11, 2001, that the security of the American people must be placed above politics.

So as we meet today to consider the Department of Homeland Security authorization bill for fiscal year 2006, we find that we have forged agreement on many important challenges facing our country and the Department, and on ways to begin to address them. In establishing the procedures for bringing this annual authorization bill to the floor, we have been guided by the long-standing practices of the Committee on Armed Services and the Permanent Select Committee on Intelligence. Those committees have always brought to the floor bills that live within the spending boundaries established in the House-passed budget. H.R. 1817, the Department of Homeland Security authorization bill also does exactly that.

To have credibility, a national security authorization bill must set the executive's priorities within the framework of its actual budgetary resources. It does little good for us to pretend that the Department of Homeland Security has infinite budget resources, and then give it mandates that it cannot carry out. So this bill funds priorities within the overall DHS budget, not on top of it.

Within that constraint, we have been able to accomplish a great deal more for the security of the American people and for this country. We fully fund the 2,000 new Border Patrol agents called for in the Intelligence Reform Act passed last year, and we increase the Department of Homeland Security's funding by nearly one-quarter of a billion dollars for this purpose.

The bill authorizes \$40 million so that immigration and customs enforcement can expedite illegal alien removal. It provides \$5 million in new funding to implement the Safety Act so we can more quickly deploy anti-terrorism technologies to protect the American people from terrorism. It adds \$20 million for interoperable communications and technical assistance for our first responders. It increases

funding for cybersecurity research and development and for cybersecurity education and training.

Within the Department of Homeland Security budget that this House has already approved, we have authorized \$40 million in additional funds to support the training of State and local law enforcement personnel so they can help enforce Federal immigration laws. This provision is contained in a separate amendment that I will offer today with the gentleman from Wisconsin (Mr. SENENBRENNER) of the Committee on the Judiciary.

On these and all other funding decisions in the bill, we have had to make hard choices and set priorities. That is our responsibility. As a result, we have not funded every initiative to protect against every conceivable means by which terrorists might mount an attack. But what we have done is based our funding decisions on the best intelligence available, on terrorist capabilities and intentions, and on the actual risk of terrorist attack. The bill also advances our prime objective of preventing terrorism by improving our intelligence capability within the Department of Homeland Security.

Prevention of terrorism requires that information sharing about terrorist threats be seamless, that it be timely, and that that communication be secure. That is exactly what this bill accomplishes, both within the Department of Homeland Security and across the Federal Government and with our State, local and private sector partners. It provides the Department of Homeland Security with new tools to build a robust intelligence capability. It strengthens the partnership with these other stakeholders.

Those partnerships are essential in sustaining the counterterrorism mission into the foreseeable future, and the bill will help the Department of Homeland Security to streamline and integrate the multitude of different background checks and security screenings that are conducted for travelers, workers and other critical personnel who are required to undergo security checks by the Department.

The bill revises the color-coded homeland security advisory system to make sure that threat warnings are specific and informative, and wherever possible, that these warnings be targeted. By targeting these warnings to the areas of the country or sectors of the economy that are threatened, we can be sure that we are warning the right people and not needlessly scaring the wrong people. We also need to make sure that the Federal Government gives clear guidance and speaks with one voice when it issues such warnings. This bill will ensure this happens.

This authorization bill is shorter this year than it will ever be in future years. That is because, first, the Department itself is only 2 years old, and Congress has just recently written the entire legislative charter for the Department.

Second, we have a new homeland security Secretary who is just concluding his top to bottom 90-day review of the entire department. We want to give Secretary Chertoff the opportunity to draw his own road map, both organizationally and programatically, of where this Department should go.

We will proceed on additional authorizing legislation later this year once we have had the opportunity through hearings and oversight to evaluate the Secretary's proposals.

Mr. Chairman, I conclude by thanking the Members on both sides of the aisle and the House leadership on both sides of the aisle for their foresight in creating the Committee on Homeland Security within the House of Representatives and for allowing us to initiate this annual authorization process on the floor. This is a significant milestone on our long journey toward keeping America safe from terrorism.

Mr. Chairman, I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I commend the gentleman from California (Mr. Cox) for his tireless efforts to see that this day came to be. He worked continuously to create a permanent Committee on Homeland Security and put in the right track to producing the bill.

It took 13 hours to mark up this bill in committee, and I have to say that he never lost his patience or his good character, nor his sense of humor; but clearly, it was a bipartisan effort, and for that I want to thank the gentleman from California (Mr. Cox).

This bill has many good provisions in it. It rejects the section of the President's shortsighted budget that sought to hire only 210 new Border Patrol agents this year. Instead, it provided for the 2,000 border agents that everybody else agreed that we needed.

It also, by creating an Assistant Secretary of Cybersecurity at DHS, finally recognizes the threat posed by cyber attacks. The gentlewoman from California (Ms. ZOE LOFGREN) and other Democrats on this committee have sought the creation of this position for a very long time.

The evaluation of the color-coded terrorist system is also welcomed. The system has provided more material for late-night comedians than effective information on threats on the public.

Also, I am glad that this bill requires the Department to explain how it is working to protect agriculture and the Nation's food supply from terrorist attacks.

That said, I wish this bill would have been more comprehensive. I am glad that, as the chairman mentioned, it is small only because we are a new committee, but there are some things that we overlooked. We did not mention airports or chemical plants in this legislation. I just hold up for the chairman's view and the view of the public the defense authorization bill which is siz-

able, and I look forward to, in the next authorization effort next year, to having a bill that is comprehensive.

The present authorization bill is very, very short on content, but nonetheless it is a start. There is no comparison between the two, so I am convinced that at the end of the day Members will recognize we have a long way to go and there can be no effort or wasting time. We must do what it takes to make America secure. I hope that we work closely to close the security gaps left by this bill.

Mr. Chairman, I reserve the balance of my time.

Mr. COX. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. DANIEL E. LUNGREN).

Mr. DANIEL E. LUNGREN of California. Mr. Chairman, I would like to first of all add my thanks to both the chairman and the ranking member of this committee for the bipartisan way in which they have approached this issue.

I was not a member of this House of Representatives on 9/11. I saw, as did many Americans, an attack that many of us had never anticipated. It only brought memories of what my parents' generation must have felt on the day that we had the attack at Pearl Harbor.

The question before us really now is what is the proper response and what will that response be by our legislative branch. There has been established a Department of Homeland Security. It is an amalgamation of many departments and agencies that previously existed. It has been an effort to try and bring a single focus to a major issue, our response to terrorism. It was a well-done job under the circumstances.

Yet now we are here some 3-plus years after 9/11, and we recognize that everything we did was not exactly perfect. We recognize there are changes that must be made. This authorization bill is the first chance that our committee has to present to the House our effort to try and get our arms around not only this problem but the response to this problem, and that is the Department of Homeland Security.

While there are other elements of the executive branch which deal with this, the primary responsibility is with the Department of Homeland Security, and we have attempted on a bipartisan basis to look at the issues, to do the proper oversight, to try and make some recommendations, but none should be deluded to the fact that we somehow believe this is the total response to the problem.

□ 1245

This is our first effort. This is the beginning of a job that is going to be ongoing. Much like the Defense Department was organized in the late 1940s, early 1950s, and while it took time for Congress to properly get its arms around that, we similarly must do that now.

Time is not on our side. The terrorists are not waiting until we get orga-

nized, so we must make sure that we do this in the best fashion possible, in a timely fashion.

I would say that I am very proud of the fact that the bill that has been brought to floor is a bill that got the unanimous support of the members of this committee, both Democrat and Republican. It is a worthy bill. It is a worthy effort at our direction to the Department of Homeland Security.

There will be things that we will do in the future. One of the things mentioned by the ranking member that I believe is a real step forward is establishing the position of Assistant Secretary for cybersecurity. There is a need to have a concentration on that issue. There is a need to have that at a heightened level. There is a need for us to understand the embedded nature of cyberoperations in our society, both public and private. I believe that we have on a bipartisan basis reached that conclusion.

I thank both the ranking member and the chairman for the work they have done. I would ask that the Members support this bill as presented by this committee.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. LORETTA SANCHEZ), the ranking Democrat on the Subcommittee on Economic Security, Infrastructure Protection, and Cybersecurity.

Ms. LORETTA SANCHEZ of California. Mr. Chairman, I thank the gentleman from Mississippi for yielding me this time.

I rise today in strong support of H.R. 1817, the Department of Homeland Security Authorization Act for Fiscal Year 2006. This is our first authorizing bill for the now 2-year-old Department of Homeland Security, and it represents hard work by all the members of the Committee on Homeland Security. I would like to congratulate the gentleman from California (Mr. Cox), the gentleman from Mississippi (Mr. THOMPSON), and all the members of the committee for their hard work in crafting this bill and bringing it to the floor today.

While I would have liked to have seen a more comprehensive bill such as the substitute that will be offered by the gentleman from Mississippi which would have addressed aviation security, port security, interoperability for our first responders and a host of other important areas not addressed in H.R. 1817, I recognize that this bill marks significant progress for the Congress, and I urge its adoption.

H.R. 1817 will authorize specific amounts for certain programs within the Committee on Homeland Security's jurisdiction, such as fully funding the 2,000 additional border patrol agents recommended by the 9/11 Commission and authorized under the Intelligence Reform and Terrorism Prevention Act of 2004.

I was gratified that during the markup of the bill in the Committee on

Homeland Security that important amendments I offered concerning the national infrastructure protection plan and cargo container security were adopted, but I am also disappointed that an amendment that I intended to offer on the floor today was not accepted by the Committee on Rules. It is the Customs-Trade Partnership Against Terrorism amendment. C-TPAT, as it is known, is a program that offers companies reduced inspections of their cargo, and in return the companies must submit and adhere to a security plan.

There are currently 5,000 companies participating in this program that receive the benefit of reduced inspections, yet only 600 of these have had an on-site validation to ensure compliance with the security requirements. C-TPAT in its current form represents a dangerous security gap that must be closed, and I hope that Congress and DHS will address this problem before it is too late.

I urge my colleagues to support the bill.

Mr. DANIEL E. LUNGREN of California. Mr. Chairman, I yield 5 minutes to the gentleman from Georgia (Mr. LINDER), a member of the committee.

Mr. LINDER. Mr. Chairman, I thank my friend for yielding me this time. I congratulate the gentleman from California (Mr. Cox) and the gentleman from Mississippi (Mr. THOMPSON) for working so well together in the interest of national security to bring this measure to the floor.

Mr. Chairman, I rise in strong support of H.R. 1817. History has provided us with many examples of leaders who have taken the steps to ensure the safety and security of the American people. Today this House takes its place in that historical record through consideration of an unprecedented measure that authorizes the activities of the new Department of Homeland Security.

In addition to authorizing over \$34 billion in funding for DHS operations in fiscal year 2006, this legislation calls for DHS to accelerate its efforts to identify and deploy homeland security technologies and creates mechanisms by which State and local leaders can effectively communicate with Federal homeland security officials.

As the chairman of the Subcommittee on the Prevention of Nuclear and Biological Attack, I have been tasked with overseeing the Department's efforts to prevent terrorist attacks on the United States using nuclear and biological weapons. I cannot think of a more devastating event both in terms of loss of life and economic fallout than an attack on this country involving a weapon of mass destruction.

H.R. 1817 refocuses the mission of DHS to follow a similar path. First, this legislation authorizes full funding of 2,000 new border agents. It is no secret that much of our Nation's 7,000 miles of border with both Canada and

Mexico are vulnerable to illegal crossings. The addition of these agents will strengthen our Nation's ability to protect those borders and to prevent terrorists from smuggling nuclear or biological material into our country.

Prevention, however, should not be limited to our borders, and H.R. 1817 authorizes approximately \$200 million in funding for a new nuclear detection office which will play a substantial role in coordinating the overseas non-proliferation efforts of the Federal Government. Moreover, H.R. 1817 provides nearly \$140 million in funding for the Container Security Initiative and requires DHS to conduct a risk assessment of each foreign seaport that is designated as a CSI port. While we should do everything possible to ensure that the free flow of commerce between countries is not inhibited, we cannot ignore the possibility that terrorists may use foreign seaports to transport weapons of mass destruction into our country.

We cannot simply wait at home for terrorists to come to us. These efforts must be conducted in areas of the world that have, or can obtain, weapons of mass destruction but lack the responsibility of ensuring that such weapons do not fall into malevolent hands.

Mr. Chairman, government has no greater responsibility than that of protecting the rights and freedoms of its citizens. I urge my colleagues to join me in taking an additional step forward in this effort by supporting H.R. 1817.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York (Mrs. LOWEY).

Mrs. LOWEY. Mr. Chairman, I rise in support of this bill. I want to commend the gentleman from California (Mr. Cox) and the gentleman from Mississippi (Mr. THOMPSON) for their very hard work. This bill includes provisions to improve our homeland security a great deal, but I regret that it is not complete.

Communication barriers faced by emergency personnel in Oklahoma City 10 years ago still plagued our first responders on September 11; 3½ years later, the very same first responders are waiting for further guidance and funding for communications interoperability. Section 308 reinforces Congress's intent for DHS, the Department of Commerce, and the FCC to work together to issue voluntary standards and a schedule to reach those standards.

I applaud this provision, but we could have done better. I am frustrated that two amendments I submitted to the Committee on Rules were not allowed under the rule. One of the amendments would have authorized grant funding for interoperability. Standards are a first step, but we must follow with resources. The U.S. Conference of Mayors June 2004 interoperability report noted that 75 percent of the cities surveyed

have not received Federal funds for interoperable communications. This is unacceptable. First responders need, and quite frankly deserve, a commitment from this Congress that roadblocks to an interoperable communications system, particularly a lack of consistent and sustained Federal funding, will be eliminated.

My second amendment would have required that all airport employees go through some form of physical screening when entering sterile and secure areas. This happens at the busiest airport in the world, Heathrow, and in Canada; but it does not happen in the U.S. 9/11 Commission Chairman Kean told the Committee on Homeland Security that everybody should go through metal detectors without exception. We have spent tens of billions of dollars on passenger screening, but have nevertheless left gaping holes in the security of our airports.

These two fundamentals of homeland security, grant funding for first responder communications system and screening of airport workers, are long overdue. I support the bill, but it could have been improved with these commonsense measures.

Mr. DANIEL E. LUNGREN of California. Mr. Chairman, I yield 3 minutes to the gentlewoman from Florida (Ms. GINNY BROWN-WAITE).

Ms. GINNY BROWN-WAITE of Florida. Mr. Chairman, I rise today in support of H.R. 1817, the Homeland Security Authorization Act for Fiscal Year 2006. I applaud the gentleman from California (Mr. Cox) for his leadership and commitment to securing our Nation's borders. Congress has not been idle when it comes to our Nation's security, recently passing the REAL ID Act in the emergency wartime supplemental. I applaud all of these changes. They provide identification checks that will keep our vital infrastructure facilities like chemical and nuclear power plants safe from terrorists.

I know firsthand the value of security, as my hometown recently experienced the unfortunate confluence of illegal immigration, Social Security fraud, and potential terrorist threats. I live in Crystal River where there is a nuclear power plant, and it was found to have contracted with a businessman who, unbeknownst to them, had actually been using illegal immigrant day laborers who provided false or stolen Social Security numbers to obtain government-issued driver's licenses.

This issue brought home the vital importance of not only upgrading our identity verification processes but also of securing our borders. These people actually had been deported but sneaked back into the country and got a little too close to a critical infrastructure site for this Member of Congress to be able to tolerate.

We worked to strengthen our ID laws, but we also must work to strengthen our borders. Today our borders are overwhelmed. To anyone watching today, it is clear that America needs

border patrol agents. Just last week in the Committee on Government Reform, my colleagues and I heard testimony that the Department of Homeland Security does not have enough agents and that it desperately needs more. Last year's intelligence reform bill authorized 2,000 new agents. These new border patrol agents will deter illegals from entering the United States and will enhance response capabilities by almost 20 percent. However, funding was only proposed for 210 of these agents. This is unacceptable. 210 agents cannot adequately protect our borders.

Accordingly, I join my colleagues on the Immigration Reform Caucus to call for the full 2,000 new border patrol agents. I thank the gentleman from California again for placing this as a priority of securing our borders and authorizing the additional agents that America needs. Mr. Chairman, I strongly urge my colleagues to protect our borders and to vote in favor of the Homeland Security Authorization Act which does better protect nuclear power plants and chemical facilities.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 2½ minutes to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Chairman, today represents a very important step to ensure that Congress truly begins to exercise a robust, judicious, and intense oversight of the Department of Homeland Security. Our committee has been called on to defend our ports, our infrastructure, our neighborhoods, indeed our families. We have risen to the challenge. Indeed, this first-ever authorization bill, H.R. 1817, will begin an annual ritual to critically examine the Department of Homeland Security and its effectiveness in securing our Nation.

Oversight is germane to our mission. It is an austere and sober undertaking, to be sure; and it should be. This Department was formed because of the disastrous terrorist attacks of September 11, and its mission is to help prevent and respond to any potential future assault.

I commend the gentleman from California (Mr. COX) and the gentleman from Mississippi (Mr. THOMPSON) for their leadership in undertaking this process. I understand the pressures that were faced in trying to complete this inaugural authorization, and our chairman has had to navigate a difficult course.

Make no mistake, there are provisions within this bill that will make very good public policy. The creation of an Assistant Secretary for cybersecurity within the Department is a wise measure to help combat a very real vulnerability. Likewise, allowing the Department of Homeland Security Secretary to provide additional incentives to recruit highly sought after intelligence analysts is a great step to combat one of our biggest national security problems.

However, while I applaud the work and the spirit that went into this legis-

lation, I would have preferred to see a more comprehensive bill that addressed a greater assortment of security gaps that we have uncovered.

□ 1300

I will proudly support the substitute that the gentleman from Mississippi (Mr. THOMPSON), ranking member, will offer later today. The gentleman from Mississippi will improve this authorization by better funding our border security in aviation research. His substitute will provide the tools necessary to secure our chemical plants and ports, just to name but a few.

This is indeed a big day for homeland security and the Committee on Homeland Security and for Congress as a whole. I thank the chairman and the ranking member for all of their hard work.

Mr. DANIEL E. LUNGREN of California. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from New York (Mr. BOEHLERT), chairman of the Committee on Science, someone who worked closely with our committee.

(Mr. BOEHLERT asked and was given permission to revise and extend his remarks.)

Mr. BOEHLERT. Mr. Chairman, I rise in strong support of this bill, which will help us better guide the Department of Homeland Security in its most important responsibilities. I want to thank the gentleman from California (Chairman COX) and the staff for working so closely with us on areas of the bill that were under the jurisdiction of the Committee on Science, which I am privileged to chair.

The Committee on Science created the Science and Technology Directorate, and we want to do everything we can to ensure that it succeeds in this mission. As I have said before many times, the war against terrorism, like the Cold War, will be won in the laboratory as much as on the battlefield.

The Committee on Science also played a key role in the establishment of the Information Assurance and Infrastructure Protection Directorate, where our interests have focused on cybersecurity, a grave and underappreciated threat, and one on which DHS unfortunately has focused too little attention and too few resources. We hope that is going to change.

This bill will strengthen research and development activities at the Department and will place new and added emphasis on cybersecurity. Specifically, the bill includes language to enhance technology transfer, to improve cybersecurity training, and to create an Assistant Secretary for cybersecurity and to authorize explicitly a cybersecurity research and development program. All of this language either originated in our committee or was worked out in collaboration between the Committee on Science and the Committee on Homeland Security.

I am especially pleased that the bill recognizes the need to focus more on

cybersecurity. We all recognize it. We want to make sure that the agency follows through and responds accordingly. We need to act both immediately and in the long term. Immediately, we need to shore up existing networks and develop a system to detect, report, and respond to attacks. Over the long term, we need to figure out how to make computers harder to attack.

DHS needs to be working with the National Science Foundation, the National Institute of Standards and Technology, the Defense Advanced Research Projects Agency, and the National Security Agency on cybersecurity. But its own contributions are critical.

Let me close by thanking the gentleman from California (Chairman COX) and the gentleman from Mississippi (Mr. THOMPSON), ranking member, working together, their staffs, and especially Tom DiLenge, and the entire Committee on Homeland Security by working cooperatively to come up with an excellent bill which has earned our support.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 2½ minutes to the gentlewoman from New York (Mrs. McCARTHY).

Mrs. McCARTHY. Mr. Chairman, I want to congratulate certainly the Committee on Homeland Security. I mean it was very difficult, I am sure, for them to try to work everything out that needed to be in starting and looking at a new territory. I happen to think that it is a bill that certainly has been put together and hopefully it is going to be everything that we need to keep this land safe.

With that being said, last night in the Committee on Rules, I tried to offer five different amendments. A lot of them had to do with gun safety. Mr. Chairman, as far as I am concerned, part of this legislation is incomplete when we talk about homeland security. It totally ignores threats posed by terrorists aiming themselves at our country. And according to a GAO report published earlier this year, they are finding exactly that. Why? Because of our pre-9/11 gun laws.

Common sense would dictate if we do not trust one to board a plane, we should not trust them to buy a gun. And that is exactly what we are seeing. We are seeing that certain people are on the no fly list, they are not allowed to get on a plane; yet those same people, a lot of them who certainly have backgrounds as terrorists, can go into any store, they can go to a gun show anywhere to be able to buy a gun.

That does not make sense to me. We are supposed to be protecting the American people. We are supposed to be protecting our law enforcement people and certainly our Federal employees. Anybody on a Federal terrorist watch list can buy assault weapons with the large capacity clips. We tried to have that addressed, especially the large capacity clips. We saw what all these people can do with only box cutters and boarding passes. What makes

it so easy for them to buy guns? Why is Congress ignoring this serious homeland security threat that we are facing? Why do we allow our enemies on the war on terror to arm themselves within our borders and make it so easy for them?

Almost all of the legislation that I have been proposing certainly would not stop one citizen from buying a gun. Until we address our pre-9/11 gun laws, our Nation's homeland security will be at risk.

As I said, we will certainly, hopefully before this Congress is over, be able to address these issues. Safety for the American people is paramount for all of us. Both sides agree on that, and I hope that we can have a new dialogue on how we talk about gun safety in this country, and part of it has to be homeland security.

Mr. DENT. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I rise to speak in support of H.R. 1817, the Department of Homeland Security Authorization Act for Fiscal Year 2006.

Mr. Chairman, I come to Congress in an era when rancor between the parties seems to dominate the headlines. This bill, however, is a testament to the idea, uniquely American, that congressional politics will always be placed on the back burner when it comes to the job of protecting the homeland.

This legislation has come to the floor of the House in no small part because of the bipartisan efforts of both the chairman and the ranking member of the Committee on Homeland Security, of which I am a member.

This is not to say that both sides did not state their positions forcefully. In this regard, there were spirited exchanges while this bill was being marked up in committee. There were over 30 amendments offered, and all were extensively and vigorously debated. Yet throughout all of this, the dialogue was cordial, and I believe this is because everyone involved possessed the same goal: pass a bill that would give this country the protection it deserves at a cost that we can all afford to pay.

The bill indeed puts resources where those resources are needed. It authorizes some \$34 billion to fund programs designed to combat a host of homeland security issues. It allocates \$1.84 billion so that the government can afford to hire and train some 2,000 new border patrol agents. These newly minted law enforcement officers will not only serve as a deterrent to would-be terrorists but also as an important element in the fight to curb illegal immigration in general.

Improving intelligence capabilities is also an important part of this legislation. The bill provides moneys so that the Department of Homeland Security can hire the best intelligence analysts available. It promotes the development of an open-source intelligence strategy, and it increases the capabilities of the Department of Homeland Security to

detect and preempt the most serious kind of terrorism imaginable: a nuclear or biological attack.

Some have wondered whether or not this bill is comprehensive enough to deal with all the security threats the Nation must confront. There is no doubt in my mind that it is. There is money authorized here to make sure that containers coming from foreign ports receive risk-based cargo screening. Funding for this important project will also increase from \$126 million in 2005 to \$133 million in 2006. Further, the bill provides funding for such varied security issues as the protection of civilian passenger and cargo aircraft, \$10 million; chemical countermeasure development, \$76 million; the detection of weapons of mass destruction, \$100 million; and critical infrastructure protection, \$465 million.

The idea that homeland security funding should be based on security rather than on political concerns is one that resonates on both sides of the aisle of this great Chamber. The Members of this body recognize that the security challenges we face are unique in our history. The Homeland Security Authorization Act for Fiscal Year 2006 gives us the tools to meet these challenges. For that reason, I vigorously and strongly support this legislation.

Mr. Chairman, I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina (Mr. ETHERIDGE), an excellent member on the committee.

(Mr. ETHERIDGE asked and was given permission to revise and extend his remarks.)

Mr. ETHERIDGE. Mr. Chairman, I would like to thank the gentleman from California (Chairman COX) and the gentleman from Mississippi (Mr. THOMPSON), ranking member, for conducting what I think is a thoroughly balanced markup of this bill, the first House authorization of the Department of Homeland Security. This bill is a bipartisan product of our committee, and I am pleased that the committee included my amendment addressing the importance of agriculture security in the bill.

Too often folks take the safety of our food for granted. It is critical that the Department of Homeland Security work in close cooperation with other agencies of the Federal Government, especially the U.S. Department of Agriculture, to ensure the safety of the food in this country.

Although the authorization bill addresses many important issues, it is far from perfect. It fails to address a number of the important and wide-ranging security gaps, including the need for communication and interoperability between first responders. We also need more investment not only in the research and development of security technologies but also in the training of scientists, researchers, and analysts to support and protect our Nation.

This bill is a good first step, and I look forward to working on a bipartisan basis to address the remaining security gaps, and hopefully we will get a chance to vote on them today.

I thank the gentleman from Mississippi for his hard work and for yielding me this time, and I am proud to support this legislation.

Mr. DENT. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana (Mr. JINDAL).

Mr. JINDAL. Mr. Chairman, I rise in strong support of H.R. 1817. This bill funds Homeland Security and helps to further protect our country from those who would intend to do us harm.

This bill creates a department-wide terrorism prevention plan, uniting the actions of 22 different Federal organizations that were combined into the Department. This bill expedites the deployment of the antiterrorism technology. It requires the Department to create and establish a technology clearinghouse within 90 days to expedite the deployment of antiterrorism technology for use by Federal, State, local, and private sector officials.

This bill increases border enforcement. It requires the Secretary to study the division of border security between Customs and Border Patrol and the Immigration and Customs Enforcement and to look at the merits of consolidation. This bill also gives the Secretary the ability to provide incentives to recruit highly-sought-after intelligence analysts.

As many speakers have already said, I certainly commend the chairman, I commend the ranking member for working together in a bipartisan fashion on such an important bill.

I would also like this Chamber to recognize that so much of this bill is focused on streamlining homeland security efforts, from better coordinating the various agencies to facilitating communication with local officials. I strongly rise in support of the creation of regional offices, which are called for in the committee report, because I believe that would aid these efforts. These regional offices would create a stronger platform to lead national efforts to set priorities, identify critical vulnerabilities, and to coordinate State, local, and private sector entities in order to protect our homeland from terrorist attacks.

Louisiana has got a lot to protect. We are home to more than 190 sites identified as national critical infrastructure. New Orleans is one of the largest port systems in the world. Baton Rouge, my hometown, is the Nation's furthest inland port, the only port in the country capable of handling superships. My State is the third largest producer of petroleum, the third leading State in petroleum refining, all of which requires critical infrastructure. Twenty-five percent of the Nation's exports are already shipped through Louisiana.

For those reasons, I strongly rise in support of these provisions that shift

our funding to one based on the risk and threat of actual attack as opposed to just politics. Louisiana is already home to a Coast Guard and border patrol regional office. We certainly hope that when the Department does come and decide where to locate these regional offices, we will be considered.

I rise in strong support of the bill.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 2 minutes to the gentlewoman from Houston, Texas (Ms. JACKSON-LEE), also a member of the committee.

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Chairman, first I want to offer my great appreciation of the gentleman from Mississippi (Mr. THOMPSON), the ranking member of this committee, and of course for his collaborative efforts with the gentleman from California (Mr. COX), chairman of this committee.

□ 1315

I think that we can go on record as one of the more collaborative committees on something that requires an American response.

I rise today to say that we have made a good first step. As all of America's eyes were looking at a little Cessna, the Committee on Homeland Security now recognizes or has recognized that we are and have to be a proactive committee. We must give an answer to the American people that they will appreciate and find comfort that we are securing the homeland, the rural hamlets, the urban areas, the suburban areas, the counties, the cities, and Homeland Security Should be in our neighborhoods.

So I am somewhat disappointed that my community preparedness amendment was not included, but I look forward to working with the gentleman from California (Mr. COX) and the gentleman from Mississippi (Mr. THOMPSON) so that we can emphasize an enhanced citizen corps. I am glad that we will study the question of whether or not border violence requires volunteer efforts and whether or not we are doing all that we can as a governmental entity to protect our borders. That is the role and the responsibility of America.

Then I am delighted that we have done a few things in this bill, but, Mr. Chairman, I raise a question that there is no emphasis, no work done on the aviation security issues that are still growing and still there; no further work done on port security that really is important in America with the need for new technology and the inspection of cargo, which is not done in all of America's ports; and certainly, coming from Texas, I think it is important that we understand industry such as the energy industry, but we must demand safety and, as well, there is a great need for protecting, or at least providing those kinds of requirements and oversight.

We could do more. I look forward to supporting the substitute offered by the gentleman from Mississippi (Mr. THOMPSON), and I ask my colleagues to support my amendments regarding border violence as well as studies dealing with temporary protective status. I ask my colleagues that we work together to secure the homeland.

Mr. Chairman, I rise in support of the overall measure we consider today, the Department of Homeland Security Authorization Act for FY 2006, H.R. 1817. While there remain areas that have not been adequately addressed in its provisions, I recognize the importance of a bi-partisan effort to secure our homeland. We have waited three years for the crafting and consideration of an authorization measure, and now we have the chance to show America that we are responsible, prudent, and expedient.

H.R. 1817 is the first authorization measure since the passage of the Homeland Security Act of 2003. The appropriators withheld over \$700 million from DHS due to incomplete fulfillment of specific reporting requirements; therefore, our passage of the most comprehensive and representative measure possible would equate to having conducted "due diligence" on our part.

Just yesterday, we in the House passed the Appropriations Act for FY 2006, H.R. 2360, by a margin of 424–1. I joined my committee colleagues in considering this bill from its incipency as it passed in both the Committees on Homeland Security on April 28, 2005 and Judiciary on May 12, 2005 unanimously by voice vote. Today, the Committee of the Whole will make history by passing its first Homeland Security Authorization measure, and I support an expedient but prudent completion of this endeavor.

In the markup hearing of the Committee on the Judiciary held on May 12, 2005, I offered an amendment on behalf of and in conjunction with my colleague from California, who serves on the Democratic Caucus Task Force on Homeland Security, Vice Chair of the Democratic Caucus Task Force on Immigration, and First Vice Chair of the Congressional Hispanic Caucus. As I serve as the Ranking Member of this Committee's Subcommittee on Immigration, Border Security, and Claims, this important amendment that would require the collection of data on immigration consultants and "notarios" who conduct fraudulent immigration services for compensation, I was happy to offer this amendment. I thank the gentleman from Wisconsin, the Chairman of the Committee on Judiciary and the Ranking Member from Michigan for their collaborative support of this amendment as it was accepted and incorporated as Section 506 of the Amendment in Nature of a Substitute that we consider today.

During the 13-hour Homeland Security Committee markup session that ended at 11:15 p.m. I was able to secure sincere commitments from the Majority Leadership to work with me for inclusion of some of my major initiatives: funding and more clearly defining the Citizen Corps and the Citizen Corps Councils—which will include consideration of a stand-alone bill that I will introduce shortly; and increasing capacity for Historically Black Colleges and Universities, Hispanic Serving Institutions, and Tribal Institutions in Homeland Security procurement and in employment with the Department of Homeland Security. In addi-

tion, I was fortunate to have had my amendment, co-sponsored by the Gentlelady from California, Ms. LOFGREN, that seeks to authorize the funding of programs for the education of minorities in the areas of cyberscience, research, and development to close the gap in achievement in those areas and to make America better equipped to fight terrorism overall. Furthermore, I achieved an agreement from the Majority Committee Leadership to collaborate on addressing the issue of border violence, an initiative that the distinguished Chairman of the Appropriations Subcommittee on Homeland Security showed his commitment to addressing, as evidenced by his support for an amendment that I offered yesterday during the House's consideration of the appropriations measure, H.R. 2360. Not only do I hope to see this language survive the deliberations of the Conference, but I hope to see follow-through by the Homeland Security Committee with the bi-partisan letter and with consideration of the amendment that I plan to offer during our consideration of H.R. 1817.

Mr. Speaker, what the House has done this week and will do today will establish the breadth and efficacy of the entire Department of Homeland Security. I hope that my colleagues will keep that in mind as we work to debate the amendments that have been made in order.

Mr. DENT. Mr. Chairman, I would like to inquire as to how much time remains.

The Acting CHAIRMAN (Mr. COLE of Oklahoma). The gentleman from Pennsylvania (Mr. DENT) has 5½ minutes remaining; the gentleman from Mississippi (Mr. THOMPSON) has 14½ minutes remaining.

Mr. DENT. Mr. Chairman, I yield myself 2 minutes.

As I stated in my previous remarks, this legislation is important for a number of reasons, not the least of which is it will help us in our fight against nuclear and biological terrorism. I think we all can agree that that is the one issue that, as Americans, we can agree to as our greatest threat. This committee has spent a great deal of time discussing that issue recently, and I believe, for one, that this bill adequately addresses that issue and many, many others.

So with that, again, I rise in strong support of this authorization legislation. I am proud of the bipartisan spirit that we have embraced in this committee led the chairman and the ranking member.

Mr. Chairman, I yield the balance of the time to the gentleman from California (Mr. COX).

Mr. COX. Mr. Chairman, we have no more speakers on our side, and I reserve the balance of the time for closing.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 4 minutes to the gentleman from Massachusetts (Mr. MARKEY), a member of the committee.

Mr. MARKEY. Mr. Chairman, I thank the gentleman for yielding me this time.

The Republican leadership has denied a debate on the House floor on the very important issue that passengers who

fly on commercial flights across America, tens of millions of Americans a year who put their families on commercial flights, are put in the situation where they take off their shoes, they have their computers checked, they have their bags which are inspected on those passenger flights, because we know that al Qaeda is trying to infiltrate commercial flights in America.

But the cargo, the cargo which goes on that very same plane, of somebody who did not buy a ticket on that flight but placed the cargo on that plane, is going to fly without being screened at all. Almost none of the cargo on American planes that carry passengers across our country is screened, although that cargo is almost the same size as your bags, which are on the same plane. So you have your bags screened, you have your family screened, but the cargo on that plane is not screened.

How much sense does that make, that your shoes are screened but that the cargo on the very same plane is not screened?

And do my colleagues want to hear something else even more absurd? If it is a package 16 ounces or less, they do not even look at the paperwork for it. It goes on that passenger plane automatically.

Mr. Chairman, this is wrong. In the past week, we have had two planes diverted that were coming from overseas because the no-fly terrorist list had not been completely checked before the plane was in midair, and it caused diversions both times. How can we allow the back door of planes to have cargo placed upon it that is not screened? It is absolutely wrong.

And the fact that the technology exists, that the Israelis screen the cargo, that other countries screen the cargo, how can we place tens of millions of Americans who place their families on planes, going to vacation, going back to school, on planes where the cargo is not inspected, and then have the Republicans say, we are not going to have a debate on that on the House floor.

My amendment with the gentleman from Connecticut (Mr. SHAYS) would have guaranteed that over the next 3 years technology would have been put in place that would have guaranteed that every single bit of cargo that goes on passenger planes is screened. And all we asked from the Republicans was that if you are not going to allow us to even make that amendment on the House floor, at least let us have a warning, a warning to all American families at the airports that you are placing your children on planes to go back to school or go to vacation when the cargo on that plane has not been screened.

Every American parent has the right to know that their children are being placed on planes to go to vacation or go to school without it being screened. Every American family has the right to know that when they put their children on passenger planes in America

that almost none of the cargo has been screened, and then they can make the decision for themselves. I think that parents would not put their children on planes if the cargo has not been screened. They themselves, they might get on the plane.

But for the Republicans to not allow us to have a debate on the House floor on this issue, as we know that al Qaeda continues to target commercial aircraft as their number one terrorist target, is absolutely wrong.

So I ask opposition to this bill. It just is not dealing with the real issues that threaten the American public.

RAPISCAN SYSTEMS,

*Hawthorne, CA, May 9, 2005.*

Hon. EDWARD J. MARKEY,  
*House of Representatives, Rayburn House Office Building, Washington, DC.*

DEAR REPRESENTATIVE MARKEY: We applaud your efforts to focus more attention on the glaring hole in the United States' aviation security—lack of air cargo inspection. Rapiscan Systems develops, manufactures, installs and services the world's widest array of non-intrusive inspection systems for airports, seaports, border crossings, military installation. Currently Rapiscan Systems provides nearly half of the checkpoint security systems at U.S. airports.

Included in our portfolio of systems is an air cargo inspection system that can inspect fully-loaded cargo containers. This system is being installed at George H.W. Bush Intercontinental Airport in Houston, Texas and Ted Stevens Anchorage International Airport in Alaska.

CONTAINERIZED AIR CARGO INSPECTION TECHNOLOGY EXISTS AND IS BEING INSTALLED AT U.S. AIRPORTS

In the late 1980's in response to the Pan Am 103 bombing, the United States Department of Defense began development of a material-specific bomb detection technology for aviation. As a result of this effort, the Ancore Corporation (now Rapiscan Systems Neutronics and Advanced Technologies Division) developed Pulsed-Fast Neutron Analysis (PFNA) technology. PFNA can automatically detect all explosives, chemical weapons, radioactive materials, narcotics and even hazardous aviation cargo. This technology was most recently deployed to the Ysleta border crossing in El Paso, TX.

Rapiscan Systems is currently deploying two PFNA air cargo inspection systems at U.S. airports: George H.W. Bush Intercontinental Airport in Houston and Ted Stevens Anchorage International Airport. Both of these installations are part of Transportation Security Administration programs. Similar neutron-based systems have been installed internationally, including an air cargo inspection facility at Taipei airport in Taiwan.

CONTAINERIZED CARGO INSPECTION MAINTAINS CURRENT AIR CARGO FLOW OF COMMERCE

While TSA and other government agencies have evaluated break-bulk cargo x-ray inspection systems (Rapiscan also manufacturers these systems), only PFNA can inspect containerized cargo. The difficulty with break-bulk systems is that they require containerized or palletized cargo to be unpacked to inspect. This adds hours to inspection time and makes some technologies unfeasible for fast delivery air cargo.

PFNA systems inspect fully loaded cargo containers and pallets for aviation-quantity threats (established by TSA). This allows for fast inspection without unpacking. PFNA systems meet the time constraints of the air cargo environment.

AIR CARGO INSPECTION CAN BE PROVIDED WITH CURRENT SCREENER CORPS

Another common argument against air cargo inspection is that they technologies will require hundreds of new TSA screeners to operate and inspect. Because PFNA provides automatic, material specific inspection each system only requires a single operator. And since, PFNA systems can inspect 6-10 containers per hour, most airports will only require one to two systems.

As congress debates the policy surrounding air cargo inspection, Rapiscan Systems offers to help Members and staff investigate the current availability and state of cargo inspection technologies. While cost and level of risk should factor into this debate, the question of the availability of technology to inspect air cargo has already been answered. Thank you again for your efforts to call attention to and rectify this important homeland security issue. Please let me know if Rapiscan Systems can be helpful in your continued efforts.

Sincerely,

PETER KANT,  
*Vice President, Government Affairs.*

AMERICAN SCIENCE  
AND ENGINEERING, INC.,  
*Billerica, MA, May 17, 2005.*

DEAR CONGRESSMAN MARKEY: American Science and Engineering Inc. (AS&E) would like to extend its support for the Bill being introduced by you and Congressman Shay which addresses the need to improve Air Cargo Security. As you know, potential threats in current Air Cargo could go undetected due to the lack of a comprehensive inspection requirement or strategy.

Finding a broad range of potential explosive threats in Air Cargo is a challenge to today's technology. Although existing systems may not be able to find all threats under all conditions, it is still imperative to address the issue of Air Cargo security. Finding the theoretical small amount of explosive that could bring down an aircraft is not the only way to provide a higher sense of security. Many organizations around the World provide Air Cargo security by approaching the problem differently. In some cases they use X-ray technology to inspect cargo prior to loading a container or pallet. Others use current technology to inspect the entire container to find anomalies in the cargo such as bulk explosives, radioactive materials and stowaways. They can also determine if the cargo looks different from what the manifest stipulates, if there are false bulkheads or floors or there are extra or unusual containers present. Any of these anomalies can indicate the presence of a potential threat.

Most available systems today, including AS&E's product line of X-ray Transmission, Backscatter Imaging and Radioactive Threat Detection systems, can provide a significant step toward insuring that Air Cargo has not been tampered with or poses a threat.

If properly implemented into an airport flow of cargo, security can be improved with minimal impact to the flow of commerce. Many users of current Air Cargo inspection systems throughout the World have done this successfully. What is required in the USA is a mandate to move forward with Air Cargo security as a priority and a willingness to think about the problem differently.

We support your efforts and trust that our Government will do the responsible things to make our citizens safer in these troubled times. If we can be of further help, please feel free to contact us.

Best Regards,

RICH MASTRONARDI,  
*VP Strategic Marketing & Sales.*

CARGO SECURITY SOLUTIONS, INC.,  
Lewisville, TX, May 4, 2005.

Hon. EDWARD MARKEY,  
Rayburn House Office Building,  
Washington, DC.  
Hon. CHRISTOPHER SHAYS,  
Longworth Building,  
Washington, DC.

DEAR CONGRESSMAN: We are aware that Congressman Markey and Congressman Shays are proposing a new Air Cargo Security Act (H.R. 2044). We feel that this is a comprehensive step forward for the entire security of the nation and that it should be enacted without hindrance. This nation needs a mandate similar to what was enacted in the days after 9/11 to screen passengers and we implore Congress to pass a similar measure for air cargo.

Air Cargo Security in this country poses a great risk and danger to the well being of every American.

The air cargo security solution is one that requires more than just technology. It will require coordination, resources, and a valid security infrastructure to apply a comprehensive effort. Cargo security must yield at least the results of the passenger screening initiatives without jeopardizing next day competitiveness of our businesses. Those, like Cargo Security Solutions, Inc. who are in the business of securing air cargo, recognize this fact and have integrated these concerns in their security models. At CSSI the speed of the supply chain is kept intact by the specific interaction of trained personal, stringent oversight, and "out of the box" solutions. These include the use next generation "tickets" for every piece of freight.

As industry and air cargo specialists we are very aware of the dangers threatening a vital part of the nation's economy. Cargo Security Solutions Inc., was established in the days after September 11th to ensure that a tragedy of equal magnitude never originates within the air cargo system.

Since 9/11 CSSI has developed and refined a security program that is centered around and focuses on 100% inspection. The program that has been developed implements inspections at various strategic points during the events of a shipment through the supply chain thus creating little negative impact on the chain itself. 100% inspection is feasible and CSSI is ready to implement a full solution and infrastructure, with the leadership of TSA and contributions from the air cargo industry.

There are other similar enterprises that are ready to contribute to this effort. These businesses run the gamut of industries, from technological to human resources. These are all specialized firms who are ready willing and able to tackle this issue.

Congressional leaders have received an abundant amount of information regarding the critical nature and threat posed by the air cargo security situation in this country. Countless, OIG, GAO, and other reports show how dire the situation really is. CSSI has joined in this effort and sent information regarding air cargo security to several congressional leaders. Included in some of these documents, have been clear plans as to how and why 100% inspection is feasible and the very "clear and present danger" that is posed by air cargo.

Most recently "diamonds for arms" shipments were discovered on Soviet made Antonov aircraft operated by designated arms dealer Viktor Bout. HIS company has been in business and operating within The United States since the early 1990s and has brought unknown shipments from all over the world including former soviet states with nuclear arms. Proliferation does exist, has existed and its results have made it on American soil. This should be a wakeup call

for all American policy leaders. 100 percent inspection of all cargo is not only needed but necessary.

Regards,

CAPT. ROBERT C. DAVIS,  
*Cargo Security Solutions, Inc. CEO.*

Mr. COX. Mr. Chairman, I yield to the gentleman from Mississippi for purposes of closing debate.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield myself such time as I may consume.

We have heard a number of statements about this bill. It is an initial step in the right direction. It is not comprehensive. There are some glaring overlooks in the bill. We do not address any aviation security, we do not address chemical security. There are a number of things that we could do better in this bill.

However, I have to join my chairman in recognizing the fact that this is our first attempt to do an authorization bill. It is by no means complete, but given his leadership and willingness to work in a bipartisan spirit, I am looking forward to moving this legislation and making sure that we do the right thing for this country. We have to secure this Nation.

I will be offering a substitute later in the debate which obviously will cover far more areas than what this authorization bill covers that we are debating here today.

Clearly, if we support the substitute, we can move closer to making America secure.

Mr. Chairman, I yield back the balance of my time.

Mr. COX. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to begin by thanking the gentleman from Mississippi (Mr. THOMPSON), both for his generous remarks but, more importantly, for his hard work on this piece of legislation over a period of several months and, as he pointed out, through ultimately a very long, arduous markup in the committee where members on both sides had an unlimited opportunity to offer amendments and consider a variety of topics.

As we conclude general debate and prepare to move into debate on the specific amendments on this bill, I think we can recognize one important fact, and that is that we are all agreed on the essence of the underlying bill. We have some things, each of us, that we might like to add to this bill, and I predict that in due course, over the rest of this year, we will have an opportunity again on this House floor to take up issues, including aviation security, chemical security, port security, and so on.

But the entirety of what we do accomplish in this bill is bipartisan in nature and agreed upon by the members on both sides of the aisle, at least in the Committee on Homeland Security, and we will soon see about the House as a whole. That is because we have allocated the \$32 billion, for what is now the third largest Cabinet depart-

ment, in a way that demonstrably advances our number one goal of preventing terrorism in the future on American soil, directed against American citizens, protecting America's most critical infrastructure against terrorist attack, and being prepared to respond and recover should, against all our best preparations, that ever occur in the future.

In order to bring us to this point, we have had to have a great deal of bipartisan assistance, all motivated by the best interests of the country from Members on both sides.

I specifically want to mention the vice chairman of the full committee, the gentleman from Pennsylvania (Mr. WELDON); the chairmen and ranking members of our five subcommittees, and the Staff Directors on both sides, Ben Cohen on the Majority side and Calvin Humphreys on the minority side. The staffs have done extraordinary professional work, and their staffs are drawn from, in many cases, the executive branch, with experience about precisely the work and the programs that we are overseeing in this legislation. Many of them have come from the intelligence community, others come from the Coast Guard and other branches of the armed services.

We can be very proud in this House about the institutionalization of the role of homeland security oversight and authorization that has been set in motion as a result of a decision of leadership on both sides, and I want to conclude by taking this opportunity, once again, to thank the House leadership for its very wise decision to create permanent authorizing and oversight responsibility in this Congress on an institutionalized basis, and then, today, taking the next important step of institutionalizing an annual authorization process so that together the legislative branch and the executive branch will closely collaborate on what is the essence of our national security responsibility to all Americans: making sure that we are safe and secure on American territory for the American citizens.

So, Mr. Chairman, with that, I will draw this general debate to a conclusion, and I look forward to working with the body on the several amendments that have been made in order under the rule.

Mr. Chairman, I will at this time introduce into the RECORD a series of letters exchanged between the Committee on Homeland Security and other standing committees, including the Permanent Select Committee on Intelligence of the House of Representatives, concerning jurisdictional issues raised by this legislation.

COMMITTEE ON GOVERNMENT REFORM,  
Washington, DC, May 18, 2005.

Hon. CHRISTOPHER COX,  
*Chairman, House of Representatives,*  
Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your willingness to consult and work with me as you guided H.R. 1817, "the Department of Homeland Security Authorization Act for Fiscal Year 2006" from introduction, through

the Homeland Security Committee, and to the floor. As you know, the Committee on Government Reform has been interested in a number of provisions within H.R. 1817. The Committee has been concerned that the expansion of the Department's responsibilities for information sharing in Title II, Subtitle B, Homeland Security Information Sharing and Analysis Enhancement, not lessen the Department's responsibility to follow government-wide policies and procedures for the sharing of information. In addition to the information sharing provisions of Subtitle B, the Committee has specific jurisdictional interests in the following provisions of your substitute: §201—Consolidated Background Check Process; §216—Coordination of homeland security threat analysis provided to non-Federal officials; §217—9/11 Homeland Security Fellows Program; §221—IAIP Personnel Recruitment; §302—Technology Development and Transfer; §303—Review of Antiterrorism Activities; Title III, Subtitle B—Department of Homeland Security Cybersecurity Enhancement; §334—Protection of Information; and §502—GAO Report to Congress.

I would like to confirm our mutual understanding with respect to the consideration of H.R. 1817. As you know, H.R. 1817 was sequentially referred to the Committee on Government Reform. Because of your willingness to work with us to resolve issues of concern to the Committee and to include those improvements to the bill in your amendment in the nature of a substitute on the floor, the Committee on Government Reform did not consider H.R. 1817. However, the Committee has done so only with the understanding that this procedural route would not prejudice the Committee on Government Reform's jurisdictional interest and prerogatives on this bill or similar legislation.

I respectfully request your support for the appointment of outside conferees from the Committee on Government Reform should this bill or a similar Senate bill be considered in conference with the Senate. Finally, I would ask that you include a copy of our exchange of letters on this matter in the Congressional Record during the House debate of this bill. If you have questions regarding this matter, please do not hesitate to call me. Thank you for your attention to this matter.

Sincerely,

TOM DAVIS,  
Chairman.

—  
COMMITTEE ON HOMELAND SECURITY,  
Washington, DC, May 18, 2005.

Hon. TOM DAVIS,  
Chairman, Committee on Government Reform,  
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your recent letter regarding the Committee on Government Reform's jurisdictional interest in H.R. 1817, "the Department of Homeland Security Authorization Act for Fiscal Year 2006", and your willingness to forego consideration of H.R. 1817 by the Committee.

I agree that the Committee on Government Reform has a valid jurisdictional interest in particular sections of H.R. 1817, and that the committee's jurisdiction with respect to those provisions will not be adversely affected by the Committee's decision to not consider H.R. 1817. In addition, I agree that

for provisions of the bill that are determined to be within the jurisdiction of the Committee on Government Reform, I will support representation for your Committee during conference with the Senate on this or similar legislation, should such a conference be convened.

As you have requested, I will include a copy of your letter and this response in the Congressional Record during consideration of the legislation on the House floor. Thank you for your assistance as we work towards the enactment of H.R. 1817.

Sincerely,

CHRISTOPHER COX,  
Chairman.

—  
COMMITTEE ON AGRICULTURE,  
Washington, DC, May 2, 2005.

Hon. CHRISTOPHER COX,  
Chairman, Committee on Homeland Security,  
House of Representatives, Washington, DC.

DEAR CHAIRMAN COX: On April 27, 2005, the Committee on Homeland Security ordered reported a committee print titled the, "Department of Homeland Security Authorization Act for Fiscal Year 2006." Section 309 of the bill, which provides for a report to Congress on protecting agriculture from terrorist attack, falls within the jurisdiction of the Committee on Agriculture. Recognizing your interest in bringing this legislation before the House quickly, the Committee on Agriculture agrees not to seek a sequential referral of the bill. By agreeing not to seek a sequential referral, the Committee does not waive its jurisdiction over this provision or any other provisions of the bill that may fall within its jurisdiction. The Committee also reserves its right to seek conferees on any provisions within its jurisdiction considered in the House-Senate conference, and asks for your support in being accorded such conferees.

Please include this letter as part of the report on the Department of Homeland Security Act for Fiscal Year 2006, or as part of the Congressional Record during consideration of this bill by the House.

Sincerely,

BOB GOODLATTE,  
Chairman.

—  
COMMITTEE ON HOMELAND SECURITY,  
Washington, DC, May 16, 2005.

Hon. BOB GOODLATTE,  
Chairman, Committee on Agriculture,  
Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your recent letter expressing the Agriculture Committee's jurisdictional interest in section 309 of the "Department of Homeland Security Authorization Act for Fiscal Year 2006." I appreciate your willingness not to seek a sequential referral in order to expedite proceedings on this legislation. I agree that, by not exercising your right to request a referral, the Agriculture Committee does not waive any jurisdiction it may have over section 309. In addition, I agree to support representation for your Committee during the House-Senate conference on provisions determined to be within your Committee's jurisdiction.

As you have requested, I will include a copy of your letter and this response as part of the Committee on Homeland Security's report or the Congressional Record during

consideration of the legislation on the House floor. Thank you for your cooperation as we work towards the enactment of the "Department of Homeland Security Authorization Act for Fiscal Year 2006."

Sincerely,

CHRISTOPHER COX,  
Chairman.

—  
COMMITTEE ON WAYS AND MEANS,  
HOUSE OF REPRESENTATIVES,  
Washington, DC, May 13, 2005.

Hon. CHRISTOPHER COX,  
Chairman, Committee on Homeland Security,  
Adams Building Washington, DC.

DEAR CHAIRMAN COX: I am writing concerning H.R. 1817, the "Department of Homeland Security Authorization Act for Fiscal Year 2006," which the Committee on Homeland Security reported on May 3, 2005. Subsequently, the Committee on Ways and Means received a joint, sequential referral on the bill for a period not ending later than May 13, 2005.

As you know, the Committee on Ways and Means has jurisdiction over trade and customs revenue functions. A range of provisions in H.R. 1817 affects the Committee's jurisdiction, including: authorization language for the Department of Homeland Security, a required review of trade documents that accompany crossborder shipments, a required plan to reduce disparities in customs processing at major airports, a requirement that certain recommendations of a commercial advisory committee representing the trade community be embodied in new regulations, a requirement of a study of the potential merger of the Department of Homeland Security bureau implementing most customs revenue functions with the bureau charged with immigration enforcement, and authorization of a program that would merge security and customs revenue inspection equipment and requirements.

I am pleased to acknowledge the agreement, outlined in the attached chart, between our Committees to address various issues, including changes you will include in the Manager's Amendment to the bill. Thus, in order to expedite this legislation for floor consideration, the Ways and Means Committee agrees to forgo action on this bill based on the agreement reached by our Committees and that no other provisions affecting the jurisdiction of the Ways and Means Committee are included in the Manager's Amendment. This is being done with the understanding that it does not in any way prejudice the Committee with respect to the appointment of conferees or its jurisdictional prerogatives on this or similar legislation. In addition, I would appreciate if you would share with my staff copies of the amendments when they are made available to the Homeland Security Committee staff.

I would appreciate your response to this letter, confirming this understanding with respect to H.R. 1817, and would ask that a copy of our exchange of letters on this matter be included in the Congressional Record during floor consideration.

Best regards,

BILL THOMAS,  
Chairman.

Attachment.

#### WAYS AND MEANS AMENDMENTS AND LEGISLATIVE HISTORY RELATED TO HOMELAND SECURITY AUTHORIZATION BILL

##### Issue

Sec. 103—CBP Authorization (includes amount in Customs Reauthorization bill passed by the House in 2004, along with additions identified by W&M and HSC).

Sec. 201(b)—Annual cross-cutting analysis of proposed funding for DHS programs.

Insert CBP Authorization number—\$6,926,424,722 in the Manager's Amendment. Number may be adjusted, but any change would be fully cleared between HSC and Ways and Means.

Delete 201 (b)(1)(D) and replace with "(1)(D) To facilitate trade and commerce;" Add 201 (b)(1)(E)—"To carry out other important functions of the agencies and subdivisions within the Department not specifically noted above."

## WAYS AND MEANS AMENDMENTS AND LEGISLATIVE HISTORY RELATED TO HOMELAND SECURITY AUTHORIZATION BILL—Continued

## Issue

Sec. 306—Security of Maritime Cargo Containers (Sanchez Amendment) .....

Under 201 (b)(2)—Delete the following language: “for functions that are both related directly and not related directly to homeland security” and add: “for functions that would address more than one of the mission areas listed in (b)(1)(A) through (E) of this subsection.” Rewrite 201(b)(3)(F) to state “(F) Screening cargo to identify and segregate shipments at high risk for compromise by terrorists or terrorist weapons,” rather than “screening cargo to identify and segregate high-risk shipments.”

Amend Sec. 306(a) to read: “(a) STANDARDS AND REGULATIONS—

(1) STANDARDS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall establish standards and procedures for securing maritime cargo containers relating to obligation to seal, recording of seal changes, modal changes, seal placement, ocean carrier seal verification, and addressing seal anomalies. These standards shall include the standards for seals and locks as required under paragraph (3) of subsection (b) of section 70116 of Title 46 U.S.C.

(2) REGULATIONS.—Not later than 90 days after completion of the requirements in subsection (a), the Secretary of Homeland Security shall issue regulations for the security of maritime cargo containers consistent with the standards developed in subsection (a).<sup>1</sup>

Amend Sec. 306(b) to read: “(b) INTERNATIONAL AGREEMENTS.—The Secretary, in consultation with the Department of State, Department of Commerce, Department of the Treasury, Office of the United States Trade Representative, and other appropriate Federal agencies, shall seek to enter into agreements with foreign countries and international organizations to establish standards for the security of maritime cargo containers moving within the intermodal transportation system that, to the maximum extent practicable, meet the requirements of subsection (a).”

Amend Sec. 306(c) to read: “(c) CONTAINER TARGETING STRATEGY.—STRATEGY.—The Secretary shall develop a strategy to improve the ability of the Department of Homeland Security to use advance cargo information to identify anomalies in such information to determine whether such cargo poses a security risk. The strategy shall include a method of contacting shippers to verify or explain any anomalies discovered in such information.”

Will include acknowledgement in legislative history that “It is intended that the advance cargo information referred to in Section 306(c) should be provided to the government by the party that has the most direct knowledge of that information consistent with Public Law 107-210 Section 343(a)(3)(B).”

Amend Section 306(d) to read: “(d) CONTAINER SECURITY DEMONSTRATION PROGRAM.—(1) PROGRAM.—The Secretary is authorized to establish and carry out a demonstration program that integrates radiation detection equipment with other types of non-intrusive inspection equipment at an appropriate United States seaport, as determined by the Secretary.

(2) REQUIREMENT.—The demonstration program shall also evaluate ways to strengthen the capability of Department of Homeland Security personnel to analyze cargo inspection data and ways to improve the transmission of inspection data between appropriate entities within the Department of Homeland Security.”

Amend Section 306(e) to read: “(e) COORDINATION AND CONSOLIDATION OF CONTAINER SECURITY PROGRAMS.—The Secretary shall coordinate all programs that enhance the security of maritime cargo, and, to the extent practicable, consolidate Operation Safe Commerce, the Smart Box Initiative, and similar programs that evaluate security enhancements for maritime cargo containers, to achieve enhanced coordination and efficiency. The Secretary shall report to the appropriate Congressional committees before consolidating any program mentioned in this subsection.”

Add new Sec. New Section 306(f): “DEFINITION.—In this section, the term ‘appropriate congressional committees’ means appropriate Congressional Committees as defined in the Homeland Security Act of 2002.”

Section 401—Study by Sec. of DHS on Organization of DHS .....

Section 402—GAO Report on DHS Organization .....

See. 403—Plan for Establishing Consolidated and Colocated Regional Offices .....

Sec. 404—Plan to Reduce Wait Times .....

Ways and Means Customs Bill .....

Section 401(b)(1)—delete “to the Committee on Homeland Security of the House of DHS on Organization of Representatives and the Committee on Homeland Security and Government Affairs of the Senate” and replace with “to the appropriate Congressional Committees as defined in the Homeland Security Act of 2002.”

Insert at the end of this section: “The report shall be submitted to the appropriate Congressional committees as defined in the Homeland Security Act of 2002.”

If Sec. 403, or a similar provision is included in the bill, amend that section by adding at the end of the section: “In developing the plan, the Secretary shall ensure that the plan does not compromise the uniform and consistent implementation and application of laws, policies and procedures related to customs processing operations.”

Amend Sec. 404(2) to include “passenger” following “customs”. In addition to the authorization for CBP, include all other Customs sections of HR 4418 as passed by the House that were not already enacted as part of other laws—Secs. 102, 104, 124, and 125.

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON HOMELAND SECURITY,  
Washington, DC, May 13, 2005.

Hon. WILLIAM THOMAS,  
Chairman, Committee on Ways and Means,  
Longworth House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your recent letter expressing the Ways and Means Committee’s jurisdictional interest in H.R. 1817, the “The Department of Homeland Security Authorization Act for Fiscal Year 2006.” I appreciate your willingness to forgo action on this bill, in order to expedite this legislation for floor consideration. I agree that, by forgoing further action on the bill, the Committee on Ways and Means does not waive any jurisdiction it has over provisions within H.R. 1817 and the Manager’s amendment. This is being done with the understanding that it does not in any way prejudice the Ways and Means Committee with respect to the appointment of conferees or its jurisdictional prerogatives on this or similar legislation. We will also share with you copies of any amendments as they are made available to us.

As you have requested, I will include a copy of your letter and this response as part of the Congressional Record during consideration of the legislation on the House floor. Thank you for your cooperation as we work towards the enactment of H.R. 1817.

Sincerely,

CHRISTOPHER COX,  
Chairman.

COMMITTEE ON ARMED SERVICES,  
HOUSE OF REPRESENTATIVES,  
Washington, DC, May 2, 2005.

Hon. CHRISTOPHER COX,  
Chairman, Committee on Homeland Security,  
House of Representatives, Adams Building,  
Library of Congress, Washington, DC.

DEAR MR. CHAIRMAN: On April 27, 2005, the Committee on Homeland Security ordered reported a committee print, the “Department of Homeland Security Authorization Act for Fiscal Year 2006.” This bill contains provisions that fall within the jurisdiction of

the Committee on Armed Services, including: section 222 (relating to information collection requirements and priorities) and section 302(b) (establishing a working group relating to military technology). Recognizing your interest in bringing this legislation before the House quickly, the Committee on Armed Services agrees not to seek a sequential referral of the bill. By agreeing not to seek a sequential referral, the Committee does not waive its jurisdiction over these provisions or any other provisions of the bill that may fall within its jurisdiction. The Committee also reserves its right to seek conferees on any provisions within its jurisdiction considered in the House-Senate conference, and asks for your support in being accorded such conferees.

Please include this letter as part of the report, if any, on the Department of Homeland Security Act for Fiscal Year 2006 or as part of the Congressional Record during consideration of this bill by the House.

Sincerely,

DUNCAN HUNTER,  
Chairman.

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON HOMELAND SECURITY,  
Washington, DC, May 2, 2005.

Hon. Duncan Hunter,  
Chairman, Committee on Armed Services,  
Rayburn House Office Building, Washington,  
DC.

DEAR MR. CHAIRMAN: Thank you for your recent letter expressing the Armed Services Committee’s jurisdictional interest in Section 222 and the working group on transfer of military technologies established under Section 302(b) of the “Department of Homeland Security Authorization Act for Fiscal Year 2006.” I appreciate your willingness not to seek a sequential referral in order to expedite proceedings on this legislation. I agree that, by not exercising your right to request a referral, the Armed Services Committee does not waive any jurisdiction it may have over the relevant provisions of Sections 222 and 302(b). In addition, I agree to support representation for your Committee during

the House-Senate conference on any provisions determined to be within your Committee’s jurisdiction.

As you have requested, I will include a copy of your letter and this response as part of the Committee on Homeland Security’s report and the Congressional Record during consideration of the legislation on the House floor. Thank you for your cooperation as we work towards the enactment of the “Department of Homeland Security Authorization Act for Fiscal Year 2006.”

Sincerely,

CHRISTOPHER COX,  
Chairman.

HOUSE OF REPRESENTATIVES, PERMANENT SELECT COMMITTEE ON INTELLIGENCE,  
Washington, DC, May 16, 2005.

Hon. CHRISTOPHER COX,  
Chairman, Committee on Homeland Security,  
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: In recognition of the importance of expediting the passage of H.R. 1817, the “Department of Homeland Security Authorization Act for Fiscal Year 2006,” the Permanent Select Committee on Intelligence hereby waives further consideration of the bill. The Committee has jurisdictional interests in H.R. 1817, including but not limited to intelligence activities within the Department of Homeland Security authorized within the National Intelligence Program.

The Committee takes this action only with the understanding that this procedural route should not be construed to prejudice the House Permanent Select Committee on Intelligence’s jurisdictional interest over this bill or any similar bill and will not be considered as precedent for consideration of matters of jurisdictional interest to the Committee in the future. In addition, the Permanent Select Committee on Intelligence reserves the possibility of seeking conferees on any provisions of the bill that are within its jurisdiction during any House-Senate conference that may be convened on this legislation.

Finally, I would ask that you include a copy of our exchange of letters on this matter in the Congressional Record during the House debate on H.R. 1817. I appreciate the constructive work between our committees on this matter and thank you for your consideration.

Sincerely,

PETER HOEKSTRA,  
Chairman.

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON HOMELAND SECURITY,  
Washington, DC, May 16, 2005.  
The Hon. PETER HOEKSTRA,  
Chairman, Permanent Select Committee on Intelligence, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your recent letter expressing the Intelligence Committee's jurisdictional interest in H.R. 1817, the "The Department of Homeland Security Authorization Act for Fiscal Year 2006." I appreciate your willingness to waive further consideration of the bill in order to expedite this legislation for floor consideration: I agree that by waiving further consideration, the Intelligence Committee does not waive any jurisdiction it may have over provisions of the bill, including those relating to intelligence activities of the Department of Homeland Security authorized within the National Intelligence Program.

As you have requested, I will include a copy of your letter and this response as part of the Congressional Record during consideration of the legislation on the House floor. Thank you for your cooperation as we work towards the enactment of H.R. 1817.

Sincerely,

CHRISTOPHER COX,  
Chairman

Mr. UDALL of Colorado. Mr. Chairman, I support passage of this important bill—the first-ever authorization bill for the new Department of Homeland Security (DHS).

The bill includes many provisions that will improve Americans' security. These include authority for recruitment and training of 2,000 new border agents, better screening of incoming cargo, and improved background checks for people taking part in programs regulated by the DHS.

The bill also will help the government speak more clearly to Americans regarding threats to their security and will improve the way the federal government works with the States and local agencies to respond to those threats.

And it includes provisions to improve research on and implementation of anti-terror technology.

Of course, the bill could be better in a number of respects, which is why I voted for the substitute offered by Representative THOMPSON of Mississippi.

That substitute would have authorized \$6.46 billion for homeland security grants to state and local governments, \$2.29 billion more than the President's budget. It also would have authorized \$400 million to restore funding to the Law Enforcement Terrorism Prevention program, which the President's budget would eliminate. And it would have authorized an additional \$150 million in funding for the FIRE Act grants program, which provides fire departments across the nation with the equipment they need to respond to a terrorist attack.

The substitute also included a number of provisions to ensure that the commitments made in the 9/11 Reforms bill (PL 108-458) are fulfilled. Unfortunately, the President's budget left many of these commitments unmet. Among others, these included authorization for an additional \$160 million to meet

the 9/11 Act's commitment to securing air cargo, an additional \$92 million to install radiation portal monitors at all ports of entry.

The substitute also would have authorized an additional \$61 million to hire 600 additional immigration investigators, in order to reach the 800 investigators called for in the 9/11 Act. This would have gone a long way to increase the ability of the federal government to address immigration violations.

Of course, even without the additions that would have been made by the substitute, the bill does include a number of provisions related to immigration.

In that connection I want to note my vote on the Norwood amendment. Though the intentions of Mr. NORWOOD's amendment are laudable, I could not support the amendment because of the expansion of authority it gives to states to deport illegal immigrants.

Other parts of this bill will provide states with resources to train officers to enforce immigration law, without a mandate, by letting state and local government decide if they want to participate in this training. I believe Mr. Norwood's amendment also intended to provide resources to states without creating a mandate of enforcement.

However, it stated that local governments have the authority to "apprehend, detain, or remove" illegal immigrants. I do not believe it is the role of the states to make decisions on the deportation of individuals. Currently, states who are detaining illegal immigrants turn them over to the Department of Homeland Security, and I believe this is the proper process.

So, though I was supportive of the intent of that amendment, I could not support the expansion of authority to state and local governments.

As I mentioned, I believe this bill could be improved. Yet, our homeland security is an important priority and I am pleased to support this authorization bill.

Mr. COX. Mr. Chairman, I yield back the balance of my time.

□ 1330

The Acting CHAIRMAN (Mr. COLE of Oklahoma). All time for general debate has expired.

In lieu of the amendments recommended by the committees on Homeland Security, Energy and Commerce, and the Judiciary now printed in the bill, it shall be in order to consider as an original bill for the purpose of amendment under the 5-minute rule an amendment in the nature of a substitute printed in part A of House Report 109-84. That amendment in the nature of a substitute shall be considered read.

The text of the amendment in the nature of a substitute is as follows:

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Homeland Security Authorization Act for Fiscal Year 2006".

#### SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

##### Sec. 1. Short title.

##### Sec. 2. Table of contents.

#### TITLE I—AUTHORIZATION OF APPROPRIATIONS

##### Sec. 101. Department of Homeland Security.

##### Sec. 102. Customs and border protection; border patrol agents.

##### Sec. 103. Departmental management and operations.

Sec. 104. Critical infrastructure grants.  
Sec. 105. Research and development.  
Sec. 106. Border and transportation security.  
Sec. 107. State and local terrorism preparedness.  
Sec. 108. Immigration resources.

#### TITLE II—TERRORISM PREVENTION, INFORMATION SHARING, AND RISK ASSESSMENT

Subtitle A—Terrorism Prevention  
Sec. 201. Consolidated background check process.

Subtitle B—Homeland Security Information Sharing and Analysis Enhancement

Sec. 211. Short title.  
Sec. 212. Provision of terrorism-related information to private sector officials.

Sec. 213. Analytic expertise on the threats from biological agents and nuclear weapons.

Sec. 214. Alternative analysis of homeland security information.

Sec. 215. Assignment of information analysis and infrastructure protection functions.

Sec. 216. Coordination of homeland security threat analysis provided to non-Federal officials.

Sec. 217. 9/11 Memorial Homeland Security Fellows Program.

Sec. 218. Access to nuclear terrorism-related information.

Sec. 219. Access of Assistant Secretary for Information Analysis to terrorism information.

Sec. 220. Administration of the Homeland Security Information Network.

Sec. 221. IAIP personnel recruitment.

Sec. 222. Homeland Security Information Requirements.

Sec. 223. Homeland Security Advisory System.

Sec. 224. Use of open-source information.

Sec. 225. Full and efficient use of open-source information.

Sec. 226. Coordination with the intelligence community.

Sec. 227. Consistency with applicable Federal laws.

#### TITLE III—DOMESTIC PREPAREDNESS AND PROTECTION

Subtitle A—Preparedness and Protection

Sec. 301. National terrorism exercise program.

Sec. 302. Technology development and transfer.

Sec. 303. Review of antiterrorism acquisitions.

Sec. 304. Center of Excellence for Border Security.

Sec. 305. Requirements relating to the Container Security Initiative (CSI).

Sec. 306. Security of maritime cargo containers.

Sec. 307. Security plan for general aviation at Ronald Reagan Washington National Airport.

Sec. 308. Interoperable communications assistance.

Sec. 309. Report to Congress on implementation of recommendations regarding protection of agriculture.

Subtitle B—Department of Homeland Security Cybersecurity Enhancement

Sec. 311. Short title.

Sec. 312. Assistant Secretary for Cybersecurity.

Sec. 313. Cybersecurity training programs and equipment.

Sec. 314. Cybersecurity research and development.

Subtitle C—Security of public transportation systems

Sec. 321. Security best practices.

Sec. 322. Public awareness.

Subtitle D—Critical infrastructure prioritization

Sec. 331. Critical infrastructure.

Sec. 332. Security review.

Sec. 333. Implementation report.

Sec. 334. Protection of information.

**TITLE IV—U.S. CUSTOMS AND BORDER PROTECTION AND U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT**

Sec. 401. Establishment and implementation of cost accounting system; reports.

Sec. 402. Report relating to One Face at the Border Initiative.

Sec. 403. Customs services.

Sec. 404. Sense of Congress on interpretation of textile and apparel provisions.

**TITLE V—MISCELLANEOUS**

Sec. 501. Border security and enforcement coordination and operations.

Sec. 502. GAO report to Congress.

Sec. 503. Plan to reduce wait times.

Sec. 504. Denial of transportation security card.

Sec. 505. Transfer of existing Customs Patrol Officers unit and establishment of new CPO units in the Bureau of Immigration and Customs Enforcement.

Sec. 506. Data collection on use of immigration consultants.

Sec. 507. Office for State and local government coordination.

Sec. 508. Authority of other Federal agencies unaffected.

**TITLE I—AUTHORIZATION OF APPROPRIATIONS**

**SEC. 101. DEPARTMENT OF HOMELAND SECURITY.**

There is authorized to be appropriated to the Secretary of Homeland Security for the necessary expenses of the Department of Homeland Security for fiscal year 2006, \$34,152,143,000.

**SEC. 102. CUSTOMS AND BORDER PROTECTION; BORDER PATROL AGENTS.**

Of the amount authorized under section 101, there is authorized to be appropriated for U.S. Customs and Border Protection for fiscal year 2006, \$6,926,424,722, of which \$1,839,075,277 is authorized for border security and control between ports of entry, including for the hiring of 2,000 full-time active-duty border patrol agents above the number of such positions for which funds were allotted for fiscal year 2005 (excluding any supplemental appropriations).

**SEC. 103. DEPARTMENTAL MANAGEMENT AND OPERATIONS.**

Of the amount authorized under section 101, there is authorized to be appropriated for fiscal year 2006 for departmental management and operations, \$649,672,000, of which—

(1) \$44,895,000 is authorized for the Department of Homeland Security Regions Initiative;

(2) \$4,459,000 is authorized for Operation Integration Staff; and

(3) \$56,278,000 is authorized for Office of Security initiatives.

**SEC. 104. CRITICAL INFRASTRUCTURE GRANTS.**

Of the amount authorized under section 101, there is authorized to be appropriated for fiscal year 2006 for grants and other assistance to improve critical infrastructure protection, \$465,000,000.

**SEC. 105. RESEARCH AND DEVELOPMENT.**

Of the amount authorized under section 101, there are authorized to be appropriated for fiscal year 2006—

(1) \$76,573,000 to support chemical countermeasure development activities of the Directorate of Science and Technology;

(2) \$195,014,000 to support a nuclear detection office and related activities;

(3) \$19,000,000 for cybersecurity-related research and development activities;

(4) \$10,000,000 for research and development of technologies capable of countering threats posed by man-portable air defense systems, including location-based technologies and noncommercial aircraft-based technologies; and

(5) \$10,600,000 for the activities of such directorate conducted pursuant to subtitle G of title VIII of the Homeland Security Act of 2002 (6 U.S.C. 441 et seq.).

**SEC. 106. BORDER AND TRANSPORTATION SECURITY.**

Of the amount authorized under section 101, there are authorized to be appropriated for fiscal year 2006—

(1) \$826,913,000 for expenses related to Screening Coordination and Operations of the Directorate of Border and Transportation Security;

(2) \$100,000,000 for weapons of mass destruction detection technology of such directorate; and

(3) \$133,800,000 for the Container Security Initiative of such directorate.

**SEC. 107. STATE AND LOCAL TERRORISM PREPAREDNESS.**

Of the amount authorized under section 101, there are authorized to be appropriated for fiscal year 2006—

(1) \$40,500,000 for the activities of the Office for Interoperability and Compatibility within the Directorate of Science and Technology pursuant to section 7303 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194); and

(2) \$2,000,000,000 for grants to State and local governments for terrorism preparedness awarded by the Office of State and Local Government Coordination and Preparedness.

**SEC. 108. IMMIGRATION RESOURCES.**

Of the amount authorized under section 101, there is authorized to be appropriated for fiscal year 2006 the following:

(1) For the Immigration and Customs Enforcement Legal Program, \$159,514,000, including for the hiring of an additional 300 attorneys above the number of such positions for which funds were allotted for fiscal year 2005, and related training and support costs.

(2) Sufficient sums for the hiring of an additional 300 adjudicators above the number of such positions for which funds were allotted for fiscal year 2005 to carry out the functions stated in section 451(b) of the Homeland Security Act of 2002 (6 U.S.C. 271(b)), and related training and support costs. The fees provided for in section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)) shall be adjusted in order to provide sufficient sums for the hiring of the additional adjudicators and for the related training and support costs provided for in this paragraph.

**TITLE II—TERRORISM PREVENTION, INFORMATION SHARING, AND RISK ASSESSMENT**

**Subtitle A—Terrorism Prevention**

**SEC. 201. CONSOLIDATED BACKGROUND CHECK PROCESS.**

(a) REQUIREMENT.—The Secretary of Homeland Security, in consultation with the Attorney General, shall establish a single process for conducting the security screening and background checks on individuals participating in any of the programs identified under subsection (b).

(b) INCLUDED PROGRAMS.—The process established under subsection (a) shall apply to the following programs:

(1) The Transportation Worker Identification Credential.

(2) The security risk determination and related background checks under section 5103a

of title 49, United States Code, performed by the Transportation Security Administration as part of the Department of Transportation Hazardous Materials Endorsement credentialing program.

(3) The Free and Secure Trade program.

(4) The NEXUS and SENTRI border crossing programs.

(5) The Registered Traveler program of the Transportation Security Administration.

(c) FEATURES OF PROCESS.—The process established under subsection (a) shall include the following:

(1) A single submission of security screening information, including personal data and biometric information as appropriate, necessary to meet the security requirements of all applicable departmental programs.

(2) An ability to submit such security screening information at any location or through any process approved by the Secretary with respect to any of the applicable departmental programs.

(3) Acceptance by the Department of a security clearance or other credential issued by a Federal agency, to the extent that the security clearance process of the agency satisfies requirements that are at least as stringent as those of the applicable departmental programs under subsection (b).

(4) Appropriate standards and procedures for protecting individual privacy, confidentiality, record retention, and addressing other concerns relating to information security.

(d) DEADLINES.—The Secretary of Homeland Security shall—

(1) submit a description of the process developed under subsection (a) to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)) by not later than 6 months after the date of the enactment of this Act; and

(2) begin implementing such process by not later than 12 months after the date of the enactment of this Act.

(e) INCLUSION OF OTHER PROGRAMS.—The Secretary of Homeland Security shall review other existing or developing Department of Homeland Security programs that include security screening or background checks for participating individuals, and report to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)) any recommendations for inclusion of such additional programs in the consolidated screening process established under this section.

(f) RELATIONSHIP TO OTHER LAWS.—(1) Nothing in this section affects any statutory or regulatory requirement relating to the operation or standards of the programs described in subsection (b).

(2) Nothing in this section affects any statutory requirement relating to title III of the Intelligence Reform and Terrorism Prevention Act of 2004 (50 U.S.C. 435b et seq.).

**Subtitle B—Homeland Security Information Sharing and Analysis Enhancement**

**SEC. 211. SHORT TITLE.**

This subtitle may be cited as the “Homeland Security Information Sharing and Analysis Enhancement Act of 2005”.

**SEC. 212. PROVISION OF TERRORISM-RELATED INFORMATION TO PRIVATE SECTOR OFFICIALS.**

Section 201(d) of the Homeland Security Act of 2002 (6 U.S.C. 121(d)) is amended by adding at the end the following:

“(20) To require, in consultation with the Assistant Secretary for Infrastructure Protection, the creation and routine dissemination of analytic reports and products designed to provide timely and accurate information that has specific relevance to each of the Nation’s private critical infrastructure

sectors (as identified in the national infrastructure protection plan issued under paragraph (5)), to private sector officials in each such sector who are responsible for protecting institutions within that sector from potential acts of terrorism and for mitigating the potential consequences of any such act.”.

**SEC. 213. ANALYTIC EXPERTISE ON THE THREATS FROM BIOLOGICAL AGENTS AND NUCLEAR WEAPONS.**

Section 201(d) of the Homeland Security Act of 2002 (6 U.S.C. 121(d)) is further amended by adding at the end the following:

“(21) To ensure sufficient analytic expertise within the Office of Information Analysis to create, on an ongoing basis, products based on the analysis of homeland security information, as defined in section 892(f)(1), with specific reference to the threat of terrorism involving the use of nuclear weapons and biological agents to inflict mass casualties or other catastrophic consequences on the population or territory of the United States.”.

**SEC. 214. ALTERNATIVE ANALYSIS OF HOMELAND SECURITY INFORMATION.**

(a) **REQUIREMENT.**—Subtitle A of title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.) is amended by adding at the end the following:

**“SEC. 203. ALTERNATIVE ANALYSIS OF HOMELAND SECURITY INFORMATION.**

“The Secretary shall establish within the Department a process and assign an individual or entity the responsibility to ensure that, as appropriate, elements of the Department conduct alternative analysis (commonly referred to as ‘red-team analysis’) of homeland security information, as that term is defined in section 892(f)(1), that relates to potential acts of terrorism involving the use of nuclear weapons or biological agents to inflict mass casualties or other catastrophic consequences on the population or territory of the United States.”.

(b) **CLERICAL AMENDMENT.**—The table of contents in section 1(b) of such Act is amended by inserting after the item relating to section 202 the following:

“Sec. 203. Alternative analysis of homeland security information.”.

**SEC. 215. ASSIGNMENT OF INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION FUNCTIONS.**

Section 201(b) of the Homeland Security Act of 2002 (6 U.S.C. 121(b)) is amended by adding at the end the following:

“(4) **ASSIGNMENT OF SPECIFIC FUNCTIONS.**—The Under Secretary for Information Analysis and Infrastructure Protection—

“(A) shall assign to the Assistant Secretary for Information Analysis the responsibility for performing the functions described in paragraphs (1), (4), (7) through (14), (16), and (18) of subsection (d);

“(B) shall assign to the Assistant Secretary for Infrastructure Protection the responsibility for performing the functions described in paragraphs (2), (5), and (6) of subsection (d);

“(C) shall assign to the Assistant Secretary for Cybersecurity the primary authority within the Department over the National Cyber Security Division and the National Communications System, and, in coordination with other relevant Federal agencies, the cybersecurity-related aspects of paragraphs (2), (3), (5), (6), (15), and (17) of subsection (d);

“(D) shall ensure that the Assistant Secretary for Information Analysis and the Assistant Secretary for Infrastructure Protection both perform the functions described in paragraphs (3), (15), and (17) of subsection (d); and

“(E) may assign to each such Assistant Secretary such other duties relating to such

responsibilities as the Under Secretary may provide.”.

**SEC. 216. COORDINATION OF HOMELAND SECURITY THREAT ANALYSIS PROVIDED TO NON-FEDERAL OFFICIALS.**

(a) **IN GENERAL.**—Title I of the Homeland Security Act of 2002 (6 U.S.C. 111 et seq.) is amended by adding at the end the following:

**“SEC. 104. COORDINATION OF HOMELAND SECURITY THREAT ANALYSIS PROVIDED TO NON-FEDERAL OFFICIALS.**

“(a) **PRIMARY AUTHORITY.**—Except as provided in subsection (b), the Secretary shall be responsible for coordinating all homeland security threat analysis to be provided to State and local government and tribal officials and the private sector.

“(b) **COORDINATION REQUIRED.**—No Federal official may disseminate any homeland security threat analysis to State, local, tribal, or private sector officials without the coordination of the Secretary or the Secretary’s designee except—

“(1) in exigent circumstances under which it is essential that the homeland security threat analysis be communicated immediately; or

“(2) when such homeland security threat analysis is issued to State, local, or tribal law enforcement officials for the purpose of assisting them in any aspect of the administration of criminal justice.

“(c) **DEFINITION.**—(1) As used in this section, the term ‘homeland security threat analysis’ means any informational product that is the result of evaluating information, regardless of its source, in order to—

“(A) identify and assess the nature and scope of terrorist threats to the homeland;

“(B) detect and identify threats of terrorism against the United States; and

“(C) understand such threats in light of actual and potential vulnerabilities of the territory of the United States.

“(2) As defined in paragraph (1), the term ‘homeland security threat analysis’ does not include—

“(A) any information that has not been processed, evaluated, or analyzed;

“(B) any information that is evaluated to create any finished analytic product;

“(C) facts or summaries of facts;

“(D) reports of interviews; or

“(E) reports or other documents that merely aggregate or summarize information derived from multiple sources on the same or related topics.”.

(b) **CLERICAL AMENDMENT.**—The table of contents in section 1(b) of such Act is amended by inserting after the item relating to section 103 the following:

“Sec. 104. Coordination of homeland security threat analysis provided to non-Federal officials.”.

**SEC. 217. 9/11 MEMORIAL HOMELAND SECURITY FELLOWS PROGRAM.**

(a) **ESTABLISHMENT OF PROGRAM.**—Subtitle A of title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.) is further amended by adding at the end the following:

**“SEC. 204. 9/11 MEMORIAL HOMELAND SECURITY FELLOWS PROGRAM.**

“(a) **ESTABLISHMENT.**—

“(1) **IN GENERAL.**—The Secretary shall establish a fellowship program in accordance with this section for the purpose of bringing State, local, tribal, and private sector officials to participate in the work of the Homeland Security Operations Center in order to become familiar with—

“(A) the mission and capabilities of that Center; and

“(B) the role, programs, products, and personnel of the Office of Information Analysis, the Office of Infrastructure Protection, and other elements of the Department responsible for the integration, analysis, and dis-

semination of homeland security information, as defined in section 892(f)(1).

“(2) **PROGRAM NAME.**—The program under this section shall be known as the 9/11 Memorial Homeland Security Fellows Program.

“(b) **ELIGIBILITY.**—In order to be eligible for selection as a fellow under the program, an individual must—

“(1) have homeland security-related responsibilities; and

“(2) possess an appropriate national security clearance.

“(c) **LIMITATIONS.**—The Secretary—

“(1) may conduct up to 4 iterations of the program each year, each of which shall be 90 days in duration; and

“(2) shall ensure that the number of fellows selected for each iteration does not impede the activities of the Center.

“(d) **CONDITION.**—As a condition of selecting an individual as a fellow under the program, the Secretary shall require that the individual’s employer agree to continue to pay the individual’s salary and benefits during the period of the fellowship.

“(e) **STIPEND.**—During the period of the fellowship of an individual under the program, the Secretary shall, subject to the availability of appropriations, provide to the individual a stipend to cover the individual’s reasonable living expenses during the period of the fellowship.”.

(b) **CLERICAL AMENDMENT.**—The table of contents in section 1(b) of such Act is further amended by adding at the end of the items relating to such subtitle the following:

“Sec. 204. 9/11 Memorial Homeland Security Fellows Program.”.

**SEC. 218. ACCESS TO NUCLEAR TERRORISM-RELATED INFORMATION.**

Section 201(d) of the Homeland Security Act of 2002 (6 U.S.C. 121(d)) is further amended by adding at the end the following:

“(22) To ensure that—

“(A) the Assistant Secretary for Information Analysis receives promptly and without request all information obtained by any component of the Department if that information relates, directly or indirectly, to a threat of terrorism involving the potential use of nuclear weapons;

“(B) such information is—

“(i) integrated and analyzed comprehensively; and

“(ii) disseminated in a timely manner, including to appropriately cleared Federal, State, local, tribal, and private sector officials; and

“(C) such information is used to determine what requests the Department should submit for collection of additional information relating to that threat.”.

**SEC. 219. ACCESS OF ASSISTANT SECRETARY FOR INFORMATION ANALYSIS TO TERRORISM INFORMATION.**

Section 201(d) of the Homeland Security Act of 2002 (6 U.S.C. 121(d)) is further amended by adding at the end the following:

“(23) To ensure that the Assistant Secretary for Information Analysis—

“(A) is routinely and without request given prompt access to all terrorism-related information collected by or otherwise in the possession of any component of the Department, including all homeland security information (as that term is defined in section 892(f)(1)); and

“(B) to the extent technologically feasible has direct access to all databases of any component of the Department that may contain such information.”.

**SEC. 220. ADMINISTRATION OF THE HOMELAND SECURITY INFORMATION NETWORK.**

Section 201(d) of the Homeland Security Act of 2002 (6 U.S.C. 121(d)) is further amended by adding at the end the following:

“(24) To administer the homeland security information network, including—

“(A) exercising primary responsibility for establishing a secure nationwide real-time homeland security information sharing network for Federal, State, and local government agencies and authorities, tribal officials, the private sector, and other governmental and private entities involved in receiving, analyzing, and distributing information related to threats to homeland security;

“(B) ensuring that the information sharing systems, developed in connection with the network established under subparagraph (A), are utilized and are compatible with, to the greatest extent practicable, Federal, State, and local government, tribal, and private sector antiterrorism systems and protocols that have been or are being developed; and

“(C) ensuring, to the greatest extent possible, that the homeland security information network and information systems are integrated and interoperable with existing private sector technologies.”.

#### SEC. 221. IAIP PERSONNEL RECRUITMENT.

(a) IN GENERAL.—Chapter 97 of title 5, United States Code, is amended by adding after section 9701 the following:

#### “§ 9702. Recruitment bonuses

“(a) IN GENERAL.—Notwithstanding any provision of chapter 57, the Secretary of Homeland Security, acting through the Under Secretary for Information Analysis and Infrastructure Protection, may pay a bonus to an individual in order to recruit such individual for a position that is primarily responsible for discharging the analytic responsibilities specified in section 201(d) of the Homeland Security Act of 2002 (6 U.S.C. 121(d)) and that—

“(1) is within the Directorate for Information Analysis and Infrastructure Protection; and

“(2) would be difficult to fill in the absence of such a bonus.  
In determining which individuals are to receive bonuses under this section, appropriate consideration shall be given to the Directorate’s critical need for linguists.

#### “(b) BONUS AMOUNT, FORM, ETC.—

“(1) IN GENERAL.—The amount of a bonus under this section shall be determined under regulations issued by the Secretary of Homeland Security, with the concurrence of the Director of National Intelligence, but may not exceed 50 percent of the annual rate of basic pay of the position involved. The Director of National Intelligence shall concur in such regulations only if the amount of the bonus is not disproportionate to recruitment bonuses offered to intelligence analysts in other intelligence community agencies.

“(2) FORM OF PAYMENT.—A bonus under this section shall be paid in the form of a lump-sum payment and shall not be considered to be part of basic pay.

“(3) COMPUTATION RULE.—For purposes of paragraph (1), the annual rate of basic pay of a position does not include any comparability payment under section 5304 or any similar authority.

“(c) SERVICE AGREEMENTS.—Payment of a bonus under this section shall be contingent upon the employee entering into a written service agreement with the Department of Homeland Security. The agreement shall include—

“(1) the period of service the individual shall be required to complete in return for the bonus; and

“(2) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed, and the effect of any such termination.

“(d) ELIGIBILITY.—A bonus under this section may not be paid to recruit an individual for—

“(1) a position to which an individual is appointed by the President, by and with the advice and consent of the Senate;

“(2) a position in the Senior Executive Service as a noncareer appointee (as defined under section 3132(a)); or

“(3) a position which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character.

“(e) TERMINATION.—The authority to pay bonuses under this section shall terminate on September 30, 2008.

#### “§ 9703. Reemployed annuitants

“(a) IN GENERAL.—If an annuitant receiving an annuity from the Civil Service Retirement and Disability Fund becomes employed in a position within the Directorate for Information Analysis and Infrastructure Protection of the Department of Homeland Security, the annuitant’s annuity shall continue. An annuitant so reemployed shall not be considered an employee for the purposes of chapter 83 or 84.

“(b) TERMINATION.—The exclusion pursuant to this section of the Directorate for Information Analysis and Infrastructure Protection from the reemployed annuitant provisions of chapters 83 and 84 shall terminate 3 years after the date of the enactment of this section, unless extended by the Secretary of Homeland Security. Any such extension shall be for a period of 1 year and shall be renewable.

“(c) ANNUITANT DEFINED.—For purposes of this section, the term ‘annuitant’ has the meaning given such term under section 8331 or 8401, whichever is appropriate.

#### “§ 9704. Regulations

“The Secretary of Homeland Security, in consultation with the Director of the Office of Personnel Management, may prescribe any regulations necessary to carry out section 9702 or 9703.”.

(b) CLERICAL AMENDMENT.—The analysis for chapter 97 of title 5, United States Code, is amended by adding after the item relating to section 9701 the following:

“9702. Recruitment bonuses.  
“9703. Reemployed annuitants.  
“9704. Regulations.”.

#### SEC. 222. HOMELAND SECURITY INFORMATION REQUIREMENTS.

(a) HOMELAND SECURITY INFORMATION REQUIREMENTS.—The Joint Intelligence Community Council shall advise the Director of National Intelligence with respect to homeland security intelligence requirements.

(b) DESIGNATION OF MEMBERS.—The President may designate officers of the United States Government in addition to the members named in or designated under section 101A(b) of the National Security Act to serve on the Joint Intelligence Community Council in a capacity limited to consideration of homeland security intelligence requirements.

(c) PARTICIPATION IN NATIONAL INTELLIGENCE COLLECTION REQUIREMENTS AND MANAGEMENT PROCESSES.—The Secretary shall be a member of any Director of National Intelligence-established interagency collection and requirements management board that develops and reviews national intelligence collection requirements in response to Presidential intelligence guidelines.

#### SEC. 223. HOMELAND SECURITY ADVISORY SYSTEM.

(a) IN GENERAL.—Subtitle A of title II of the Homeland Security Act of 2002 is further amended—

(1) in section 201(d)(7) (6 U.S.C. 121(d)(7)) by inserting “under section 205” after “System”; and

(2) by adding at the end the following:

#### “SEC. 205. HOMELAND SECURITY ADVISORY SYSTEM.

“(a) REQUIREMENT.—The Under Secretary for Information Analysis and Infrastructure

Protection shall implement a Homeland Security Advisory System in accordance with this section to provide public advisories and alerts regarding threats to homeland security, including national, regional, local, and economic sector advisories and alerts, as appropriate.

“(b) REQUIRED ELEMENTS.—The Under Secretary, under the System—

“(1) shall include, in each advisory and alert regarding a threat, information on appropriate protective measures and countermeasures that may be taken in response to the threat;

“(2) shall, whenever possible, limit the scope of each advisory and alert to a specific region, locality, or economic sector believed to be at risk; and

“(3) shall not, in issuing any advisory or alert, use color designations as the exclusive means of specifying the homeland security threat conditions that are the subject of the advisory or alert.”.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is further amended by adding at the end of the items relating to subtitle A of title II the following:

“Sec. 205. Homeland Security Advisory System.”.

#### SEC. 224. USE OF OPEN-SOURCE INFORMATION.

Section 201(d) of the Homeland Security Act of 2002 (6 U.S.C. 121(d)) is further amended by adding at the end the following:

“(25) To ensure that, whenever possible—

“(A) the Assistant Secretary for Information Analysis utilizes open-source information and produces reports and analytic products based on such information that do not require a national security classification under applicable law; and

“(B) such unclassified open-source reports are produced, to the extent consistent with the protection of intelligence sources and methods from unauthorized disclosure, contemporaneously with reports or analytic products concerning the same or similar information that the Assistant Secretary for Information Analysis produces in a classified format.”.

#### SEC. 225. FULL AND EFFICIENT USE OF OPEN-SOURCE INFORMATION.

(a) REQUIREMENT.—Subtitle A of title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.) is further amended by adding at the end the following:

#### “SEC. 206. FULL AND EFFICIENT USE OF OPEN-SOURCE INFORMATION.

“The Under Secretary shall ensure that, in meeting their analytic responsibilities under section 201(d) and in formulating requirements for collection of additional information, the Assistant Secretary for Information Analysis and the Assistant Secretary for Infrastructure Protection make full and efficient use of open-source information wherever possible.”.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is further amended by inserting after the item relating to section 205 the following:

“Sec. 206. Full and efficient use of open-source information.”.

#### SEC. 226. COORDINATION WITH THE INTELLIGENCE COMMUNITY.

Section 201 of the Homeland Security Act of 2002 (6 U.S.C. 121) is amended by adding at the end the following:

“(h) COORDINATION WITH THE INTELLIGENCE COMMUNITY.—The Under Secretary shall ensure that, as to the responsibilities specified in subsection (d), the Assistant Secretary for Information Analysis serves as the official responsible for coordinating, as appropriate, with elements of the intelligence community.”.

**SEC. 227. CONSISTENCY WITH APPLICABLE FEDERAL LAWS.**

Unless otherwise expressly stated in this subtitle, the Secretary of Homeland Security shall ensure that all activities carried out under this subtitle are consistent with any applicable Federal laws relating to information policy of Federal agencies.

**TITLE III—DOMESTIC PREPAREDNESS AND PROTECTION****Subtitle A—Preparedness and Protection****SEC. 301. NATIONAL TERRORISM EXERCISE PROGRAM.**

(a) IN GENERAL.—Section 430(c) of the Homeland Security Act of 2002 (6 U.S.C. 238) is amended by striking “and” after the semicolon at the end of paragraph (8), by striking the period at the end of paragraph (9) and inserting “; and”, and by adding at the end the following:

“(10) designing, developing, performing, and evaluating exercises at the national, State, territorial, regional, local, and tribal levels of government that incorporate government officials, emergency response providers, public safety agencies, the private sector, international governments and organizations, and other appropriate entities to test the Nation’s capability to prevent, prepare for, respond to, and recover from threatened or actual acts of terrorism.”.

**(b) NATIONAL TERRORISM EXERCISE PROGRAM.—**

(1) ESTABLISHMENT OF PROGRAM.—Title VIII of the Homeland Security Act of 2002 (Public Law 107-296) is amended by adding at the end the following new subtitle:

**Subtitle J—Terrorism Preparedness Exercises****SEC. 899a. NATIONAL TERRORISM EXERCISE PROGRAM.**

“(a) IN GENERAL.—The Secretary, through the Office for Domestic Preparedness, shall establish a National Terrorism Exercise Program for the purpose of testing and evaluating the Nation’s capabilities to prevent, prepare for, respond to, and recover from threatened or actual acts of terrorism that—

“(1) enhances coordination for terrorism preparedness between all levels of government, emergency response providers, international governments and organizations, and the private sector;

“(2) is—

“(A) multidisciplinary in nature, including, as appropriate, information analysis and cybersecurity components;

“(B) as realistic as practicable and based on current risk assessments, including credible threats, vulnerabilities, and consequences;

“(C) carried out with the minimum degree of notice to involved parties regarding the timing and details of such exercises, consistent with safety considerations;

“(D) evaluated against performance measures and followed by corrective action to solve identified deficiencies; and

“(E) assessed to learn best practices, which shall be shared with appropriate Federal, State, territorial, regional, local, and tribal personnel, authorities, and training institutions for emergency response providers; and

“(3) assists State, territorial, local, and tribal governments with the design, implementation, and evaluation of exercises that—

“(A) conform to the requirements of paragraph (2); and

“(B) are consistent with any applicable State homeland security strategy or plan.

“(b) NATIONAL LEVEL EXERCISES.—The Secretary, through the National Terrorism Exercise Program, shall perform on a periodic basis national terrorism preparedness exercises for the purposes of—

“(1) involving top officials from Federal, State, territorial, local, tribal, and inter-

national governments, as the Secretary considers appropriate;

“(2) testing and evaluating, in coordination with the Attorney General, the Nation’s capability to detect, disrupt, and prevent threatened or actual catastrophic acts of terrorism, especially those involving weapons of mass destruction; and

“(3) testing and evaluating the Nation’s readiness to respond to and recover from catastrophic acts of terrorism, especially those involving weapons of mass destruction.

“(c) CONSULTATION WITH FIRST RESPONDERS.—In implementing the responsibilities described in subsections (a) and (b), the Secretary shall consult with a geographic (including urban and rural) and substantive cross section of governmental and non-governmental first responder disciplines, including as appropriate—

“(1) Federal, State, and local first responder training institutions;

“(2) representatives of emergency response providers; and

“(3) State and local officials with an expertise in terrorism preparedness.”.

(2) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by adding at the end of the items relating to title VIII the following:

**“Subtitle J—Terrorism Preparedness Exercises**

“Sec. 899a. National terrorism exercise program.”.

(c) TOPOFF PREVENTION EXERCISE.—No later than one year after the date of enactment of this Act, the Secretary of Homeland Security shall design and carry out a national terrorism prevention exercise for the purposes of—

(1) involving top officials from Federal, State, territorial, local, tribal, and international governments as the Secretary considers appropriate; and

(2) testing and evaluating, in coordination with the Attorney General, the Nation’s capability to detect, disrupt, and prevent threatened or actual catastrophic acts of terrorism, especially those involving weapons of mass destruction.

**SEC. 302. TECHNOLOGY DEVELOPMENT AND TRANSFER.**

(a) ESTABLISHMENT OF TECHNOLOGY CLEARINGHOUSE.—Not later than 90 days after the date of enactment of this Act, the Secretary shall complete the establishment of the Technology Clearinghouse under section 313 of the Homeland Security Act of 2002.

(b) TRANSFER PROGRAM.—Section 313 of the Homeland Security Act of 2002 (6 U.S.C. 193) is amended—

(1) by adding at the end of subsection (b) the following new paragraph:

“(6) The establishment of a homeland security technology transfer program to facilitate the identification, modification, and commercialization of technology and equipment for use by Federal, State, and local governmental agencies, emergency response providers, and the private sector to prevent, prepare for, or respond to acts of terrorism.”;

(2) by redesignating subsection (c) as subsection (e); and

(3) by inserting after subsection (b) the following new subsections:

“(c) ELEMENTS OF THE TECHNOLOGY TRANSFER PROGRAM.—The activities of the program described in subsection (b)(6) shall include—

“(1) identifying available technologies that have been, or are in the process of being, developed, tested, evaluated, or demonstrated by the Department, other Federal agencies, the private sector, or foreign governments and international organizations, and reviewing whether such technologies may be useful

in assisting Federal, State, and local governmental agencies, emergency response providers, or the private sector to prevent, prepare for, or respond to acts of terrorism; and

“(2) communicating to Federal, State, and local governmental agencies, emergency response providers, or the private sector the availability of such technologies for antiterrorism use, as well as the technology’s specifications, satisfaction of appropriate standards, and the appropriate grants available from the Department to purchase such technologies;

“(d) RESPONSIBILITIES OF UNDER SECRETARY FOR SCIENCE AND TECHNOLOGY.—In support of the activities described in subsection (c), the Under Secretary for Science and Technology shall—

“(1) conduct or support, based on the Department’s current risk assessments of terrorist threats, research, development, demonstrations, tests, and evaluations, as appropriate, of technologies identified under subparagraph (c)(1), including of any necessary modifications to such technologies for antiterrorism use;

“(2) ensure that the technology transfer activities throughout the Directorate of Science and Technology are coordinated, including the technology transfer aspects of projects and grants awarded to the private sector and academia;

“(3) consult with the other Under Secretaries of the Department and the Director of the Office for Domestic Preparedness, on an ongoing basis;

“(4) consult with Federal, State, and local emergency response providers;

“(5) consult with government agencies and standards development organizations as appropriate;

“(6) enter into agreements and coordinate with other Federal agencies, foreign governments, and national and international organizations as the Secretary determines appropriate, in order to maximize the effectiveness of such technologies or to facilitate commercialization of such technologies;

“(7) consult with existing technology transfer programs and Federal and State training centers that research, develop, test, evaluate, and transfer military and other technologies for use by emergency response providers; and

“(8) establish a working group in coordination with the Secretary of Defense to advise and assist the technology clearinghouse in the identification of military technologies that are in the process of being developed, or are developed, by the Department of Defense or the private sector, which may include—

“(A) representatives from the Department of Defense or retired military officers;

“(B) nongovernmental organizations or private companies that are engaged in the research, development, testing, or evaluation of related technologies or that have demonstrated prior experience and success in searching for and identifying technologies for Federal agencies;

“(C) Federal, State, and local emergency response providers; and

“(D) to the extent the Secretary considers appropriate, other organizations, other interested Federal, State, and local agencies, and other interested persons.”.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Under Secretary for Science and Technology shall transmit to the Congress a description of the progress the Department has made in implementing the provisions of section 313 of the Homeland Security Act of 2002, as amended by this Act, including a description of the process used to review unsolicited proposals received as described in subsection (b)(3) of such section.

(d) SAVINGS CLAUSE.—Nothing in this section (including the amendments made by this section) shall be construed to alter or diminish the effect of the limitation on the authority of the Secretary of Homeland Security under section 302(4) of the Homeland Security Act of 2002 (6 U.S.C. 182(4)) with respect to human health-related research and development activities.

**SEC. 303. REVIEW OF ANTITERRORISM ACQUISITIONS.**

(a) STUDY.—The Secretary of Homeland Security shall conduct a study of all Department of Homeland Security procurements, including ongoing procurements and anticipated procurements, to—

(1) identify those that involve any product, equipment, service (including support services), device, or technology (including information technology) that is being designed, developed, modified, or procured for the specific purpose of preventing, detecting, identifying, or deterring acts of terrorism or limiting the harm such acts might otherwise cause; and

(2) assess whether such product, equipment, service (including support services), device, or technology is an appropriate candidate for the litigation and risk management protections of subtitle G of title VIII of the Homeland Security Act of 2002.

(b) SUMMARY AND CLASSIFICATION REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall transmit to the Congress a report—

(1) describing each product, equipment, service (including support services), device, and technology identified under subsection (a) that the Secretary believes would be an appropriate candidate for the litigation and risk management protections of subtitle G of title VIII of the Homeland Security Act of 2002;

(2) listing each such product, equipment, service (including support services), device, and technology in order of priority for deployment in accordance with current terrorism risk assessment information; and

(3) setting forth specific actions taken, or to be taken, to encourage or require persons or entities that sell or otherwise provide such products, equipment, services (including support services), devices, and technologies to apply for the litigation and risk management protections of subtitle G of title VIII of the Homeland Security Act of 2002, and to ensure prioritization of the Department's review of such products, equipment, services, devices, and technologies under such Act in accordance with the prioritization set forth in paragraph (2) of this subsection.

**SEC. 304. CENTER OF EXCELLENCE FOR BORDER SECURITY.**

The Secretary of Homeland Security shall establish a university-based Center of Excellence for Border Security following the merit-review processes and procedures and other limitations that have been established for selecting and supporting University Programs Centers of Excellence. The Center shall prioritize its activities on the basis of risk to address the most significant threats, vulnerabilities, and consequences posed by the Nation's borders and border control systems. The activities should include the conduct of research, the examination of existing and emerging border security technology and systems, and the provision of education, technical, and analytical assistance for the Department of Homeland Security to effectively secure the Nation's borders.

**SEC. 305. REQUIREMENTS RELATING TO THE CONTAINER SECURITY INITIATIVE (CSI).**

(a) DESIGNATION OF NEW FOREIGN SEAPORTS.—The Secretary of Homeland Security

may designate a foreign seaport as a participating seaport in the Container Security Initiative program on or after the date of the enactment of this Act if the Secretary—

(1) determines, based on a foreign port assessment carried out under section 70108(a) of title 46, United States Code, or such other risk assessment that the Secretary may perform, and a cost-benefit analysis, that the benefits of designating such seaport as a participating seaport outweigh the cost of expanding the program to such seaport; and

(2) enters into an agreement with the foreign government of such seaport, in consultation with the Department of State and other appropriate Federal agencies to—

(A) establish security criteria to identify the potential compromise by terrorists or terrorist weapons of maritime cargo containers bound for the United States based on advance information; and

(B) screen or inspect such maritime cargo containers for potential compromise by terrorists or terrorist weapons prior to shipment to the United States.

**(b) DEPLOYMENT OF INSPECTION EQUIPMENT TO NEW CSI PARTICIPATING SEAPORTS.**

(1) DEPLOYMENT.—The Secretary may—

(A) loan or otherwise provide nonintrusive inspection equipment for maritime cargo containers, on a nonreimbursable basis, at a seaport designated under subsection(a); and

(B) provide training for personnel at a seaport designated under subsection (a) to operate the nonintrusive inspection equipment.

(2) ADDITIONAL REQUIREMENTS.—

(A) CAPABILITY REQUIREMENTS AND OPERATING PROCEDURES.—The Secretary shall establish technical capability requirements and standard operating procedures for nonintrusive inspection equipment described in paragraph (1), consistent with any standards established by the Secretary under section 70116 of title 46 United States Code.

(B) AGREEMENT REQUIRED.—The Secretary shall require each CSI port to agree to operate such equipment in accordance with requirements and procedures established under subparagraph (A) as a condition for receiving the equipment and training under paragraph (1).

(c) DEPLOYMENT OF PERSONNEL TO NEW CSI PORTS; REEVALUATION OF PERSONNEL AT ALL CSI PORTS.—

(1) DEPLOYMENT.—The Secretary shall deploy United States Customs and Border Protection personnel to each seaport designated under subsection (a) with respect to which the Secretary determines that the deployment is necessary to successfully implement the requirements of CSI at the port.

(2) REEVALUATION.—The Secretary shall periodically review relevant risk assessment information with respect to each seaport at which personnel are deployed under paragraph (1) to assess whether or not continued deployment of such personnel, in whole or in part, is necessary to successfully implement the requirements of CSI at the port.

(d) INSPECTION AND SCREENING AT UNITED STATES PORTS OF ENTRY.—Cargo containers arriving at a United States port of entry from a CSI port shall undergo the same level of inspection and screening for potential compromise by terrorists or terrorist weapons as cargo containers arriving at a United States port of entry from a foreign seaport that is not participating in CSI unless the containers were initially inspected at the CSI port at the request of personnel deployed under subsection (c) and such personnel verify and electronically record that the inspection indicates that the containers have not been compromised by terrorists or terrorist weapons.

**SEC. 306. SECURITY OF MARITIME CARGO CONTAINERS.**

(a) STANDARDS AND REGULATIONS.—

(1) STANDARDS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall establish standards and procedures for securing maritime cargo containers relating to obligation to seal, recording of seal changes, modal changes, seal placement, ocean carrier seal verification, and addressing seal anomalies. These standards shall include the standards for seals and locks as required under paragraph (3) of subsection (b) of section 70116 of title 46, United States Code.

(2) REGULATIONS.—No later than 90 days after completion of the requirements in subsection (a), the Secretary of Homeland Security shall issue regulations for the security of maritime cargo containers consistent with the standards developed in subsection (a).

(b) INTERNATIONAL AGREEMENTS.—The Secretary, in consultation with the Department of State, Department of Commerce, Department of Treasury, Office of the United States Trade Representative, and other appropriate Federal agencies, shall seek to enter into agreements with foreign countries and international organizations to establish standards for the security of maritime cargo containers moving within the intermodal transportation system that, to the maximum extent practicable, meet the requirements of subsection (a).

(c) CONTAINER TARGETING STRATEGY.—The Secretary shall develop a strategy to improve the ability of the Department of Homeland Security to use advance cargo information to identify anomalies in such information to determine whether such cargo poses a security risk. The strategy shall include a method of contacting shippers to verify or explain any anomalies discovered in such information.

**(d) CONTAINER SECURITY DEMONSTRATION PROGRAM.**

(1) PROGRAM.—The Secretary is authorized to establish and carry out a demonstration program that integrates radiation detection equipment with other types of nonintrusive inspection equipment at an appropriate United States seaport, as determined by the Secretary.

(2) REQUIREMENT.—The demonstration program shall also evaluate ways to strengthen the capability of Department of Homeland Security personnel to analyze cargo inspection data and ways to improve the transmission of inspection data between appropriate entities within the Department of Homeland Security.

(e) COORDINATION AND CONSOLIDATION OF CONTAINER SECURITY PROGRAMS.—The Secretary shall coordinate all programs that enhance the security of maritime cargo, and, to the extent practicable, consolidate Operation Safe Commerce, the Smart Box Initiative, and similar programs that evaluate security enhancements for maritime cargo containers, to achieve enhanced coordination and efficiency. The Secretary shall report to the appropriate congressional committees (as that term is defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101) before consolidating any program mentioned in this subsection.

**SEC. 307. SECURITY PLAN FOR GENERAL AVIATION AT RONALD REAGAN WASHINGTON NATIONAL AIRPORT.**

Not later than 60 days after the date of enactment of this Act, the Secretary of Homeland Security shall implement section 823(a) of the Vision 100—Century of Aviation Reauthorization Act (49 U.S.C. 41718 note; 117 Stat. 2595).

**SEC. 308. INTEROPERABLE COMMUNICATIONS ASSISTANCE.**

(a) FINDINGS.—The Congress finds the following:

(1) The 9/11 Commission determined that the inability of first responders to communicate effectively on September 11, 2001 was

a critical obstacle to an effective multi-jurisdictional response.

(2) Many jurisdictions across the country still experience difficulties communicating that may contribute to confusion, delays, or added risks when responding to an emergency.

(3) During fiscal year 2004, the Office for Domestic Preparedness awarded over \$834,000,000 for 2,912 projects through Department of Homeland Security grant programs for the purposes of improving communications interoperability.

(4) Interoperable communications systems are most effective when designed to comprehensively address, on a regional basis, the communications of all types of public safety agencies, first responder disciplines, and State and local government facilities.

(5) Achieving communications interoperability is complex due to the extensive training, system modifications, and agreements among the different jurisdictions that are necessary to implement effective communications systems.

(6) The Congress authorized the Department of Homeland Security to create an Office for Interoperability and Compatibility in the Intelligence Reform and Terrorism Prevention Act of 2004 to, among other things, establish a comprehensive national approach, coordinate federal activities, accelerate the adoption of standards, and encourage research and development to achieve interoperable communications for first responders.

(7) The Office for Interoperability and Compatibility includes the SAFECOM Program that serves as the umbrella program within the Federal government to improve public safety communications interoperability, and has developed the RAPIDCOM program, the Statewide Communications Interoperability Planning Methodology, and a Statement of Requirements to provide technical, planning, and purchasing assistance for Federal departments and agencies, State and local governments, and first responders.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the Department of Homeland Security should implement as expeditiously as possible the initiatives assigned to the Office for Interoperability and Compatibility under section 7303 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194), including specifically the following:

(1) Establishing a comprehensive national approach to achieving public safety interoperable communications.

(2) Issuing letters of intent to commit future funds for jurisdictions through existing homeland security grant programs to applicants as appropriate to encourage long-term investments that may significantly improve communications interoperability.

(3) Providing technical assistance to additional urban and other high-risk areas to support the establishment of consistent, secure, and effective interoperable communications capabilities.

(4) Completing the report to the Congress on the Department's plans for accelerating the development of national voluntary consensus standards for public safety interoperable communications, a schedule of milestones for such development, and achievements of such development, by no later than 30 days after the date of enactment of this Act.

### SEC. 309. REPORT TO CONGRESS ON IMPLEMENTATION OF RECOMMENDATIONS REGARDING PROTECTION OF AGRICULTURE.

The Secretary of Homeland Security shall report to the appropriate congressional committees (as defined in section 2 of the Home-

land Security Act of 2002 (6 U.S.C. 101)) by no later than 120 days after the date of the enactment of this Act regarding how the Department of Homeland Security will implement the applicable recommendations from the Government Accountability Office report entitled "Homeland Security: Much is Being Done to Protect Agriculture from a Terrorist Attack, but Important Challenges Remain" (GAO-05-214).

### Subtitle B—Department of Homeland Security Cybersecurity Enhancement

#### SEC. 311. SHORT TITLE.

This subtitle may be cited as the "Department of Homeland Security Cybersecurity Enhancement Act of 2005".

#### SEC. 312. ASSISTANT SECRETARY FOR CYBERSECURITY.

Section 201(b) of the Homeland Security Act of 2002 (6 U.S.C. 121(b)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) ASSISTANT SECRETARY FOR CYBERSECURITY.—There shall be in the Department an Assistant Secretary for Cybersecurity, who shall be appointed by the President.;" and

(3) in paragraph (4), as redesigned by subparagraph (A) of this paragraph—

(A) by striking "Analysis and the" and inserting "Analysis, the"; and

(B) by striking "Protection shall" and inserting "Protection, and the Assistant Secretary for Cybersecurity shall".

#### SEC. 313. CYBERSECURITY TRAINING PROGRAMS AND EQUIPMENT.

(a) IN GENERAL.—The Secretary of Homeland Security, acting through the Assistant Secretary for Cybersecurity, may establish, in conjunction with the National Science Foundation, a program to award grants to institutions of higher education (and consortia thereof) for—

(1) the establishment or expansion of cybersecurity professional development programs;

(2) the establishment or expansion of associate degree programs in cybersecurity; and

(3) the purchase of equipment to provide training in cybersecurity for either professional development programs or degree programs.

##### (b) ROLES.—

(1) DEPARTMENT OF HOMELAND SECURITY.—The Secretary, acting through the Assistant Secretary for Cybersecurity and in consultation with the Director of the National Science Foundation, shall establish the goals for the program established under this section and the criteria for awarding grants under the program.

(2) NATIONAL SCIENCE FOUNDATION.—The Director of the National Science Foundation shall operate the program established under this section consistent with the goals and criteria established under paragraph (1), including soliciting applicants, reviewing applications, and making and administering grant awards. The Director may consult with the Assistant Secretary for Cybersecurity in selecting awardees.

(3) FUNDING.—The Secretary shall transfer to the National Science Foundation the funds necessary to carry out this section.

##### (c) GRANT AWARDS.—

(1) PEER REVIEW.—All grant awards under this section shall be made on a competitive, merit-reviewed basis.

(2) FOCUS.—In making grant awards under this section, the Director shall, to the extent practicable, ensure geographic diversity and the participation of women and underrepresented minorities.

(3) PREFERENCE.—In making grant awards under this section, the Director shall give

preference to applications submitted by consortia of institutions to encourage as many students and professionals as possible to benefit from this program.

(d) AUTHORIZATION OF APPROPRIATIONS.—Of the amount authorized under section 101, there is authorized to be appropriated to the Secretary for carrying out this section \$3,700,000 for fiscal year 2006.

(e) DEFINITIONS.—In this section, the term "institution of higher education" has the meaning given that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

#### SEC. 314. CYBERSECURITY RESEARCH AND DEVELOPMENT.

Title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et. seq.) is amended by adding at the end the following new section:

#### "SEC. 314. CYBERSECURITY RESEARCH AND DEVELOPMENT.

"(a) IN GENERAL.—The Under Secretary for Science and Technology shall support research and development, including fundamental, long-term research, in cybersecurity to improve the ability of the United States to prevent, protect against, detect, respond to, and recover from cyber attacks, with emphasis on research and development relevant to large-scale, high-impact attacks.

"(b) ACTIVITIES.—The research and development supported under subsection (a), shall include work to—

"(1) advance the development and accelerate the deployment of more secure versions of fundamental Internet protocols and architectures, including for the domain name system and routing protocols;

"(2) improve and create technologies for detecting attacks or intrusions, including monitoring technologies;

"(3) improve and create mitigation and recovery methodologies, including techniques for containment of attacks and development of resilient networks and systems that degrade gracefully; and

"(4) develop and support infrastructure and tools to support cybersecurity research and development efforts, including modeling, testbeds, and data sets for assessment of new cybersecurity technologies.

"(c) COORDINATION.—In carrying out this section, the Under Secretary for Science and Technology shall coordinate activities with—

"(1) the Assistant Secretary for Cybersecurity; and

"(2) other Federal agencies, including the National Science Foundation, the Defense Advanced Research Projects Agency, and the National Institute of Standards and Technology, to identify unmet needs and cooperatively support activities, as appropriate.

"(d) NATURE OF RESEARCH.—Activities under this section shall be carried out in accordance with section 306(a) of this Act."

#### Subtitle C—Security of Public Transportation Systems

##### SEC. 321. SECURITY BEST PRACTICES.

Not later than 120 days after the date of the enactment of this Act, the Secretary of Homeland Security, in coordination with the Secretary of Transportation, shall issue a report containing best practices for the security of public transportation systems related to the threats from terrorism. Such report shall be developed in consultation with providers of public transportation, industry associations, public transportation employee representatives, first responders, and appropriate Federal, State, and local officials. The Secretary of Transportation shall disseminate the report to providers of public transportation, industry associations, public transportation employee representatives, and appropriate Federal, State, and local officials, the Committee on Homeland Security and the Committee on Transportation

and Infrastructure of the House of Representatives, and any other appropriate entities.

**SEC. 322. PUBLIC AWARENESS.**

Not later than 90 days after the date of the enactment of this Act, the Secretary of Transportation, after consultation with the Secretary of Homeland Security, shall develop a national plan to increase awareness of measures that the general public, public transportation passengers, and public transportation employees can take to increase public transportation security related to the threat of terrorism. Such plan shall also provide outreach to providers and employees of public transportation systems on available transportation security technologies, ongoing research and development efforts, employee training, and available Federal funding sources to improve public transportation security. Not later than 9 months after the date of the enactment of this Act, the Secretary of Transportation shall disseminate the plan to providers of public transportation, industry associations, public transportation employee representatives, appropriate Federal, State, and local officials, and other appropriate entities.

**Subtitle D—Critical Infrastructure Prioritization**

**SEC. 331. CRITICAL INFRASTRUCTURE.**

(a) COMPLETION OF PRIORITIZATION.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall complete the prioritization of the Nation's critical infrastructure according to all of the following criteria:

(1) The threat of terrorist attack, based on threat information received and analyzed by the Office of Information Analysis of the Department regarding the intentions and capabilities of terrorist groups and other potential threats to the Nation's critical infrastructure.

(2) The likelihood that an attack would cause the destruction or significant disruption of such infrastructure.

(3) The likelihood that an attack would result in substantial numbers of deaths and serious bodily injuries, a substantial adverse impact on the national economy, or a substantial adverse impact on national security.

(b) COOPERATION.—Such prioritization shall be developed in cooperation with other relevant Federal agencies, State, local, and tribal governments, and the private sector, as appropriate.

**SEC. 332. SECURITY REVIEW.**

(a) REQUIREMENT.—Not later than 9 months after the date of the enactment of this Act, the Secretary of Homeland Security, in coordination with other relevant Federal agencies, State, local, and tribal governments, and the private sector, as appropriate, shall—

(1) review existing Federal, State, local, tribal, and private sector plans for securing the critical infrastructure included in the prioritization developed under section 331;

(2) recommend changes to existing plans for securing such infrastructure, as the Secretary determines necessary; and

(3) coordinate and contribute to protective efforts of other Federal, State, local, and tribal agencies and the private sector, as appropriate.

(b) CONTENTS OF PLANS.—The recommendations made under subsection (a)(2) shall include—

(1) protective measures to secure such infrastructure, including milestones and timeframes for implementation; and

(2) to the extent practicable, performance metrics to evaluate the benefits to both national security and the Nation's economy from the implementation of such protective measures.

**SEC. 333. IMPLEMENTATION REPORT.**

(a) IN GENERAL.—Not later than 15 months after the date of the enactment of this Act, the Secretary of Homeland Security shall submit a report to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)) on the implementation of section 332. Such report shall detail—

(1) the Secretary's review and coordination of security plans under section 332; and

(2) the Secretary's oversight of the execution and effectiveness of such plans.

(b) UPDATE.—Not later than 1 year after the submission of the report under subsection (a), the Secretary shall provide an update of such report to the congressional committees described in subsection (a).

**SEC. 334. PROTECTION OF INFORMATION.**

(a) PROTECTION OF INFORMATION.—The information set forth in subsection (b) that is generated, compiled, or disseminated by the Department of Homeland Security in carrying out this subtitle—

(1) is exempt from disclosure under section 552 of title 5, United States Code; and

(2) shall not, if provided by the Department to a State or local government or government agency—

(A) be made available pursuant to any State or local law requiring disclosure of information or records;

(B) otherwise be disclosed or distributed to any person by such State or local government or government agency without the written consent of the Secretary; or

(C) be used other than for the purpose of protecting critical infrastructure or protected systems, or in furtherance of an investigation or the prosecution of a criminal act.

(b) INFORMATION COVERED.—Information referred to in subsection (a) is the following:

(1) The Secretary's prioritization of critical infrastructure pursuant to section 331, including any information upon which such prioritization was based;

(2) the Secretary's review of existing security plans for such infrastructure pursuant to section 332(a)(1);

(3) The Secretary's recommendations for changes to existing plans for securing such infrastructure pursuant to section 332(a)(2);

(4) The nature and scope of protective efforts with respect to such infrastructure under section 332(a)(3);

(5) The report and update prepared by the Secretary pursuant to section 333, including any information upon which such report and update are based.

**TITLE IV—U.S. CUSTOMS AND BORDER PROTECTION AND U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT**

**SEC. 401. ESTABLISHMENT AND IMPLEMENTATION OF COST ACCOUNTING SYSTEM; REPORTS.**

Section 334 of the Customs and Border Security Act of 2002 (19 U.S.C. 2082 note) is amended to read as follows:

**“SEC. 334. ESTABLISHMENT AND IMPLEMENTATION OF COST ACCOUNTING SYSTEM; REPORTS.**

“(a) ESTABLISHMENT AND IMPLEMENTATION; CUSTOMS AND BORDER PROTECTION.—

“(1) IN GENERAL.—Not later than September 30, 2006, the Commissioner of U.S. Customs and Border Protection shall, in accordance with the audit of the Customs Service's fiscal years 2000 and 1999 financial statements (as contained in the report of the Office of Inspector General of the Department of the Treasury issued on February 23, 2001), establish and implement a cost accounting system—

“(A) for expenses incurred in both commercial and noncommercial operations of U.S. Customs and Border Protection of the Department of Homeland Security, which sys-

tem should specifically identify and distinguish expenses incurred in commercial operations and expenses incurred in noncommercial operations; and

“(B) for expenses incurred both in administering and enforcing the customs laws of the United States and the Federal immigration laws, which system should specifically identify and distinguish expenses incurred in administering and enforcing the customs laws of the United States and the expenses incurred in administering and enforcing the Federal immigration laws.

“(2) ADDITIONAL REQUIREMENT.—The cost accounting system described in paragraph (1) shall provide for an identification of expenses based on the type of operation, the port at which the operation took place, the amount of time spent on the operation by personnel of U.S. Customs and Border Protection, and an identification of expenses based on any other appropriate classification necessary to provide for an accurate and complete accounting of expenses.

“(b) ESTABLISHMENT AND IMPLEMENTATION; IMMIGRATION AND CUSTOMS ENFORCEMENT.—

“(1) IN GENERAL.—Not later than September 30, 2006, the Assistant Secretary for U.S. Immigration and Customs Enforcement shall, in accordance with the audit of the Customs Service's fiscal years 2000 and 1999 financial statements (as contained in the report of the Office of Inspector General of the Department of the Treasury issued on February 23, 2001), establish and implement a cost accounting system—

“(A) for expenses incurred in both commercial and noncommercial operations of U.S. Immigration and Customs Enforcement of the Department of Homeland Security, which system should specifically identify and distinguish expenses incurred in commercial operations and expenses incurred in noncommercial operations;

“(B) for expenses incurred both in administering and enforcing the customs laws of the United States and the Federal immigration laws, which system should specifically identify and distinguish expenses incurred in administering and enforcing the customs laws of the United States and the expenses incurred in administering and enforcing the Federal immigration laws.

“(2) ADDITIONAL REQUIREMENT.—The cost accounting system described in paragraph (1) shall provide for an identification of expenses based on the type of operation, the amount of time spent on the operation by personnel of U.S. Immigration and Customs Enforcement, and an identification of expenses based on any other appropriate classification necessary to provide for an accurate and complete accounting of expenses.

“(c) REPORTS.—

“(1) DEVELOPMENT OF THE COST ACCOUNTING SYSTEMS.—Beginning on the date of the enactment of the Department of Homeland Security Authorization Act for Fiscal Year 2006 and ending on the date on which the cost accounting systems described in subsections (a) and (b) are fully implemented, the Commissioner of U.S. Customs and Border Protection and the Assistant Secretary for U.S. Immigration and Customs Enforcement, respectively, shall prepare and submit to Congress on a quarterly basis a report on the progress of implementing the cost accounting systems pursuant to subsections (a) and (b).

“(2) ANNUAL REPORTS.—Beginning one year after the date on which the cost accounting systems described in subsections (a) and (b) are fully implemented, the Commissioner of U.S. Customs and Border Protection and the Assistant Secretary for U.S. Immigration and Customs Enforcement, respectively, shall prepare and submit to Congress on an

annual basis a report itemizing the expenses identified in subsections (a) and (b).

“(3) OFFICE OF THE INSPECTOR GENERAL.—Not later than March 31, 2007, the Inspector General of the Department of Homeland Security shall prepare and submit to Congress a report analyzing the level of compliance with this section and detailing any additional steps that should be taken to improve compliance with this section.”.

**SEC. 402. REPORT RELATING TO ONE FACE AT THE BORDER INITIATIVE.**

Not later than September 30 of each of the calendar years 2006 and 2007, the Commissioner of U.S. Customs and Border Protection of the Department of Homeland Security shall prepare and submit to Congress a report—

(1) analyzing the effectiveness of the One Face at the Border Initiative at enhancing security and facilitating trade;

(2) providing a breakdown of the number of personnel of U.S. Customs and Border Protection that were personnel of the United States Customs Service prior to the establishment of the Department of Homeland Security, that were personnel of the Immigration and Naturalization Service prior to the establishment of the Department of Homeland Security, and that were hired after the establishment of the Department of Homeland Security;

(3) describing the training time provided to each employee on an annual basis for the various training components of the One Face at the Border Initiative; and

(4) outlining the steps taken by U.S. Customs and Border Protection to ensure that expertise is retained with respect to customs, immigration, and agriculture inspection functions under the One Face at the Border Initiative.

**SEC. 403. CUSTOMS SERVICES.**

Section 13031(e)(1) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58(e)(1)) is amended—

(1) by striking “(1) Notwithstanding section 451 of the Tariff Act of 1930 (19 U.S.C. 1451) or any other provision of law (other than paragraph (2)),” and inserting:

“(1) IN GENERAL.—

“(A) SCHEDULED FLIGHTS.—Notwithstanding section 451 of the Tariff Act of 1930 (19 U.S.C. 1451) or any other provision of law (other than subparagraph (B) and paragraph (2)),”; and

(2) by adding at the end the following:

“(B) CHARTER FLIGHTS.—If a charter air carrier (as defined in section 40102(13) of title 49, United States Code) specifically requests that customs border patrol services for passengers and their baggage be provided for a charter flight arriving after normal operating hours at a customs border patrol serviced airport and overtime funds for those services are not available, the appropriate customs border patrol officer may assign sufficient customs employees (if available) to perform any such services, which could lawfully be performed during regular hours of operation, and any overtime fees incurred in connection with such service shall be paid by the charter air carrier.”.

**SEC. 404. SENSE OF CONGRESS ON INTERPRETATION OF TEXTILE AND APPAREL PROVISIONS.**

It is the sense of Congress that U.S. Customs and Border Protection of the Department of Homeland Security should interpret, implement, and enforce the provisions of section 112 of the African Growth and Opportunity Act (19 U.S.C. 3721), section 204 of the Andean Trade Preference Act (19 U.S.C. 3203), and section 213 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703), relating to preferential treatment of textile and apparel articles, broadly in order to expand

trade by maximizing opportunities for imports of such articles from eligible beneficiary countries.

**TITLE V—MISCELLANEOUS**

**SEC. 501. BORDER SECURITY AND ENFORCEMENT COORDINATION AND OPERATIONS.**

(a) FINDINGS.—The Congress makes the following findings:

(1) As part of the creation of the Department of Homeland Security, section 442 of the Homeland Security Act of 2002 (Public Law 107-273) established a Bureau of Border Security and transferred into it all of the functions, programs, personnel, assets, and liabilities pertaining to the following programs: the Border Patrol; alien detention and removal; immigration-related intelligence, investigations, and enforcement activities; and immigration inspections at ports of entry.

(2) Title IV of the Homeland Security Act of 2002 (Public Law 107-273) also transferred to the new Department the United States Customs Service, as a distinct entity within the new Department, to further the Department's border integrity mission.

(3) Utilizing its reorganization authority provided in the Homeland Security Act of 2002, the President submitted a reorganization plan for the Department on January 30, 2003.

(4) This plan merged the customs and immigration border inspection and patrol functions, along with agricultural inspections functions, into a new entity called United States Customs and Border Protection.

(5) The plan also combined the customs and immigration enforcement agents, as well as the Office of Detention and Removal Operations, the Office of Federal Protective Service, the Office of Federal Air Marshal Service, and the Office of Intelligence, into another new entity called United States Immigration and Customs Enforcement.

(6) The President's January 30, 2003, reorganization plan did not explain the reasons for separating immigration inspection and border patrol functions from other immigration-related enforcement functions, or to combine immigration-related enforcement functions with customs and other functions, contrary to the design of the Bureau of Border Security as prescribed by the Congress in section 442 of the Homeland Security Act of 2002.

(7) United States Immigration and Customs Enforcement has faced major budgetary challenges that are, in part, attributable to the inexact division of resources upon the separation of immigration functions. These budget shortfalls have forced United States Immigration and Customs Enforcement to impose hiring freezes and to release aliens that otherwise should be detained.

(b) REPORT.—

(1) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Homeland Security shall review and evaluate the current organizational structure of the Department of Homeland Security established by the President's January 30, 2003, reorganization plan and submit a report of findings and recommendations to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)).

(2) CONTENTS OF REPORT.—The report shall include—

(A) a description of the rationale for, and any benefits of, the current organizational division of United States Immigration and Customs Enforcement and United States Customs and Border Protection, with respect to the Department's immigration and customs missions;

(B) a description of the organization, missions, operations, and policies of United

States Customs and Border Protection and United States Immigration and Customs Enforcement, and areas of unnecessary overlap or operational gaps among and between these missions;

(C) a description of the rationale for, and any benefits of, the current organizational combination of immigration-related enforcement functions with customs and other functions;

(D) an analysis of alternative organizational structures that could provide a more effective way to deliver maximum efficiencies and mission success;

(E) a description of the current role of the Directorate of Border and Transportation Security with respect to providing adequate direction and oversight of the two agencies, and whether this management structure is still necessary;

(F) an analysis of whether the Federal Air Marshals and the Federal Protective Service are properly located within the Department within United States Immigration and Customs Enforcement;

(G) the proper placement and functions of a specialized investigative and patrol unit operating at the southwest border on the Tohono O'odham Nation, known as the Shadow Wolves;

(H) the potential costs of reorganization, including financial, programmatic, and other costs, to the Department; and

(I) recommendations for correcting the operational and administrative problems that have been caused by the division of United States Custom and Border Protection and United States Immigration and Customs Enforcement and by the combination of immigration-related enforcement functions with customs and other functions in both entities, including any appropriate reorganization plans.

**SEC. 502. GAO REPORT TO CONGRESS.**

(a) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)) a report that sets forth—

(1) an assessment of the effectiveness of the organizational and management structure of the Department of Homeland Security in meeting the Department's missions as set forth in section 101(b)(1) of the Homeland Security Act of 2002 (6 U.S.C. 111(b)(1)); and

(2) recommendations to facilitate and improve the organization and management of the Department to best meet those missions.

(b) CYBERSECURITY ASSESSMENT.—Not later than one year after the date of the enactment of this Act, the Comptroller General shall submit a report to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)) that sets forth an assessment of the effectiveness of the efforts of the Assistant Secretary for Cybersecurity to fulfill the statutory responsibilities of that office.

**SEC. 503. PLAN TO REDUCE WAIT TIMES.**

Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall develop a plan—

(1) to improve the operational efficiency of security screening checkpoints at commercial service airports so that average peak waiting periods at such checkpoints do not exceed 20 minutes; and

(2) to ensure that there are no significant disparities in immigration and customs passenger processing times among airports that serve as international gateways.

**SEC. 504. DENIAL OF TRANSPORTATION SECURITY CARD.**

Section 70105(c) of title 46, United States Code, is amended—

(1) in paragraph (3) by inserting before the period “before an administrative law judge”; and

(2) by adding at the end the following:

“(5) In making a determination under paragraph (1)(D) that an individual poses a terrorism security risk, the Secretary shall not solely consider a felony conviction if—

“(A) that felony occurred more than 7 years prior to the date of the Secretary’s determination; and

“(B) the felony was not related to terrorism (as that term is defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)).”

**SEC. 505. TRANSFER OF EXISTING CUSTOMS PATROL OFFICERS UNIT AND ESTABLISHMENT OF NEW CPO UNITS IN THE BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT.**

(a) TRANSFER OF EXISTING UNIT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall transfer to the Bureau of Immigration and Customs Enforcement all functions (including the personnel, assets, and obligations held by or available in connection with such functions) of the Customs Patrol Officers unit of the Bureau of Customs and Border Protection operating on the Tohono O’odham Indian reservation (commonly known as the “Shadow Wolves” unit).

(b) ESTABLISHMENT OF NEW UNITS.—The Secretary is authorized to establish within the Bureau of Immigration and Customs Enforcement additional units of Customs Patrol Officers in accordance with this section.

(c) DUTIES.—The Customs Patrol Officer unit transferred pursuant to subsection (a) and the additional units established pursuant to subsection (b) shall be responsible for the prevention of the smuggling of narcotics, weapons of mass destruction, and other contraband, and the illegal trafficking of persons, on Indian lands.

(d) BASIC PAY FOR JOURNEYMAN OFFICERS.—A Customs Patrol Officer in a unit described in this section shall receive equivalent pay as a special agent with similar competencies within the Bureau of Immigration and Customs Enforcement pursuant to the Department of Homeland Security’s human resources management system established under section 841 of the Homeland Security Act (6 U.S.C. 411).

(e) SUPERVISORS.—Each unit described under this section shall be supervised by a Chief Customs Patrol Officer, who shall have the same rank as a resident agent-in-charge of the Office of Investigations.

**SEC. 506. DATA COLLECTION ON USE OF IMMIGRATION CONSULTANTS.**

The Secretary of Homeland Security shall establish procedures to record information on applications for an immigration benefit submitted by an alien with respect to which—

(1) the alien states that the alien used the services of an immigration consultant; or

(2) a Department employee or official investigating facts alleged in the application, or adjudicating the application, suspects that the alien used the services of an immigration consultant.

**SEC. 507. OFFICE FOR STATE AND LOCAL GOVERNMENT COORDINATION.**

The Homeland Security Act of 2002 is amended—

(1) in section 801—

(A) in the section heading, by striking “STATE AND LOCAL” and inserting “STATE, LOCAL, AND TRIBAL”;

(B) in subsection (a), by striking “State and Local” and inserting “State, Local, and Tribal”; and

(C) in subsection (b), by striking “State and local” each place it appears and inserting “State, local, and tribal”; and

(2) in section 1(b) in the table of contents by striking the item relating to section 801 and inserting the following:

“Sec. 801. Office for State, Local, and Tribal Government Coordination.”.

**SEC. 508. AUTHORITY OF OTHER FEDERAL AGENCIES UNAFFECTED.**

Except to the extent explicitly provided in section 216, nothing in this Act shall affect the authority under statute, regulation, or Executive order of other Federal agencies than the Department of Homeland Security.

The Acting CHAIRMAN. No amendment to that amendment is in order except those printed in part B of the report. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment and shall not be subject to a demand for division of the question.

It is now in order to consider amendment No. 1 printed in part B of House Report 109-84.

**AMENDMENT NO. 1 OFFERED BY MR. MEEK OF FLORIDA**

Mr. MEEK of Florida. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 1 offered by Mr. MEEK of Florida:

Page 7, after line 6, insert the following new section:

**SEC. 109. AUTHORIZATION FOR OFFICE OF INSPECTOR GENERAL.**

Of the amount authorized under section 101, there is authorized to be appropriated for the Office of the Inspector General of the Department of Homeland Security for fiscal year 2006, \$200,000,000.

The Acting CHAIRMAN. Pursuant to House Resolution 283, the gentleman from Florida (Mr. MEEK) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Florida (Mr. MEEK).

(Mr. MEEK of Florida asked and was given permission to revise and extend his remarks.)

Mr. MEEK of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment is an amendment that will increase the amount of funding to the Department of Homeland Security Inspector General’s office by \$200 million.

Mr. Chairman, this is so very, very important due to the fact that the Department of Homeland Security is the largest agency in the world right now, not only the Federal Government. It has 22 legacy agencies that had problems before the Department of Homeland Security was created. If it were not for the fact that they are in charge, this Department is in charge of protecting the homeland and making sure that all of the 9/11 Commission recommendations are implemented properly and also making sure that they protect our borders and our airways.

The inspector general really needs the additional funding and staffing to be able to keep up with the growing Department of Homeland Security. The spending on contracts alone was \$6.1 billion in 2004, and in 2005 it moved up to \$10.9 billion. That is a 40 percent increase in 1 year. It is literally impossible for the Inspector General’s office to keep up not only with the policing of the Department but to ensure that the mission’s integrity is followed through on.

Mr. Chairman, I yield such time as he may consume to the gentleman from Mississippi (Mr. THOMPSON).

Mr. THOMPSON of Mississippi. Mr. Chairman, I now rise in strong support of the amendment offered by the gentleman from Florida (Mr. MEEK), my Homeland Security Committee colleague, the ranking member on the Management, Integration and Oversight Subcommittee.

Mr. Chairman, we have heard testimony time and time again on our committee about the underfunding of the office of Inspector General. We had committee testimony from three Inspector Generals indicating that the office was underfunded.

Just to show you what they found in recent reviews, we found that the Department spent \$31,000 on rubber plants. We also found that they spent \$500,000 on an awards ceremony. Clearly these expenditures are out of line and should not have been.

Testimony also revealed that had we had a more robust Office of Inspector General, we could do more oversight. So the gentleman from Florida’s (Mr. MEEK) amendment is in order. It is something that we should do. If we look at other agencies, this Department is woefully underfunded. And for that reason I rise in support of the amendment.

Mr. COX. Mr. Chairman, I rise in opposition to the amendment, and I yield myself such time as I may consume.

Mr. Chairman, first I want to compliment the gentleman from Florida (Mr. MEEK), who is a very able and well-informed Member of the committee and serves as the ranking member on the committee on oversight, which has particular responsibilities in this area. I support his view of the importance of the Inspector General’s function inside the Department of Homeland Security and of the mission of fighting waste, fraud, and abuse in the Federal Government, and specifically in the Department of Homeland Security, because it is a critical mission.

The reason, however, that I cannot support the amendment is different than what I have just said. I agree with the gentleman from Florida (Mr. MEEK) about the Inspector General’s function and fighting waste, fraud, and abuse. First, I cannot support it because the authorization of \$200 million, which is a tripling of the current budget, has no offset. It is therefore a budget buster.

As I stated in general debate, what has characterized our efforts on the underlying bill is that we are operating within the parameters of the House-passed budget, and specifically the allocation for the overall Department of Homeland Security of \$32 billion.

When we make changes in the priorities in the bill by doing something else that is good, we have got to find somewhere to take the money from, and this amendment simply does not do it. It pulls the money from thin air.

Second, the new level of funding that this would establish, the enormous increase from \$83 million at present to \$200 million, would create an IG office and staff and administration virtually identical in size to that which exists in the largest Cabinet Department, the Department of Defense, even though DOD's budget and empire and responsibilities are 10 times larger than the Department of Homeland Security. So there is a problem of scale.

Third, notwithstanding the testimony, correctly cited by my colleague, the gentleman from Mississippi (Mr. THOMPSON), of former IGs about their experience and their need for more staff, the current IG has more staff.

The staffing level of the Office of Inspector General already has grown significantly over the last 3 years from 475 full-time employees in fiscal year 2004, to 502 in fiscal 2005, to 540 in fiscal year 2006.

And for that reason, neither the administration nor the Inspector General himself has asked for this increase that is before us in this amendment.

For all of these reasons, I regretfully oppose the amendment offered by the gentleman from Florida (Mr. MEEK).

Mr. Chairman, I reserve the balance of my time.

Mr. MEEK of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am glad that the chairman pointed out the good points about this amendment and also maybe pointed out a few other issues as it relates to the budget issue.

This is the Homeland Security Authorization bill, not the appropriations bill. We are authorizing the Department, hopefully, to be able to move towards this \$200 million to be able to take care of some of the issues that we hear about and read about in newspapers daily, about mismanagement, about contractors not following through on their obligation to the Federal Government.

I mean, it is not fine if it was just wasteful spending, but this is the protection of the homeland. And when we look at accountability and protection, I think it is important that we move in this direction.

I would also like to argue the fact that the Government Accountability Office, in report after report of issues and unmet mandates by the Department, reports by the Department to help this Congress make wise decisions are backlogged in the hundreds. And I

think it is important that we as the oversight committee do as much as we can to bring about the kind of accountability that the American people deserve and that this Congress hopes to get.

Mr. Chairman, I reserve the balance of my time.

Mr. COX. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I simply want to commend the gentleman from Florida for his leadership on oversight and investigation. I will commit to continuing to work with him on the full committee and to make sure that the IG gets the resources that he needs.

Mr. Chairman, I yield back the balance of my time.

Mr. MEEK of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to just close by saying that this amendment is just a simple accountability amendment. Yes, I know it mirrors the Department of Defense. But the Department of Defense has the duty to protect not only Americans but also make sure that our men and women that are in harm's way are protected.

The Department of Homeland Security has a similar responsibility of making sure that we protect the homeland and make America safe and sound for future generations.

So, Mr. Chairman, I would urge the Members to vote in the affirmative for this amendment.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. MEEK).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. MEEK of Florida. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Florida (Mr. MEEK) will be postponed.

It is now in order to consider amendment No. 2 printed in part B of House Report 109-84.

AMENDMENT NO. 2 OFFERED BY MR. COX

Mr. COX. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 2 offered by Mr. COX:

Page 7, after line 6, insert the following (and amend the table of contents accordingly):

**SEC. 109. AUTHORIZATION OF APPROPRIATIONS FOR TRAINING OF STATE AND LOCAL PERSONNEL PERFORMING IMMIGRATION FUNCTIONS.**

(a) IN GENERAL.—To carry out subsection (b), from amounts authorized under section 101, there are authorized to be appropriated \$40,000,000 for fiscal year 2006, to remain available until September 30, 2007.

(b) USE OF FUNDS.—From amounts made available under subsection (a), the Secretary of Homeland Security may reimburse a State or political subdivision for the expenses described in subsection (d).

(c) ELIGIBLE RECIPIENTS.—A State, or a political subdivision of a State, is eligible for reimbursement under subsection (b) if the State or political subdivision—

(1) has entered into a written agreement described in section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)) under which certain officers or employees of the State or subdivision may be authorized to perform certain functions of an immigration officer; and

(2) desires such officers or employees to receive training from the Department of Homeland Security in relation to such functions.

(d) EXPENSES.—The expenses described in this subsection are actual and necessary expenses incurred by the State or political subdivision in order to permit the training described in subsection (c)(2) to take place, including expenses such as the following:

(1) Costs of travel and transportation to locations where training is provided, including mileage and related allowances for the use of a privately owned automobile.

(2) Subsistence consisting of lodging, meals, and other necessary expenses for the personal sustenance and comfort of a person required to travel away from the person's regular post of duty in order to participate in the training.

(3) A per diem allowance paid instead of actual expenses for subsistence and fees or tips to porters and stewards.

(4) Costs of securing temporary replacements for personnel traveling to, and participating in, the training.

The Acting CHAIRMAN. Pursuant to House Resolution 283, the gentleman from California (Mr. COX) and the gentleman from Mississippi (Mr. THOMPSON) each will control 10 minutes.

The Chair recognizes the gentleman from California (Mr. COX).

Mr. COX. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the amendment. I want to take this opportunity to thank the chairman of the Judiciary Committee, the gentleman from Wisconsin (Mr. SENSENBRENNER) with whom I am offering this amendment.

Our amendment will authorize funds to reimburse States for training costs that they incur if they voluntarily participate in the training of their law enforcement agents for the purposes of enforcing our Nation's immigration laws.

In 1996, I authored section 133 of the Illegal Immigration Reform and Immigrant Responsibility Act. That section is now codified as section 287(G) of the INA. It provided and continues to provide as a piece of our permanent legislation local and State law enforcement officers with the option of being trained and deputized by the Federal Government so that they can assist with the enforcement of our immigration laws in the pursuit of their normal duties of protecting citizens from crime.

Over the last 8 years, slowly but surely, we have learned how to use this facility so that the Department has entered into several memoranda of understanding, for example, with the State

of Florida in September 2002, the State of Alabama in September of 2003, and very recently the County of Los Angeles in pursuit of specific authorization by the elected officials of the County of Los Angeles in February of 2005.

So the reason that we are offering this amendment today is that inasmuch as this is a purely voluntary program, offering aid to State and local law enforcement that wants it that is asking for it and is volunteering for it, they should be reimbursed for their costs as first responders of helping us enforce Federal law and achieving the national mission of protecting our borders.

We need to capitalize on existing law enforcement resources by ensuring that State and local law enforcement have the opportunity to receive this training that will help them to protect their local communities.

In turn, those enforcement efforts will help protect the Nation from threats of terrorism. I want to emphasize just a few things. First, this amendment does not alter the fundamental voluntary nature of the participation of States and Federal Government. So no State and no subdivision of the State that does not wish in any way to be involved in the enforcement of our immigration laws will be required to do so, either under existing law or under this fund provision.

Second, the purpose of the law, of the training, and of the reimbursement is to focus on crime and on people who are not only unlawfully in this country but who are committing other crimes, in particular felonies.

Third, the training that is provided by the Federal Government specifically includes training in the areas of civil rights and the prevention of profiling.

□ 1345

I want to reiterate that this amendment does not change or alter any authority that already exists in law. It merely provides funding for States for their first responders who should be reimbursed for this training.

I fully support this program, and I urge my colleagues to support this important amendment.

Mr. Chairman, I reserve my time.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I encourage Members to vote "no" on the Cox-Sensenbrenner amendment authorizing \$40 million to be appropriated from the fiscal year 2006 budget to reimburse States and locals for the costs associated with having State and local law enforcement trained and certified by DHS' Immigration and Customs Enforcement to enforce immigration laws.

Mr. Chairman, plain and simple, we are shirking our responsibility as a government by passing this mission on to local authority. If we have the responsibility for immigration and immigration enforcement, we should do our job. We should appropriate the money

to the respective department, whatever the requirements are, rather than passing the buck to local law enforcement. Local law enforcement clearly will tell my colleagues we have enough on our plate now, do not give us further responsibility by giving us immigration.

So, Mr. Chairman, while I understand my colleague's reasoning behind the amendment, it is clearly something that allows us to put this responsibility on someone else.

I guarantee my colleagues, when we do this, it will come with another program in the not-too-distant future. We will give other responsibilities to the local level.

I am a former mayor and a former county supervisor. Knowing law enforcement at the personal level, I am convinced that we have more than enough to do at the local level. The Federal Government should do what it is required to do on immigration. Let us not pass the buck. Let us make sure that we take the immigration responsibility and retain it at the Federal level.

That is why I urge a "no" vote on this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. COX. Mr. Chairman, as my colleagues know, this amendment is offered jointly by myself as chairman of the Committee on Homeland Security and the gentleman from Wisconsin (Mr. SENSENBRENNER) as chairman of the Committee on the Judiciary. I yield 3 minutes to the gentleman from Iowa (Mr. KING), a member of the Committee on the Judiciary.

Mr. KING of Iowa. Mr. Chairman, I thank the gentleman, and particularly the gentleman from California (Chairman COX) for yielding me time and for working and participating on this amendment.

I rise today in support of the Cox-Sensenbrenner amendment which authorizes funding to train State and local law enforcement officers to perform immigration officer functions.

I submitted a nearly identical amendment to the Committee on Rules because I believe this amendment provides the help our local law enforcement needs to enforce our Nation's immigration laws and keep our citizens safe. I am proud to stand today with the gentleman from Wisconsin (Mr. SENSENBRENNER), my chairman, and the author of the underlying bill, the gentleman from California (Mr. COX), the Committee on Homeland Security chairman, to urge my colleagues to support this funding.

Under section 287(g) of the Immigration and Nationality Act, State and local governments can enter into cooperative agreements with the Department of Homeland Security to train on Federal immigration law and be reimbursed for that training. This amendment would authorize the funds needed for that reimbursement for States all across this Nation.

There are two reasons to encourage local police to assist in enforcing im-

migration laws. First, while there are an estimated 8 to 10 million illegal aliens in the United States, ICE currently has only about 2,000 special agents to identify and remove them. Second, local officers come into contact with many of those illegal aliens, especially criminal aliens, daily in performing their duties. So it is a practical marriage.

The House Committee on the Judiciary has promoted and supported local immigration enforcement since section 287(g) was added to the INA in 1996. In January of 2002, the Committee on the Judiciary pressed the Attorney General to accept local assistance in enforcing the immigration laws. As the then-Immigration Subcommittee chairman stated, "In light of the tragic events of September 11, 2001, and the growing problem of illegal immigration into the United States, this is perhaps the most pressing time for the Department of Justice to consider utilizing the power" conveyed under section 287(g).

The Federal Government subsequently authorized officers to perform immigration enforcement functions with Florida and Alabama.

The Committee on the Judiciary has revisited this issue in evaluating interior immigration enforcement, in examining sanctuary policies in a number of major cities, and in assessing the inherent authority of local police to enforce the immigration laws.

This amendment is an improvement over a narrow provision struck from H.R. 1817 during the markup of the legislation on May 12. That narrowly tailored provision applied only to States with a location 30 miles from a border or coastline. In order to truly protect our citizens from those who have entered our country illegally to do them harm, this policy must be applied nationwide.

As an April 2005 Subcommittee on Immigration, Border Security, and Claims hearing revealed, alien gang violence has followed immigration patterns from the ports and borders into the communities of the interior United States. Similarly, new reports indicate that local police far from the nearest national border confront alien criminals and smugglers on a daily basis.

So in summary, Mr. Chairman, I appreciate the opportunity to speak in support of this amendment that addresses the necessary cooperation between local law enforcement, both local and State, and the Federal educational support so that we can build that level of cooperation.

Mr. THOMPSON of Mississippi. Mr. Chairman, I reserve the balance of my time for closing.

Mr. COX. Mr. Chairman, may I inquire how much time remains on this side?

The Acting CHAIRMAN (Mr. COLE of Oklahoma). The gentleman from California (Mr. COX) has 3½ minutes remaining.

Mr. COX. Mr. Chairman, I yield 2 minutes to the gentleman from Alabama (Mr. ROGERS).

Mr. ROGERS of Alabama. Mr. Chairman, I rise in strong support of the Cox-Sensenbrenner amendment.

I would like to associate myself with the comments of the gentleman from California (Chairman COX) and agree this proposal would help local law enforcement better enforce our Nation's immigration laws.

Two years ago, 21 Alabama State troopers completed ICE's Federal 5-week training course. Since that time, these State troopers have detained 128 illegal aliens as a result of routine traffic stops. For example, this January of 2004, two individuals were stopped by an Alabama State trooper for a traffic violation. Because the trooper was trained on how to spot false immigration documents, the two were detained. In the course of the investigation, the men were found guilty of attempting to smuggle over \$435,000 in U.S. currency out of the country.

Likewise, in March of this year, two other individuals were stopped by an Alabama State trooper for a traffic violation. The driver identified was in possession of a U.S. passport, and the passenger was identified as a citizen of Mexico illegally present in the United States. A consensual search of the vehicle found nine firearms and ammunition hidden under the bed liner of the truck. Both were taken into ICE's custody for prosecution.

It is important to note that all officers enrolled in this program received extensive training in cultural sensitivity and civil rights procedure.

Contrary to the fears of the program's opponents, ICE has received no complaints of intimidation, harassment or profiling. In fact, Alabama law enforcement officials have reached out to its immigrant community to help educate them on the law.

Overall, the program is an essential force multiplier and helps ICE officials better enforce our Nation's immigration laws.

I would also like to recognize the work of the gentleman from Texas (Mr. McCaul), a member of our committee, and all that he has done on this committee.

I thank the chairman for his leadership, and I ask for the House's support of this amendment.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 4½ minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), a member of the Committee on Homeland Security.

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the distinguished gentleman from Mississippi for yielding me time.

I rise to acknowledge the good intentions of the effort offered by the proponent of this amendment, but I also raise a number of red flags that are not answered by this amendment. In fact, it creates a whole new obligation for the Federal Government that does not

address the Federal Government's responsibility for immigration enforcement and reform.

Frankly, I wish we were debating \$40 million plus and more to fully fund the first responders bill or the first responders efforts to ensure that fire persons and police persons are fully funded for the work that they have to do to secure the homeland.

I would prefer an amendment that would fully fund the 2,000 plus every year border security protection agents that the 9/11 Commission recommended.

I would prefer this amendment to support the 800 a year ICE agents, the Immigration and Customs Enforcement officers who are at a measly 123 per year and do not have full complement to do their work.

All this amendment does is to set up an incentive that will not last and to get local communities dependent upon resources and place them in the line of fire to be doing the enforcement of immigration laws that the Federal Government should actually be doing. This gives them the false hope of memorandums of understanding that year after year will not be fully funded.

I am delighted that we are having this debate. At least we separate from the other body that wants to shut down the democratic process of debate by eliminating the filibuster. I will not do that today, but I think that we have an opportunity here to put forward a homeland security legislative initiative that really responds to the needs of enforcing immigration.

Authorizing funding, as I indicated, would be a deceptive encouragement to States to enter into MOUs. The history of the State Criminal Alien Assistance Program, however, makes it clear that such funding is unlikely. That program was established by Congress to reimburse State and local governments for costs incurred when incarcerating undocumented aliens convicted of crimes.

According to the National Association of Counties, State and local governments receive just 40 cents for every dollar they spend housing and processing such inmates. Meaning, Mr. Chairman, it has not worked.

I see the very same pathway for this limited funding. Really, what we should be doing is giving the States \$100 million plus that we have now burdened them with in the unfunded mandate of the REAL ID bill. That bill, that is not funded, is going to create the greatest amount of havoc for untrained individuals dealing with this. It is not the law enforcement officers' ground. It is the Department of Public Safety that is going to have to characterize and create something we call a national ID card.

It also creates a false sense of public safety and it harms public safety. The false promise of funding would encourage some agencies to enter into MOUs, but expanded State and local enforcement of Federal immigration laws would harm public safety.

When police become immigration agents, the trust and confidence of immigrants and their communities are shaken. Word spreads like wildfire, and those very same immigrants, legal and nonlegal, if you will, will stifle, cut out the work of helping local law enforcement solve crime. We know that immigrants, documented and undocumented, are preyed upon, are victims, and they are victims and they are fearful, and they are in the midst of crimes being perpetrated against them and their neighbors. They have the answers and they will not give the answers and we will not solve crime in many of our communities because they believe that the local law enforcement is there to harm them and not there to help them.

I believe one frustration they run into is the fact that the Department of Homeland Security does not always respond to the request for assistance when people are believed to be undocumented. That is really where our problem is.

The other problem I might say is that when they arrest these individuals, we do not have the adjudicators to process them. So there is an enormous backlog. I tried on the floor of the House to offer an appropriations increase to get us 300 adjudicators, an amendment of myself and the gentleman from Michigan (Mr. CONYERS). That did not prevail. So, in actuality, this is a false effort, giving \$40 million with good intentions, but it really does nothing to help local law enforcement.

Let us fully fund them for the work they have to do, fully fund the immigration law enforcement for the work they have to do, and let us do our work as a Federal Government in securing the homeland and providing immigration enforcement.

Mr. Chairman, this amendment to the Department of Homeland Security Authorization bill would authorize Federal funding for State and local police agencies who enter into MOUs with ICE to enforce immigration laws.

Based on earlier versions of the amendment as it was proposed during committee consideration of the bill, it appears that only training costs would be reimbursed. Ongoing personnel and administrative costs incurred by law enforcement agencies that enter into MOUs would not.

This amendment is inadequate for a variety of reasons:

#### FALSE INCENTIVE

Authorizing funding would be a deceptive encouragement to States to enter into MOUs. The history of the State Criminal Alien Assistance Program (SCAAP), however, makes it clear that such funding is unlikely. SCAAAP was established by Congress to reimburse State and local governments for costs incurred when incarcerating undocumented aliens convicted of crimes.

According to the National Association of Counties, State and local governments received just 40 cents for every dollar they spend housing and processing such inmates. Also, President Bush has consistently attempted to eliminate the program entirely in his annual budget requests.

If Congress and the White House do not support full funding to reimburse State and

local governments for costs incurred during criminal enforcement activities, it is highly unlikely that they will appropriate the monies needed to fund State and local agencies that engage in civil immigration law enforcement.

Not only is appropriation of this money less than certain, but the money covers a very small portion of the costs incurred by State and local agencies entering into MOUs. It does not fund ongoing salary and administrative costs for police as they take on new demands related to immigration enforcement. Indeed, if the drafters did want to appropriate this money, it would make more sense for them to fund hiring and training of additional Federal agents.

#### HARMS PUBLIC SAFETY

The false promise of funding would encourage some agencies to enter into MOUs. But expanded State and local enforcement of Federal immigration laws would harm public safety.

When police become immigration agents, the trust and confidence of immigrants and their communities are shaken. Word spreads like wildfire that any contact with police could mean deportation for themselves or their family members. Immigrants decline to report crimes or suspicious activity, and criminals see them as easy prey, making our streets less safe as a result.

Experience shows that this fear extends not only to contact with police, but also to the fire department, hospitals, and the public school system.

#### NOT THEIR ROLE

State and local law enforcement's priorities are and should be stopping, investigating, and punishing criminal activity. State and local police already have all the tools they need to work with Federal agencies, including ICE, on joint operations and investigations. They can also detain criminals who are also immigration law violators and contact ICE to come pick them up. They do this every day.

One frustration they run into is the fact that DHS doesn't always respond to their requests for assistance with people believed to be undocumented. DHS also has its priorities, and has focused first on terrorists and criminals. Undocumented workers fall further down the list. This amendment does nothing to ensure that agencies entering into MOUs will actually see responses from ICE as they come across people they think could be undocumented and attempt to sort it out.

Obviously the broken immigration system and lack of consistent enforcement cannot stand. But asking State and local police agencies to fill in where the Federal Government has failed is a cheap and false "solution."

#### NOT THE SOLUTION

The answer is not asking State and local governments to make up for the failures of the feds. The answer is modernizing the immigration system so that well-intentioned migrants can enter to work and reunite with their families legally. When the current undocumented population is brought out of the shadows for a proper vetting and gets on a path to legal status, our enforcement resources will be better trained on the smugglers and fake document rings, the drug runners and violent criminals, and the terrorists who might manipulate our system.

As President Bush said, once immigrants have legal papers, "Law enforcement will face fewer problems with undocumented workers,

and will be better able to focus on the true threats to our Nation from criminals and terrorists. . . . Temporary workers will be able to establish their identities by obtaining the legal documents we all take for granted. And they will be able to talk openly to authorities, to report crimes when they are harmed, without the fear of being deported" (White House policy announcement, 01/07/2003).

These reforms are the real solution.

Mr. COX. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Texas (Mr. McCaul).

Mr. McCaul of Texas. Mr. Chairman, I thank the chairman for yielding me time and for his hard work on this amendment which is vital to assisting State and local law enforcement to participate in this very important program. I was proud to offer the base amendment at the committee level, along with my friend from Alabama.

An estimated 8- to 12 million undocumented aliens are here in the United States, and Border Patrol estimates that for every one that is apprehended at the border up to three others enter our Nation. In the post-9/11 world, these figures are no longer just an immigration problem but, rather, one of national security.

□ 1400

My experience on border security is that our Federal law enforcement officers are being stretched too thin and asked to do too much and need all the help available. With this amendment, State and local officers can be trained to be qualified to perform the essential functions of an immigration officer, including investigation, apprehension, and detention of not only undocumented aliens but potential criminals and terrorists.

The \$40 million to States who qualify will serve as a needed force multiplier to our border patrol, border inspectors, and ICE investigators; and it is purely a voluntary program.

If we have learned anything from the tragedy of September 11, it is that we must work together. No longer can we afford the turf battles between State, Federal, and local law enforcement. As the head of the Joint Terrorism Task Force back in my State, the State of Texas, I can tell you that State and locals participate in the Joint Terrorism task forces. This will give them the tools and the training necessary to enforce not only our terrorist laws but the immigration laws that so often overlap into the Federal terrorist criminal penalties.

I urge my colleagues to support this amendment. It will bring law enforcement together in a unified front to protect our national security.

Mr. THOMPSON of Mississippi. Mr. Chairman, may I inquire as to how much time remains.

The Acting CHAIRMAN (Mr. COLE of Oklahoma). The gentleman from Mississippi has 3½ minutes left on his side.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 1½ minutes to the gentleman from Florida (Mr. MEEK), a member of the committee.

Mr. MEEK of Florida. Mr. Chairman, we argued this amendment in committee, and I have some concerns about it because I used to be a State trooper in Florida. I know exactly what happens when we feel that we are doing something, but we are really not doing anything.

With all due respect to my colleagues on the other side and their hard work, which I join them in the theory of making sure that we reimburse local law enforcement agencies that have invested time in doing what is a Federal agency responsibility, but the 9/11 report called for more ICE officers, it called for more Custom border protection officers, and it called for a Federal agency, like the Department of Homeland Security, to have what it needs to carry out its duties.

I must point out to the Members at line 10 on this particular amendment, on the front page, page 7 here of the overall bill, it says that the Secretary of Homeland Security "may" reimburse State and political subdivisions for the expenses that are carried out in this subsection.

Now, I am going to tell you right now this is the kind of language, and I want to make sure the law enforcement communities understand this, that this is not a guaranteed reimbursement. We are not guaranteeing them that they are going to be reimbursed. So I want to make sure the Members understand that wholeheartedly.

I understand the intent of this amendment, but I believe that if we are going to run, let us run. If we are going to walk, let us walk. But let us not jog on an issue such as this. I believe that that language should say "shall" if we are going to come to the floor and say we are going to reimburse local subdivisions and State law enforcement agencies.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield myself such time as I may consume in closing.

(Mr. THOMPSON of Mississippi asked and was given permission to revise and extend his remarks.)

Mr. THOMPSON of Mississippi. Mr. Chairman, as I have already indicated from my opposition to this amendment, we are moving toward making States and localities assume a Federal responsibility. This is not in the best interest of homeland security. We have certain things as a Federal Government that we should do. Immigration protection is one of those items.

I understand from my chairman that he is interested in trying to help, but at some point we have to do our job. What we need to do is provide the resources to the Department to make sure that the Department can do its job, not pass the buck to another State.

You have heard from my colleague who used to be a State trooper who talks about the difficulties in crossing the lines. I ask my colleague to consider that, but I also ask opposition to the amendment.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN (Mr. BONNER). All time has expired.

The question is on the amendment offered by the gentleman from California (Mr. Cox).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 3 printed in part B of House Report 109-84.

AMENDMENT NO. 3 OFFERED BY MR. KENNEDY OF RHODE ISLAND

Mr. KENNEDY of Rhode Island. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 3 offered by Mr. KENNEDY of Rhode Island:

At the end of the matter proposed to be added as section 205 of the Homeland Security Act of 2002 by section 223(a)(2) of the bill strike the closing quotation marks and the final period and insert the following:

“(c) CONSULTATION.—In carrying out this section, the Under Secretary shall consult with the Homeland Security Center of Excellence for Behavioral and Social Research on Terrorism and Counter-Terrorism and with such other academic research centers with expertise in risk communications as the Under Secretary considers appropriate.”

The Acting CHAIRMAN. Pursuant to House Resolution 283, the gentleman from Rhode Island (Mr. KENNEDY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Rhode Island (Mr. KENNEDY).

Mr. KENNEDY of Rhode Island. Mr. Chairman, I yield myself such time as I may consume.

Terrorism is a psychological warfare. Terrorists try to manipulate us and change our behavior by creating fear, uncertainty, and division in society. To succeed, the terrorists do not necessarily need to land an attack. Threats of an attack and failed attacks can still create fear, uncertainty, and division; and that is the terrorists' goal.

The key battleground in the war on terrorism, therefore, is in the minds of the American public. And how the government communicates about homeland security is central to how the public responds. I would argue that the communications record of the Department of Homeland Security has been an abysmal failure. The duct tape and plastic sheeting fiasco speaks for itself. The color-coded system does not work well and has undermined the Department's credibility.

The gentleman from California (Mr. Cox), chairman of the Committee on Homeland Security, and I have talked about this issue over the last year, and I know he is very concerned about it. I am grateful that the committee has instructed the Department of Homeland Security in this bill to fix the problems with the color-coded terror alert system.

As the bill requires, any terror alert system must give people and organiza-

tions some indication about what steps they must take to improve their own security and assist in the Nation's security. It also requires that the alert be targeted at specific populations or regions, when possible.

What we have now is a system that tells us to be scared. That is it. We do not find out any information about the nature of the threat. We have no idea what we can do to make ourselves more secure. And this kind of vague warning inadvertently plays to the hands of the terrorists who want us to be afraid.

On the other hand, the American public possesses a great resilience and strength, and good risk communication strategies can tap into and even amplify those assets. In other words, risk communications is crucial to homeland security because it can be the difference between hardening the target and making it more vulnerable.

I have been working on these issues for several years now, and I can tell you that there is a wealth of knowledge out there about how the government should communicate in emergencies about threats. This amendment would simply require that in replacing the inadequate system we have now, that the Department draw on this expertise and research in order to help the government in its risk communications.

In particular, I think it is critical that the Department consult with the Center of Excellence in Behavioral and Social Research in Terrorism and Counterterrorism, which is already funded by the Department. We are already paying for this research, and we should make sure it is realized.

I want to thank the chairman of the Committee on Homeland Security and the ranking member, the gentleman from Mississippi (Mr. THOMPSON), for agreeing to this amendment and for their leadership. I also want to extend special thanks to Dr. Mike Barnett from my office, who has been indispensable to me in crafting this legislation.

Mr. Chairman, I will just close by saying that this amendment is not controversial, it has no cost, and it is very simple: When it comes to homeland security, communications have a lasting impact. So let us make sure we get it right by tapping the best experts.

Mr. COX. Mr. Chairman, will the gentleman yield?

Mr. KENNEDY of Rhode Island. I yield to the gentleman from California.

Mr. COX. Mr. Chairman, I thank the gentleman for yielding; and if I might, I would like to speak first to the amendment that the gentleman has offered, and then we could engage in a colloquy on a second amendment.

So, Mr. Chairman, I rise therefore in support of the amendment offered by the gentleman from Rhode Island. As the gentleman observes, we have established in the Federal Government, through the Department of Homeland Security, the Homeland Security Center of Excellence for Behavioral and

Social Research on Terrorism and Counterterrorism. This center, which is located in Maryland, was established by a \$12 million grant from the Department of Homeland Security in January of this year.

This is the fourth Homeland Security Center of Excellence to be established. Its expertise lies precisely in this area, and it makes a good deal of sense to rely on this newly available expertise as we redesign the homeland security advisory system.

As the gentleman from Rhode Island points out, section 205 of the underlying bill, which we are amending, will already require redesign of that system to move from vague and general warnings to specific warnings that wherever possible are sector specific, industry specific and threat specific; regional in nature wherever possible.

We have to stop issuing vague warnings that only serve to alarm the general public, and we have to provide useful information to the category of people who receive the warning. Using the expertise of this center will accomplish both of these important objectives. And I am very glad that the gentleman from Rhode Island has worked with the staff on the committee to address some concerns with the original draft of the amendment so that we are now completely in accord on both the language and the wisdom of the proposal.

For all of those reasons, I am pleased to accept the amendment and urge my colleagues to vote in its support.

Mr. KENNEDY of Rhode Island. Mr. Chairman, reclaiming my time, as my colleague and I have just spoken on the importance of communications and risk communications, as you know, research shows that the more the public is brought into the terrorism planning and response, particularly through social networks like churches, unions, professional organizations, and business groups, as well as neighborhood associations, the more effective we can be at limiting the impacts of terrorist acts and terrorist threats.

Not only is the inherent resilience and the strength of the American public enhanced by participating, but the American public has a critical commonsense knowledge that the government agencies and community organizations need in order to develop plans that will protect as many people as possible.

For this reason, it is a high priority of mine, as it is of my colleagues, to better integrate the public into the planning at State, local, and Federal levels. Preparedness and response efforts are likely to be far less successful than they should be if we do not have a plan and a substantial public involvement in the process.

The Acting CHAIRMAN. The gentleman's time has expired.

Mr. COX. Mr. Chairman, although I am in support of the amendment, I ask unanimous consent to claim the time in opposition.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. COX. Mr. Chairman, I yield 1 minute to the gentleman from Rhode Island (Mr. KENNEDY).

Mr. KENNEDY of Rhode Island. Mr. Chairman, in closing, when the sarin gas attack happened in Japan, 90 percent of the people who went to the hospital had no infection or exposure to the sarin gas whatsoever. People died at the hospital because the medical teams were not able to attend to them because they were overwrought with people coming in and clogging up the hospital.

If we had a terrorist attack, the way the people respond is going to determine whether that attack is just a tragedy or whether that attack becomes an all-out disaster. And that is why risk communications are so important. That is why the chairman and I are trying to work to make sure that the Department of Homeland Security does better than it has thus far and does better than the plastic sheeting and duct tape, which they once recommended in the wake of a terrorist threat, in addition to the color-coded system, which has not proven to be very successful.

So I thank the chairman for his assistance in this matter.

Mr. COX. I yield myself the balance of my time, Mr. Chairman, and I would like to commend the gentleman from Rhode Island for his comments on and his commitment to this vitally important issue. I too am committed to citizen terrorism preparedness.

I agree that the Department of Homeland Security should make it a priority to engage the American public as partners in homeland security. It simply makes sense to encourage continued dialogue between the Department and its constituency, the American people.

□ 1415

The Department of Homeland Security has taken many important steps to foster just this kind of dialogue. For example, the Department administers the Citizen Corps Program which is specifically designed to improve civilian terrorism preparedness. In addition, the Department Science and Technology Directorate plans to establish a Center of Excellence on Domestic Preparedness and Response Capabilities. When established later this year, this center will engage in mission-oriented research to enhance citizen preparedness and improve citizen input into local, State and Federal preparedness and response efforts.

As chairman of the Committee on Homeland Security, I believe it would be prudent for the committee to hold hearings on the purpose and effectiveness of the Department's citizen terrorism preparedness programs. I also agree with the gentleman from Rhode Island (Mr. KENNEDY) that our govern-

ment's preparedness is contingent upon actively and substantively engaging the citizens, and that that question must be part of our inquiry.

I look forward to working with the gentleman from Rhode Island (Mr. KENNEDY) as well as Members on both sides of the aisle on the Committee on Homeland Security as we examine this topic more closely. I think we all agree that citizen preparedness is simply too important to ignore.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN (Mr. BONNER). The question is on the amendment offered by the gentleman from Rhode Island (Mr. KENNEDY).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 4 printed in part B of House Report 109-84.

AMENDMENT NO. 4 OFFERED BY MR. COX

Mr. COX. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. Cox:

In section 302(c), strike “the Congress” and insert “the appropriate congressional committees”

In section 331, strike subsection (b) and insert the following:

(b) COORDINATION AND COOPERATION.—

(1) COORDINATION.—The Secretary shall coordinate the prioritization under this section with other relevant Federal agencies.

(2) COOPERATION.—Such prioritization shall be developed in cooperation with other relevant State, local, and tribal governments, and the private sector, as appropriate.

In section 332, strike subsection (a) and insert the following:

(a) REQUIREMENT.—Not later than 9 months after the date of the enactment of this Act, the Secretary of Homeland Security shall—

(1) review existing Federal, State, local, tribal, and private sector plans for securing the critical infrastructure included in the prioritization developed under section 331;

(2) recommend changes to existing plans for securing such infrastructure, as the Secretary determines necessary; and

(3) coordinate and contribute to protective efforts of other Federal, State, local, and tribal agencies and the private sector, as appropriate.

At the end of section 332, add the following new subsection:

(c) COORDINATION.—The Secretary shall coordinate the security review and recommendations required by subsection (a) with other relevant Federal agencies.

The Acting CHAIRMAN. Pursuant to House Resolution 283, the gentleman from California (Mr. Cox) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California (Mr. Cox).

Mr. COX. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. BARTON) to speak in support of the amendment which the gentleman offered to the Committee on Rules and was made in order under the rule.

Mr. BARTON of Texas. Mr. Chairman, I want to thank the distinguished

chairman of the Committee on Homeland Security for offering my amendment when it would have been very easy for the gentleman to just let it go when I was not here, but being the gentleman he is, he did the honorable decent thing, and I appreciate that.

Mr. Chairman, let me say that the Dingell-Barton amendment that is before us right now makes a simple but important change to H.R. 1817, the Department of Homeland Security Authorization Act for Fiscal Year 2006. This bipartisan amendment enshrines a commitment made by the Committee on Homeland Security but which was inadvertently left out of the Cox manager's amendment.

There are two primary reasons that the Committee on Energy and Commerce, which I chair, decided to mark up H.R. 1817. First was the creation of Assistant Secretary for Cybersecurity at the Department of Homeland Security. The issue of cybersecurity is one that is core to the jurisdiction of the Committee on Energy and Commerce. Indeed, the committee has existing oversight on telecommunications, nuclear, energy and information networks, systems, facilities and equipment over which any cybersecurity attack would occur as well as the potential effects of cybersecurity incidents on our Nation's interstates and foreign commerce.

The other primary reason, and the one for which I am offering this amendment today, is to require, and I want to emphasize require, the Department of Homeland Security to coordinate with other relevant Federal agencies, especially as it pertains to the protection of critical infrastructure. Many of these Federal agencies are taking strong and innovative steps to protect the critical infrastructure they regulate, which is why it is so important for the Department of Homeland Security to closely coordinate with these agencies.

Unfortunately, the Committee on Homeland Security which had assured us that this particular language would be a part of the manager's amendment, did not get included, and I understand it was inadvertent. But because of that reason we have had to offer this as an amendment on the floor. It is my understanding that the gentleman from California (Mr. Cox), the chairman of the committee, fully support this language, and I am not aware that anybody opposes it. I hope at the appropriate time we can pass this by voice vote and all Members voting aye.

Mr. COX. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise to engage the chairman of the Committee on Energy and Commerce in a colloquy.

Mr. BARTON of Texas. Mr. Chairman, will the gentleman yield?

Mr. COX. I yield to the gentleman from Texas.

Mr. BARTON of Texas. Mr. Chairman, there are a number of places in the manager's amendment to H.R. 1817

that refer to coordination efforts between the Department of Homeland Security with "other relevant Federal agencies," specifically as it relates to protection of critical infrastructure and cybersecurity. I want to ask the distinguished chairman of the Committee on Homeland Security if those "other relevant Federal agencies" would include the departments and agencies under the jurisdiction of the Committee on Energy and Commerce, including the Department of Commerce, Department of Energy, Department of Health and Human Services, Federal Communications Commission, Federal Energy Regulatory Commission, Nuclear Regulatory Commission, Federal Trade Commission, National Information Agency, and the Environmental Protection Agency?

Mr. COX. Mr. Chairman, yes, I agree. Certainly in matters relating to cybersecurity and protection of critical infrastructure, the agencies the gentleman listed will be considered "relevant Federal agencies."

Mr. BARTON of Texas. I thank the gentleman for his explanation and look forward to working with him to ensure that all relevant Federal agencies have a role to play in homeland security. And although it is not a part of the colloquy, there may come a day when the gentleman from California is the chairman of the Committee on Energy and Commerce, and he will be very glad he answered yes to those questions.

Mr. THOMPSON of Mississippi. Mr. Chairman, I ask unanimous consent to claim the time in opposition to the amendment for purposes of debate, although I do not oppose the amendment.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield myself such time as I may consume. Mr. Chairman, for the record, I am in support of this amendment, as are the gentleman from Texas (Mr. BARTON) and the gentleman from Michigan (Mr. DINGELL).

This amendment highlights the important need for the Secretary of the Department of Homeland Security to coordinate the prioritization of the Nation's critical infrastructure with other relevant Federal agencies. By requiring the Secretary to enter such partnerships, the Department of Homeland Security can draw upon the institutional expertise of a variety of agencies.

This is critical for completing an accurate, comprehensive and thorough assessment of terrorist threats to our country's critical infrastructure. Having seen the national asset database lists for Mississippi, I believe the Department needs as much help as it can get. Our Nation can no longer wait for an accurate prioritization of our most valuable asset. This is why I join my other colleagues and encourage Members to vote yes on this amendment.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from California (Mr. Cox).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 5 printed in part B of House Report 109-84.

AMENDMENT NO. 5 OFFERED BY MS. EDDIE BERNICE JOHNSON OF TEXAS

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B Amendment No. 5 offered by Ms. EDDIE BERNICE JOHNSON of Texas:

Page 50, after line 17, insert the following:

**SEC. 310. NATIONAL MEDICAL PREPAREDNESS CONSORTIUM.**

(a) IN GENERAL.—The Secretary of Homeland Security shall make grants for the National Medical Preparedness Consortium to train emergency medical professionals to prepare for the mass casualties that would be caused by a terrorist event involving weapons of mass destruction.

(b) DESCRIPTION OF CONSORTIUM.—The Consortium referred to in subsection (a) is a consortium of institutions that—

(1) have existing facilities and experience in emergency medical training;

(2) have worked together for over 10 years on disaster medical training and mass casualty management;

(3) in 2004, established a national standard, known as the National Disaster Life Support curricula, for the medical treatment of mass casualties from terrorist events involving weapons of mass destruction; and

(4) have worked to implement throughout the United States training programs for medical professionals that use such standard.

(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants under subsection (a), there is authorized to be appropriated \$5,000,000 for fiscal year 2006.

The Acting CHAIRMAN. Pursuant to House Resolution 283, the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) and the gentleman from Georgia (Mr. DEAL) each will control 5 minutes.

The Chair recognizes the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I yield myself 5 minutes.

Mr. DEAL of Georgia. Mr. Chairman, I yield 1 minute to the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I thank the ranking member as well as the chairman of the Committee on Homeland Security for coming forth with this legislation.

The objective of my amendment is very simple. This amendment attempts to promulgate a national standardization of emergency medical response training to events involving weapons of mass destruction.

The centerpiece of the National Medical Preparedness Consortium is its af-

filiation with the Center for Mass Destruction Defense, a CDC Center for Public Health Preparedness.

The Center For Mass Destruction Defense is the original developer of the National Disaster Life Support courses, Basic Disaster Life Support and Advanced Disaster Life Support, which provides an all-hazards approach to emergency medical services preparedness and are the only courses certified by the American Medical Association as national standards.

The Center for Mass Destruction Defense was also one of the founding members of the National Disaster Life Support Education Committee of the AMA, which oversees the development and current implementation of the basic and advanced disaster life support courses, as well as a cofounder of the National Medical Preparedness Consortium. The funding for the National Medical Disaster Consortium would come from the Office of Domestic Preparedness which would not exceed \$5 million.

Since before the 9/11 attacks, great progress has been made in the level of training and preparedness for the first responders for terrorist attacks, including firefighters, police and other law enforcement personnel.

These first responders have been telling their trainers we really appreciate the training and preparedness, especially for large-scale attacks, but when are you going to start training the health care people? They are going to be real efficient about bringing these patients up to the emergency room, but what happens after they enter?

It is one of those strange disconnects. When we had 9/11, most of the people were killed and all we thought about was firemen and policemen. But we do not expect that everyone will be killed if we have another disaster. They will need emergency care, and that is where this comes in.

The physicians, nurses, hospitals, providers and other health care personnel have not been getting the widespread training in terrorist attacks that the firefighters, police and other first responders have gotten. There has been a variety of courses done here and there, but the vast majority of the health care personnel have not been trained and the ones that have received some training have received a real hodgepodge of courses of different course content, different quality, and even with strange disagreements between the courses.

As a trained, educated, degreed nurse myself, I can tell Members firsthand that in certain critical fields of medicine the professional community has come up with a national standard of training in order to get everybody on the same page because it is often important that nurses and physicians go from one end of the country to another when needed, just as firemen and policemen do, but they need to have a specific body of knowledge when they get there.

The two main examples were trauma care and cardiac care before we came up with a national standard for trauma care. Like car wrecks, people were getting different approaches in some places, and patients were dying from poor care.

□ 1430

The same was happening with cardiac care. Then we came up with advanced trauma life support, or ATLS, and advanced cardiac life support. These national standards revolutionized trauma and cardiac care around the Nation. I have taken both the ATLS and the ACLS myself and this is the way to go.

What we need now is a national standard for disaster care so that the medical community will be able to respond responsibly across the Nation. What we need is a national standard for advanced disaster life support. Well, there is an advanced disaster life support curriculum that has been developed by the CDC center known as the Center for Mass Destruction Defense, and this curriculum has been endorsed by the American Medical Association for a national standard for disaster medical care.

In addition to the AMA, a number of specialty medical organizations have also adopted the advanced disaster life support curriculum, such as the American College of Emergency Physicians. The advanced disaster life support and its sister courses, basic disaster life support and CDLS, have been presented in 35 States now which is a wider distribution for an all-hazards disaster medical curriculum than any other available.

I know that the opposition to this is that it did not come through the Committee on Energy and Commerce and there are some who think it has already been done. What I am attempting to do here is to put something in a standard for around the Nation so that all of the people involved will have a standard body of knowledge.

Mr. DEAL of Georgia. Mr. Chairman, I yield myself such time as I may consume.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, will the gentlewoman yield?

Mr. DEAL of Georgia. I yield to the gentlewoman from Texas.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I want to know if I can depend on my colleague to help to get this in the right order so that we can still standardize this training around the Nation.

Mr. DEAL of Georgia. Yes, I can give the gentlewoman that assurance. I am sympathetic to the issue that she is concerned with. Our committee is more than willing to work with my colleague and her staff to try to coordinate that. We simply do not think that we ought to have grants that are duplicative of other programs that are there. For example, the Noble Training Center in Alabama, which I am sure the gentleman from Mississippi may be famil-

iar with, has a specialized hospital that is engaged in training health professionals for this specific purpose. We simply think that we should coordinate the grants and that the Department of Health and Human Services is the appropriate agency to coordinate these grant programs.

If the gentlewoman would be so kind as to withdraw her amendment, I can assure her that I and the members of our Subcommittee on Health will be glad to work with her to try to achieve the goals that she has in mind with this amendment.

Ms. EDDIE BERNICE JOHNSON of Texas. I thank the gentleman very much, and I will withdraw this amendment.

I would like to say, too, that the Bechtel, Nevada/National Nuclear Security Administration; the Dartmouth College Interactive Media Laboratory; Eastern Kentucky University; Hazard Community College of Kentucky; New Mexico Technical University; New York City Office of Chief Medical Examiner; Summerlin Medical Center, University Medical Center, Las Vegas; Tulane University Medical Center; University of Findlay, Ohio; University of Georgia/Medical College of Georgia; University of Louisville (Kentucky); University of Texas Southwest Medical School, which is in my district; Upper Iowa University; Vanderbilt University; and Western Michigan University along with about 30 emergency physicians that we have been collaborating with for the last 3 years.

Mr. Chairman, I withdraw the amendment.

The Acting CHAIRMAN (Mr. BONNER). Without objection, the amendment is withdrawn.

There was no objection.

The Acting CHAIRMAN. It is now in order to consider amendment No. 6 printed in part B of House Report 109-84.

AMENDMENT NO. 6 OFFERED BY MR. EHLERS

Mr. EHLERS. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B Amendment No. 6 offered by Mr. EHLERS:

At the end of subtitle A of title III, add the following (and conform the table of contents accordingly):

**SEC. 310. COMMERCIAL FLIGHTS TO AND FROM RONALD REAGAN WASHINGTON NATIONAL AIRPORT.**

(a) PASSENGER SEATING REQUIREMENTS.—Passengers on commercial flights arriving at and departing from Ronald Reagan Washington National Airport shall remain seated for 15 minutes after takeoff from and before touchdown at that airport.

(b) VIOLATIONS.—If a passenger violates the requirements of subsection (a), the captain of the aircraft shall determine if the passenger's actions present a security threat to other passengers or the aircraft. Only if the captain determines that the passenger's actions present such a threat shall a flight be diverted to a destination other than Ronald Reagan Washington National Airport.

(c) REGULATIONS.—Notwithstanding subsection (a), the Secretary of Homeland Security may issue regulations to decrease the time limit set forth in subsection (a).

The Acting CHAIRMAN. Pursuant to House Resolution 283, the gentleman from Michigan (Mr. EHLERS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Michigan (Mr. EHLERS).

Mr. EHLERS. Mr. Chairman, I yield myself such time as I may consume.

This is a very simple amendment. It would change the 30-minute rule that requires passengers on commercial flights into and out of Washington Reagan National Airport to remain seated for the first or last 30 minutes of the flight and for passengers to remain tightly in their seats and not even use the restroom facilities. I believe every Member of this House has experienced the nuisance of this rule. It simply does not make sense. It is an inconvenience to the traveler and does nothing to enhance flight security, particularly because there are two marshals aboard every plane into and out of Washington Reagan National Airport. My amendment would reduce the time in seat to 15 minutes, which should certainly be adequate. It would also permit the Secretary of Homeland Security to decrease the time even more. The amendment would also prohibit the pilot from diverting a flight from DCA for a violation of the seating rule unless he or she determines the passenger's actions to be a threat to the security of the other passengers or the aircraft.

There are several reasons for offering this amendment. We have already dramatically enhanced airport and airplane security since the time the rule was imposed. We have done this through several measures. First, improved passenger screening. Secondly, we have increased the number of in-flight Federal air marshals. Third, we have reinforced the cockpit doors. And, fourth, have authorized armed pilots in the cockpit.

Mr. Chairman, requiring DCA passengers to remain seated for 30 minutes when similar restrictions are not placed on passengers traveling to and from Dulles and BWI or any other airport does not make sense. Planes leaving DCA go past Dulles Airport in approximately 10 minutes, so under a 30-minute rule for DCA, should Dulles passengers not be forced to remain seated for 20 minutes on westbound flights and 40 minutes on eastbound flights? This rule just does not make sense, particularly since the incidents that already have taken place with hijacked airplanes were not from DCA but one of them, in fact, was from Dulles Airport.

I understand that our Nation's capital faces significant terrorist threats and boasts many important terrorist targets, but it is important to note that none of these flights that were hijacked on September 11 originated at DCA. LaGuardia does not have this

rule. JFK does not have the same rule, even though the attack occurred on New York.

Mr. Chairman, I fly into and out of Reagan airport every week. Several times on these flights I have heard snickering and jokes about the 30-minute rule. People know that this rule makes no sense, and the government is the butt of jokes about it. It is nonsense to have rules that are nonsensical, causes the government to lose the respect of the people. I have also seen people, particularly children and elderly, desperate to use the bathroom but unable to do so. This inconvenience is pointless.

I urge my colleagues to support this commonsense amendment.

Mr. Chairman, I reserve the balance of my time.

The Acting CHAIRMAN. Does any Member seek recognition in opposition?

Mr. EHLERS. Mr. Chairman, I yield myself the balance of my time.

Silence in the Chamber represents approval in this particular case. I appreciate the incredible support I have received from my colleagues for this amendment since I offered it. I have instantly become popular for the first time in my congressional career. I appreciate the meaning of the silence that we have.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. EHLERS).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 7 printed in part B of House Report 109-84.

**AMENDMENT NO. 7 OFFERED BY MR. DEFAZIO**

Mr. DEFAZIO. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B Amendment No. 7 offered by Mr. DEFAZIO:

At the end of subtitle A of title III, add the following (and conform the table of contents accordingly):

**SEC. 310. FEDERAL FLIGHT DECK OFFICERS.**

(a) TRAINING AND REQUALIFICATION TRAINING.—Section 44921(c) of title 49, United States Code, is amended by adding at the end the following:

“(3) LOCATION OF TRAINING.—

“(A) STUDY.—The Secretary shall conduct a study of the feasibility of conducting Federal flight deck officer initial training at facilities located throughout the United States, including an analysis of any associated programmatic impacts to the Federal flight deck officer program.

“(B) REPORT.—Not later than 180 days after the date of enactment of this paragraph, the Secretary shall transmit to Congress a report on the results of the study.

“(4) DATES OF TRAINING.—The Secretary shall ensure that a pilot who is eligible to receive Federal flight deck officer training is offered, to the maximum extent practicable, a choice of training dates and is provided at least 30 days advance notice of the dates.

“(5) TRAVEL TO TRAINING FACILITIES.—The Secretary shall establish a program to improve travel access to Federal flight deck officer training facilities through the use of charter flights or improved scheduled air carrier service.

“(6) REQUALIFICATION AND RECURRENT TRAINING.—

“(A) STANDARDS.—The Secretary shall establish qualification standards for facilities where Federal flight deck officers can receive requalification and recurrent training.

“(B) LOCATIONS.—The Secretary shall provide for requalification and recurrent training at geographically diverse facilities, including Federal, State, and local law enforcement and government facilities, and private training facilities that meet the qualification standards established under subparagraph (A).

“(7) COSTS OF TRAINING.—

“(A) IN GENERAL.—The Secretary shall provide Federal flight deck officer training, requalification training, and recurrent training to eligible pilots at no cost to the pilots or the air carriers that employ the pilots.

“(B) TRANSPORTATION AND EXPENSES.—The Secretary may provide travel expenses to a pilot receiving Federal flight deck officer training, requalification training, or recurrent training.

“(8) COMMUNICATIONS.—Not later than 180 days after the date of enactment of this paragraph, the Secretary shall establish a secure means for personnel of the Transportation Security Administration to communicate with Federal flight deck officers, and for Federal flight deck officers to communicate with each other, in support of the mission of such officers. Such means of communication may include a secure Internet website.

“(9) ISSUANCE OF BADGES.—Not later than 180 days after the date of enactment of this paragraph, the Secretary shall issue badges to Federal flight deck officers.”.

(b) REVOCATION OF DEPUTIZATION OF PILOT AS FEDERAL FLIGHT DECK OFFICER.—Section 44921(d)(4) of title 49, United States Code, is amended to read as follows:

“(4) REVOCATION.—

“(A) ORDERS.—The Assistant Secretary of Homeland Security (Transportation Security Administration) may issue, for good cause, an order revoking the deputization of a Federal flight deck officer under this section. The order shall include the specific reasons for the revocation.

“(B) HEARINGS.—An individual who is adversely affected by an order of the Assistant Secretary under subparagraph (A) is entitled to a hearing on the record. When conducting a hearing under this section, the administrative law judge shall not be bound by findings of fact or interpretations of laws and regulations of the Assistant Secretary.

“(C) APPEALS.—An appeal from a decision of an administrative law judge as a result of a hearing under subparagraph (B) shall be made to the Secretary or the Secretary's designee.

“(D) JUDICIAL REVIEW OF A FINAL ORDER.—The determination and order of the Secretary revoking the deputization of a Federal flight deck officer under this section shall be final and conclusive unless the individual against whom such an order is issued files an application for judicial review under subchapter II of chapter 5 of title 5 (popularly known as the Administrative Procedure Act) within 60 days of entry of such order in the appropriate United States court of appeals.”.

(c) FEDERAL FLIGHT DECK OFFICER FIREARM CARRIAGE PILOT PROGRAM.—Section 44921(f) of title 49, United States Code, is amended by adding at the end the following:

“(4) PILOT PROGRAM.—

“(A) IN GENERAL.—Not later than 90 days after the date of enactment of this paragraph, the Secretary shall implement a pilot program to allow pilots participating in the Federal flight deck officer program to transport their firearms on their persons. The Secretary may prescribe any training, equipment, or procedures that the Secretary determines necessary to ensure safety and maximize weapon retention.

“(B) REVIEW.—Not later than 1 year after the date of initiation of the pilot program, the Secretary shall conduct a review of the safety record of the pilot program and transmit a report on the results of the review to Congress.

“(C) OPTION.—If the Secretary as part of the review under subparagraph (B) determines that the safety level obtained under the pilot program is comparable to the safety level determined under existing methods of pilots carrying firearms on aircraft, the Secretary shall allow all pilots participating in the Federal flight deck officer program the option of carrying their firearm on their person subject to such requirements as the Secretary determines appropriate.”.

(d) FEDERAL FLIGHT DECK OFFICERS ON INTERNATIONAL FLIGHTS.—

(1) AGREEMENTS WITH FOREIGN GOVERNMENTS.—The President is encouraged to pursue aggressively agreements with foreign governments to allow maximum deployment of Federal flight deck officers on international flights.

(2) REPORT.—Not later than 180 days after the date of enactment of this Act, the President (or the President's designee) shall submit to Congress a report on the status of the President's efforts to allow maximum deployment of Federal flight deck officers on international flights.

(e) REFERENCES TO UNDER SECRETARY.—Section 44921 of title 49, United States Code, is amended—

(1) in subsection (a) by striking “Under Secretary of Transportation for Security” and inserting “Secretary of Homeland Security”;

(2) by striking “Under Secretary” each place it appears and inserting “Secretary”; and

(3) by striking “Under Secretary's” each place it appears and inserting “Secretary's”.

The Acting CHAIRMAN. Pursuant to House Resolution 283, the gentleman from Oregon (Mr. DEFAZIO) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Chairman, I yield myself such time as I may consume.

This amendment which I am offering with the gentleman from Florida (Mr. MICA) of the Subcommittee on Aviation would make a good program even better, the Federal flight deck officer program, the last line of defense on the plane. Arming the pilots on the flight deck makes a tremendous amount of sense. There cannot be an air marshal on every plane, planes lack secondary barriers, and on longer flights pilots have to frequently open the door to receive food or use the facilities. If a terrorist attack or attempt should occur, knowing that the pilots are armed could provide the critical thing to save the passengers on that flight.

This amendment has the strong support of the Airline Pilots Association—I have a letter here—the National Rifle Association and others. This would

make a number of changes. They would be issued badges which they do not currently have and they sometimes have a hard time convincing people they are authorized to have a gun and they are a Federal law enforcement officer for purposes of aviation. It would give them an appeals process for revocation of their certification. It would look toward making the training more accessible for people, particularly the recertification, although the facility we are using now is an excellent facility but we want to be certain that because of distance or time that more pilots are not precluded from becoming volunteers and providing this critical defense.

Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. MICA).

Mr. MICA. I thank the gentleman for yielding time. Hopefully that 2 minutes will be sufficient to deal with this amendment.

Mr. Chairman, this amendment does make a successful program even more successful. Sometimes that is hard to find in government agencies and activities and it is also sometimes hard to find in the incredible amount of dollars that we spend for homeland security. This takes a program that was opposed by the airlines, somewhat by the administration, by the other body, by some Members on both sides of the aisle and actually takes a program that gives us a last line of defense, an additional layer. This is in addition to the air marshals. This is in addition to secured cockpit doors and other improvements that we have put in place.

These individuals involved in this, the pilots, I have nothing but the greatest praise for their going forward in a long training program, it takes a full week, going practically to the end of the earth. I went out there with the gentleman from New Mexico (Mr. PEARCE), he represents Albuquerque, and then we went to Roswell, which is 2 or 3 hours to the south. I said, are we there yet? He said, no, tomorrow I'm taking you to the end of the earth which is where they have put this program.

I cannot tell you how many pilots have participated in this, both commercial passenger and cargo. It will exceed the number of air marshals that we have in this fine program. This does some things in helping them access recurrent training that is required, improves communications and gives them safe weapons carriage. It is a great program. They are great, dedicated Americans and pilots involved in this program and this enhances a very successful back line of defense for aviation security.

I commend the gentleman from Oregon, the former ranking member of our subcommittee, for his efforts.

Mr. DEFAZIO. Mr. Chairman, I yield the balance of my time to the gentleman from Mississippi (Mr. THOMPSON), the ranking member on the Committee on Homeland Security.

Mr. THOMPSON of Mississippi. Mr. Chairman, I rise in support of this

amendment. It is a commonsense amendment. We have to do all we can to protect the flying public. As has already been said, our pilots are the last line of defense to protect the flying public. By training them with this program and providing all of the necessary background checks, there is no excuse for not making this program successful. I compliment the gentleman from Florida (Mr. MICA) and join the gentleman from Oregon (Mr. DEFAZIO) in support of this amendment, and I look forward to its passage.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon (Mr. DEFAZIO).

The amendment was agreed to.

1445

The Acting CHAIRMAN (Mr. BONNER). It is now in order to consider amendment No. 8 printed in part B of House Report 109-84.

AMENDMENT NO. 8 OFFERED BY MR. CARDIN

Mr. CARDIN. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 8 offered by Mr. CARDIN:

Page 55, line 15, after "Research Projects Agency," insert the following: "the Information Assurance Directorate of the National Security Agency."

The Acting CHAIRMAN. Pursuant to House Resolution 283, the gentleman from Maryland (Mr. CARDIN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, by way of brief background, this legislation creates an Assistant Secretary for Cybersecurity, a much-needed high-level position in the Department of Homeland Security. We need one person in our government to serve as the point person on cyber security issues.

The legislation also tasks the Under Secretary for Science and Technology with support, research, and development, including long-term research, into cybersecurity issues with a particular focus on preventing and responding to large-scale, high-impact attacks.

This bill would require the Under Secretary to coordinate their activities with the Assistant Secretary for Cybersecurity and three other named agencies: NSF, DARPA, and NIST. My amendment would bring to the table one agency in addition, which would be the National Security Agency, or NSA. NSA is most well known for its signals intelligence and interception of messages. However, NSA has a long and distinguished history of working in the field of information assistance. Indeed, NSA is responsible for safeguarding the privacy and security of military com-

munications as well as many other civilian communications of our government.

Mr. Chairman, I want to thank the chairman and ranking member of the committee for working with me on this amendment, and I would urge my colleagues to accept the amendment.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. CARDIN).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 9 printed in part B of House Report 109-84.

AMENDMENT NO. 9 OFFERED BY MS. SLAUGHTER

Ms. SLAUGHTER. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 9 offered by Ms. SLAUGHTER:

Page 69, after line 13, insert the following (and amend the table of contents accordingly):

**SEC. 405. IMPROVING SENTRI, FAST, AND NEXUS PRE-ENROLLMENT PROGRAMS.**

(a) **CREATION OF REMOTE ENROLLMENT CENTERS.**—

(1) **IN GENERAL.**—The Secretary shall create a minimum of 4 remote enrollment centers for the programs described in paragraph (2). Such remote enrollment centers shall be established away from the borders of the United States and in population centers where there is a demand for such a service.

(2) **PROGRAMS.**—The programs described in paragraph (1) are the following:

(A) **The Free and Secure Trade, or "FAST", program** authorized under subpart B of title IV of the Tariff Act of 1930 (19 U.S.C. 1411 et seq.).

(B) **The Secure Electronic Network for Travelers Rapid Inspection, or "SENTRI", program** authorized under section 286(q) of the Immigration and Nationality Act (8 U.S.C. 1356(q)).

(C) **The "NEXUS" program** authorized under section 286(q) of the Immigration and Nationality Act (8 U.S.C. 1356(q)).

(b) **CUSTOMER SERVICE PHONE NUMBER.**—The Secretary shall create a customer service telephone number for the programs described in subsection (a)(2).

(c) **MERGING REQUIREMENTS OF NEXUS LAND AND AIR CARDS.**—The Secretary of Homeland Security shall merge the requirements of the land and air cards issued under the "NEXUS" program authorized under section 286(q) of the Immigration and Nationality Act (8 U.S.C. 1356(q)) into one uniform card that will work for land and air crossings.

The Acting CHAIRMAN. Pursuant to House Resolution 283, the gentlewoman from New York (Ms. SLAUGHTER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from New York (Ms. SLAUGHTER).

Ms. SLAUGHTER. Mr. Chairman, I yield myself such time as I may consume.

Tightening security along our vast northern border is one of the most important steps we have taken to defend

our homeland since September 11. New security measures have had unintended consequences of stifling trade and tourism with our Canadian neighbors. Traffic congestion at the border continues to be a longstanding problem for local Canadian and New York residents who rely upon it for their business and personal lives. It is not uncommon for travelers at the Peace Bridge in Buffalo to experience 3- to 4-hour delays trying to cross the border.

Beyond the local impact on our constituents, border-crossing delays cost the entire Nation dearly. According to a new report by the Ontario Chamber of Commerce, the U.S. economy absorbs 40 percent of the current cost of the border delays, and that means that the U.S. losses are \$4.13 billion a year, or \$471,000 an hour, due to the border congestion. If action is not taken, we stand to lose 17,000 jobs by 2020 and 91,000 by 2030.

And we want to alleviate that by expanding the pre-clearance programs like NEXUS, FAST, and SENTRI. These programs, which are joint ventures between the U.S., Canadian, and Mexican governments, are designed to simplify the border crossings for pre-approved, low-risk travelers and businesses.

Right now constituents along the border complain that registration is overly burdensome and complex, and it is. It is unacceptable that American citizens must travel to Canada to enroll in the NEXUS program. So to expand and make pre-clearance easier to navigate, my amendment would authorize the creation of at least four enrollment centers in the United States and would establish a customer phone service number. As it stands now, there is no phone to reach NEXUS.

Finally, the amendment would create one consistent NEXUS card for land and air travelers. NEXUS cards currently require a retinal scan, while NEXUS land cards use fingerprints; and we would merge these two and use one security feature for both air and land crossings.

Mr. Chairman, this amendment has the support of the United States Chamber of Commerce and the border mayors in western New York. Losing nearly half a million dollars an hour from border delays, the cost of pre-clearance upgrades would easily pay for themselves.

I am most grateful to the chairman of the committee and the vice chairman of the committee and urge adoption of this amendment. And I thank them for working with me on this amendment.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Ms. SLAUGHTER).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 10 printed in part B of House Report 109-84.

AMENDMENT NO. 10 OFFERED BY MR. SOUDER

Mr. SOUDER. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 10 offered by Mr. SOUDER:

At the end of title IV of the amendment, add the following (and conform the table of contents of the bill accordingly):

**SEC. 405. LEAD AGENCY FOR CERTAIN AIRSPACE SECURITY.**

(a) LEAD AGENCY FOR NATIONAL CAPITAL REGION.—The Office of Air and Marine Operations of the Bureau of Customs and Border Protection of the Department of Homeland Security shall be the lead agency in the Department responsible for the planning and execution of the airspace security in the special use airspace that surrounds the National Capital region.

(b) LEAD AGENCY FOR SPECIAL EVENTS OF NATIONAL SIGNIFICANCE.—The Office of Air and Marine Operations shall be the lead agency in the Department responsible for the planning and execution of airspace security for those special events of national significance, as determined by the President, that require specialized security of the airspace surrounding the event.

(c) DUTIES OF LEAD AGENCY.—As the lead agency in the Department of Homeland Security for airspace security for any airspace under this section, the Office of Air and Marine Operations shall take such actions as may be necessary to facilitate the coordination, within the Department and between the Department and the Departments of Transportation, Justice, and Defense and appropriate State and local government agencies that have jurisdiction over an area that is within the boundaries of such airspace, of airspace security activities for such airspace and of law enforcement responses to violations of such airspace security.

(d) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall prepare and submit to Congress a report that identifies the facility, asset, and personnel requirements necessary to carry out the airspace security responsibilities of the Office of Air and Marine Operations under this section.

The Acting CHAIRMAN. Pursuant to House Resolution 283, the gentleman from Indiana (Mr. SOUDER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Indiana (Mr. SOUDER).

(Mr. SOUDER asked and was given permission to revise and extend his remarks.)

Mr. SOUDER. Mr. Chairman, I yield myself 2 minutes.

After the first attacks on 9/11, the Secret Service was given responsibility for the airspace in the National Capital region. During the final 6 months of the Department of Defense working with the Secret Service, there were 182 intrusions into the 15-mile security ring. In December, 2000, DoD was tasked into finding a more optimal solution because one of the problems, which we saw just a couple weeks ago here at the Capitol building, is when we have a plane going 85 knots, 93 miles an hour, and all of a sudden an F-16 comes on going at 300 miles an

hour, there is no escorting of the plane, there is no ability to talk to the plane. So the Air and Marine division, AMO, of the Customs and Border Protection agency inside DHS, has the smaller planes, the Citation, the Black Hawks with which to do this.

Just last week my staff and other staff in the Senate and the House learned on Friday that inside the Department of Homeland Security there is no designee who is the lead, and we have to work it out between DHS and the Department of Defense; but it is just appalling that inside the Department of Homeland Security we do not have a lead as to who is in charge in the air.

A couple of basic things that we need to understand here. That plane got within 2 minutes. It was a small plane that might have bounced off, but what we have seen throughout the world in a number of terrorist incidents now, planes exactly like that one loaded with C-4 blow up the place. We did not get our warning to get out of this building and clear the area. I got to 1st St. at approximately the time the plane was being landed. In other words, we could barely get out of the cloakroom before the plane would have hit.

So unless we can control that airspace, unless we have a lead designee like the Air and Marine division inside DHS, which is a start, and then to work with DoD, we are dead here. There is no way to stop a plane. Even if they had shot down the plane, it would have hit us coming on in unless it completely disintegrated, and at 93 miles an hour, it was a tough call.

So I believe this amendment addresses a great need.

Mr. Chairman, I reserve the balance of my time.

Mr. COX. Mr. Chairman, I rise to claim the time in opposition to the amendment.

The Acting CHAIRMAN. The gentleman from California (Mr. Cox) is recognized for 5 minutes.

Mr. COX. Mr. Chairman, I yield myself such time as I may consume.

I want to engage in a colloquy, if I might, with my colleague from Indiana and begin by sharing with him my support for his objectives and also my shared concern with this issue, which he has clearly identified, of overlapping jurisdictions.

Before the Congress takes the next step of designating a single agency to be the lead on airspace security, it is my view that we need our full Committee on Homeland Security through hearings and oversight to take an in-depth look at the capabilities of each of the agencies involved. Additionally, Secretary Chertoff is just days away from presenting to us the results of his 90-day top-to-bottom review of the Department, and I expect that the results of that review will include issues of mission overlap and also areas needing improved coordination.

So I would be glad to work with the gentleman on this precise issue and to

move with alacrity if he would be willing to withdraw his amendment so that we can consider this in the committee. If that is agreeable to him, I would be happy to make that commitment at this time.

Mr. SOUDER. Mr. Chairman, will the gentleman yield?

Mr. COX. I yield to the gentleman from Indiana.

Mr. SOUDER. Mr. Chairman, my concern is that, as he knows, I had two other amendments that I withdrew because we had jurisdictional questions. Clearly, the Parliamentarian has ruled in this case that this amendment is germane to this bill, is in the jurisdiction of this committee, and is in the primary and actually sole jurisdiction of this committee or it would not be in this committee. This is only inside the Department of Homeland Security. It does not have anything to do with the Department of Defense.

So my question is that, if I withdraw my amendment, are we guaranteed that, in fact, it will come back through our committee and be in the sole jurisdiction of our committee?

Mr. COX. Mr. Chairman, reclaiming my time, I believe the gentleman has very clearly and accurately stated the jurisdictional question on this amendment. It has been determined that it falls within the jurisdiction of the Committee on Homeland Security. For that reason I would propose that the Committee on Homeland Security take up this issue and use its jurisdiction to help solve this problem.

Mr. SOUDER. Mr. Chairman, will the gentleman yield?

Mr. COX. I yield to the gentleman from Indiana.

Mr. SOUDER. Mr. Chairman, I agree that we have not had hearings. I believe that the urgency is great and that we fight so much over jurisdiction in this body that literally this Congress and this city could have been theoretically blown off the face of the Earth while we argue over jurisdiction.

So I hope this would be done with alacrity. I would hope that there will not be jurisdictional battles, that it has to go through three committees, so that we can get something back to this floor as soon as possible because it was demonstrated last week that our lives may depend on this.

Mr. MICA. Mr. Chairman, I rise in opposition to the amendment.

We are all aware of the aircraft incursion in the National Capital Region airspace last week. I believe that the response to that event demonstrates that coordination and communication between the various Federal agencies works well.

Each agency, including the Federal Aviation Administration (FAA), the Transportation Security Administration (TSA), the Department of Defense (DOD), and the Customs and Border Protection, Air and Marine Operations (AMO) had the same information, communication and coordination was excellent, and each agency fulfilled their role as expected.

It has been my understanding that each agency, including AMO, has a specific role to play.

The FAA is the lead and has sole authority over airspace management and control at all times.

The TSA handles airspace security policy within the Department of Homeland Security.

AMO handles tracking and intercepting aircraft in violation of FAA airspace rules and orders in the National Capital Region, and handles other law enforcement operations.

Finally, the DOD is in charge of airspace defense.

These rules have been long established and are not in question.

Therefore, I am unsure why there is a perceived need for a lead agency within the Department of Homeland Security in these situations even more, I am unsure if AMO is the proper entity to fulfill that role.

Nevertheless, I believe strongly that FAA must retain airspace management and control at all times . . . before, during and after an event, terrorist or otherwise.

Without a doubt, aviation safety is of paramount importance, even during an incursion event, and the FAA is the proper authority and lead in this regard.

I must remind my colleagues that the incursion last week turned out not to be a terrorist event and it is the FAA who is pursuing punitive action against the pilot in question.

Since this is most often the case, it seems strange to give AMO, a law enforcement agency within Customs and Border Protection, the lead in airspace security.

If one thing went right last week it was communication, coordination and each Federal agency understanding and fulfilling their role.

If it ain't broke, don't fix it!

Therefore, I urge my colleagues to vote "no" on the Souder amendment.

Mr. CUMMINGS. Mr. Chairman, I support the amendment (No. 10) offered by Mr. SOUDER, the chairman of the Government Reform Subcommittee on Criminal Justice, Drug Policy and Human Resources, with whom I serve as Ranking Minority Member.

The amendment would extend through FY 2006 the authorization of the Office of Counternarcotics Enforcement within the Department of Homeland Security (DHS). The amendment would authorize the office at a level of \$6 million annually—the same amount authorized by Congress, but not funded by the Administration, in FY 2005.

Our government's response to the attacks of 9/11 has been to take the fight to the terrorists militarily and to take steps to insulate our people and infrastructure from threats to our national security at home.

Congress created the Department of Homeland Security with the stark realization that gaps in security at our borders and ports of entry provide an open door not only to illegal immigration and dangerous illegal drugs, but also to terrorist threats.

Investigations into the 9/11 attacks also led to a greater understanding of the extent to which drug proceeds are the lifeblood of international criminal and terrorist organizations that threaten U.S. security.

Congress's recognition of the importance of stemming the flow of drugs into the United States is reflected in the mission statement of the Department of Homeland Security. Codified in the original authorizing statute, that statement directs the Secretary of DHS to explore links between terrorists and drug trafficking organizations and otherwise pursue drug interdiction.

The gentleman from Indiana and I share the view that we must not allow the threat of singular catastrophic events to detract from domestic efforts to stop the daily onslaught of illegal drugs that gradually turns American lives to waste and local communities into war zones.

Let us not forget, Mr. Chairman, that domestic consumption of illegal drugs claims roughly 20,000 thousand American lives each year—nearly seven times the number of Americans who perished in the 9/11 attacks.

Thousands more Americans go to jail or prison for drug-related crimes or become a victim of drug-related violence or property crime. An estimated \$150 billion in economic productivity is lost annually due to drugs.

That is why I co-authored with Chairman SOUDER a provision in the Homeland Security Act of 2002 that created within the Department of Homeland Security the position of Counter-narcotics Officer, or "CNO."

It was our purpose in proposing the CNO provision to create a high-level position within DHS that would maintain a high profile and priority for counternarcotics missions. The CNO was tasked with ensuring that DHS drug interdiction, investigation, and enforcement efforts would be coordinated internally and also meshed with the efforts of other Federal agencies to maximize the efficiency and effectiveness of anti-drug efforts throughout the government.

Three years later, the Homeland Security Department is up and running, but the record shows that the Administration has stood in the way of our efforts to support and improve coordination of counter-drug enforcement efforts.

Last year, in response to the Administration's failure to prioritize anti-drug efforts with DHS, we replaced the CNO position with the Office of Counternarcotics Enforcement, authorizing \$6 million for the office in FY 2005. Unfortunately, President Bush ignored the will of Congress and chose not to fund the office. The Administration's budget request includes nothing for the office in FY 2006 and further seeks to undermine drug enforcement by proposing deep cuts in major anti-drug programs including HIDTA, Byrne Grants and the COPS program.

Mr. Chairman, the Office of Counternarcotics Enforcement deserves to be reauthorized and to be funded at a level adequate for it to fulfill its mission.

By extending the authorization of this office, we can help to ensure that the war on drugs and the war on terror both can be fought with maximum vigor, efficiency, and effectiveness.

We need to show a real commitment to our Nation's counternarcotics efforts—extend the reauthorization of the CNO and give the office permanent funding and personnel.

I thank the gentleman for offering his amendment, I urge the Committee to make the amendment in order, and I support the gentleman in his efforts to secure funding for the office as the DHS appropriations bill goes to conference.

Mr. SOUDER. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Acting CHAIRMAN. It is now in order to consider amendment No. 11

printed in part B of House Report 109-84.

AMENDMENT NO. 11 OFFERED BY MR. WAMP

Mr. WAMP. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 11 offered by Mr. WAMP:

In title V, add at the end the following new section:

**SEC. 509. CENTERS OF EXCELLENCE.**

Section 308(b)(2) of the Homeland Security Act of 2002 (6 U.S.C. 188(b)(2)) is amended by adding at the end the following new subparagraph:

“(F) A center under this paragraph may include participation of a Department of Energy laboratory, including in the preparation of a proposal.”

The Acting CHAIRMAN. Pursuant to House Resolution 283, the gentleman from Tennessee (Mr. WAMP) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Tennessee (Mr. WAMP).

Mr. WAMP. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman I would like to thank the gentleman from California (Chairman DREIER) and the Committee on Rules for making my amendment in order and the gentleman from California (Chairman COX) and the gentleman from Mississippi (Mr. THOMAS), ranking member, as well as their staffs, for their good work on this bill and for working with me on this important issue.

My amendment would permit the Department of Energy laboratories to team with a university or consortium of universities when competing for Department of Homeland Security’s Centers of Excellence. Currently, the DHS Science and Technology Directorate prohibits DOE laboratories from contributing to university proposals for Centers of Excellence solicitations.

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My amendment would allow DOE labs to participate as partners with universities in preparation of Centers of Excellence proposals. This is only if the university or universities want the DOE lab to participate. It is not my intention to take anything away from universities or have Centers of Excellence located anywhere but at the universities. Under my amendment, universities will remain the lead on the Centers of Excellence proposals.

As a member of the Subcommittee on Homeland Security of the Committee on Appropriations, I want to state that I fully support the Centers of Excellence program and have advocated for increased funding every year.

My concern arises from a faulty policy decision by the Science and Technology Directorate to prohibit DOE labs from partnering with universities to bring their expertise to complement university proposals.

I have heard that the Department of Homeland Security opposes my amend-

ment. That is unfortunate, but I know that we are on the right track for six reasons.

First, DOE labs, even the ones that are intramural, are not and have not been involved in strategic planning and program development of Centers of Excellence and university programs.

Second, these labs are only intramural to those DOE legacy programs under the Office of Research and Development mostly dealing with chemical, radiological, biological, and nuclear threats within the funding that comes to Office of Research and Development for those missions. This funding is all done at national laboratories where the classified nature of the research needs to happen at a secure Federal research facility.

Third, to say that an intramural DOE lab has insider information on the Centers of Excellence program is simply not accurate.

Fourth, why do DOE labs have the ability to be eligible to partner with universities post award if requested by the university? What is the difference between pre award versus post award? How do universities write a proposal? The Department accepts it, makes the award to the university, and then after it is awarded, the university changes the proposal to add a DOE national lab that was barred from contributing in the first place. That makes no sense.

Fifth, it is my understanding that these Centers of Excellence are eligible for renewal, so there is a question that is still not clear. If a university that wins the Center of Excellence picks the Oak Ridge National Laboratory, for instance, to partner post award, would that preclude Science and Technology from considering that university from competing again or getting a renewal contract?

Finally, what happens when a university has a contractor at a DOE national laboratory such as the University of Tennessee and Battelle, which manage the Oak Ridge National Laboratory, or the University of California that manages Lawrence Livermore, does that not preclude these universities from ever being considered for Centers of Excellence proposals?

When we created the Department of Homeland Security Science and Tech Directorate, this was not the intended result. The Federal Government should encourage our excellence in academia to partner with our excellence at our national labs.

The Science and Tech Directorate’s use of the national labs is still unclear. Congress needs to work together on this and challenge these decisions by making DHS more accountable so their decisions are made with good, common sense. We need these changes in this authorization bill, and I urge the adoption of this amendment.

Mr. Chairman, I reserve the balance of my time.

The Acting CHAIRMAN (Mr. BONNER). Does any Member rise in opposition to the gentleman’s amend-

ment? There being no one, the Chair recognizes the gentleman from Tennessee (Mr. WAMP).

Mr. WAMP. Well, then, I appreciate that. Maybe we have worked these things out. That is great news, and I will just go ahead and yield back the balance of my time and move the adoption of the amendment.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee (Mr. WAMP).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider Amendment No. 12 printed in Part B of House report 109-84 offered by the gentleman from New Jersey (Mr. MENENDEZ).

AMENDMENT NO. 12 OFFERED BY MR. THOMPSON

Mr. THOMPSON of Mississippi. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. Is the gentleman from Mississippi the designee of the gentleman from New Jersey (Mr. MENENDEZ)?

Mr. THOMPSON of Mississippi. Yes, Mr. Chairman

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 12 offered by Mr. THOMPSON of Mississippi:

At the end of title V add the following:

**SEC. \_\_\_\_\_. REPORT ON PROTECTING INFRASTRUCTURE IN THE AREA OF PORT ELIZABETH AND NEWARK INTERNATIONAL AIRPORT, NEW JERSEY.**

Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit a report to the Congress describing the measures necessary to coordinate and protect the various infrastructure in the area comprised of Port Elizabeth and Newark International Airport, New Jersey, and the area located generally between such facilities. The report shall include—

(1) an identification of the resources required to fully implement homeland security efforts for this area;

(2) an assessment of the progress made in implementing homeland security efforts for this area; and

(3) recommendations of additional resources needed to fully implement homeland security efforts for this area.

The Acting CHAIRMAN. Pursuant to House Resolution 283, the gentleman from Mississippi (Mr. THOMPSON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Mississippi (Mr. THOMPSON).

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield myself such time as I may consume.

I rise in support of this amendment offered by the gentleman from New Jersey (Mr. MENENDEZ).

Terrorism experts have called the area between Port Elizabeth and Newark International Airport in New Jersey “the most dangerous two miles in America,” an area that includes dozens of vulnerable chemical plants, oil storage tanks, refineries, and other critical infrastructure systems within close proximity of Manhattan and the densely populated cities of northern New Jersey.

Experts estimate that a terrorist attack in this area could pose a potentially lethal threat to 12 million people living within a 14-mile radius. The Menendez amendment would require the Secretary of the Department of Homeland Security to report to Congress on how to coordinate and protect the people and infrastructure in this particularly vulnerable region.

Mr. Chairman, I rise in support of this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. COX. Mr. Chairman, I rise in opposition to the amendment, and I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield the balance of the time to the gentleman from New Jersey (Mr. MENENDEZ), the author of the amendment.

Mr. MENENDEZ. Mr. Chairman, I yield myself such time as I may consume.

First of all, I want to thank the distinguished ranking member for offering this, since I was at an event with our colleagues in the Senate and with the Democratic Caucus, so I appreciate him offering this on my behalf. It is my intention, based on a conversation with the gentleman from California (Chairman COX), and I believe the ranking member as well, to withdraw the amendment, with an understanding, and I will get to that in a moment.

My effort here is to basically take, not that I have said this, but that the FBI and law enforcement and a congressional study has said that the most dangerous two miles in America when it comes to terrorism, according to the FBI and others, which is that area between Port Elizabeth, the megaport of the East Coast, and Newark International Airport, and since we have a critical challenge with this dangerous two miles that I think would replicate many other areas of the country that have chemical facilities next to transportation infrastructure, next to airports, next to seaports, and a whole host of other critical infrastructure, that what can the Department of Homeland Security do to look at this most dangerous two miles and tell us what has been done, what needs to be done, what should be done so that we can achieve the success that we want in protecting not just a part of my congressional district or of the people of New Jersey, but as the New York Times recently wrote, the Nation's most enticing environment for terrorists, providing a convenient way to cripple the economy by disrupting major portions of the country's rail lines, oil storage and refineries, pipelines, air traffic, communicate networks, and highway systems.

Now, if you are one of the 12 million people who live in this 14-mile radius with more than 100 potential terrorist targets, you would understandably be concerned. But as the New York Times mentioned, this is more about more than the safety and security of my con-

stituents; it is an attack of this area to cripple our Nation's economy.

Very simply, an attack within these two miles would be an attack felt around the world, since the largest seaport on the East Coast, one of the busiest airports in the country, Interstate 95, the main corridor along the Eastern Seaboard, are all located within this area.

For example, just by one example, in 2002, 15 percent of Nebraska's container exports were shipped through this port, and, like that, it is so true for so many points of the country. If you are wearing it, driving it, or eating it, it likely came through the megaport of the East Coast.

So while my amendment does not authorize any new funding or any additional resources, it does look in the context of limited environment, of limited resources, but unlimited risks. How do we become careful stewards not only of the taxpayers' money, but also of the security of our people?

Now, my understanding is that the gentleman from California (Mr. COX) will be willing, by me withdrawing this amendment and by working with the ranking member, to secure that the Department of Homeland Security would provide such a report, and I would like to yield to him to see if my understanding is correct.

Mr. COX. Mr. Chairman, the gentleman's understanding is correct. If the gentleman is willing to withdraw his amendment, the Committee on Homeland Security, through its chairman and ranking member, would formally request this information from the Department of Homeland Security.

As the gentleman knows, the Department of Homeland Security and its Infrastructure Protection Directorate is currently focusing heavily on this part of the country and, as a result, the identification of critical assets, high-risk facilities, the implementation of security measures, and the recommendation of additional mitigation strategies for this region is something that the committee should hear on and, as a result, I would propose, with the ranking member, that we seek the information in this way.

My only concern with the amendment as drafted is that it would set the precedent of establishing a national legislation requirement for IP mandates for specific regions within the States, rather than a national infrastructure strategy.

Mr. MENENDEZ. Mr. Chairman, reclaiming my time, I appreciate the chairman's offer, and I would hope, however, seeing that many reports that have been requested by the committee have not come forward, that in fact we would be vigorous in making sure that the report would actually be issued.

Mr. COX. The gentleman has my commitment on that subject.

Mr. THOMPSON of Mississippi. Mr. Chairman, I ask unanimous consent to extend the debate by 2 minutes on each side.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

Mr. COX. Mr. Chairman, reserving the right to object, I would like to claim the time in opposition to the Menendez amendment.

The Acting CHAIRMAN. Under the pending proposal, the gentleman from California would have another 2 minutes and the gentleman from Mississippi would have another 2 minutes.

Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. COX. Mr. Chairman, I yield back 2 minutes of my time, and I yield the remaining 2 minutes to the gentleman from Mississippi (Mr. THOMPSON), and I withdraw my reservation of objection.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Chairman, there are approximately 70,000 different chemicals that have been defined. Fifteen to 20 of them could be lethal, are lethal, toxic, and in this two-mile stretch that the gentleman from New Jersey (Mr. MENENDEZ) has brought to our attention, these are the most dangerous two miles in America.

The chemical plants, the oil storage tanks, the refineries, and critical infrastructure systems are targets. In fact, if there is a terrorist attack in this area, it could pose a terribly lethal threat to 12 million people. That is within a 14-mile radius. This is serious business, and we on the Committee on Homeland Security look at this seriously on both sides of the aisle.

So through the ranking member and the chairman, we have their commitment that we will work this out, because I know that my colleagues understand the seriousness of this area. And since we are in the business of risk, the problem of risk and taking that into regard with our formula, then I think that this certainly reaches the top of the priority.

□ 1515

Mr. FOSSELLA. Mr. Chairman, I thank the gentleman from New Jersey (Mr. PASCRELL) for yielding me the time. And just let me add this is not just a New Jersey issue, but it is a New York City issue, as a Representative of Staten Island, just a couple of miles away.

I applaud the gentleman's efforts. And I thank the chairman for agreeing with that.

Mr. THOMPSON of Mississippi. Mr. Chairman, the gentleman from New Jersey (Mr. PASCRELL) and others have indicated the position that the minority supports.

Mr. Chairman, I yield back the balance of my time.

Mr. MENENDEZ. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The Acting CHAIRMAN (Mr. BONNER). Is there objection to the request of the gentleman from New Jersey that the amendment offered by the

gentleman from Mississippi (Mr. THOMPSON) be withdrawn?

There was no objection.

The Acting CHAIRMAN. It is now in order to consider amendment No. 13 printed in part B of House Report 109-84.

AMENDMENT NO. 13 OFFERED BY MS. HOOLEY

Ms. HOOLEY. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 13 offered by Ms. HOOLEY:

At the end of title V, insert the following:

**SEC. 509. PROHIBITION AGAINST INCREASE IN SECURITY SERVICE FEES.**

None of the funds authorized under this Act may be derived from an increase in security service fees established under section 44940 of title 49, United States Code.

The Acting CHAIRMAN. Pursuant to House Resolution 283, the gentlewoman from Oregon (Ms. HOOLEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the amendment I offer today is very simple. It would prevent any of the money in this bill from coming from increases in airline ticket taxes. This is an amendment to protect consumers, to protect our struggling aviation industry.

Earlier this year, the President's budget included a \$1.5 billion increase in the aviation security passenger fee, using this to largely offset his \$2.2 billion homeland security increase.

This increase, if enacted, would represent over a 50 percent increase in airline fees. Federal taxes and fees already account for as much as 40 percent of the price that consumers pay for their domestic ticket.

Given the current state of our aviation industry in this country, we should not further punish them with higher taxes. Our homeland security is our national security, and we should not foist the bill off on just a few people or single industry.

While the bill before us does not include language increasing the aviation security passenger fee, it does authorize the same level of funding as the President's budget, and there is no offset for the additional spending.

Mr. Chairman, I am concerned that increasing the aviation security passenger fee will negatively impact consumers and will saddle a struggling industry that is already in trouble with an additional \$1.5 billion in taxes.

I encourage my colleagues to support my amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. MICA. Mr. Chairman, I rise in opposition to the amendment, and I yield myself such time as I may consume.

Mr. Chairman and my colleagues, this is not a good amendment. I am

surprised that this amendment was even considered by the Rules Committee. The administration proposed a \$3 increase in security fees.

Why did they propose that? They proposed that because yesterday we passed \$4.6 billion just for passenger screening, of which the current fee of \$2.50, a maximum of \$5 per one way, even if you have more segments, security fee, which we imposed after September 11 to fund the TSA, falls \$2 billion short.

So we are taking out of the general fund another \$2 billion to fund this very expensive system that does not work very well. This is a report of the Inspector General, and it is a secret report, I cannot discuss this, but I tell you, the system fails.

Before the other body, Richard Skinner, acting Inspector General of the Homeland Security Department January 26, 2005 said: "The ability of TSA screeners to stop prohibited items from being carried through the sterile areas of airports fared no better than the performance of screeners prior to September 11, 2001."

Now, what is wrong? We do not have the technology. We do not have the technology. And I have proposed that we double the fee, and that we put it on technology that will do a better job. Not only will it do a better job, the GAO has said that we can decrease personnel by 78 percent for those that screen the baggage by hand now behind these counters, that use an army, almost half of the 45,000 personnel.

So we are paying more, getting less. This proposal would reduce \$1 billion a year that cost to the taxpayers. This is a bad amendment. The airlines may like this amendment, but let me tell you what they will do.

If we do not correct and reform this system, we will have another 9/11 because this expensive structure that we have in place does not work. It needs to be changed out with technology. These reports say it. As chairman of the Aviation Subcommittee, I am telling you that we need it. And the only way to fund it, and do not tell me we have not helped the airlines. I stood up here and fought for \$5 billion for them after 9/11. We gave them another \$3 billion on top of that for security improvements. Then they got away with the absconding with 4 months of the revenue that they never passed on to the Federal Government and we never said anything.

We are right now financing 21 percent of FAA and the air traffic control system out of the general treasury. And some little guy from Oregon who is making \$7 an hour, you are going to ask him to pay that security fee. He never gets on a plane, he is probably making minimum wage and is going to now pay to underwrite a failed system because the airlines will not step forward.

I even offered them a half a billion. They promised me that they would pay us a billion dollars when we assumed this responsibility. Last year they paid

us \$315 million, \$700 hundred million short. Shame on them. Shame on them for even pushing this amendment.

This is a disgrace. We should be putting in place the best equipment to do away with the system that has failed. This says it failed. I challenge every Member to go and read those classified reports. We are not playing games here; we are dealing with the safety, security, and the economic future of this Nation.

So I urge the defeat of this amendment. I urge the reform of TSA that does not work, that costs us a lot of money; and those that use it should pay for it, not some poor guy from Oregon or Florida that is getting left holding the bag and paying the bill.

The user pays. That is what we do here. We are down now and we are subsidizing the expenses of FAA and air traffic control by half a billion dollars a year because the 7.5 cent excise tax on the tickets does not raise enough money. So it is coming out of the pockets of people who do not even fly.

This is a user-based system. Let us fix this system. Correct this bill.

Mr. Chairman, I yield back the balance of my time.

Ms. HOOLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. Cox).

Mr. COX. Mr. Chairman, with all respect to my colleague, the gentleman from Florida (Mr. MICA), I could not disagree more strongly.

The Constitution of the United States gives to our national government the responsibility to provide for the common defense. When al Qaeda turned airliners into missiles, hundreds of passengers aboard those aircraft were killed, but thousands of people in the World Trade Center Towers and in the Pentagon were also killed. And none of them was an airline passenger.

Neither were the millions of Americans who suffered the economic damage of billions of dollars inflicted by al Qaeda as a result of those attacks. Homeland security, in my view, is the essence of national security.

And this amendment puts that question to the test. Is homeland security merely the correlation of national security, or is it the core of what we are seeking to establish when we provide for the common defense and protecting the territory and the population of the United States?

If every time the Pentagon needed a new weapons system they had to find a user fee in order to pay for it, we would have a third-world national defense. But, in fact, Mr. Chairman, as Democrats and Republicans on the Homeland Security Committee have determined, homeland security is all about providing for the common defense, and funding it is a national responsibility.

For those reasons, I strongly support the amendment offered by gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Mississippi (Mr. THOMPSON).

Mr. THOMPSON of Mississippi. Mr. Chairman, I rise and express strong support for the amendment of the gentlewoman from Oregon (Ms. HOOLEY). It sends a strong and simple message to Congress: do not raise aviation passenger fees.

I strongly believe that raising fees will place an additional burden on the flying public and could weaken the economic strength of domestic commercial aviation.

Mr. Chairman, I strongly support the Hooley amendment and urge my colleagues in the House to vote in favor of this important amendment.

Ms. HOOLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, just in closing let me say, homeland security, we all want to make sure that our country is as safe as possible. Homeland security is a responsibility of all of our citizens.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentlewoman from Oregon (Ms. HOOLEY).

The question was taken; and the Acting Chairman announced that the ayes have it.

Ms. HOOLEY. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Oregon (Ms. HOOLEY) will be postponed.

The Acting CHAIRMAN. It is now in order to consider amendment No. 14 printed in part B of House Report 109-84.

AMENDMENT NO. 14 OFFERED BY MR. CARDIN

Mr. CARDIN. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 14 offered by Mr. CARDIN:

Page 78, insert after line 22 the following (and redesignate the succeeding provision and conform the table of contents accordingly):

**SEC. 508. STUDY OF MODIFICATION OF AREA OF JURISDICTION OF OFFICE OF NATIONAL CAPITAL REGION COORDINATION.**

(a) STUDY.—The Secretary of Homeland Security, acting through the Director of the Office of National Capital Region Coordination, shall conduct a study of the feasibility and desirability of modifying the definition of “National Capital Region” applicable under section 882 of the Homeland Security Act of 2002 to update the geographic area under the jurisdiction of the Office of National Capital Region Coordination.

(b) FACTORS.—In conducting the study under subsection (a), the Secretary shall analyze whether modifying the geographic area under the jurisdiction of the Office of National Region Coordination will—

(1) improve coordination among State and local governments within the Region, including regional governing bodies, and coordination of the efforts of first responders; and

(2) enhance the ability of such State and local governments and the Federal Govern-

ment to prevent and respond to a terrorist attack within the Region.

(c) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit a report to Congress on the study conducted under subsection (a), and shall include in the report such recommendations (including recommendations for legislation to amend section 882 of the Homeland Security Act of 2002) as the Secretary considers appropriate.

The Acting CHAIRMAN. Pursuant to House Resolution 283, the gentleman from Maryland (Mr. CARDIN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Mr. Chairman, I yield myself such time as I might consume.

Mr. Chairman, I would like to thank the chairman and ranking member for working with me on this amendment to improve it.

Today, I am offering an amendment to H.R. 1817, the Department of Homeland Security Authorization Bill for fiscal year 2006, that would require DHS to conduct a study of the feasibility and desirability of modifying and updating the existing boundaries of the National Capital Region of DHS.

My amendment would require DHS to issue a report within 6 months to Congress on whether modifying the National Capital Region would, one, improve coordination among State and local governments within the region, including regional governing bodies, and coordination of the efforts of first responders; and, two, enhance the ability of State and local governments and the Federal Government to prevent and respond to a terrorist attack within the National Capital Region.

We passed nearly an identical amendment in October 2004 when the House considered the 9/11 Commission recommendations bill. This amendment clarifies that DHS will ultimately make a recommendation on whether to make any changes in the NCR subject to the approval by Congress.

The National Capital Region was defined by Congress in a statute in 1952 as part of an effort to coordinate a comprehensive planning responsibility for the national capital and surrounding areas. The 1952 act, the National Capital Planning Act, created the National Capital Planning Commission and defined the NCR to include the District of Columbia; Montgomery and Prince Georges’ counties in Maryland; Arlington, Fairfax, Loudon, and Prince William counties in Virginia.

The NCR also includes all cities within these counties. Unfortunately, when Congress created the new Department of Homeland Security in 2002, it simply referred to the 1952 definition of NCR. It is clear to me that in order to effectively prepare our capital region for first responders, for the terrorist threats of the 21 century, we need to have a 21-century definition of the National Capital Region, not a definition based on a post-World War II and early Cold War America.

Washington, D.C. remains the highest-profile target for terrorists who successfully attacked the Pentagon on September 11, 2001, and failed to complete their attack against the White House or the U.S. Capitol.

Therefore, we need to take extraordinary steps to improve the coordination between governments and first responders in Washington D.C., Virginia, and Maryland in order to prevent and respond to attacks in the National Capital Region.

In the event of a terrorist attack in Washington, D.C., for example, local and State and government officials in Maryland and Virginia would be expected to provide immediate resources to assist in the recovery.

Maryland and Virginia would be asked to help in the evacuation of thousands or even over a million people from the Washington, D.C. metro region in certain circumstances.

Such an event would place an extraordinary strain on our existing first responder community and may overwhelm the ability of local, regional, State, Federal, military, public health, and non-profit agencies and personnel.

So this amendment simply asks that we do the study to see what is the appropriate definition for the purposes of homeland security. I want to thank my colleague, the gentleman from Maryland (Mr. BARTLETT), for his leadership on this issue.

Again, I want to thank the chairman and ranking member for working with me on this amendment in order to make it an effective study for Congress.

□ 1530

I would urge my colleagues to accept this amendment.

Madam Chairman, I reserve the balance of my time.

The Acting CHAIRMAN (Mrs. CAPITO). Does any Member seek time in opposition to the gentleman’s amendment? If not, the gentleman from Maryland (Mr. CARDIN) is recognized.

Mr. CARDIN. Madam Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. CARDIN).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 15 printed in Part B of House Report 109-84.

AMENDMENT NO. 15 OFFERED BY MS. SLAUGHTER

Ms. SLAUGHTER. Madam Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 15 offered by Ms. SLAUGHTER:

Page 79, after line 6, add the following:

**SEC. 509. REPORT TO CONGRESS ON UNIFORM AND IDENTIFICATION SECURITY.**

(a) DEFINITION.—For the purpose of this section, the term “forms of Homeland Security identification” means any uniform,

badge, identification card, or other apparel or insignia of the design prescribed by the Department of Homeland Security for use by any officer or employee of such Department.

(b) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Homeland Security shall prepare and submit to Congress a report—

(1) describing the efforts taken by the Department of Homeland Security—

(A) to curtail the production of imitation forms of Homeland Security identification, including efforts to improve the design of the various forms of Homeland Security identification to prevent unauthorized replication; and

(B) to increase public awareness of the existence of imitation forms of Homeland Security identification, and educate the public about means by which to identify bona fide forms of Homeland Security identification;

(2) assessing the effectiveness of the efforts described in paragraph (1); and

(3) recommending any legislation or administrative actions necessary to achieve the objectives described in subparagraphs (A) and (B), respectively, of paragraph (1).

The Acting CHAIRMAN. Pursuant to House Resolution 283, the gentlewoman from New York (Ms. SLAUGHTER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from New York (Ms. SLAUGHTER).

Ms. SLAUGHTER. Madam Chairman, I yield myself such time as I may consume.

My amendment would require the Secretary of Homeland Security to report to Congress on the agency's efforts to reduce the replication of its badges, uniforms and other insignia. In addition, the Secretary would be directed to report on the agency's efforts to increase public awareness of counterfeit badges and uniforms, and to teach Americans to identify authentic identification of a DHS official.

Two years ago, a man wearing an FBI jacket and carrying a badge attempted to rob the Xerox employee credit union in my district. The would-be robber killed one man and shot another, and that murderer is still at large.

Last week, the Department of Homeland Security arrested a man in New York City who was in the possession of over 1,300 fake badges and IDs from over 35 law enforcement agencies, along with two NYPD police uniforms. In addition, DHS agents found a Glock 9-millimeter handgun, a Beretta semi-automatic rifle, a Winchester shotgun and used casings from a shoulder-fired missile.

I think everyone would agree that this man posed a legitimate threat to his community based on his weapons stash alone, and knowing he had a gun and an FBI badge, or a CBP badge, or a police uniform, makes me even more frightened of the trouble he might have caused. The availability of counterfeit badges is an ongoing problem in this country, and it has gone unchecked for too long.

I am disturbed that the identification and clothing of our public officials is so easily reproduced. When I think about all the different efforts we have made

and the technology we have employed to ensure that someone cannot counterfeit a \$20 bill, I am shocked that ensuring the integrity of the badges and identification of public officials has not been made a similar priority.

DHS badges, uniforms and IDs are indicative of authority, and the bearers are granted access to restricted areas and to sensitive information. We trust that people who have those badges and wear those uniforms of the Department of Homeland Security are, in fact, officers of that agency, and we teach our children to trust people who show official badges and wear the official uniforms. How terrifying is it to think about someone's lost child walking up to someone wearing a DHS uniform only to have that person really be a criminal.

This amendment is an important first step in improving the integrity of the DHS badges, uniforms, and IDs. Next week, I plan on taking our efforts to protect the integrity of our public IDs one step further by introducing legislation that will expand the current Federal criminal ban on fake police badges and the misuse of authentic badges to include uniforms, identification, and all other insignia of public officials, because we must be able to trust those who said that they are public officials.

I appreciate very much being able to present this amendment and ask for its adoption.

Madam Chairman, I reserve the balance of my time.

The Acting CHAIRMAN. Does any Member rise in opposition to the gentlewoman's amendment? If not, the gentlewoman from New York (Ms. SLAUGHTER) is recognized.

Ms. SLAUGHTER. Madam Chairman, I thank very much the chairman of the committee and the ranking member of the committee, and I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Ms. SLAUGHTER).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 16 printed in Part B of House Report 109-84.

**AMENDMENT NO. 16 OFFERED BY MR. KENNEDY OF MINNESOTA**

Mr. KENNEDY of Minnesota. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 16 offered by Mr. KENNEDY of Minnesota:

Page 79, after line 6, insert the following (and amend the table of contents accordingly):

**SEC. 509. BORDER SURVEILLANCE.**

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the President and the appropriate committees of Congress a comprehensive plan for the systematic surveillance of the

northern border of the United States by remotely piloted aircraft.

(b) CONTENTS.—The plan submitted under subsection (a) shall include—

(1) recommendations for establishing command and control centers, operations sites, infrastructure, maintenance, and procurement;

(2) cost estimates for the implementation of the plan and ongoing operations;

(3) recommendations for the appropriate agent within the Department of Homeland Security to be the executive agency for remotely piloted aircraft operations;

(4) the number of remotely piloted aircraft required for the plan;

(5) the types of missions the plan would undertake, including—

(A) protecting the lives of people seeking illegal entry into the United States;

(B) interdicting illegal movement of people, weapons, and other contraband across the border;

(C) providing investigative support to assist in the dismantling of smuggling and criminal networks along the border;

(D) using remotely piloted aircraft to serve as platforms for the collection of intelligence against smugglers and criminal networks along the border; and

(E) further validating and testing of remotely piloted aircraft for airspace security missions;

(6) the equipment necessary to carry out the plan; and

(7) a recommendation regarding whether to expand the pilot program along the entire northern border.

(c) IMPLEMENTATION.—The Secretary of Homeland Security shall implement the plan submitted under subsection (a) as a pilot program as soon as sufficient funds are appropriated and available for this purpose.

**SEC. 510. ADVANCED TECHNOLOGY NORTHERN BORDER SECURITY PILOT PROGRAM.**

Section 5101 of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1712 note) is amended by striking “The Secretary of Homeland Security may carry out” and inserting “To the extent funds are provided in advance in appropriations Acts, the Secretary of Homeland Security shall carry out”.

The Acting CHAIRMAN. Pursuant to House Resolution 283, the gentleman from Minnesota (Mr. KENNEDY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Minnesota (Mr. KENNEDY).

Mr. KENNEDY of Minnesota. Madam Chairman, I rise today to offer an amendment because I am deeply concerned that the Department is not paying sufficient attention to the northern border of the United States.

My amendment today is very simple, and I want to take this opportunity to thank the gentleman from California and his staff for their great work in helping me to draft this amendment.

Mr. Chairman, the National Intelligence Reform Act of 2004 contained important provisions dealing with improving border surveillance on the northern border.

Congress intended for the Secretary of Homeland Security to carry out a pilot program to test advanced technologies for border security along the northern border. Yet, to date, DHS has not carried out this program.

The intelligence reform bill also provided that the Secretary of Homeland

Security must develop and submit to Congress and to the President a comprehensive plan for systematic surveillance of the southwest border by remotely piloted aircraft.

As I mentioned yesterday when I spoke on this subject, many Members may not realize that the U.S.-Canadian border is over 4,000 miles long, and it consists of more than 430 official and nonofficial points of entry. That is double the length of the U.S.-Mexico border, and even with recent staffing moves, DHS has only 1,000 Border Patrol agents along the northern border, compared to over 10,000 along the smaller southern border.

Some might think the southern border is more dangerous, but I would remind my colleagues that terrorists and drug traffickers trying to bring in poison like methamphetamines will try to get to us at the path of least resistance.

The lack of substantial resource and staffing along the northern border poses a real security threat. In fact, due to the shortage, DHS has looked for new ways to monitor the Canadian border, such as a new proposed requirement for passports to get back and forth over the border. But for a border as long as ours with Canada, so many unmanned access points, it is simply impractical to think having Border Patrol agents check passports will stop determined terrorists.

Do we expect al Qaeda or drug dealers to wait an hour at the border for someone to show up to check their passport? Or will they cross at some unknown spot along this vast border?

We need to adopt a more rigorous standard of protecting our northern border that makes wise use of our manpower and employs the same sophisticated technology as we use on our southern border.

By requiring the Department to comprehensively study the use of remotely piloted aircraft, AKA unmanned aerial vehicles, on the northern border and by requiring the Secretary to actually perform the pilot program created in the National Intelligence Reform Act, my amendment makes a significant step forward to securing this vast border.

Madam Chairman, the time has come to make our northern border just as safe and secure as the southern border. I urge all our Members to support this important amendment.

Madam Chairman, I reserve the balance of my time.

The Acting CHAIRMAN. Does anyone rise in opposition to the gentleman's amendment? The Chair recognizes the gentleman from Minnesota (Mr. KENNEDY).

Mr. KENNEDY of Minnesota. Madam Chairman, I would just ask the Members to vote in favor of this amendment, and I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. KENNEDY).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 17 printed in Part B of House Report 109-84.

**AMENDMENT NO. 17 OFFERED BY MS. JACKSON-LEE OF TEXAS**

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 17 offered by Ms. JACKSON-LEE of Texas:

Page 79, after line 6, insert the following (and amend the table of contents accordingly):

**SEC. 509. GAO STUDY OF PROPOSALS TO INCREASE TEMPORARY PROTECTED STATUS REGISTRATION FEE.**

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall complete a study of, and report to Congress on, the likely consequences of increasing the fee described in section 244(c)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1254(a)(c)(1)(B)).

(b) ELEMENTS OF STUDY.—The study described in subsection (a) shall—

(1) calculate the number of applicants for relief under section 244 of the Immigration and Nationality Act (8 U.S.C. 1254(a)) who have sought a waiver, been granted a waiver, or been denied a waiver from such fees due to their inability to pay such fees, since the enactment of such section;

(2) project the cost at which such fee would be set if it were calculated consistent with the manner in which the Department of Homeland Security calculates fees under section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m));

(3) taking into account the countries of nationality of the current population of beneficiaries of section 244 and the lack of work authorization that such beneficiaries have while awaiting the outcome of an adjudication, assess the ability of the current population of beneficiaries under section 244 to pay such fee if it were increased to the level projected pursuant to paragraph (2);

(4) estimate the number of requests for fee waivers that would likely have to be adjudicated per 1,000 applications should such fee be increased to the level projected pursuant to paragraph (2);

(5) estimate the cost and number of man hours that would be required to be expended in order to adjudicate the fee waiver requests described in such paragraph; and

(6) estimate the cost differential between the current cost of adjudicating applications and the statutory fee, on a per-application and an aggregate basis.

**SEC. 510. GAO STUDY OF CONSEQUENCES OF EXPANDING USE OF PREMIUM SERVICE FOR IMMIGRATION BENEFIT APPLICATIONS AND PETITIONS.**

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall complete a study of, and report to Congress on, the Department of Homeland Security's proposal to expand the use of premium fees for employment-based petitions and applications under section 286(u) of the Immigration and Nationality Act (8 U.S.C. 1356(u)) to other applications and petitions.

(b) ELEMENTS OF STUDY.—In performing the study required under subsection (a), the Comptroller General—

(1) shall consider and assess—

(A) all factors that help quantify and assess the current impact of premium proc-

essing on immigration benefits adjudications of employment-based applications and petitions; and

(B) the degree to which the use of premium processing for employment-based applications and petitions has negatively or positively impacted the length of time that it takes to adjudicate employment-based applications and petitions that are eligible for treatment under section 286(u) of the Immigration and Nationality Act but for which no premium fee is paid; and

(2) shall assess—

(A) whether expansion of section 286(u) of the Immigration and Nationality Act to family-based immigration petitions and applications would increase or decrease the length of time it takes to adjudicate family-based petitions and applications in cases where the applicant cannot afford to make use of the premium service;

(B) all other likely future impacts of an expansion of premium processing to family-based immigration benefits applications and petitions;

(C) the number of additional adjudicators needed to process premium processing applications;

(D) the impact of premium processing on the number and assignment of adjudicators; and

(E) the number of individual applicants who would opt to use premium processing under this expanded program annually.

The Acting CHAIRMAN. Pursuant to House Resolution 283, the gentlewoman from Texas (Ms. JACKSON-LEE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Madam Chairman, again I thank the chairman of the full committee and the ranking member of the full committee for working with all of us as we try to construct a real definitive homeland security policy. I am always reminded that we always seemingly receive wake-up calls, and certainly, last week a little Cessna gave America a wake-up call.

I have argued extensively that homeland security is beyond the Beltway, if you will, in the neighborhoods and suburbs and rural areas of America. At the same time, our responsibilities deals with the documentation of the individuals in this country.

I have always said that we need real immigration reform, and I have joined my colleagues in supporting efforts for enhanced border security, understanding the violence at the border, making sure we have more border security patrol agents, more ICE officers, more benefit funding to ensure that those who are in the legal line for citizenship are not delayed by years and months.

I come with this amendment, which is a simple proposition, to make immigration access fair, disregards the temporary protection status, and I am joined in this amendment by the gentleman from Michigan (Mr. CONYERS), the ranking member of the Committee on the Judiciary. I would at this point submit in the RECORD a letter from the Homeland Security Department.

U.S. DEPARTMENT OF  
HOMELAND SECURITY,  
Washington, DC, April 19, 2005.

Hon. JOHN CONYERS, Jr.,  
Ranking Member, Committee on Judiciary,  
House of Representatives, Washington, DC.

DEAR REPRESENTATIVE CONYERS: I am pleased to provide these proposed legislative amendments that U.S. Citizenship and Immigration Services (USCIS) requests to modify fee collections for Temporary Protected Status (TPS) and Premium Processing Fee authority.

Section 244(c)(1)(B) of the Immigration and Nationality Act as amended, 8 U.S.C. 1254a(c)(1)(B) established the fee for adjudicating an application for TPS and capped this fee at \$50 since 1990. This limitation is inconsistent with the fee structure for other immigration benefit applications which is based on the recovery of full processing costs. This amendment would permit appropriate adjustment of the TPS fee structure according to processing costs and inflation, per the regulatory process. The amendment removes the sentence "The amount of such fee shall not exceed \$50."

Subsection 286(u) of the Immigration and Nationality Act (INA) authorizes a \$1,000 premium processing fee to be charged for employment-based immigration petitions and applications. Under this authority as implemented by regulation (8 C.F.R. § 103.2(f)), USCIS offers a premium processing service under which employers filing USCIS Forms I-129 seeking to sponsor aliens for certain immigrant or nonimmigrant classifications can obtain 15-day processing of their petitions by submitting the additional fee. The proposed amendment would authorize the Secretary of Homeland Security to establish premium processing fees for other applications or petitions, such as non-employment based immigration petitions and applications, employment authorization applications, or applications to change or extend nonimmigrant status. The determination whether to implement premium processing service for any specific adjudication, the terms of service, and the applicable premium fee, would be within the Secretary's discretion, but the fee could not exceed the \$1,000 charged for employment-based premium processing. Premium processing fees would be deposited, as are other adjudication fees, into the Immigration Examinations Fee Account in order to enhance USCIS customer service as well as provide the premium service itself. In order to provide the Secretary with flexibility to adjust the fees as needed, the amendment clarifies that APA rulemaking and Federal Register publication requirements do not apply. Rather, availability and terms of premium processing would be publicized through the USCIS web site. The amendment also authorizes premium fees in excess of \$1,000 for employment-based adjudications relating to the investor visa (EB-5) program for investors of at least \$500,000 in job-creating enterprises, including regional centers, for which the current \$1,000 cap does not justify the cost-effective provision of premium service.

Enclosed is detailed justification for each of the actions proposed in this notification.

I appreciate your interest in the Department of Homeland Security, and I look forward to working with you on future homeland security issues. If I may be of further assistance, please contact the Office of Legislative Affairs at (202) 205-4412.

Sincerely,

PAMELA J. TURNER,  
Assistant Secretary for Legislative Affairs.

This letter indicates that the Homeland Security is considering raising the fees on temporary protective status.

Let me tell my colleagues what that means.

Temporary protective status is generally given to those who are fleeing persecution in their countries; women who are fleeing domestic violence who happen to be immigrants; immigrants such as those fleeing from Bosnia or Kosovo during the time of war; immigrants who may be fleeing or may have fled from Iraq at the time of persecution from Saddam Hussein; those who are fleeing from Liberia, suffering from persecution over the years; those who are fleeing from Sudan, where we know there is much brutality and mutilation of men and women in that area. But the Homeland Security Department is proposing to raise the fees twofold.

These are the most vulnerable that come to our country. Many of them come to our country as the Statue of Liberty has said, give us your poor, your helpless and your persecuted.

I would ask the question that we would prefer, and I think the most important aspect of temporary protective status, it gives those who are fleeing persecution a legal status to stay in this country until the crisis has passed in their particular country.

Many of those who receive temporary protective status actually leave, and so it is not a question that they are seeking, if you will, permanent immigration status. It is a temporary status.

For those who may ultimately seek a permanent status, we already have sizeable fees for securing legal permanent residence; sizeable fees for individuals who want to use certain visas, such as family reunification; sizeable fees for workforce visas and J-1 visas and nurses visas. Those individuals are able and working to provide or to pay those kinds of fees.

We also have sizeable fees for citizenship, and I think that is right. The citizenship of the United States pays for the services that are rendered, and likewise, in a bill that I am offering, the Save America Comprehensive Immigration Reform Act, those same fees will help protect American jobs and provide Americans with training.

But the temporary protective status is for the vulnerable, and I believe that this amendment will ask the GAO to study the negative impact that it will make on those seeking temporary protective status and give guidance to the Homeland Security Department so that they can reconsider the suggestion that is being made to double the fees on these most vulnerable that are here in this country.

I would ask my colleagues to consider the vulnerability of these individuals and to support an amendment that asks the question why we must put a premium fee on those who are barely here and surviving because they had to flee to survive and to save their lives. I know that we are a just country and that we can do better, and I would ask my colleagues to support this amendment.

Madam Chairman, I rise with the distinguished Ranking Member of the Judiciary

Committee from Michigan to offer Amendment No. 82, the "Jackson Lee/Conyers GAO Study Amendment." To summarize this amendment, it would instruct the General Accounting Office (GAO) to conduct a study examining the impact of an increase in Temporary Protected Status (TPS) application fees on the nationals of countries for which TPS is available and the differential in cost between the current statutory fee and the cost-based fee proposed by Customs and Immigration Services (CIS). In addition, this amendment instructs GAO to conduct a study on the premium processing fee system and its possible application to individuals and families.

To further simplify the operative provisions of this amendment, it has two prongs: Prong One relates to the United States Citizenship and Immigration Services bureau (USCIS) fee increase for processing applications for Temporary Protected Status (TPS) relief. USCIS would like to remove the cap limiting the amount of fees that can be collected for processing an application for TPS. The application fee for TPS has been fixed by statute at \$50 since 1990. USCIS would like to raise the fee according to processing costs and inflation, following the existing regulatory process. USCIS argues that the \$50 limit is inconsistent with the fee structure for other immigration benefit applications that are based on recovery of full processing costs.

TPS is an immigration category that allows non-citizens of designated countries to remain in the U.S. following political strife or natural disasters in their native countries. TPS applicants are eligible for work authorization while their applications are pending. USCIS says that many of them have been working here for years when a disaster strikes their home country and they become eligible for TPS—thus they are able to pay increased fees, or can they seek a waiver for economic hardship. However, many TPS beneficiaries come from impoverished countries and are often in the U.S. visiting relatives or are here for other brief stays. It may not be the best policy to raise fees for TPS beneficiaries when they have no practical alternative but to remain in the United States.

If the fees were raised to the ridiculously high levels that other fees have been raised to over the last several years, DHS would likely wind up fielding many more fee waiver requests than they currently have to field.

Prong two relates to the USCIS proposal to expand Premium Processing Fees to individuals. USCIS wants to expand the authority of the Secretary of Homeland Security to establish premium processing fees for non-employment based immigration petitions and applications. Currently, premium processing is only available to employers seeking to hire an immigrant: It allows employers to pay a \$1,000 fee to expedite employer-based immigration. Under the new amendment, any immigrant would be able to expedite their immigration paperwork if they could provide the additional \$1,000 fee. Funds collected from this fee would be deposited in the Immigration Examinations Fee Account, with other adjudication fees, to support USCIS customer service.

USCIS says that they expect 10 million expedited applications in the first year and they requested funds to hire additional adjudicators to assist with this work.

Many immigration experts report serious problems with the use of premium fees in the employment-based context. They claim that

other employment-based applications and petitions are slowed down because DHS places more of its resources into adjudicating the premium requests.

Even if the premium fee was working well in the employment-based arena, it may not apply well in the family-based arena. Businesses can pass their costs on to consumers (or even compensate for those fees in the salary and benefits that they pay the workers), and so they do not necessarily care so much about the increased costs. Family-based applicants often cannot pass on increased costs to another payer.

This amendment calls on the GAO to examine the use of the premium fee in the employment-based arena before the practice is extended into the family-based arena. The study will look at the efficacy of the practice in the employment-based arena and whether it has slowed down adjudications for those who do not pay the premium. It also will look at the differences between family-based applicants and employment-based applicants and how their differences might result in different experiences.

The GAO should also study the proposal to exempt DHS from the Administrative Procedures Act (APA) and examine the questionable suggestion of tying application fees.

Madam Chairman, I ask that my colleagues support Mr. CONYERS and me on this amendment.

Madam Chairman, I reserve the balance of my time.

The Acting CHAIRMAN. Does anyone rise in opposition to the gentlewoman's amendment? The Chair recognizes the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Madam Chairman, I ask my colleagues to support the amendment, and I yield back the balance of my time.

Mr. CONYERS. Mr. Chairman, I rise in support of the Jackson Lee/Conyers amendment to H.R. 1817, which would direct the Government Accountability Office (GAO) to conduct a study of two Administration proposals to increase fees paid by applicants and petitioners for immigration services.

The administration's fiscal year 2006 budget submission proposed that Congress enact legislation to authorize the United States Citizenship and Immigration Services (USCIS) component of the Department of Homeland Security to increase the fee paid by applicants for Temporary Protected Status (TPS) above the statutory limit of \$50.

The administration also has proposed that Congress enact legislation to extend a provision that permits USCIS to charge an extra fee for providing faster services to some employment-based immigration applicants and petitioners. The administration wants Congress to extend this program so that the extra fee can also be charged to family-based applicants and petitioners, as well.

The Jackson Lee/Conyers amendment would require that the Government Accountability Office conduct studies of each of these proposals so that Congress can have an opportunity to assess their consequences and impact before acting.

TPS Fee—When Congress enacted the TPS statute in 1990, it had the option of permitting the then-Immigration and Naturalization Service (INS) to set the fee at whatever level

was necessary in order to pay for the cost of adjudicating an applicant's application. Instead, in recognition of the special circumstances faced by TPS beneficiaries, Congress opted to cap the TPS fee at \$50.

By statutory definition, Mr. Chairman, TPS beneficiaries come from countries where there has been a natural disaster or an ongoing armed conflict and the foreign state is unable to handle their return. While it is certainly true that TPS applicants can get work authorization pending their requests, they would first have to pay the fee in order to be considered for work authorization and TPS status. Many TPS beneficiaries, Mr. Chairman, come from impoverished countries and are often in the U.S. visiting relatives or are here for other brief stays. It may not be the best policy to raise fees for TPS beneficiaries when they have no practical alternative but to remain in the United States.

If the fees for TPS are raised to the outrageous levels that other fees have been raised to in recent years, it could result in two unacceptable consequences. It could either drive would-be beneficiaries underground because they cannot afford to pay the fee. Or it could result in an exponential increase in requests for fee waivers, an outcome that would slow down adjudications for all other applications or immigration benefits. My amendment request that the GAO examine these potential consequences.

Premium Service Fee—Nearly five years ago, Congress enacted legislation giving the Administration the authority to charge a \$1,000 premium fee for businesses that wish to expedite the adjudication of their employment-based immigration applications and petitions. The Administration has asked Congress to give it the authority to charge a similar fee to family-based applicants and petitions.

The accounts are mixed, Mr. Chairman, on how well the premium service fee for employment-based applications and petitions has worked. We have heard from some, for instance, that implementation of this diversion has resulted in a slowing down of adjudications for those businesses who decline to pay the extra \$1,000. At a minimum, an impartial body should study how the premium service program is working in the business arena before extending it to family-based applications and petitions.

Moreover, Mr. Speaker, there are vast differences between the resources available to employment-based and family-based petitioners and applicants. Businesses often can pass on the costs of a premium fee to their customers or adjust the wages and benefits of the prospective employee to recover the extra cost. These options are not available to families, on the other hand.

If reports are true that implementation of the program in the employment arena has slowed down adjudications for those businesses that decline to pay the fee, expansion of the program to the family-based arena could have disastrous, unintended consequences for those families that cannot afford to pay an additional \$1,000 for each application or petitions.

Conclusion—Mr. Chairman, the studies and reports that my amendment would mandate do not seek to prejudice the question of whether the administration should be given the new fee authorities that it has requested. Instead, my amendment would see the advice of impartial

experts at the Government Accountability Office before Congress acts. I urge the adoption of this amendment.

□ 1545

The Acting CHAIRMAN (Mrs. CAPITO). The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 18 printed in part B of House Report 109-84.

AMENDMENT NO. 18 OFFERED BY MR. NORWOOD

Mr. NORWOOD. Madam Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 18 offered by Mr. NORWOOD:

Page 79, after line 6, insert the following (and amend the table of contents accordingly):

**SEC. 509. FEDERAL AFFIRMATION OF ASSISTANCE IN IMMIGRATION LAW ENFORCEMENT BY STATES AND POLITICAL SUBDIVISIONS.**

Notwithstanding any other provision of law and reaffirming the existing general authority, law enforcement personnel of a State or a political subdivision of a State are fully authorized to apprehend, detain, or remove aliens in the United States (including the transportation of such aliens across State lines to detention centers), for the purposes of assisting in the enforcement of the immigration laws of the United States in the course of carrying out routine duties. This State authority has never been displaced or preempted by the Congress.

**SEC. 510. TRAINING OF STATE AND LOCAL LAW ENFORCEMENT PERSONNEL IN ENFORCEMENT OF IMMIGRATION LAWS.**

(a) TRAINING AND POCKET GUIDE.—

(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall establish—

(A) a training manual for law enforcement personnel of a State or political subdivision of a State to train such personnel in the investigation, identification, apprehension, arrest, detention, and transfer to Federal custody of aliens in the United States (including the transportation of such aliens across State lines to detention centers and identification of fraudulent documents); and

(B) an immigration enforcement pocket guide for law enforcement personnel of a State or political subdivision of a State to provide a quick reference for such personnel in the course of duty.

(2) AVAILABILITY.—The training manual and pocket guide established in accordance with paragraph (1) shall be made available to all State and local law enforcement personnel.

(3) APPLICABILITY.—Nothing in this subsection shall be construed to require State or local law enforcement personnel to carry the training manual or pocket guide established in accordance with paragraph (1) with them while on duty.

(4) COSTS.—The Department of Homeland Security shall be responsible for any costs incurred in establishing the training manual and pocket guide under this subsection.

(b) TRAINING FLEXIBILITY.—

(1) IN GENERAL.—The Department of Homeland Security shall make training of State and local law enforcement officers available

through as many means as possible, including residential training at Federal facilities, onsite training held at State or local police agencies or facilities, online training courses by computer, teleconferencing, and videotape, or the digital video display (DVD) of a training course or courses.

(2) FEDERAL PERSONNEL TRAINING.—The training of State and local law enforcement personnel under this section shall not displace or otherwise adversely affect the training of Federal personnel.

(c) CLARIFICATION.—Nothing in this Act or any other provision of law shall be construed as making any immigration-related training a requirement for, or prerequisite to, any State or local law enforcement officer exercising that officer's inherent authority to assist in the apprehension, arrest, detention, or transfer to Federal custody illegal aliens during the normal course of carrying out their law enforcement duties.

(d) TRAINING LIMITATION.—Section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)) is amended—

(1) by striking 'Attorney General' each place that term appears and inserting "Secretary of Homeland Security"; and

(2) in paragraph (2), by adding at the end the following: "Such training shall not exceed 14 days or 80 hours, whichever is longer."

The Acting CHAIRMAN. Pursuant to House Resolution 283, the gentleman from Georgia (Mr. NORWOOD) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Georgia (Mr. NORWOOD).

REQUEST FOR MODIFICATION TO AMENDMENT NO. 18 OFFERED BY MR. NORWOOD

Mr. NORWOOD. Madam Chairman, I ask unanimous consent to modify my amendment.

The Acting CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification offered by Mr. NORWOOD to Amendment No. 18 printed in H. Rept. No. 109-84:

On page 1 of the amendment, strike out "or remove" in line 7.

The Acting CHAIRMAN. Is there objection to the modification offered by the gentleman from Georgia?

Mr. THOMPSON of Mississippi. Reserving the right to object, Madam Chairman, I would just say to my colleague that we have not been made aware of this amendment, and if for no other reason than we have not seen it.

Mr. NORWOOD. Madam Chairman, will the gentleman yield?

Mr. THOMPSON of Mississippi. I yield to the gentleman from Georgia.

Mr. NORWOOD. Madam Chairman, I actually did not know who to come to talk to because we did not know who would be leading against this amendment.

If I may, it is a very, very simple drafting error in the bill on line 7 where we are saying that law enforcement personnel of a State or political subdivision of a State are fully authorized to apprehend and detain. Then it goes on to say "or remove." "Or remove" should not have been in there.

And so we are just asking unanimous consent at this point to take that out and it will help the bill, and we are going to get it out somewhere anyway.

Mr. THOMPSON of Mississippi. Reclaiming my time, Madam Chairman, I object to the change.

The Acting CHAIRMAN. Objection is heard.

Mr. NORWOOD. Madam Chairman, the Norwood amendment would definitely clarify the existing authority, existing authority of State and local law enforcement personnel in assisting in the apprehension, detention, and transport of illegal aliens in the routine course of their daily duties. This last phrase, "in the routine course of duty," is critical because the language ensures that law enforcement has certainty when they come in contact with illegal aliens that are breaking our laws.

My amendment also would require DHS to establish a training manual and pocket guide for law enforcement and set forth simple guidelines for making training available.

Madam Chairman, I need to make this perfectly clear. This authority for State and local law enforcement already exists, though there is some confusion. But law enforcement officers and agencies need some assurance from us that they can take appropriate action with authority when the laws are broken. Any confusion about what to do when law enforcement meets with lawbreakers needs to end.

Some will argue law enforcement does not have adequate resources. That is clearly just not the case. We passed yesterday over \$4.5 billion for homeland security, including \$690 million for custody management, funds to dramatically increase detention bed space, \$88 million for the Institutional Removal Program, there is \$211 million for transportation and removal of undocumented aliens, and a good amendment today authorizes another \$40 million to help willing States and local law enforcement. There is also \$6 billion in the pipeline for first responders, and many of them are from law enforcement.

Imagine if a State or local law enforcement did not enforce Federal drug laws, or if a highway patrolman was confused about the speed limits on Federal interstates. Would Congress allow States and local law enforcement to not enforce Federal laws on bank robbers or kidnappings or fraud? In the wake of the 9/11 terror, porous borders are a major security concern.

Madam Chairman, I sponsored a bill with nearly identical language last Congress, so this is not just thought up today. It was endorsed by the National Sheriffs Association, the Law Enforcement Alliance of America, the Southern States Police Benevolent Association, and the 9/11 Families For a Secure America.

In addition, endorsements came from chiefs of police in Illinois, Iowa, Georgia, Indiana; and sheriffs from a slew of States endorsed similar language previously, including California, Michigan, Tennessee, North Carolina, Florida, Ohio, Texas, Washington, South

Carolina, Oklahoma, Oregon, and in nearly a dozen more.

Colleagues, the only area of law that State and local law enforcement are not enforcing because they are unsure about what can be done is the immigration law. That should change. It must change. And this is the right time and the right bill to correct this critical matter.

Madam Chairman, I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Madam Chairman, I rise in opposition to this amendment, and I yield myself such time as I may consume.

Madam Chairman, I encourage Members to vote "no" on the Norwood amendment. The Norwood amendment seeks to clarify the inherent authority of State and local law enforcement to apprehend, detain, remove, and transport illegal aliens in the routine course of duty. That is not what it does.

State and local police already have authority to report criminals who are foreign nationals to the Department of Homeland Security and to assist the Federal Government in criminal investigations. But current law does not allow law enforcement to pick up immigrants and deport them unilaterally. That is essentially what this amendment allows.

Do you want to give a local law enforcement officer the authority to remove people who they may suspect are in this country illegally; or would you prefer to have the Department of Homeland Security do that? Section 287(g) of INA, which provides for local law enforcement to enter into agreements with ICE, does not allow local law enforcement to remove an alien.

This amendment is also frightening because it allows a local police officer who receives no training at all on immigration law to deport someone. How does this police officer know that it is someone who should be deported? What documents should he ask for? What law has he violated?

This is a terrible amendment, Madam Chairman. Countless State and local police agencies have expressed concern about undermining public safety when ordinary immigrants start seeing them as agents of the Federal immigration service. We have comments from the chief of police in Nashville; chief of police in Hamtramck, Michigan; the sheriff and assistant sheriff in Orange County; along with Chief William Finney of the St. Paul Police Department, who all have expressed real concern about the apprehension, detaining, and deportation of illegal immigrants.

Instead of focusing on training State and locals to do the job of our fellow law enforcement officers, we need to do more to train and provide Federal law enforcement with the resources it needs to fully carry out the responsibilities of the Department to enforce immigration and Customs violations.

DHS already faces challenges in cross-training its own personnel and

integrating the various components into a cohesive unit and, thus, would face challenges in developing a cross-training manual for State and local law enforcement personnel.

Madam Chairman, this is why I am requesting that Members vote "no" on this amendment.

Madam Chairman, I reserve the balance of my time.

Mr. NORWOOD. Madam Chairman, I yield myself 30 seconds and would point out there is no intention in this bill for local law enforcement to be able to deport anybody. In fact, if you had not objected to our amendment, that would have been clarified easily in this bill. And at the end of the day, that is simply not going to be the case.

Also, this bill is asking for training to help local law enforcement. I would simply say to my colleague that if he thinks local law enforcement ought not to help with this law because they do not know what they are doing, then maybe we ought to ask them not to help with any drug enforcement law because they do not know what they are doing. We are in that every day helping them.

Madam Chairman, I yield 1 minute to the gentleman from Georgia (Mr. WESTMORELAND).

Mr. WESTMORELAND. Madam Chairman, I thank my colleague from Georgia for yielding me this time to talk about an issue that is extremely pressing to the citizens of the 8th district, and I rise in support of the Norwood amendment.

Illegal immigration is a difficult issue, but it is one that Congress must address and address it now. We have seen the ineffectiveness of border security and how the addition of more eyes can make a difference. There are now more ropes in the net helping stop our porous borders.

During my most recent time in my district, nearly all the questions I received related to the issues of immigration. It is extremely important. Right now it does not make sense to prevent law enforcement officers from protecting the people of the United States. There are about 700,000 State and local police officers, compared with only about 2,000 Immigration and Customs enforcement officers.

Our ICE agents are wonderful, but simply do not have the physical ability to be in every place to work on enforcement all throughout the interior of our country. In contrast, our police officers encounter illegal immigrants every day, whether it be through a traffic stop or serving a warrant. It does not make sense to stop them from helping enforce our immigration laws.

This amendment takes a baby step toward the goal of better interior enforcement by clarifying the legal authority of local officers and giving them some real training on the issue. It simply does not make sense for us to ignore the eyes and ears of hundreds of thousands of local officers.

Madam Chairman, I urge the adoption of the Norwood amendment.

Mr. THOMPSON of Mississippi. Madam Chairman, I yield myself such time as I may consume.

As I indicated earlier, Madam Chairman, the gentleman sought to clarify his amendment without providing us with the opportunity to see it and, for that reason, we objected. But even with the clarification, it still would have been problematic for our side. So for that reason, Madam Chairman, I continue to object and to oppose the amendment.

Madam Chairman, I reserve the balance of my time.

Mr. NORWOOD. Madam Chairman, I yield myself 15 seconds just to remind the gentleman that if there are chiefs of police or State patrols in any particular State that do not want to be bothered by helping their Nation rid itself of terrorists, this is all voluntary. The gentleman can write them back and say we have passed a law, but you do not have to be involved.

Madam Chairman, I yield 2 minutes to the gentlewoman from Pennsylvania (Ms. HART).

Ms. HART. Madam Chairman, I thank the gentleman for yielding me this time. I rise in support of his amendment. I am a cosponsor of his legislation, and very proud to be. The gentleman has a commonsense solution to help us deal with the problem of illegal immigration.

In my area, as in other areas of the United States, we were built on immigration. We are not opposed to immigration. Our concern here is the enforcement of our laws. Today, many people arrive illegally and the Immigration and Naturalization Service estimated that in January of 2000 there were 7 million illegal aliens living in the United States, a number that is estimated to be growing by a half million a year.

Included in this total are more than 300,000 criminal aliens living in the United States. More importantly in that estimate, about 78,000 of them are from countries that are of special concern to us in the war on terror.

□ 1600

With only 2,000 interior immigration enforcement officers working in the United States, we need all of the help we can get to enforce our immigration and criminal laws. This problem became very clear in my district and a story that is common around the country. During a routine traffic stop, it was discovered there were a number of illegal aliens traveling across the State. When the local police called the local immigration office inquiring what they should do, they were told to release them. That is right, law enforcement, knowing these people were illegal aliens, were instructed to release them. That is common, unfortunately, because our local law enforcement has not gotten the assistance to help enforce immigration laws.

This incident builds upon a number of highly publicized cases where illegal

immigrants were released from custody only to commit serious, heinous crimes such as rape and murder, further complicating the job of local law enforcement.

The Norwood amendment is a commonsense and carefully crafted solution to this problem. All we ask is when these types of incidents occur, we can address them and we will make a change and quit undermining our laws. This amendment restores sanity to our law, some sense in helping to address the shortfall of interior immigration enforcement by having cooperation of law enforcement at all levels.

Mr. THOMPSON of Mississippi. Madam Chairman, I yield 2½ minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Madam Chairman, let me attribute good intentions to the gentleman from Georgia (Mr. NORWOOD) because I think the gentleman's amendment is grounded in frustration, but it is the wrong way to go.

We cannot allow our State officials to be burdened by Federal responsibilities and authority as it relates to immigration responsibilities. This amendment has constitutional failings and is weak, if you will, or is weakened by the 10th amendment which clearly says certain items are left to the States and by interpretation certain responsibilities are left to the Federal Government. This amendment includes a responsibility to deport aliens. That is almost impossible for local law enforcement to be responsible for.

Secondarily, the responsibilities of local law enforcement engaging and apprehending undocumented immigrants or others that they might perceive to be such puts on them the responsibilities of further housing these individuals without funding. The \$40 million that was offered just a few amendments back is not sufficient for all of the potential detainees that will be in the Nation's local and State jails.

This is a good-intentioned amendment but it is bad law and it cannot be implemented. I ask my colleagues to recognize the fact that again this will dampen public safety. I would much rather local law enforcement be looking for the kidnapped child or the child that may be subjected to child abuse or child violence because of some tragedy that has happened in a local community. We have seen a wave of child kidnappings and a number of lives lost because of child predators.

There are so many issues that local law enforcement must engage in, this puts an unfunded burden on their particular obligations.

In addition, Madam Chairman, beyond this question of irresponsibility, this ends or it puts a block, if you will, to local law enforcement solving problems and crimes in the community. In our communities, all of the folk that live there are the neighbors. The neighbors have information. They may not be documented or they may be undocumented, but crime is not a respecter of

citizenship status. Local law enforcement's responsibility is bringing down the crime where they live, and no one wants to hear "I could not get information because I could not talk to the immigrant community."

Unfortunately, this amendment is something that I believe is blocked by the Constitution and the 10th amendment, and should be defeated.

Madam Chairman, I rise in opposition to the amendment designated as No. 59, offered by the gentleman from Georgia. The gentleman, in 2003, introduced the Clear Law Enforcement for Criminal Alien Removal (CLEAR) Act (H.R. 2671), and a companion measure was introduced in the other body entitled "the Homeland Security Enhancement Act (S. 1906)." These bills require police to enforce Federal immigration laws, or lose certain Federal funds. If this amendment, based on these bills, is enacted, it would put a muzzle on immigrant crime victims and witnesses, trading their safety for fear, at the expense of everyone who lives near, works with, and is related to the individuals targeted under this legislation.

#### THE PROPOSAL WOULD JEOPARDIZE PUBLIC SAFETY

The Norwood amendment would strike a direct blow at the efforts of police to win the trust and confidence of the communities they serve. If police become immigration agents, word will spread like wildfire among newcomers that any contact with police could mean deportation for themselves or their family members. Immigrants will decline to report crimes or suspicious activity, and criminals will see them as easy prey, making our streets less safe as a result. Experience shows that this fear will extend not only to contact with police, but also to the fire department, hospitals, and the public school system.

#### THE PROPOSAL WOULD UNDERMINE NATIONAL SECURITY

Security experts and law enforcement agree that good intelligence and strong relationships are the keys to keeping our Nation and our streets safe. Under Amendment No. 59, foreign nationals who might otherwise be helpful to security investigations will be reluctant to come forward, for fear of immigration consequences. If immigrant communities are alienated rather than embraced, local law enforcement loses important relationships that can lead to information they might not otherwise have access to.

#### THE NORWOOD AMENDMENT WOULD WEAKEN AN IMPORTANT CRIMINAL DATABASE

Law enforcement agencies now rely upon the FBI's National Crime Information Center (NCIC) database to give them timely and accurate information on criminals and dangerous people. This legislation would undermine the usefulness of the NCIC by loading it with information about millions of people with minor immigration violations. Poor data management at the former Immigration and Naturalization Service (INS) has resulted in numerous inaccurate records, further complicating matters for police who rely on the integrity of the NCIC. Even if the data was correct upon entry, case statuses often change and would have to somehow be updated in the FBI's database. This misguided proposal would lead to many false "hits" and unlawful detentions and arrests, wasting precious law enforcement resources.

#### AMENDMENT NO. 59 PURPORTS BUT IN EFFECT WILL NOT OPERATE TO APPREHEND CRIMINALS

Proponents of this amendment would say that it is necessary to help police deal with the "criminal alien crisis." They ignore the fact that police already have the authority to arrest criminals, both in enforcing State or local laws and assisting the Federal Government. It is absurd to suggest that foreign nationals are somehow immune from our criminal laws unless this legislation passes, or that police are unable to detain criminals who are also immigration law violators.

Police also help the Federal Government deport criminals who are removable because of their offenses. Those areas of the country that have policies ensuring the confidentiality of crime victims' and witnesses' immigration status are also those who call the Federal Government most often to check the immigration status of crime perpetrators. These are often areas with large immigrant populations, so they understand the most effective policing strategies for these communities. They distinguish between enforcing criminal laws and enforcing civil immigration laws—a mandate best left to the Federal agencies who do not also have local crime-fighting responsibilities.

#### THE NORWOOD AMENDMENT LEAVES POLICE UNEQUIPPED FOR THE JOB

Federal immigration law is even more complex than the U.S. tax code and is constantly changing. Immigration agents undergo 17 weeks of intensive training before they are allowed "on the beat," and they have unfettered access to case history data maintained by the Federal Government that helps them do their jobs. This amendment requires no training of local law enforcement and does not cover the full cost of training for those responsible departments who insist on it.

I have an amendment, Jackson-Lee No. 75, that seeks to require studies by the General Accountability Office (GAO) as to the genesis and degree of border violence at our Nation's borders. Similar to the State and local law enforcement agencies subject to the Norwood amendment, the Minuteman Project volunteers who have patrolled the Arizona border were untrained and lacked official support. Comprehensive training—which costs money, and Federal Government accountability, are required in order to ensure that the job of enforcing immigration law is done properly and in accordance with U.S. Constitutional principles.

#### THE AMENDMENT WILL IMPOSE NEW BUREAUCRATIC REQUIREMENTS ON UNDER-STAFFED PUBLIC AGENCIES

This amendment will also impose significant new reporting requirements on critically under-staffed and under-funded local law enforcement agencies. The responsibilities of State and local police have increased dramatically since the September 11th terrorist attacks, and police simply do not have extra time on their hands to take on what is rightly a Federal duty.

#### THE AMENDMENT WILL BECOME ANOTHER UNFUNDED MANDATE ON STATES

The amendment would shift what has always been a Federal duty, immigration law enforcement, onto the States. It purports to give some additional resources to police who enforce immigration laws, while imposing monetary penalties on those departments that decline. But if the yearly battles for just a portion of reimbursements owed under the State Criminal Alien Assistance Program (SCAAP) are any indication, very little of the new money

will actually make it into the coffers of local police departments. Not only will local governments be stuck footing the bill once again, but they risk loss of critical Federal dollars already earmarked for criminal law enforcement if they refuse to take on these new duties.

The Senate bill on which the amendment is based goes further by removing many of the monetary incentives promised in the House bill and imposing national standards on driver's licenses issued to foreign nationals. Once again, implementing these complicated standards comes with no new money attached, but with the threat of losing Federal highway safety funds for those States who do not comply.

#### PROVISIONS IN CURRENT LAW EXIST FOR AGENCIES THAT WISH TO HELP ENFORCE IMMIGRATION LAW

For those few State or local police agencies who do want to assist the Federal Government in enforcing immigration laws, a mechanism is available for them to do so. Section 287(g) of the immigration code outlines a process whereby State and local governments can enter into agreements with the Federal Government (MOUs, or memorandums of understanding) that permit them to receive training and enforce Federal immigration laws. MOUs are currently in place in Florida and Alabama.

#### THE AMENDMENT SKEWS FEDERAL LAW ENFORCEMENT PRIORITIES

When police identify immigration violators, they will have to call the Federal Government to take over. Law enforcement resources at the Federal level are also limited, which is why the Bureau of Immigration and Customs Enforcement (ICE) prioritizes searches for criminals and terrorists over immigrants with civil status violations. Will ICE agents come to collect every undocumented immigrant identified by local police? Amendment No. 59 tries to force them by permitting States and localities to seek funds for every undocumented immigrant the Federal Government fails to pick up. This means ICE has to put the same amount of resources into picking up undocumented workers as suspected terrorists. With 8,000,000 undocumented workers in the United States and an infinitely smaller cohort of foreign-born criminals and terrorists, this is hardly the right prioritization of Department of Homeland Security resources.

#### MAKING EVERY IMMIGRATION VIOLATION A CRIME HAS ENORMOUS COSTS

Many Federal immigration law violations are currently civil in nature. This amendment would classify all immigration status violations as Federal crimes, dramatically increasing the number of people who could be prosecuted, receive court-appointed attorneys, and end up incarcerated through the Federal criminal justice system. The costs would be enormous, and flooding the criminal system with civil violators would further delay justice for victims of real crimes.

#### THE AMENDMENT FORGETS THAT YOU CAN'T TELL BY LOOKING WHETHER ONE IS LEGAL OR NOT

There are nearly 11,000,000 naturalized U.S. citizens, and more than 25,000,000 native-born Americans of Latin American and Asian descent. In this free Nation we are not required to carry "papers" to prove our citizenship, and few of us do. Because police are not equipped to determine who has violated an immigration law, some will inevitably stop and question people of certain ethnic backgrounds, who speak foreign languages, or who have

accents in English. This ill-conceived amendment essentially encourages race- and ethnicity-based profiling.

AMENDMENT NO. 59 THREATENS CIVIL RIGHTS

Anticipating the likelihood of civil rights lawsuits spawned by this legislation, the bills purport to grant immunity from civil suits for officers who enforce immigration laws. This sends the wrong message if we are serious about eradicating racial profiling from U.S. law enforcement. Ultimately, police departments and localities gambling on this Congressional gesture would find themselves in court anyway, when the anti-civil rights provisions are challenged.

Madam Chairman, clearly, there are far too many areas of contention with this amendment that, if passed, would prove potentially injurious to citizens and aliens alike. For the reasons stated above, I strongly oppose this amendment and urge my colleagues to join me.

Mr. NORWOOD. Madam Chairman, I yield myself 2 minutes.

In response to the last speaker, number one, had the gentlewoman been here earlier, the gentlewoman would have heard about why this is not an unfunded mandate.

Number two, if the gentlewoman believes local law enforcement should not help the Federal Government find terrorists in this Nation, which people who cross our borders illegally they are amongst, I ask the gentlewoman to drop a bill so that local law enforcement does not help the Federal Government in bank robberies and murders and drug enforcement and everything else that local law enforcement helps the Federal Government do.

It is ridiculous to say that the 750,000 local law enforcement people should not be involved in this Nation trying to find some of the people who, for example, committed terror in this country on 9/11.

Yesterday we passed over \$4.5 billion for homeland security, including \$690 million for custody management, funds to dramatically increase detention bed space, \$88 million for an institutional removal program, \$211 million for transportation and removal of undocumented aliens, and an earlier amendment today authorized another \$40 million to help willing State and local law enforcement. There is also \$6 billion in the pipeline for first responders. Many of them are local law enforcement. And this is voluntary. If the City of Houston does not want to play, they do not have to. But the rest of us need our law enforcement people to help us get these terrorists out of this country, and there are somewhere between 10 and 15 million that have come across our borders because we have failed to do anything about it for nonsensical reasons. It is time for this to come to an end.

If Members are for correcting immigration in this country, vote for this. If Members are against immigration corrections and do not think it needs reform and want an open border, vote against it.

Madam Chairman, I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Madam Chairman, I yield myself such time as I may consume.

I would like to say to my colleague every immigrant is not a terrorist. I would assume that was an error in the gentleman's comment. Clearly we have to be very careful. That is a Federal responsibility. What we are doing is passing that responsibility to State and local law enforcement and not funding the Department that ought to be having the responsibility for immigration.

Madam Chairman, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Madam Chairman, I thank the ranking member, and I have to associate myself with the gentleman's argument.

More importantly the gentleman from Georgia (Mr. NORWOOD) has made, if you will, my very point. Although we disagree, the point is not ridiculous. What we are saying is that he is suggesting that law enforcement massively go to the border and begin to arrest and deport individuals they perceive to be illegal aliens. There lies my angst and opposition to this massively confusing amendment.

The gentleman has in his amendment that local law enforcement, constables and sheriffs, will be responsible for deporting aliens. They do not even have the Federal jurisdiction to do so. By the way, deportation requires Federal intervention because there are proceedings which you have to go before. Unfortunately, we have short changed that side of the formula.

This is an unworkable amendment. It violates the 10th amendment of the Constitution. It violates the idea of protecting our national security. I ask my colleagues to defeat this amendment and help us do real immigration reform through the Federal Government.

Mr. NORWOOD. Madam Chairman, I yield myself 15 seconds, and say just because you say something is so does not mean it is so. This is a voluntary bill in which nobody is massing anywhere, nor does it imply that anywhere in this bill. It is totally voluntary, and local law enforcement are asked to work in line of duty.

Madam Chairman, I yield the balance of my time to the gentleman from California (Mr. Cox) to close the debate for this side.

Mr. COX. Madam Chairman, I think we need to return to the amendment that is before us. There has been a lot of heat and light generated in this debate, but the amendment itself is exceptionally simple.

It begins from the fact that current law provides for the training of State and local law enforcement officials to enforce Federal immigration laws. That is a voluntary program. There is no unfunded mandate in current law because there is no mandate. It is completely voluntary, and only those State and local law enforcement officials, those first responders who are seeking

to partner with the Department of Homeland Security in obtaining this Federal training to enforce immigration laws, actually do so.

Second, in an amendment that was adopted earlier by voice vote, we provided \$40 million in Federal funding to reimburse any costs incurred by State and local volunteers, that is State and local governments who volunteer for this training, in obtaining the training. So it is not unfunded either. It is a funded, voluntary program.

Lastly, what this amendment adds to existing law is simply to provide a training guide for this training that already exists and training flexibility to make sure that it meets the needs of State and local law enforcement officers.

The last thing it does is it corrects existing law, section 287(g) of the INA to substitute "the Secretary of Homeland Security" for the words "Attorney General." This is something that we did in the technical corrections bill that was unanimously passed by the Select Committee on Homeland Security in the last Congress.

Mr. THOMPSON of Mississippi. Madam Chairman, I yield myself the balance of my time.

This amendment, although well intended, crosses the line from my standpoint because it moves us away from a Federal responsibility to a State responsibility. This amendment tries to clarify the existing authority of State and local law enforcement personnel to apprehend, detain, remove and transport illegal aliens in the routine course of duty.

Additionally, this amendment requires DHS to establish a training manual on this matter and set forth simple guidelines for making that training available. State and local police already authorize and train to notify Federal law enforcement officials, are already highly qualified, and are fully trained to identify foreign nationals in custody.

Additionally, training in immigration law is not a simple task. A manual is simply not sufficient to train officers in the complexity of immigration law.

For example, DHS already faces challenges in cross-training its personnel and integrating the various components into a cohesive unit; and, thus, would face challenges in developing a cross-training manual for State and local law enforcement personnel.

So for these reasons, I am in opposition to the amendment.

Mr. NORWOOD. Madam Chairman, will the gentleman yield?

Mr. THOMPSON of Mississippi. I yield to the gentleman from Georgia.

Mr. NORWOOD. Madam Chairman, I simply ask the gentleman to reconsider our unanimous consent to remove two words that would, I think, make an amendment that is going to pass better in your mind.

Mr. THOMPSON of Mississippi. I do not consent.

Mr. FARR. Madam Chairman, I rise today in opposition to this amendment offered by Mr.

NORWOOD. This amendment would essentially force local law enforcement agencies to enforce federal immigration laws.

The enactment of this amendment would strain already scarce state and local resources by creating an unfunded mandate, in addition to dividing communities around the country.

Coercing state and local police into becoming federal immigration agents does not benefit anyone involved. In addition to their other duties, local law enforcement officials and local and state administrators would be bogged down by determining criminal's immigration status. Community members will be hesitant to cooperate with local law enforcement for fear of ramifications against them and their family.

According to the Department of Justice statistics, violent and property crime rates have been falling steadily for at least the last 10 years. I have no doubt that this is largely due to community policing. This amendment would take away that idea. Our communities are better served by a police force that focuses on robbers, murderers and terrorists, as opposed to immigration status.

I do not support illegal immigration and believe that anyone who enters the U.S. in violation of U.S. immigration laws should be penalized. But that doesn't mean police who should be arresting drug dealers and breaking up gang activities should now be federally mandated to track down illegal aliens.

To me, this amendment is another example of the desperate need for an honest and comprehensive debate on immigration law in this country. Piecemeal ideas, such as this one, are detrimental to our communities at a microlevel. Our country is in need of an immigration policy that accounts for the fears 9/11 instilled, in addition to the hope that immigrants bring to our nation.

This amendment is ineffective and unnecessary policy and I urge my colleagues to cast a "no" vote.

Mr. THOMPSON of Mississippi. Madam Chairman, I yield back the balance of my time.

The Acting CHAIRMAN (Mrs. CAPITO). The question is on the amendment offered by the gentleman from Georgia (Mr. NORWOOD).

The question was taken; and the Acting Chairman announced that the ayes appeared to have it.

Mr. THOMPSON of Mississippi. Madam Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Georgia (Mr. NORWOOD) will be postponed.

It is now in order to consider amendment No. 19 printed in part B of House Report 109-84.

There is no designee for amendment No. 19.

It is now in order to consider amendment No. 20 printed in part B of House Report 109-84.

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AMENDMENT NO. 20 OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Madam Chairman, I offer an amendment.

The Acting CHAIRMAN (Mrs. CAPITO). The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 20 offered by Ms. JACKSON-LEE of Texas:

Page 82, after line 4, add the following:

**SEC. 407. REPORT ON BORDER VIOLENCE.**

(a) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Homeland Security shall submit a report to the Congress on the number and type of border violence activities that have occurred in the 5-year period preceding such date.

(b) CONTENTS.—The report shall include the following:

(1) The number of such activities that have been documented.

(2) The types of activities involved.

(3) A description of the categories of victims.

(4) The risk of future activities.

(5) A description of the steps the Department is taking, and any plan the Department has formulated, to prevent such activities.

(c) DEFINITION.—For purposes of this section, the term "border violence activity" means any activity that—

(1) involves the unlawful use of, or the threat unlawfully to use, physical force with the intent to harm a person or property;

(2) occurs in the United States, not further than 25 miles from a United States border with Mexico or Canada; and

(3) occurs as part of an attempt to deter, retaliate against, or enable the entry of any person into the United States.

The Acting CHAIRMAN. Pursuant to House Resolution 283, the gentlewoman from Texas (Ms. JACKSON-LEE) and the gentleman from Arizona (Mr. HAYWORTH) each will control 5 minutes.

The Chair recognizes the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Madam Chairman, I yield myself such time as I may consume.

Let me describe the simplicity of my amendment. It is simply to ask the Secretary of Homeland Security not later than 6 months after the date of the enactment of this act, the Secretary of Homeland Security shall submit a report to Congress on the number and type of border violence activities that have occurred in the 5-year period preceding such date.

The report would include the number of such activities that have been documented; the types of activities involved; a description of the categories of victims; the risk of future activities; and a description of the steps the Department is taking, and any plan the Department has formulated to prevent such activities.

This is a straightforward amendment that clearly again reaffirms the ongoing theme of the homeland security authorization bill, that the responsibility of homeland security falls in the arms of the Federal Government, and we must not fail the American people.

We have seen citizens take up arms. They have first been in our neighboring State, in Arizona, a broad, desert-like area. There is now an intention for such citizen groups, unauthorized militia, to come into the States of Texas and California, New Mexico and who

knows where else this amendment might be.

I am delighted to say that in the Committee on Homeland Security, we do have a consensus at least around the idea that we must understand the issues of border violence. I would like to thank the gentleman from California (Mr. COX) and the gentleman from Mississippi (Mr. THOMPSON) for working with me on the general issue.

I also raise for my colleagues our concern for the northern border and to remind them of the potential tragedy that was, if you will, inhibited or prohibited at the turn of the present century, 2000, when an individual was poised and walked across the northern border in order to do havoc, if you will, in Los Angeles. We know the borders are dangerous, and we want to have the kind of trained professional personnel to ensure the safety of the borders.

But we must also recognize the distinctiveness of the borders. I will use Texas as an example. It is heavily populated. It is a dense area. There is a lot of private land. Thereby, those who are in volunteer efforts may subject themselves to potential violence or incur violence. And so it is important that we have an understanding by the Department of Homeland Security to take charge of that, to understand the variety, if you will, the variety and the types of activities that could possibly happen.

I want to cite for my colleagues the incidences that may occur at the border and particularly from the individual who heads the Minuteman Project, indicated that the Texas border might be far more difficult than they might have expected. There may be a little danger going on. They might have to be a little careful. That is why this study and this report by the Department of Homeland Security is extremely important, the Secretary of Homeland Security. We must work in partnership to be able to protect the violence that may take place at the border.

Madam Chairman, I yield 1 minute to the distinguished gentleman from California (Mr. BERMAN), a senior member of the Committee on the Judiciary.

Mr. BERMAN. Madam Chairman, I thank the gentlewoman for yielding time. The point she raises now brings to mind a point I wanted to make about what is really an unbelievably reckless amendment offered by the gentleman from Georgia (Mr. NORWOOD) regarding empowering local police to detain and remove people based on illegal immigration status without checking or verifying that status with INS or the Federal agencies.

A group of people with no training in this particular effort will have the ability to pick up people, assume, or come to the conclusion that person is not here in legal status and, without checking with the Federal Government or the INS, to deport and remove that person from this country. That person may be an asylee, having a well-founded fear of persecution. The person may

not have the right documents on him but be a naturalized citizen or be here under some kind of temporary visa that he cannot show the police. It will all of a sudden give thousands and thousands of law enforcement officials an ability to do something.

Mr. HAYWORTH. Madam Chairman, I yield 15 seconds to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Madam Chairman, I just want to point out to the ranking member that I started this debate off saying there was a drafting error and we wanted to remove two words: "or remove." Your side would not allow that to be removed. That would have solved the problem. We are going to get it solved even if it is in conference. We are going to get it done despite you, but we gave you the opportunity to do something about it.

Mr. HAYWORTH. Madam Chairman, I yield myself 3 1/4 minutes.

I rise in strong opposition to the amendment offered by my colleague from Texas. As you heard in her opening remarks, sadly, this amendment is an attempt to discredit worthy, non-violent volunteers who dedicated their time and their energy to protect our Nation's borders last month. The Minuteman Project, Madam Chairman, is simply an outgrowth of the public's frustration with the Federal Government's failure to secure our borders. Indeed, what the Minutemen did was follow a time-honored tradition of petitioning our government for legitimate redress of grievance.

It is true that in terms of the political landscape, the ACLU and the Government of Mexico protested the group even before the patrol began; but the Minutemen effectively shut down a 20-mile stretch of border without a single credible report of violence committed by those citizen volunteers.

With reference to the notion of a study, Madam Chairman, I would simply say this: the records are intact. I will make them a part of the record right now. Attacks on border patrol agents by alien and drug smugglers are on the rise. In the Tucson sector alone during the first 6 months of this fiscal year, there were reported 132 assaults on agents, 14 more than all of last year. That is in the first 6 months of the fiscal year. Border patrol agents in Arizona are attacked once every 2 days, 64 times in a recent 3-month period.

Six border patrol agents assigned to the Tucson sector have been killed in the line of duty, including a 27-year-old agent fatally shot in June of 1998 near Nogales as he sought to arrest four men hauling marijuana into the United States. When I had occasion to visit with border patrol agents in March, they told me how snipers from the Mexican side of the border will actually shoot border patrol vehicle windshields out if the Mexican snipers deem these vehicles are parked too close to the border.

In 2004, border patrol agents arrested over 650 suspected terrorists. Madam

Chairman, let me repeat that. In 2004, border patrol agents arrested over 650 suspected terrorists from countries of national security interest trying to cross our southern border. They expect the number will rise this year. In January of this year, border patrol in the Tucson sector impounded 557 smuggling vehicles, almost 35,000 pounds of marijuana, and 35,704 illegal aliens.

This amendment fails to address the violent attacks on our border patrol agents. It implies that citizens of the United States seeking redress and putting an end to the influx of terrorists and the illegal invasion of this country are wrong. The committees on Homeland Security and the Judiciary oppose this amendment. I urge my colleagues to vote "no" on the Jackson-Lee amendment.

Madam Chairman, I yield 1 1/4 minutes to the gentleman from Virginia (Mr. GOODE).

Mr. GOODE. Madam Chairman, illegal immigration costs this Nation \$68 billion per year. That is not million; that is billion. This study changes the focus of the Department of Homeland Security. The Department of Homeland Security needs to be focusing on keeping those illegally in the country out. Citizen groups such as the Minutemen who performed a tremendous neighborhood watch function on our southern borders need to be commended and not slapped by an amendment like this.

Mr. HAYWORTH. Madam Chairman, I yield myself the balance of my time to make this point to my colleagues. I am sure it is not the intent of my colleague from Texas to try and imply that citizens engaged in lawful protest are somehow attempting to inspire violent acts. I know that is not the intent of my colleague. However, that would be the perverse result if this House would support that amendment. This House would then be on record saying that the lawful rights of citizens should be abridged to accommodate illegal acts by noncitizens. That is something this House and this government and the citizens of this Nation will not countenance.

Therefore, because of that, I would ask all my colleagues to join me in opposition to the Jackson-Lee amendment. Vote "no."

Ms. JACKSON-LEE of Texas. Madam Chairman, I yield myself such time as I may consume.

The slap in the face is to the hard-working border patrol agents who now are subjected to more jeopardy because volunteers are there, unauthorized, untrained, and the very words of the Minutemen who said that they fear going to Texas because most of the land is privately owned and security becomes a serious issue, said by the leader of the Minutemen. But I am not concerned about the Minutemen. I am concerned about saving lives.

If you want to save lives, vote for the Jackson-Lee amendment that helps to save lives by giving money to the border patrol agents and protecting those

volunteers by telling them that they cannot be at the border unsafe, unsecured, untrained. We need the Department of Homeland Security to take charge.

Vote for the Jackson-Lee amendment.

Madam Chairman, I rise to bring a very important issue before the Committee of the Whole by way of an amendment designated as "Jackson Lee #75." I would like to once again thank the distinguished Chairman of the Appropriations Subcommittee on Homeland Security and the Ranking Member for showing their awareness of the issue of border violence as one that rises to a level that requires Federal oversight by agreeing to the amendment that I offered yesterday during House consideration of the appropriations measure, H.R. 2360. I also thank the Chairman of the Committee on Homeland Security for his showing of commitment to addressing this issue by agreeing to collaborate with the Ranking Member from Mississippi and me to craft a bipartisan letter to the Department of Homeland Security to request the collection of data on this matter.

"Jackson Lee #75" is based on the same premise of that amendment, and given that the appropriations measure has placed spending limitations with respect to national border patrol, it would only be logical and prudent for the authorization measure to emphasize the legislative intent to clearly define, monitor, and control this issue before it becomes an expenditure.

The purpose of this amendment is to put the American people on notice that the "Minuteman Project" has proposed to enter multiple borders in order to monitor for illegal border crossings.

American Federation of Government Employees (AFGE) Local No. 3332 and the Association for Residency and Citizenship of America (ARCA) support this important amendment that will prevent impediment to DHS's border security functions as well as the development of negative issues if groups such as the Minutemen attempt to enforce immigration law.

The Minuteman Project has good intentions, but we object to the potential negative social, legal, and economic impact that it can have on the Texas borders. The problem of porosity of the borders is a Federal Government problem. It is a Department of Homeland Security (DHS) problem. DHS has legal jurisdiction over the borders; therefore, it is DHS that must address our border security needs.

An unofficial, untrained, and uncontrolled militia is the wrong answer for a problem that is within the Federal Government's responsibility. If the job is not being done sufficiently, we must look to Congress and the Executive Branch to exercise oversight and to improve performance.

The Minuteman Project is headed for the Texas borders, and its presence will be the recipe for danger, conflict, and increased legal enforcement costs for the Federal Government. The Houston Chronicle reported on May 12 that the controversial group that began as a month-long engagement along the Arizona border plans to enter Texas to operate its hunt for illegal border crossings.

Other media and eyewitnesses have suggested that many of the participants in the Minuteman Project have carried firearms, incited retaliatory measures by gang members,

incited more groups to organize in a similar fashion along other American borders, and created a situation that suggests potential constraints on the individual civil rights of undocumented persons.

The arrival of this group to Texas is an example of what we feared during its initial engagement during the month of April—propagation in other borders. Empowerment of unofficial, untrained militia to carry out the functions of the Federal Government instead of simply improving the staffing situation at the Customs and Border Patrol and the Immigration, Customs, and Enforcement Agencies is a dereliction of duty and a condoning of potential vigilantism.

Several differences between the United States-Mexico border of Arizona and Texas make it potentially injurious for the arrival of the Minutemen. The traffic growth in Texas would dramatically increase the probability of injury or death of aliens or other innocent civilians.

In 2001, U.S. Customs inspectors logged 3,133,619 cargo trucks as they entered Texas border towns from Brownsville to El Paso, up from 1,897,888 commercial vehicles in fiscal year 1995, the year NAFTA took effect. Furthermore, the topography at the Texas borders are more dense and provide more places for people involved in violent disputes to hide. In addition, even as the leader of the Minuteman Project stated to the Houston Chronicle, 'there are serious logistical problems for patrols in Texas. Most of the land along the Texas border is privately owned, and some of it is urbanized, unlike the open land the group monitored in Arizona.'

What we need instead of a situation of potential violence, violation of civil rights, and costs associated with restoring peace and security at the borders is a comprehensive immigration plan like I proposed with the introduction of my legislation, the 'Save America Comprehensive Immigration Act, H.R. 2092.'

Effective, efficient, and safe border security requires properly trained personnel. We need to improve our Customs and Border Patrol and Immigration and Customs Enforcement agencies rather than empower militias to do their job. The enforcement job requires accountability, training in the area of human rights, language skills, non-violent restraint techniques, and weapons handling.

The legal accountability principles such as respondeat superior and vicarious liability do not clearly apply to the Minutemen for injuries or damage that may be sustained by the private properties that abut the Texas borders; the heavy stream of commerce constantly traversing the border; or innocent bystanders who may be in the wrong place at the wrong time.

The Jackson-Lee amendment seeks to prevent liability "powder kegs" from propagating nationally.

Madam Chairman, I ask that my colleagues support this amendment.

The Acting CHAIRMAN. The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Ms. JACKSON-LEE of Texas. Madam Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further pro-

ceedings on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE) will be postponed.

It is now in order to consider amendment No. 21 printed in part B of House Report 109-84.

AMENDMENT NO. 21 OFFERED BY MR. MANZULLO

Mr. MANZULLO. Madam Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 21 offered by Mr. MANZULLO:

At the end of title V, add the following new section:

**SEC. 509. BUY AMERICAN REQUIREMENT FOR PROCUREMENTS OF GOODS CONTAINING COMPONENTS.**

(a) REQUIREMENT.—Notwithstanding any agreement described in subsection (b), more than 50 percent of the components in any end product procured by the Department of Homeland Security that contains components shall be mined, produced, or manufactured inside the United States.

(b) AGREEMENTS DESCRIBED.—An agreement referred to in subsection (a) is any of the following:

(1) Any reciprocal procurement memorandum of understanding between the United States and a foreign country pursuant to which the Secretary of Homeland Security has prospectively waived the Buy American Act (41 U.S.C. 10a et seq.) for certain products in that country.

(2) Any international agreement to which the United States is a party.

The Acting CHAIRMAN. Pursuant to House Resolution 283, the gentleman from Illinois (Mr. MANZULLO) and the gentleman from Virginia (Mr. TOM DAVIS) each will control 5 minutes.

The Chair recognizes the gentleman from Illinois (Mr. MANZULLO).

Mr. MANZULLO. Madam Chairman, I yield myself such time as I may consume.

My amendment strengthens the Buy American Act and restores the original intent that more than 50 percent of the components in end products purchased by the Department of Homeland Security shall be mined, produced, or manufactured inside the U.S.

The Buy American Act originally passed Congress during the Great Depression. The intent of Congress was that to qualify under the Buy American Act, a company had to have substantially all of a product made, grown, or mined in the U.S. However, regulations implementing the Buy American Act have subsequently redefined "substantially all" to mean simply greater than 50 percent.

Yet even that regulation has been weakened even further over the years. The Pentagon has used the public interest exception to waive the Buy American Act to treat the purchase of some foreign goods as if they were made in America. The original intent of the Buy American Act has been undermined by procurement memoranda of understanding among the U.S. and various foreign countries that permit the substitution of foreign components for components mined, produced, or

manufactured inside the United States. These are not treaties or trade agreements approved by Congress. These were executive branch agreements not subject to review by Congress.

Thus, the Buy American laws are basically worthless. There are so many holes in that law that it means nothing when a company says they comply with the Buy American Act. The exception, and it is a big one, is that the domestic content requirement does not have to be met if the items are procured from certain designated foreign countries.

The Pentagon has memoranda of understanding with 21 developed countries that waive the Buy American Act because the Defense Department has determined that for these countries complying with the Buy American Act is "inconsistent with the public interest."

□ 1630

Basically, a company getting an award from the Pentagon can claim compliance with the Buy American Act without having to actually make anything in the United States as long as the components come from one of those 21 countries. Because the Department of Homeland Security has a very similar mission to the Department of Defense, protecting the territory of the U.S. from every possible enemy attack, we should not allow the DHS to waive the Buy American Act like the Pentagon has done without an affirmative vote by Congress.

The intent of Congress is to maintain the vibrant industrial base so that we may remain the strongest Nation on Earth. Even the founder of modern-day capitalism and free trade, Adam Smith, recognized the need for a nation to be able to depend upon its own industrial and agricultural base and not rely on foreign sources for its defense needs. We cannot maintain our role as global leader on a pure services-based economy.

It is also important to remember that this amendment does not increase the share of the Buy American Act. It simply codifies the content percentage of what is an existing regulation.

Madam Chairman, I urge adoption of this amendment.

Madam Chairman, I reserve the balance of my time.

Mr. TOM DAVIS of Virginia. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, this amendment would radically change the current application of the Buy American Act, and it could place the United States in violation of most international trade agreements in which we are signatories, including the World Trade Organization's Government Procurement Agreement, something, by the way, we are working to get China to sign right now because of some of the restrictions they are putting on their procurement policy; the North American Free Trade Agreement; the U.S.-Israel Free Trade

Agreement; and the U.S.-Australia Free Trade agreement.

This restriction would have a devastating effect on the Department of Homeland Security's ability to buy the most high-tech and sophisticated products at a reasonable price to support our critical anti-terror efforts. We should be able to get the best high-technology goods at the lowest cost for the American taxpayer so that we can fight this war on terrorism in a cost-effective manner.

For instance, this amendment would sweep away the current \$175,000 ceiling for the Buy American Act required for the application with the Trade Agreements Act of 1979. This is the basis for our participation in the Government Procurement Agreement.

The restriction would cause Customs and border protection problems in purchasing the best aircraft, the best camera equipment, the best surveillance equipment from the world market to protect our borders. Further, the amendment would interfere with critical research and development agreements we currently have with the United Kingdom. BlackBerrys, something that most Members use and are used widely throughout the government, are a Canadian product. Thirty, 40 percent of its components are made and manufactured in the United States, but they would be subject to restrictions put on by this amendment.

The United States is already challenged to compete in a global marketplace. We do not always have a competitive advantage. But dismantling the regime of free trade agreements that help create and support the vibrant world marketplace in the end only hurts American workers.

Besides violating our trade agreements, this provision will require the Department to pay an artificially high price for products it needs to protect us against terror. Homeland Security dollars are already scarce. We should not be wasting our Homeland Security dollars when U.S. citizens are volunteering their personal time to protect the southern border.

Under this amendment, businesses are required to certify compliance with the Buy American Act, potentially exposing American businesses to civil false claims and other sanctions even if they have made good-faith efforts to comply with the government-unique requirements. In a global marketplace where components are assembled throughout the world, it is often difficult to ascertain what that 50 percent margin is. This creates significant financial and legal burdens for industry, given that more and more information technology so critical for the fight against terror is being sourced in our global economy from around the world.

Some companies have responded to Buy American Act restrictions by establishing costly labor-intensive product-tracking systems that are not needed in their commercial business to ensure that products being sold to the

government meet the government-unique requirements. But small businesses in particular often cannot afford to establish special systems for that kind of compliance. So this hurts small businesses trying to sell to the government in a global economy.

Some companies have simply stopped selling certain products in the Federal marketplace, denying us access to some of the latest, most cost-effective products. Further, this decrease in sales is disproportionately devastating to small businesses.

This radical, in my opinion, Buy American Act provision will impose financial and legal burdens on commercial companies that sell to our government. It may well prevent the Department of Homeland Security from obtaining the best technology to protect our Nation.

Again, BlackBerrys would be subject to this, something that most Members and most government workers use, because they are from a Canadian company. This increased restriction on the Department's ability to obtain needed technology from the world market is a Cold War anachronism. Given the Department of Homeland Security's growing reliance on information technology and other advanced products and the current global nature of the industry, the Department's ability to fulfill its critical anti-terror mission will be crippled by this restrictive provision.

I hope that Members have the sense to vote against this, and I urge that we defeat this amendment.

Madam Chairman, I reserve the balance of my time.

Mr. MANZULLO. Madam Chairman, I yield 1 minute to the gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. Madam Chairman, I thank the gentleman for yielding me this time.

I rise in support of his amendment.

As to the last speaker, let me tell the Members what is going on here. In the Department of Homeland Security, they are not allowed to buy civilian aircraft. What happened just recently was Eurocopter, which is subsidized by the French and German governments, that is a subsidy. That is in violation of the trade agreements, and no one is enforcing it. As a result, in my district Enstrom Helicopter lost a contract to build civilian helicopters for the Department of Homeland Security, and the cost for the French/German conglomerate was like \$23 million more; so it is costing the taxpayers more money.

I think we have to make a decision in this Nation. Are we going to continue in these trade agreements that are not enforced? There are other countries that are subsidizing their workers, and we sit here and we develop contracts and say because of this treaty or this agreement, we cannot do it; but yet we do not enforce the provisions of it. And what we are really doing is telling the Department of Homeland Security, at least in the helicopter industry, that

we will buy European helicopters as opposed to U.S. helicopters.

We can no longer continue this. Please support the Manzullo amendment.

Mr. TOM DAVIS of Virginia. Madam Chairman, I yield myself such time as I may consume.

Let me just say that what this amendment will require us to do with precious Homeland Security dollars is pay up to 50 percent more for goods that bear the American label and in many cases cost us access to the best high-technology surveillance equipment, lab equipment, equipment and cameras to protect our borders. I just do not think it makes any sense in this environment of a global economy, and I urge its defeat.

Madam Chairman, I yield back the balance of my time.

Mr. MANZULLO. Madam Chairman, I yield myself such time as I may consume.

The gentleman from Virginia (Mr. TOM DAVIS) argues that the best technology is outside the United States. The whole purpose of this amendment is to try to do something about the 3 million manufacturing jobs we have lost in the past several years. This simply says whenever anybody agrees to abide by the Buy American Act, at least buy 50 percent of the content from America. The existing Buy American Act says they have to buy zero. Congress passed a law that says buy everything from America. The Department of Defense and other agencies say that only means 50 percent. Now there is a memorandum of understanding from the White House that says, by the way, if they buy from the 21 countries, they do not even need to meet the 50 percent.

This is very simple. It says if we want to keep technology in the United States, then buy the technology that is here. If a particular item has to be purchased and it is not made in the United States, then the Buy American Act simply does not apply.

This is a commonsense amendment. I am going to be offering it to every single authorization bill that I can, and I would urge Members to vote "aye" on this.

The Acting CHAIRMAN (Mrs. CAPITO). All time for debate has expired.

The question is on the amendment offered by the gentleman from Illinois (Mr. MANZULLO).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 22 printed in part B of House Report 109-84.

AMENDMENT NO. 22 OFFERED BY MR. PUTNAM

Mr. PUTNAM. Madam Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 22 offered by Mr. PUTNAM:

At the end of title V, add the following (and conform the table of contents accordingly):

**SEC. 509. DISASTER ASSISTANCE FOR FUNERAL EXPENSES.**

Section 408(e)(1) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174(e)(1)) is amended by adding at the end the following: "The President may provide assistance for funeral expenses under this paragraph only if a medical examiner determines that the death was caused by the major disaster..."

MODIFICATION TO AMENDMENT NO. 22 OFFERED BY MR. PUTNAM

Mr. PUTNAM. Madam Chairman, I ask unanimous consent that the amendment be modified in the form at the desk.

The Acting CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification to amendment No. 22 offered by Mr. PUTNAM:

In lieu of the matter proposed to be added by the amendment add the following:

At the end of title V, add the following (and conform the table of contents accordingly):

**SEC. 509. DISASTER ASSISTANCE FOR FUNERAL EXPENSES.**

Not later than 90 days after the enactment of this Act, the Director of the Federal Emergency Management Agency shall—

(1) develop criteria and guidelines for determining if a death is disaster-related; and  
(2) require staff to provide for analysis of each request for funeral expense assistance in order to support approval or disapproval of such assistance.

The Acting CHAIRMAN. Is there objection to the modification offered by the gentleman from Florida?

There was no objection.

The Acting CHAIRMAN. Pursuant to House Resolution 283, the gentleman from Florida (Mr. PUTNAM) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Florida (Mr. PUTNAM).

Mr. PUTNAM. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I am delighted to be here to talk about what is an important issue for the whole country, but it came to light in the aftermath of the hurricanes in Florida.

Immediately after Hurricanes Charley, Frances, Ivan, and Jeanne ravaged the Sunshine State, with the help of this Congress hurricane disaster relief assistance was provided to help our State recover from those devastating storms. And while many of those who suffered damage are still waiting for FEMA recovery payments, there were a number of questionable payments that have been made as it related to funeral expenses for hurricane-related deaths.

For example, the instance in Pensacola of a recovering alcoholic with cirrhosis of the liver, after Hurricane Ivan blew through town on September 16, the gentleman went on a binge "due to misery," his widow told the Miami Herald. He never fully recovered and died of respiratory failure. His funeral expenses were paid by the American taxpayer.

A gentleman from Palm Bay, Florida, died of lung cancer 6 days before Hurricane Frances made landfall. The gentleman was buried before the hurricane made landfall. His widow said that FEMA damage inspectors came to her home and suggested she might qualify for funeral expenses. She said that she did not think her husband's death was related to Hurricane Frances. She had her husband's funeral paid for by the American taxpayers.

The Inspector General in the Department of Homeland Security with a report that came out today echoed these concerns and called for two specific changes: a change that the Department should develop specific criteria and guidelines for determining if a death is disaster related, and a specific requirement that staff of FEMA provide for an analysis of each request and document the rationale for approval or disapproval of funeral-related assistance. This is an issue that is hugely important to Florida as we try to eliminate waste, fraud, and abuse and allow FEMA's limited resources to go to those who are truly in need.

We had offered a different approach to this as it related to medical examiners. With the work of the gentleman from Pennsylvania (Chairman SHUSTER), we were able to come to a resolution on the appropriate legislative language that solves this issue, and I am grateful to him for his leadership.

Madam Chairman, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. SHUSTER).

Mr. SHUSTER. Madam Chairman, I appreciate the gentleman's working with us to modify language on his amendment. I think all of us know and I know specifically as I travel to Florida to review some of the damage and some of the problems that occurred during those hurricanes and with FEMA coming down there and things they did and did not do, I know firsthand that there are problems and we need to make these types of corrections.

I think the gentleman's amendment, by modifying it, has strengthened the language and put into law not just a process or a regulation by FEMA but these are going to be standards that FEMA is going to need to adhere to when they are determining whom to pay funeral expenses to, those who deserve and those who do not deserve. And we heard of cases, a couple of hundred of them in Florida where there was fraud, abuse, and they got funds to pay for funeral expenses; and I think this language is going to go a long way to making sure that that does not happen, not only in Florida but across this country.

□ 1645

On the subcommittee that I chair, the Subcommittee on Economic Development, Public Buildings and Emergency Management, we are committed to working with my friend, the gentleman from Florida (Mr. PUTNAM), to

talking to the FEMA folks and making sure they are reviewing these cases in the past, but also going forward.

So the gentleman has my commitment, and we will sit down and, as I said, talk to the folks from FEMA to see that we clear up this matter.

I thank the gentleman, and I appreciate him working with us.

Mr. PUTNAM. Madam Chairman, I reserve the balance of my time.

The Acting CHAIRMAN (Mrs. CAPITO). Does any Member rise in opposition to this amendment?

Mr. PUTNAM. Madam Chairman, how much time remains?

The Acting CHAIRMAN. The gentleman has 30 seconds remaining.

Mr. PUTNAM. Madam Chairman, I want to just take that remaining time then to thank our delegation chairman, the gentleman from Fort Lauderdale (Mr. SHAW) for his efforts on this, and all of the other related FEMA issues; and thank the gentleman from Pennsylvania (Mr. SHUSTER). This is an important issue for the taxpayers, and it is important to make sure that people who are truly in need are assisted by FEMA and those who are not are not able to game the system. I appreciate the leadership of my colleagues.

Madam Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Florida (Mr. PUTNAM).

The amendment, as modified, was agreed to.

The Acting CHAIRMAN. It is now in order to consider Amendment No. 23 printed in Part B of House report 109-84.

AMENDMENT NO. 23 OFFERED BY MR. SOUDER

Mr. SOUDER. Madam Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 23 offered by Mr. SOUDER:

At the appropriate place in the bill, insert the following:

**SEC. \_\_\_\_ . EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR OFFICE OF COUNTERNARCOTICS ENFORCEMENT AT DEPARTMENT OF HOME LAND SECURITY.**

Section 7407(c) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 118 Stat. 3853) is amended by striking "2005, there is authorized up to \$6,000,000" and inserting "2005 or 2006, there is authorized up to \$6,000,000 for each such fiscal year".

The Acting CHAIRMAN. Pursuant to House Resolution 283, the gentleman from Indiana (Mr. SOUDER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Indiana (Mr. SOUDER).

Mr. SOUDER. Madam Chairman, I yield myself 3 minutes.

Madam Chairman, this is a very simple amendment. It merely extends the authorized appropriation for the Department of Homeland Security Office

of Counternarcotics Enforcement for one year for fiscal year 2006. In other words, it just inserts 2006 after 2005.

This office was created structurally as part of the Intelligence Reform and Terrorism Prevention Act in December of 2004. We realized that in narcotics, almost all the major interdiction agencies, Coast Guard, Border Patrol, and Legacy Customs, are inside Homeland Security. When you are pursuing international terrorists, you are going to pick up a share of narcotics as you control the border as much as we can, and as we move forward we have been picking up narcotics. But it cannot just be an afterthought.

Twenty-four thousand Americans die each year of drugs. We have had basically 3,300 roughly die of international terrorism since 2001 and, in that same time period, nearly 100,000 of narcotics deaths. So we need to stay focused. We need to do both things simultaneously. Furthermore, the terrorists are increasingly funded by narcotics.

The administration has been reluctant to adopt this. It is not a question of whether the individuals at the Department of Homeland Security are committed to counternarcotics; the question is, is there a structure in place that puts somebody at the table to make sure that they never forget that narcotics is part of the Department of Homeland Security's commission and what they are supposed to do. It is not just international terrorism, it is also home terrorism and the narcotics front.

So I appreciate the leadership of the gentleman from Illinois (Speaker HASTERT) and the cooperation of the Senate as we have created this office, and we have \$6 million in authorized appropriations. If people followed the Homeland Security appropriations debate yesterday, they see the problem is that this office has all detailees in it. Even the head of this office is a detailee. We need full time, paid employees in this office.

Yesterday, when I withdrew my amendment to set aside this money, it was said that this comes out of the Office of the Secretary. That is the way the Department of Homeland Security would like to make it; but, in fact, our authorizing bill says that \$6 million is to be assigned to the Office of Narcotics.

Now, many of us, including me, have detailees. Detailees are wonderful, but detailees come and go. They have multiple missions. The question is if you are really going to have a counternarcotics office, if this administration is going to stay focused on this, there has to be an office with some real staff, not people who come and go out of the office, and especially not a head who has to beg and borrow for detailees, and people who are assigned for short periods who may or may not know the issue, and a head of the office who is not even paid by the Department of Homeland Security.

It shows that this is a continual battle in multiple bills to make sure that

narcotics is part of the structural part of the Department of Homeland Security, and that narcoterrorism is part of international terrorism. This amendment merely extends what we have already passed in this House for last year's authorization to the next year's authorization that says that up to \$6 million can be spent in this office.

I am looking forward to the commitment from the gentleman from Kentucky (Chairman ROGERS) to make sure some of this money is, in fact, expended.

Madam Chairman, I reserve the balance of my time.

The Acting CHAIRMAN. Does any Member rise in opposition to this amendment?

Mr. SOUDER. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I believe this is a noncontroversial amendment. I know the gentleman from Maryland (Mr. CUMMINGS), the ranking member of my subcommittee, has been very supportive of this also. We have worked together in a bipartisan way to make sure that this office is a real office, it has a real voice, it has real money, and I look forward to working with the appropriators to help make this happen.

Madam Chairman, this amendment would simply extend the authorized appropriation for the Department of Homeland Security Office of Counternarcotics Enforcement (OCNE) for fiscal year 2006. The Office was created by Congress in December 2004, as part of the Intelligence Reform and Terrorism Prevention Act (P.L. 108-458). The Office is tasked with oversight of all of DHS' drug interdiction activities, with reporting to Congress on the adequacy and success of those activities, and with facilitating the coordination of those activities. Section 7407(c) of the Intelligence Reform Act authorized up to \$6 million of the Department's appropriation for departmental management and operations for fiscal year 2005 to be expended for the Office.

Despite this clear statement of Congressional intent, the President's overall budget, ONDCP's Drug Strategy Report, and ONDCP's Drug Budget summary make no mention of the OCNE. This raises the question of whether the Administration and DHS intend to establish OCNE and drug control as a priority.

The mission of the office remains just as important this year as last year. My amendment would therefore extend the current authorization of appropriations for the Office (contained in Section 7407(c) of the Intelligence Reform and Terrorism Prevention Act of 2004, P.L. 108-458) through fiscal year 2006.

Madam Chairman, I believe that if we are going to reauthorize DHS for fiscal year 2006, we should reauthorize the appropriation for this vital DHS component as well. It is my understanding that Chairman Cox agrees with me, and is supporting this amendment. I hope that the other members of the House will join me in supporting this amendment, and H.R. 1817.

BACKGROUND ON THE DEPARTMENT OF HOMELAND SECURITY (DHS) OFFICE OF COUNTERNARCOTICS ENFORCEMENT (OCNE)

To assist DHS in meeting its vital counterdrug responsibilities, Congress origi-

nally created the Counternarcotics Officer (CNO) position. Unfortunately, the original law did not clearly define how the CNO was to fulfill those duties, nor did it give the CNO adequate status or resources to fulfill them.

In order to correct these problems, Congress passed the 9/11 Commission recommendations legislation in 2004 that replaced the CNO with a new Office of Counternarcotics Enforcement (OCNE).

Responsibilities of the Office of Counternarcotics Enforcement:

The Director of the Office of Counternarcotics Enforcement shall have oversight responsibility for any programs administered by the DHS that coordinate anti-drug activities within the Department or between the Department and other agencies.

The Director of the Office of Counternarcotics Enforcement shall represent the Department on all interagency coordinating committees, task forces, or other bodies intended to foster coordination and cooperation on anti-drug issues.

The Director of the Office of Counternarcotics Enforcement shall send reports to Congress concerning the Department's counternarcotics responsibilities.

The legislation authorized up to \$6 million of the Department's management funds to be used for the new Office's budget for fiscal year 2005.

WHY THE OFFICE OF COUNTERNARCOTICS ENFORCEMENT (OCNE) IS NEEDED

#### A. Connections Between Drugs and Terrorism

The huge profits created by drug trafficking have financed and will continue to finance terrorism throughout the world.

As President Bush noted in December 2001, just a few months after the 9/11 attacks, "[T]he traffic in drugs finances the work of terror, sustaining terrorists . . . terrorists use drug profits to fund their cells to commit acts of murder."

Furthermore, as the U.S. steps up its efforts against more legitimate sources of funding, terrorist organizations will increasingly turn to drugs and similar illegal sources. As the 9/11 Commission has noted, the federal government, including DHS, must be able to adapt to these shifting strategies of the terrorists.

#### B. DHS and Drug Interdiction

Strong DHS action against drug trafficking is vital to our overall efforts to stop the financing of terrorist activities. It was for this reason that Congress specifically provided that the primary mission of the Department included the responsibility to "monitor connections between illegal drug trafficking and terrorism, coordinate efforts to sever such connections, and otherwise contribute to efforts to interdict illegal drug trafficking" (6 U.S.C. 111(b)(1)(G))

DHS combines all of our main drug interdiction agencies: the Coast Guard, legacy Customs Service, and the Border Patrol. No other department has so many of the nation's "ground troops" who patrol our borders for drugs.

While many divisions of DHS have a vital counternarcotics mission, none of them is exclusively focused on counternarcotics. In a department whose reason for creation is counterterrorism, there is a risk that the anti-drug mission will be neglected.

The Director of the Office of Counternarcotics Enforcement (OCNE) will help keep DHS subdivisions focused on counternarcotics. He is the only official at DHS whose primary duty is counternarcotics.

## C. Office of National Drug Control Policy (ONDCP) and OCNE

Despite clear Congressional intent, the President's overall FY 2006 budget, ONDCP's FY 2006 Drug Strategy Report and ONDCP's FY 2005 Drug Budget summary make no mention of the OCNE.

This raises the question of whether the Administration and DHS intend to establish OCNE and drug control as a priority.

## WHAT THE SOUDER "OCNE" AMMENDMENT DOES

My amendment would extend the current authorization of appropriations for the Officer (contained in Section 7407(c) of the Intelligence Reform and Terrorism Prevention Act of 2004, P.L. 108-458) through fiscal year 2006.

Madam Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. SOUDER).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider Amendment No. 24 printed in Part B of House report 109-84.

## AMENDMENT NO. 24 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. THOMPSON OF MISSISSIPPI

Mr. THOMPSON of Mississippi. Madam Chairman, I offer an amendment in the nature of a substitute made in order under the rule.

The Acting CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Part B amendment No. 24 in the Nature of a Substitute offered by Mr. THOMPSON of Mississippi:

Strike all after the enacting clause and insert the following:

## SECTION 1. SHORT TITLE.

This Act may be cited as the "Complete Homeland Security Act".

## SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

## Sec. 1. Short title.

## Sec. 2. Table of contents.

## TITLE I—AUTHORIZATION OF APPROPRIATIONS

## Sec. 101. Authorization of appropriations.

## Sec. 102. Departmental management and operations.

## Sec. 103. Information analysis and infrastructure protection.

## Sec. 104. Science and technology.

## Sec. 105. Security enforcement and investigations.

## Sec. 106. Emergency preparedness and response.

## Sec. 107. Office of the Inspector General.

## TITLE II—9/11 REFORM BILL ACCOUNTABILITY

## Sec. 201. Report on budget request for programs authorized by Public Law 108-458.

## TITLE III—SECURING OUR ENTIRE BORDER ALL THE TIME, EVERY DAY OF THE WEEK

## Subtitle A—Securing our land borders

## Sec. 301. Land border security strategy.

## Sec. 302. Deployment of surveillance systems along U.S.-Mexico border.

## Sec. 303. Creation of northern and southern border coordinators.

## Sec. 304. Smart border accord implementation.

## Sec. 305. Requiring a vulnerability assessment of land ports of entry.

## Sec. 306. Study to determine appropriate level and allocation of personnel at ports of entry and border patrol sectors.

## Sec. 307. Assessment of study by Comptroller General.

## Sec. 308. Authorization of appropriations for increase in full-time Border Patrol agents.

## Sec. 309. Border Patrol unit for Virgin Islands.

## Sec. 310. Requiring report on the "One Face at the Border Initiative".

## Subtitle B—CIS workflow study

## Sec. 311. CIS workflow, technology, and staffing assessment.

## Subtitle C—Report on border violence

## Sec. 321. Studies related to feasibility and cost of locating and removing eight million undocumented aliens from United States.

## Subtitle D—Center of Excellence on Border Security

## Sec. 331. Center of Excellence on Border Security.

## TITLE IV—SECURING CHEMICAL PLANTS AND OTHER CRITICAL INFRASTRUCTURE

## Subtitle A—Chemical Security Improvement

## Sec. 411. Short title.

## Sec. 412. Definitions.

## Sec. 413. Vulnerability assessments and site security plans.

## Sec. 414. Whistleblower protection.

## Sec. 415. Alternative approaches.

## Sec. 416. Enforcement.

## Sec. 417. Interagency technical support and cooperation.

## Sec. 418. Penalties.

## Sec. 419. Protection of information.

## Sec. 420. No effect on requirements under other law.

## Subtitle B—Critical infrastructure prioritization

## Sec. 421. Critical infrastructure.

## Sec. 422. Security review.

## Sec. 423. Implementation report.

## TITLE V—SECURING AIRPORTS, BAGGAGE, AND AIR CARGO

## Subtitle A—Prohibition against increase in security service fees

## Sec. 501. Prohibition against increase in security service fees.

## Subtitle B—Aviation security

## Sec. 511. Federal flight deck officers.

## Sec. 512. Letters of intent.

## Sec. 513. Aviation security capital fund.

## Sec. 514. Airport checkpoint screening explosive detection.

## Sec. 515. Flight communications.

## Sec. 516. Airport Site Access and Perimeter Security.

## Sec. 517. MANPAD countermeasure research.

## Sec. 518. Air charter and general aviation operations at Ronald Reagan Washington National Airport.

## Sec. 519. Inspection of cargo carried aboard commercial aircraft.

## TITLE VI—SECURING TRAINS ACROSS AMERICA

## Subtitle A—Public Transit Security

## Sec. 601. Short title.

## Sec. 602. Homeland security public transportation grants.

## Sec. 603. Training exercises.

## Sec. 604. Security best practices.

## Sec. 605. Public awareness.

## Sec. 606. National Transportation Security Centers.

## Sec. 607. Whistleblower protections.

## Sec. 608. Definition.

## Sec. 609. Memorandum of agreement.

## Subtitle B—Rail Security

## Sec. 611. Short title.

## CHAPTER 1—RAILROAD SECURITY

## Sec. 621. Railroad transportation security.

## Sec. 622. Freight and passenger rail security upgrades.

## Sec. 623. Fire and life-safety improvements.

## Sec. 624. Rail security research and development program.

## Sec. 625. Rail worker security training program.

## Sec. 626. Whistleblower protection.

## Sec. 627. Public outreach.

## Sec. 628. Passenger, baggage, and cargo screening.

## Sec. 629. Emergency responder training standards.

## Sec. 630. Information for first responders.

## Sec. 631. TSA personnel limitations.

## Sec. 632. Rail safety regulations.

## Sec. 633. Rail police officers.

## Sec. 634. Definitions.

## CHAPTER 2—ASSISTANCE TO FAMILIES OF PASSENGERS

## Sec. 641. Assistance by national transportation safety board to families of passengers involved in rail passenger accidents.

## Sec. 642. Rail passenger carrier plans to address needs of families of passengers involved in rail passenger accidents.

## Sec. 643. Establishment of task force.

## TITLE VII—SECURING CRITICAL INFRASTRUCTURE

## Sec. 701. Critical infrastructure.

## Sec. 702. Security review.

## Sec. 703. Implementation report.

## TITLE VIII—PREVENTING A BIOLOGICAL ATTACK

## Sec. 801. GAO Report of Department biological terrorism programs.

## Sec. 802. Report on bio-countermeasures.

## TITLE IX—PROTECTION OF AGRICULTURE

## Sec. 901. Report to Congress on implementation of recommendations regarding protection of agriculture.

## TITLE X—OPTIMIZING OUR SCREENING CAPABILITIES

## Subtitle A—U.S. visitor and immigrant status indicator technology database

## Sec. 1001. Interoperability of data for United States Visitor and Immigrant Status Indicator Technology.

## Subtitle B—Studies to improve border management and immigration security

## Sec. 1011. Study on biometrics.

## Sec. 1012. Study on digitizing immigration benefit applications.

## Sec. 1013. Study on elimination of arrival/departure paper forms.

## Sec. 1014. Cataloguing immigration applications by biometric.

## TITLE XI—SECURING CYBERSPACE AND HARNESSING TECHNOLOGY TO PREVENT DISASTER

## Subtitle A—Department of Homeland Security Cybersecurity Enhancement

## Sec. 1101. Short title.

## Sec. 1102. Assistant Secretary for Cybersecurity.

## Sec. 1103. Cybersecurity training programs and equipment.

## Sec. 1104. Cybersecurity research and development.

## Subtitle B—Coordination with National Intelligence Director

## Sec. 1111. Identification and implementation of technologies that improve sharing of information with the National Intelligence Director.

Subtitle C—Cybersecurity research  
 Sec. 1121. Support of basic cybersecurity research.

Subtitle D—Cybersecurity training and equipment  
 Sec. 1131. Cybersecurity training programs and equipment.

**TITLE XII—HELPING FIRST RESPONDERS GET THEIR JOB DONE**  
 Subtitle A—Communications interoperability  
 Sec. 1201. Interoperable communications technology grant program.

Sec. 1202. Study reviewing communication equipment interoperability.

Sec. 1203. Prevention of delay in reassignment of dedicated spectrum for public safety purposes.

Subtitle B—Homeland security terrorism exercises  
 Sec. 1211. Short title.  
 Sec. 1212. National terrorism exercise program.

Subtitle C—Citizenship Preparedness  
 Sec. 1221. Findings.  
 Sec. 1222. Purposes.  
 Sec. 1223. Citizens Corps; Private sector preparedness.

Subtitle D—Emergency medical services  
 Sec. 1231. Emergency Medical Services Administration.

Sec. 1232. Sense of Congress.

Subtitle E—Lessons learned information sharing system  
 Sec. 1241. Lessons learned, best practices, and corrective action.

Subtitle F—Technology transfer clearinghouse  
 Sec. 1251. Short title.  
 Sec. 1252. Technology development and transfer.

Subtitle G—Metropolitan medical response system  
 Sec. 1261. Metropolitan Medical Response System; authorization of appropriations.

**TITLE XIII—FIGHTING DOMESTIC TERRORISM**  
 Sec. 1301. Advisory Committee on Domestic Terrorist Organizations.

**TITLE XIV—CREATING A DIVERSE AND MANAGEABLE DEPARTMENT OF HOMELAND SECURITY**  
 Subtitle A—Authorities of Privacy Officer  
 Sec. 1401. Authorities of Privacy Officer.  
 Subtitle B—Ensuring diversity in Department of Homeland Security programs  
 Sec. 1411. Annual reports relating to employment of covered persons.  
 Sec. 1412. Procurement.  
 Sec. 1413. Centers of Excellence Program.  
 Subtitle C—Protection of certain employee rights  
 Sec. 1421. Provisions to protect certain employee rights.

Subtitle D—Whistleblower protections  
 Sec. 1431. Whistleblower protections.

Subtitle E—Authority of Chief Information Officer  
 Sec. 1441. Authority of Chief Information Officer.

Subtitle F—Authorization for Office of Inspector General  
 Sec. 1451. Authorization for Office of Inspector General.

Subtitle G—Regional office  
 Sec. 1461. Colocated regional offices.

Subtitle H—DHS terrorism prevention plan  
 Sec. 1471. Short title.

Sec. 1472. Department of Homeland Security Terrorism Prevention Plan.  
 Sec. 1473. Annual crosscutting analysis of proposed funding for Department of Homeland Security programs.

Subtitle I—Tribal security  
 Sec. 1481. Office of Tribal Security.

**TITLE XV—SECURING OUR PORTS AND COASTLINES FROM TERRORIST ATTACK**  
 Sec. 1501. Security of maritime cargo containers.  
 Sec. 1502. Study on port risks.

**TITLE XVI—AUTHORITY OF OTHER FEDERAL AGENCIES**  
 Sec. 1601. Authority of other Federal agencies unaffected.

**TITLE I—AUTHORIZATION OF APPROPRIATIONS**

**SEC. 101. AUTHORIZATION OF APPROPRIATIONS.**  
 There is authorized to be appropriated for the Department of Homeland Security \$41,036,180,000 for fiscal year 2006.

**SEC. 102. DEPARTMENTAL MANAGEMENT AND OPERATIONS.**  
 Of the amount authorized under section 101, there is authorized for departmental management and operations, including management and operations of the Office for State and Local Government Coordination and Preparedness, \$6,463,000,000.

**SEC. 103. INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION.**  
 Of the amount authorized under section 101, there is authorized for information analysis and infrastructure protection programs and activities \$873,245,000.

**SEC. 104. SCIENCE AND TECHNOLOGY.**  
 Of the amount authorized under section 101, there is authorized for science and technology programs and activities \$1,827,400,000, of which \$418,000,000 shall be appropriated for aviation-security-related research and development, \$115,000,000 shall be appropriated for the Man-Portable Air Defense Systems, and \$35.4 million will be appropriated for biological countermeasures and agricultural defense.

**SEC. 105. SECURITY ENFORCEMENT AND INVESTIGATIONS.**  
 Of the amount authorized under section 101, there is authorized for expenses related to border and transportation security, immigration, and other security and related functions, \$28,414,000,000, of which \$380,000,000 shall be appropriated for the hiring of 2,000 new border patrol agents.

**SEC. 106. EMERGENCY PREPAREDNESS AND RESPONSE.**  
 Of the amount authorized under section 101, there is authorized for emergency preparedness and response programs and activities, \$3,258,531,000.

**SEC. 107. OFFICE OF THE INSPECTOR GENERAL.**  
 Of the amount authorized under section 101, there is authorized for the Office of the Inspector General, \$200,000,000.

**TITLE II—9/11 REFORM BILL ACCOUNTABILITY**

**SEC. 201. REPORT ON BUDGET REQUEST FOR PROGRAMS AUTHORIZED BY PUBLIC LAW 108-458.**

(a) EXPLANATION OF HOMELAND SECURITY FUNDING SHORTFALL.—  
 (1) INITIAL REPORT.—Not later than 30 days after the date of the enactment of this section, the President shall submit to Congress a report that explains each homeland security funding shortfall included in the budget submitted to Congress for fiscal year 2006 under section 1105(a) of title 31, United States Code, including the rationale for requesting less than the authorized level of funding for each such funding shortfall.

(2) ANNUAL REPORTS.—Not later than 15 days after the President submits to Congress the budget for a fiscal year under section 1105(a) of title 31, United States Code, the President shall submit to Congress a report that explains each homeland security funding shortfall included in the budget for the fiscal year, including the rationale for requesting less than the authorized level of funding for each such funding shortfall.

(b) DEFINITION OF HOMELAND SECURITY FUNDING SHORTFALL.—In this section, the term “homeland security funding shortfall” means a program authorized by Public Law 108-458 for which the amount of authorization of appropriation for a fiscal year—  
 (1) is specified under such Act, and the President does not request under such budget the maximum amount authorized by such Act for such fiscal year; or  
 (2) is not specified under such Act, and the President does not request under such budget an amount sufficient to operate the program as required by such Act.

**TITLE III—SECURING OUR ENTIRE BORDER ALL THE TIME, EVERY DAY OF THE WEEK**

**Subtitle A—Securing Our Land Borders**

**SEC. 301. LAND BORDER SECURITY STRATEGY.**  
 (a) IN GENERAL.—The Secretary of Homeland Security, in consultation with the heads of all other Federal agencies with border-related functions or with facilities or lands on or along the border, shall submit to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)) unclassified and classified versions of a unified, comprehensive strategy to secure the land borders of the United States not later than 6 months after the date of the enactment of this Act. The submission should include a description of the actions already taken to implement the strategy.

(b) CONTENTS.—The report shall cover the following areas:  
 (1) Personnel.  
 (2) Infrastructure.  
 (3) Technology.  
 (4) Coordination of intelligence among agencies.  
 (5) Legal responsibilities and jurisdictional divisions.  
 (6) Apprehension.  
 (7) Budgetary impact.  
 (8) Flow of commerce and economic impact.

(c) CONSULTATION.—In creating the strategy described in subsection (a), the Federal agencies described in such subsection shall consult private sector organizations and nongovernmental organizations with national security, privacy, agriculture, immigration, customs, transportation, technology, legal, and business expertise.

(d) IMPLEMENTATION.—The Secretary shall implement the strategy not later than 12 months after the date of the enactment of this Act.

(e) EVALUATION.—The Comptroller General of the United States shall track, monitor, and evaluate such strategy to secure our borders to determine its efficacy.

(f) REPORT.—Not later than 15 months after the date of the enactment of this Act, and every year thereafter for the succeeding 5 years, the Comptroller General of the United States shall submit a report to the Congress on the results of the activities undertaken under subsection (a) during the previous year. Each such report shall include an analysis of the degree to which the border security strategy has been effective in securing our borders. Each such report shall include a collection and systematic analysis of data, including workload indicators, related to activities to improve and increase border security.

**SEC. 302. DEPLOYMENT OF SURVEILLANCE SYSTEMS ALONG U.S.-MEXICO BORDER.**

## (a) INITIAL THREAT ASSESSMENT.—

(1) IN GENERAL.—The Secretary of Homeland Security shall conduct an assessment of the threat of penetration of the land borders of the United States, between the ports of entry, by terrorists and criminals, and the threat to such areas to terrorist attack. In carrying out the threat assessments under this paragraph, the Secretary shall categorize the vulnerability of each land border corridor as “high”, “medium”, or “low” and shall prioritize the vulnerability of each land border corridor within each such category. In conducting the threat assessment, the Secretary of Homeland Security shall consult with appropriate Federal, tribal, State, local, and private sector representatives.

(2) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall prepare and submit to the Committee on Homeland Security of the United States House of Representatives a report that contains—

(A) the results of the threat assessments conducted under paragraph (1);

(B) with respect to each land border corridor categorized under paragraph (1) as either a “high”, “medium” or “low” land border corridor, descriptions of—

(i) infrastructure and technology improvement projects required for each land border corridor in order to reduce its vulnerability; and

(ii) the resources required to make such improvements; and

(C) a description of how the funds will be used to implement technology and infrastructure improvement projects.

(b) FOLLOW-UP THREAT ASSESSMENTS.—The Secretary of Homeland Security shall conduct follow-up threat assessments of the land border between the ports of entry every 2 years and shall submit such reports to the Committee on Homeland Security of the House of Representatives.

(c) PLAN.—Not later than December 31, 2005, the Secretary of Homeland Security shall develop a comprehensive plan to fully deploy technological surveillance systems along the United States land borders between the ports of entry. Surveillance systems included in the deployment plan must—

(1) ensure continuous monitoring of every mile of such borders; and

(2) to the extent practicable, be fully interoperable with existing surveillance systems and mission systems, such as the Integrated Surveillance Intelligence Systems already in use by the Department of Homeland Security.

**SEC. 303. CREATION OF NORTHERN AND SOUTHERN BORDER COORDINATORS.**

(a) IN GENERAL.—Title IV of the Homeland Security Act of 2002 (6 U.S.C. 201 seq.) is amended—

(1) in section 402, by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following:

“(8) Increasing the security of the United States at the ports of entry located along the northern and southern borders, and improving the coordination among the agencies responsible for maintaining that security.”;

(2) in subtitle C, by adding at the end the following:

**“SEC. 431. BORDER COORDINATORS.**

“(a) IN GENERAL.—There shall be within the Directorate of Border and Transportation Security the positions of Northern Border Coordinator and Southern Border Coordinator, who shall be appointed by the Secretary and who shall report directly to the Under Secretary for Border and Transportation Security.

“(b) RESPONSIBILITIES.—The Northern Border Coordinator and the Southern Border Coordinator shall undertake the following responsibilities along the northern and southern borders, respectively—

“(1) serve as the primary official of the Department responsible for coordinating all Federal security activities along the border, especially at land border ports of entry;

“(2) provide enhanced communication and data-sharing between Federal, State, local, and tribal agencies on law enforcement, emergency response, or security-related responsibilities for areas on or adjacent to the borders of the United States with Canada or Mexico;

“(3) work to improve the communications systems within the Department to facilitate the integration of communications of matters relating to border security;

“(4) oversee the implementation of the pertinent bilateral agreement (the United States-Canada ‘Smart Border’ Declaration applicable to the northern border and the United States-Mexico Partnership Agreement applicable to the southern border) to improve border functions, ensure security, and promote trade and tourism;

“(5) consistent with section 5, assess all land border ports of entry along the appropriate border and develop a list of infrastructure and technology improvement projects for submission to the Secretary based on the ability of a project to fulfill immediate security requirements and facilitate trade across the borders of the United States; and

“(6) serve as a liaison to the foreign agencies with responsibility for their respective border with the United States.”.

(b) CLERICAL AMENDMENT.—Section 1(b) of such Act is amended in the table of contents by inserting after the item relating to section 430 the following:

“431. Border coordinators.”.

**SEC. 304. SMART BORDER ACCORD IMPLEMENTATION.**

The President shall submit to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)) information about the ongoing progress on implementation of the Smart Border Accords through quarterly reports on meetings of the Smart Border Working Group.

**SEC. 305. REQUIRING A VULNERABILITY ASSESSMENT OF LAND PORTS OF ENTRY.**

## (a) INITIAL ASSESSMENT.—

(1) IN GENERAL.—The Secretary of Homeland Security shall conduct an assessment of the vulnerability of each United States land port of entry to penetration by terrorists and criminals or terrorist attack. In carrying out assessments under this paragraph, the Secretary shall categorize the vulnerability of each port of entry as “high”, “medium”, or “low” and shall prioritize the vulnerability of each port of entry within each such category. In conducting the assessment, the Secretary of Homeland Security shall consult with appropriate State, local, tribal, and private sector representatives.

(2) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall prepare and submit to the appropriate congressional committees (as that term is defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)) a report that contains—

(A) the results of the assessment conducted under paragraph (1);

(B) with respect to each port of entry categorized under paragraph (1) as either a “high” or “medium” vulnerability port of entry, descriptions of—

(i) infrastructure and technology improvement projects required for the port of entry in order to reduce its vulnerability; and

(ii) the resources required to make such improvements; and

(C) a description of how the funds will be used to implement technology and infrastructure improvement projects.

(b) FOLLOW-UP ASSESSMENTS.—The Secretary of Homeland Security shall conduct follow-up assessments of land border ports of entry every 2 years and shall submit such reports to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)).

**SEC. 306. STUDY TO DETERMINE APPROPRIATE LEVEL AND ALLOCATION OF PERSONNEL AT PORTS OF ENTRY AND BORDER PATROL SECTORS.**

(a) STUDY.—The Commissioner of the Bureau of Customs and Border Protection of the Department of Homeland Security shall conduct a study to determine the necessary level and allocation of personnel of the Bureau (including support staff) at United States ports of entry and between ports of entry in order to fully carry out the functions of the Bureau at such ports and locations. The Commissioner shall update and revise the study on an annual basis as appropriate.

## (b) REQUIREMENTS.—

(1) IN GENERAL.—In conducting the study pursuant to subsection (a), the Commissioner shall take into account the following:

(A) The most recent staffing assessment from each port director and the head of each border patrol sector, as required under paragraph (2).

(B) The most recent relevant information, analyses, and vulnerability assessments relating to ports of entry and areas between ports of entry, as described in paragraph (3) of section 201(d) of the Homeland Security Act of 2002, and made available to the Commissioner in accordance with paragraph (18) of such section.

(C) Any requests for additional personnel, if needed, from each port director and the head of each border patrol sector, including a description of whether the additional personnel should be assigned on a temporary or permanent basis.

(D) An analysis of the impact of new available technology on staffing requirements of the Bureau.

(E) An analysis of traffic volume and wait times at ports of entry.

(F) An analysis of the training regimen for new officers of the Bureau and inspectors from the former Customs Service and the former Immigration and Naturalization Service and the extent to which the creation of the Bureau’s Officer position has changed the personnel needs of the Department.

(2) ADDITIONAL REQUIREMENT.—Each port director and the head of each border patrol sector shall complete and submit to the Commissioner on an annual basis an assessment of the level and allocation of personnel necessary to carry out the responsibilities of such port director or the head of such border patrol sector, as the case may be.

## (c) REPORTS.—

(1) INITIAL REPORT.—Not later than 120 days after the date of the enactment of this Act, the Commissioner shall prepare and submit to the Comptroller General and Congress a report that contains the results of the study conducted pursuant to subsection (a).

(2) SUBSEQUENT REPORTS.—The Commissioner shall prepare and submit to the Comptroller General and Congress on not less than an annual basis a report that contains each updated or revised study.

**SEC. 307. ASSESSMENT OF STUDY BY COMPTROLLER GENERAL.**

(a) ASSESSMENT.—The Comptroller General shall conduct an assessment of the study conducted by the Bureau of Customs and

Border Protection under section 306 and shall conduct an assessment of each update or revision to the study. In conducting the assessment, the Comptroller General is authorized to solicit input from any personnel of the Bureau.

(b) REPORT.—The Comptroller General shall prepare and submit to Congress a report that contains the results of each assessment conducted pursuant to subsection (a), including any recommendations thereto that the Comptroller General determines to be appropriate.

**SEC. 308. AUTHORIZATION OF APPROPRIATIONS FOR INCREASE IN FULL-TIME BORDER PATROL AGENTS.**

(a) INCREASE.—There are authorized to be appropriated to the Secretary of Homeland Security \$300,000,000 for fiscal year 2006 to increase by not less than 2,000 the number of positions for full-time active-duty Border Patrol agents within the Department of Homeland Security above the number of such positions for which funds were allotted for fiscal year 2005.

(b) ASSOCIATED COSTS.—There are authorized to be appropriated to the Secretary of Homeland Security \$80,000,000 for fiscal year 2006 to pay the costs associated with the new hires described in subsection (a), including—

(1) costs to increase by 166 of the number of support staff positions;

(2) costs to increase by 1333 in the number of vehicles; and

(3) costs to train the new hires described in subsection (a) under an agreement with a Department training facility other than the Artesia Border Patrol Academy.

(c) FACILITIES IMPACT ASSESSMENT.—The Secretary of Homeland Security shall conduct a facilities impact assessment and report findings from such assessment, with detailed estimates and costs, to the Committee on Homeland Security of the United States House of Representatives.

**SEC. 309. BORDER PATROL UNIT FOR VIRGIN ISLANDS.**

Not later than September 30, 2006, the Secretary of Homeland Security shall establish at least one Border Patrol unit for the Virgin Islands of the United States.

**SEC. 310. REQUIRING REPORT ON THE “ONE FACE AT THE BORDER INITIATIVE”.**

(a) IN GENERAL.—Not later than September 30 of each of the calendar years 2005, 2006, and 2007, the Secretary of Homeland Security shall prepare and submit to the Congress a report—

(1) describing and analyzing the goals, success, and shortfalls of the One Face at the Border Initiative at enhancing security and facilitating travel;

(2) providing a breakdown of the number of personnel of the Bureau of Customs and Border Protection that were personnel of the United States Customs Service prior to the establishment of the Department of Homeland Security, that were personnel of the Immigration and Naturalization Service prior to the establishment of the Department of Homeland Security, and that were hired after the establishment of the Department of Homeland Security;

(3) describing the training time provided to each employee on an annual basis for the various training components of the One Face at the Border Initiative;

(4) outlining the steps taken by the Bureau of Customs and Border Protection to ensure that expertise is retained with respect to customs, immigration, and agriculture inspection functions under the One Face at the Border Initiative; and

(5) reviewing whether the missions of customs, agriculture, and immigration are appropriately and adequately addressed.

(b) ASSESSMENT OF REPORT.—The Comptroller General of the United States shall the

review the reports submitted under subsection (a) and shall provide an assessment to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)) regarding the effectiveness of the One Face at the Border Initiative.

**Subtitle B—CIS Workflow Study**

**SEC. 311. CIS WORKFLOW, TECHNOLOGY, AND STAFFING ASSESSMENT.**

(a) IN GENERAL.—The Secretary of Homeland Security shall conduct a comprehensive assessment of the Bureau of Citizenship and Immigration Services (otherwise known as “U.S. Citizenship and Immigration Services”) within the Department of Homeland Security. Such assessment shall include study of personnel, administrative and technical support positions, technology, training, and facilities.

(b) WORKFLOW.—As part of the study, the Secretary shall examine all elements of such entity’s workflow, in order to determine the most efficient way to handle its work without compromising security. Any bottlenecks associated with security matters should be identified and recommendations should be made on ways to minimize such bottlenecks without compromising security. The Secretary should assess the division of work, adequacy of infrastructure (particularly information technology), as well as personnel needs.

(c) INTERACTIONS WITH OTHER ORGANIZATIONS.—As part of the study, the Secretary shall examine such entity’s interactions with other government organizations. Specifically, the Secretary shall determine whether existing memoranda of understanding and divisions of responsibility, especially any which pre-date the establishment of the Department of Homeland Security, need to be revised in order to improve service delivery.

(d) BACKLOG COST.—As part of the study, the Secretary shall assess the current cost of maintaining the backlog (as defined in section 203 of the Immigration Services and Infrastructure Improvements Act of 2000 (8 U.S.C. 1572)).

(e) INFORMATION TECHNOLOGY.—Aspects of this study related to information technology should be coordinated with the Chief Information Officer for the Department of Homeland Security and should build on the findings of the task force established by section 3 of the Immigration and Naturalization Service Data Management Improvement Act of 2000 (Public Law 106-215).

(f) SUBMISSION.—The study should be completed not later than January 1, 2006, and shall be submitted to the Committee on Homeland Security of the United States House of Representatives. It shall include recommendations for resource allocation.

**Subtitle C—Report on Border Violence**

**SEC. 321. STUDIES RELATED TO FEASIBILITY AND COST OF LOCATING AND REMOVING EIGHT MILLION UNDOCUMENTED ALIENS FROM UNITED STATES.**

(a) FEASIBILITY STUDY.—Commencing not later than 30 days after the date of the enactment of this Act, the Comptroller General of the United States shall conduct a study to evaluate—

(1) the ability of the Department of Homeland Security to develop and implement a program to locate and initiate removal proceedings on the 8,000,000 undocumented immigrants who are presently residing in the United States;

(2) an estimate of the additional personnel and other additional resources such a project would require for the Department and the Executive Office for Immigration Review;

(3) the amount of time that such development and implementation would require;

(4) the total cost to develop and implement this program;

(5) the ability of State and local police departments to assist the Department in implementing this program;

(6) an estimate of the additional personnel and other additional resources the State and local police departments would need if they participate with the Department in implementing this program;

(7) the amount of time away from other State and local police work that would be required of State and local police departments to participate in this program; and

(8) the total cost to State and local governments of such participation.

(b) STUDY ON CONSEQUENCES OF LOCATING AND REMOVING EIGHT MILLION UNDOCUMENTED ALIENS.—Commencing not later than 30 days after the date of the enactment of this Act, the Comptroller General of the United States shall conduct a study on the adverse consequences that could result from locating and removing 8,000,000 undocumented aliens from the United States.

**Subtitle D—Center of Excellence on Border Security**

**SEC. 331. CENTER OF EXCELLENCE ON BORDER SECURITY.**

The Secretary shall establish a university-based Center for Border Security following the merit-review processes and procedures that have been established for selecting University Programs Centers of Excellence. The Center shall conduct research, examine existing and emerging border security technology and systems, and provide education, technical, and analytical assistance for the Department of Homeland Security to effectively secure the Nation’s borders.

**TITLE IV—SECURING CHEMICAL PLANTS AND OTHER CRITICAL INFRASTRUCTURE**

**Subtitle A—Chemical Security Improvement**

**SEC. 411. SHORT TITLE.**

This subtitle may be cited as the “Chemical Security Improvement Act of 2005”.

**SEC. 412. DEFINITIONS.**

In this subtitle:

(1) ALTERNATIVE APPROACHES.—The term “alternative approach” means an approach that significantly reduces or eliminates the threat or consequences of a terrorist release from a chemical source, including an approach that—

(A) uses smaller quantities, nonhazardous forms, or less hazardous forms of dangerous substances;

(B) replaces a dangerous substance with a nonhazardous or less hazardous substance; or

(C) uses nonhazardous or less hazardous conditions or processes.

(2) CHEMICAL SOURCE.—The term “chemical source” means a facility listed by the Secretary under section 413(e) as a chemical source; and—

(3) DANGEROUS SUBSTANCE.—The term “dangerous substance” means a substance present at a chemical source that—

(A) can cause death, injury, or serious adverse effects to human health or the environment; or

(B) could harm critical infrastructure or national security.

(4) DEPARTMENT.—The term “Department” means the Department of Homeland Security.

(5) ENVIRONMENT.—The term “environment” means—

(A) the navigable waters, the waters of the contiguous zone, and the ocean waters of which the natural resources are under the exclusive management authority of the United States; and

(B) any other surface water, ground water, drinking water supply, land surface or subsurface strata, or ambient air within the

United States or under the jurisdiction of the United States.

(6) OWNER OR OPERATOR.—The term “owner or operator” means any person who owns, leases, operates, controls, or supervises a chemical source.

(7) RELEASE.—The term “release” means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant), but excludes—

(A) any release which results in exposure to persons solely within a workplace, with respect to a claim which such persons may assert against the employer of such persons;

(B) emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine; or

(C) the normal application of fertilizer or pesticide.

(8) SECRETARY.—The term “Secretary” means the Secretary of Homeland Security.

(9) SECURITY MEASURE.—

(A) IN GENERAL.—The term “security measure” means an action carried out to ensure or enhance the security of a chemical source.

(B) INCLUSIONS.—The term “security measure”, with respect to a chemical source, includes measures such as—

(i) employee training and background checks;

(ii) the limitation and prevention of access to controls of the chemical source;

(iii) the protection of the perimeter of the chemical source, including the deployment of armed physical security personnel;

(iv) the installation and operation of intrusion detection sensors;

(v) the implementation of measures to increase computer or computer network security;

(vi) the installation of measures to protect against long-range weapons;

(vii) the installation of measures and controls to protect against or reduce the consequences of a terrorist attack; and

(viii) the implementation of any other security-related measures or the conduct of any similar security-related activity, as determined by the Secretary.

(10) TERRORISM.—The term “terrorism” has the meaning given to that term in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101).

(11) TERRORIST RELEASE.—The term “terrorist release” means—

(A) a release from a chemical source into the environment of a dangerous substance that is caused by an act of terrorism; and

(B) the theft of a dangerous substance by a person for off-site release in furtherance of an act of terrorism.

**SEC. 413. VULNERABILITY ASSESSMENTS AND SITE SECURITY PLANS.**

(a) REQUIREMENT.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this subtitle, the Secretary shall promulgate regulations that—

(A) require the owner or operator of each chemical source included on the list described in subsection (e)(1)—

(i) to conduct an assessment of the vulnerability of the chemical source to a terrorist release; and

(ii) to prepare and implement a site security plan that addresses the results of the vulnerability assessment; and

(B) establish procedures, protocols, and standards for vulnerability assessments and site security plans.

(2) CONTENTS OF VULNERABILITY ASSESSMENT.—A vulnerability assessment required under the regulations promulgated under

paragraph (1) or any assessment determined substantially equivalent by the Secretary under subsection (c) shall include the identification and evaluation of—

- (A) critical assets and infrastructures;
- (B) hazards that may result from a terrorist release; and
- (C) weaknesses in—
  - (i) physical security;
  - (ii) structural integrity of containment, processing, and other critical infrastructure;
  - (iii) protection systems;
  - (iv) procedural and employment policies;
  - (v) communication systems;
  - (vi) transportation infrastructure in the proximity of the chemical source;
  - (vii) utilities;
  - (viii) contingency response; and
  - (ix) other areas as determined by the Secretary.

(3) CONTENTS OF SITE SECURITY PLAN.—A site security plan required under the regulations promulgated under paragraph (1) or any plan submitted to the Secretary under subsection (c)—

(A) shall include security measures to significantly reduce the vulnerability of the chemical source covered by the plan to a terrorist release;

(B) shall describe, at a minimum, particular equipment, plans, and procedures that could be implemented or used by or at the chemical source in the event of a terrorist release;

(C) shall provide for the assessment and, as applicable, implementation of alternative approaches in accordance with section 415; and

(D) shall be developed in consultation with local law enforcement, first responders, employees, and local emergency planning committees, as established pursuant to section 301(c) of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001(c)).

(4) SECURITY EXERCISES.—Not later than 1 year after the date of the enactment of this subtitle, the Secretary shall promulgate regulations establishing procedures, protocols, and standards for the conduct of security exercises, including—

(A) the performance of force-on-force exercises that—

(i) involve physical security personnel employed by the owner or operator of the chemical source to act as the force designated to defend the facility;

(ii) involve personnel designated by the Secretary to act as the force designated to simulate a terrorist attempt to attack the chemical source to cause a terrorist release;

(iii) are designed, overseen, and evaluated by the Department; and

(iv) are conducted at least once every 3 years; and

(B) the performance of all other such exercises at periodic intervals necessary to ensure the optimal performance of security measures.

(5) GUIDANCE TO SMALL BUSINESSES.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall publish guidance to assist small businesses in complying with paragraphs (2) and (3).

(6) THREAT INFORMATION.—To the maximum extent practicable under applicable authority and in the interests of national security, the Secretary shall provide to an owner or operator of a chemical source required to prepare a vulnerability assessment and site security plan threat information that is relevant to the chemical source.

(7) COORDINATED ASSESSMENTS AND PLANS.—The regulations promulgated under paragraph (1) shall permit the development and implementation of coordinated vulnerability assessments and site security plans in any case in which more than 1 chemical source is

operating at a single location or at contiguous locations, including cases in which a chemical source is under the control of more than 1 owner or operator.

(b) CERTIFICATION AND SUBMISSION.—

(1) IN GENERAL.—Except as provided in subsection (c), each owner or operator of a chemical source shall certify in writing to the Secretary that the owner or operator has completed a vulnerability assessment and has developed and implemented (or is implementing) a site security plan in accordance with this subtitle, including—

(A) regulations promulgated under subsection (a)(1); and

(B) any existing vulnerability assessment or security plan endorsed by the Secretary under subsection (c)(1).

(2) SUBMISSION.—

(A) IN GENERAL.—Not later than 18 months after the date of the promulgation of regulations under subsection (a)(1), an owner or operator of a chemical source shall provide to the Secretary copies of the vulnerability assessment and site security plan of the chemical source for review.

(B) CERTIFICATION.—

(i) IN GENERAL.—Not later than 2 years after the date on which the Secretary receives copies of the vulnerability assessment and site security plan of a chemical source under subparagraph (A), the Secretary shall determine whether the chemical source is in compliance with the requirements of this Act, including—

(I) paragraph (1);

(II) regulations promulgated under subsections (a)(1) and (a)(3); and

(III) any existing vulnerability assessment or site security plan endorsed by the Secretary under subsection (c)(1).

(ii) CERTIFICATE.—If the Secretary determines that the chemical source is in compliance with the requirements of this Act, the Secretary shall provide to the chemical source and make available for public inspection a certificate of approval that contains the following statement (in which statement the bracketed space shall be the name of the chemical source): “[ ] is in compliance with the Chemical Security Improvement Act of 2005.”

(iii) DETERMINATION OF NONCOMPLIANCE.—If the Secretary determines under clause (i) that a chemical source is not in compliance with the requirements of this Act, the Secretary shall exercise the authority provided in section 416.

(iv) REPORT TO CONGRESS.—Not later than 1 year after the promulgation of regulations in subsection (a)(1) and for every year afterwards, the Secretary shall submit to the Congress a report outlining the number of facilities that have provided vulnerability assessments and site security plans to the Secretary, what portion of these submissions have been reviewed by the Secretary, and what portion of these submissions are in compliance with clause (i).

(3) OVERSIGHT.—

(A) IN GENERAL.—The Secretary shall, at such times and places as the Secretary determines to be appropriate, conduct or require the conduct of vulnerability assessments and other activities (including qualified third-party audits) to ensure and evaluate compliance with this subtitle (including regulations promulgated under subsection (a)(1) and (c)(1)).

(B) RIGHT OF ENTRY.—In carrying out this subtitle, the Secretary (or a designee), on presentation of credentials, shall have a right of entry to, on, or through any premises of an owner or operator of a chemical source.

(C) REQUESTS FOR RECORDS.—In carrying out this subtitle, the Secretary (or a designee) may require the submission of, or, on

presentation of credentials, may at reasonable times seek access to and copy any documentation necessary for—

- (i) review or analysis of a vulnerability assessment or site security plan; or
- (ii) implementation of a site security plan.

(D) COMPLIANCE.—If the Secretary determines that an owner or operator of a chemical source is not maintaining, producing, or permitting access to the premises of a chemical source or records as required by this paragraph, the Secretary may issue an order requiring compliance with the relevant provisions of this section.

(E) QUALIFIED THIRD-PARTY AUDITS.—The Secretary shall establish standards as to the qualifications of third-party auditors. Such standards shall ensure the qualifications of the third-party auditor provide sufficient expertise in—

- (i) chemical site security vulnerabilities;
- (ii) chemical site security measures;
- (iii) alternative approaches; and
- (iv) such other areas as the Secretary determines to be appropriate and necessary.

(4) SUBMISSION OF CHANGES.—The owner or operator of a chemical source shall provide to the Secretary a description of any significant change that is made to the vulnerability assessment or site security plan required for the chemical source under this section, not later than 90 days after the date the change is made.

(c) EXISTING VULNERABILITY ASSESSMENTS AND SECURITY PLANS.—Upon submission of a petition by an owner or operator of a chemical source to the Secretary in conjunction with a submission under subsection (b)(2)(A), the Secretary—

- (1) may endorse any vulnerability assessment or security plan—

(A) that was conducted, developed, or required by—

- (i) industry;
- (ii) State or local authorities; or
- (iii) other applicable law; and

(B) that was conducted before, on, or after the date of enactment of this subtitle; and

(C) the contents of which the Secretary determines meet the standards established under the requirements of subsections (a)(1), (a)(2), and (a)(3);

(2) may make an endorsement of an existing vulnerability assessment or security plan under paragraph (1) contingent on modification of the vulnerability assessment or security plan to address—

- (A) a particular threat or type of threat; or
- (B) a requirement under (a)(2) or (a)(3).

(d) REGULATORY CRITERIA.—In exercising the authority under subsections (a), (b), (c), or (e) with respect to a chemical source, the Secretary shall consider—

(1) the likelihood that a chemical source will be the target of terrorism;

(2) the potential extent of death, injury, or serious adverse effects to human health or the environment that would result from a terrorist release;

(3) the potential harm to critical infrastructure and national security from a terrorist release; and

(4) such other security-related factors as the Secretary determines to be appropriate and necessary to protect the public health and welfare, critical infrastructure, and national security.

(e) LIST OF CHEMICAL SOURCES.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this subtitle, the Secretary shall develop a list of chemical sources in existence as of that date.

(2) CONSIDERATIONS.—In developing the list under paragraph (1), the Secretary shall take into consideration the criteria specified in subsection (d).

(3) PRIORITIZATION.—In developing the list under paragraph (1), the Secretary shall de-

termine the potential extent of death, injury, or severe adverse effects to human health that would result from a terrorist release of dangerous substances from a chemical source.

(4) SCOPE.—In developing the list under paragraph (1), the Secretary shall include at least those facilities that pose a risk of potential death, injury, or severe adverse effects to not fewer than 15,000 individuals.

(5) FUTURE DETERMINATIONS.—Not later than 3 years after the date of the promulgation of regulations under subsection (a)(1), and every 3 years thereafter, the Secretary shall, after considering the criteria described in subsection (d)—

(A) determine whether additional facilities (including, as of the date of the determination, facilities that are operational and facilities that will become operational in the future) shall be considered to be a chemical source under this subtitle;

(B) determine whether any chemical source identified on the most recent list under paragraph (1) no longer presents a risk sufficient to justify retention of classification as a chemical source under this subtitle; and

(C) update the list as appropriate.

(f) 5-YEAR REVIEW.—Not later than 5 years after the date of the certification of a vulnerability assessment and a site security plan under subsection (b)(1), and not less often than every 5 years thereafter (or on such a schedule as the Secretary may establish by regulation), the owner or operator of the chemical source covered by the vulnerability assessment or site security plan shall—

(1) ensure the vulnerability assessment and site security plan meet the most recent regulatory standards issues under subsection (a)(1);

(2)(A) certify to the Secretary that the chemical source has completed the review and implemented any modifications to the site security plan; and

(B) submit to the Secretary a description of any changes to the vulnerability assessment or site security plan; and

(3) submit to the Secretary a new assessment of alternative approaches.

(g) PROTECTION OF INFORMATION.—

(1) CRITICAL INFRASTRUCTURE INFORMATION.—Except with respect to certifications specified in subsections (b)(1) and (f)(2)(A), vulnerability assessments and site security plans obtained in accordance with this subtitle, and all information derived from those vulnerability assessments and site security plans that could pose a risk to a particular chemical source, shall be deemed critical infrastructure information as defined in section 212 of the Homeland Security Act of 2002 (6 U.S.C. 131), and subject to all protections under sections 213 and 214 of that Act.

(2) EXCEPTIONS TO PENALTIES.—Section 214(f) of the Homeland Security Act of 2002 (6 U.S.C. 133(f)) shall not apply to a person described in that section that discloses information described in paragraph (1)—

(A) for use in any administrative or judicial proceeding to impose a penalty for failure to comply with a requirement of this subtitle; or

(B) for the purpose of making a disclosure evidencing government, owner or operator, or employee activities that threaten the security of a chemical source or are inconsistent with the requirements of this subtitle.

(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to authorize the withholding of information from members of Congress acting in their official capacity.

**SEC. 414. WHISTLEBLOWER PROTECTION.**

(a) IN GENERAL.—No person employed at a chemical source may be discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against because of any lawful act done by the person—

(1) to provide information, cause information to be provided, or otherwise assist in an investigation regarding any conduct which the person reasonably believes constitutes a violation of any law, rule or regulation related to the security of the chemical source, or any other threat to the security of the chemical source, when the information or assistance is provided to or the investigation is conducted by—

(A) a Federal regulatory or law enforcement agency;

(B) any member or committee of the Congress; or

(C) a person with supervisory authority over the person (or such other person who has the authority to investigate, discover, or terminate misconduct); or

(2) to file, cause to be filed, testify, participate in, or otherwise assist in a proceeding or action filed or about to be filed relating to a violation of any law, rule, or regulation related to the security of a chemical source or any other threat to the security of a chemical source; or

(3) to refuse to violate or assist in the violation of any law, rule, or regulation related to the security of chemical sources.

(b) ENFORCEMENT ACTION.—

(1) IN GENERAL.—A person who alleges discharge or other discrimination by any person in violation of subsection (a) may seek relief under subsection (c), by—

(A) filing a complaint with the Secretary of Labor; or

(B) if the Secretary of Labor has not issued a final decision within 180 days of the filing of the complaint and there is no showing that such delay is due to the bad faith of the claimant, bringing an action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy.

(2) PROCEDURE.—

(A) IN GENERAL.—An action under paragraph (1)(A) shall be governed under the rules and procedures set forth in section 42121(b) of title 49, United States Code.

(B) EXCEPTION.—Notification made under section 42121(b)(1) of title 49, United States Code, shall be made to the person named in the complaint and to the person's employer.

(C) BURdens OF PROOF.—An action brought under paragraph (1)(B) shall be governed by the legal burdens of proof set forth in section 42121(b) of title 49, United States Code.

(D) STATUTE OF LIMITATIONS.—An action under paragraph (1) shall be commenced not later than 90 days after the date on which the violation occurs.

(e) REMEDIES.—

(1) IN GENERAL.—A person prevailing in any action under subsection (b)(1) shall be entitled to all relief necessary to make the person whole.

(2) COMPENSATORY DAMAGES.—Relief for any action under paragraph (1) shall include—

(A) reinstatement with the same seniority status that the person would have had, but for the discrimination;

(B) the amount of back pay, with interest; and

(C) compensation for any special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney fees.

(d) RIGHTS RETAINED BY PERSON.—Nothing in this section shall be deemed to diminish

the rights, privileges, or remedies of any person under any Federal or State law, or under any collective bargaining agreement.

**SEC. 415. ALTERNATIVE APPROACHES.**

(a) ASSESSMENT.—

(1) IN GENERAL.—A site security plan under section 413(a)(1) shall provide for the conduct of an assessment of alternative approaches.

(2) INCLUSIONS.—An assessment under this subsection shall include information on—

(A) the nature of each alternative approach considered, such as—

(i) the quantity of each dangerous substance considered for reduction;

(ii) the form of any dangerous substance considered for replacement and the form of potential replacements considered;

(iii) any dangerous substance considered for replacement and a description of any potential replacements considered; and

(iv) any process or conditions considered for modification and a description of the potential modification;

(B) the degree to which each alternative approach considered could potentially reduce the threat or consequence of a terrorist release; and

(C) specific considerations that led to the implementation or rejection of each alternative approach, including—

(i) requirements under this subtitle;

(ii) cost;

(iii) cost savings;

(iv) availability of replacement or modification technology or technical expertise;

(v) the applicability of existing replacement or modification technology to the chemical source; and

(vi) any other factor that the owner of operator of the chemical source considered in judging the practicability of each alternative approach.

(b) IMPLEMENTATION.—

(1) IN GENERAL.—A chemical source described in paragraph (2) shall implement options to significantly reduce or eliminate the threat or consequences of a terrorist release through the use of alternative approaches that would not create an equal or greater risk to human health or the environment.

(2) APPLICABILITY.—This subsection applies to a chemical source if—

(A) the chemical source poses a potential of harm to more than 15,000 people, unless the owner or operator of the chemical source can demonstrate to the Secretary through an assessment of alternative approaches that available alternative approaches—

(i) would not significantly reduce the number of people at risk of death, injury, or serious adverse effects resulting from a terrorist release;

(ii) cannot feasibly be incorporated into the operation of the chemical source; or

(iii) would significantly and demonstrably impair the ability of the owner or operator of the chemical source to continue its business; or

(B)(i) the chemical source poses a potential of harm to fewer than 15,000 people; and

(ii) implementation of options to significantly reduce the threat or consequence of a terrorist release through the use of alternative approaches if practicable in the judgment of the owner or operator of the chemical source.

(c) ALTERNATIVE APPROACHES CLEARINGHOUSE.—

(1) AUTHORITY.—The Secretary shall establish a publicly available clearinghouse to compile and disseminate information on the use and availability of alternative approaches.

(2) INCLUSIONS.—The clearinghouse shall include information on—

(A) general and specific types of alternative approaches;

(B) combinations of chemical sources, substances of concern, and hazardous processes or conditions for which alternative approaches could be appropriate;

(C) the scope of current use and availability of specific alternative approaches;

(D) the costs and cost savings resulting from alternative approaches;

(E) technological transfer;

(F) the availability of technical assistance;

(G) current users of alternative approaches; and

(H) such other information as the Administrator deems appropriate.

(3) COLLECTION OF INFORMATION.—The Secretary shall collect information for the clearinghouse—

(A) from documents submitted by owners or operators pursuant to this Act;

(B) by surveying owners or operators who have registered their facilities pursuant to part 68 of title 40 Code of Federal Regulations (or successor regulations); or

(C) through such other methods as the Secretary deems appropriate.

(4) PUBLIC AVAILABILITY.—Information available publicly through the clearinghouse shall not allow the identification of any specific facility or violate the exemptions of section 552(b)(4) of title 5, United States Code.

(5) STUDY OF ALTERNATIVE AND INHERENTLY SAFER APPROACHES TO CHEMICAL SAFETY AND SECURITY.—

(A) STUDY.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall enter into an arrangement with the National Academy of Sciences to provide for a comprehensive study of—

(i) the currently available chemical technologies, practices, strategies, and other methods for improving the inherent safety and security of United States chemical manufacturing, transportation, and usage sites and infrastructure against the threat of terrorism;

(ii) methods for assessing the degree of inherent safety of chemical technologies, practices, strategies, and other means;

(iii) methods for integrating inherently safer chemical technologies, practices, strategies, and other means into risk management for critical infrastructure protection; and

(iv) progress and directions in research in chemical sciences and technology that may provide new chemical technologies, practices, strategies, and other means to improve inherent safety and security.

(B) REPORT.—

(i) IN GENERAL.—The arrangement entered into under subparagraph (A) shall provide that the National Academy of Sciences shall submit to the Secretary a final report on the study conducted under subparagraph (A) by no later than 18 months after a contract for the arrangement is signed.

(ii) RECOMMENDATIONS.—The report under this subparagraph shall include such recommendations regarding government and private sector practices to encourage the adoption of currently available inherently safer and more secure chemical technologies and strategies to reduce the vulnerabilities of existing and future chemical manufacturing, transportation, and usage sites and infrastructure, and regarding research directions in green chemistry and chemical engineering that would lead to inherently more secure, safer, and economically viable chemical products, processes, and procedures, as the Academy determines appropriate.

(C) TRANSMISSION TO CONGRESS.—The Secretary shall promptly transmit a copy of the report under this subparagraph to the Congress and make the report available to the public.

**SEC. 416. ENFORCEMENT.**

(a) FAILURE TO COMPLY.—If an owner or operator of a non-Federal chemical source fails to certify or submit a vulnerability assessment or site security plan in accordance with this subtitle, the Secretary may issue an order requiring the certification and submission of a vulnerability assessment or site security plan in accordance with section 413(b).

(b) DISAPPROVAL.—The Secretary may disapprove under subsection (a) a vulnerability assessment or site security plan submitted under section 413(b) or (c) if the Secretary determines that—

(1) the vulnerability assessment or site security plan does not comply with regulations promulgated under section 413(a)(1), or the procedure, protocol, or standard endorsed or recognized under section 413(c); or

(2) the site security plan, or the implementation of the site security plan, is insufficient to address—

(A) the results of a vulnerability assessment of a chemical source; or

(B) a threat of a terrorist release.

(c) COMPLIANCE.—If the Secretary disapproves a vulnerability assessment or site security plan of a chemical source under subsection (b), the Secretary shall—

(1) provide the owner or operator of the chemical source a written notification of the determination that includes a clear explanation of deficiencies in the vulnerability assessment, site security plan, or implementation of the assessment or plan;

(2) consult with the owner or operator of the chemical source to identify appropriate steps to achieve compliance; and

(3) if, following that consultation, the owner or operator of the chemical source does not achieve compliance by such date as the Secretary determines to be appropriate under the circumstances, issue an order requiring the owner or operator to correct specified deficiencies.

(d) PROTECTION OF INFORMATION.—Any determination of disapproval or order made or issued under this section shall be exempt from disclosure—

(1) under section 552 of title 5, United States Code;

(2) under any State or local law providing for public access to information; and

(3) except as provided in section 413(g)(2), in any Federal or State civil or administrative proceeding.

**SEC. 417. INTERAGENCY TECHNICAL SUPPORT AND COOPERATION.**

The Secretary—

(1) in addition to such consultation as is required in this subtitle, shall consult with Federal agencies with relevant expertise, and may request those Federal agencies to provide technical and analytical support, in implementing this subtitle; and

(2) may provide reimbursement for such technical and analytical support received as the Secretary determines to be appropriate.

**SEC. 418. PENALTIES.**

(a) JUDICIAL RELIEF.—In a civil action brought in United States district court, any owner or operator of a chemical source that violates or fails to comply with any order issued by the Secretary under this subtitle or a site security plan submitted to the Secretary under this subtitle or recognized by the Secretary, for each day on which the violation occurs or the failure to comply continues, may be subject to—

(1) an order for injunctive relief; and

(2) a civil penalty of not more than \$50,000.

(b) ADMINISTRATIVE PENALTIES.—

(1) PENALTY ORDERS.—The Secretary may issue an administrative penalty of not more than \$250,000 for failure to comply with an order issued by the Secretary under this subtitle.

(2) NOTICE AND HEARING.—Before issuing an order described in paragraph (1), the Secretary shall provide to the person against whom the penalty is to be assessed—

(A) written notice of the proposed order; and

(B) the opportunity to request, not later than 30 days after the date on which the person receives the notice, a hearing on the proposed order.

(3) PROCEDURES.—The Secretary may promulgate regulations outlining the procedures for administrative hearings and appropriate review under this subsection, including necessary deadlines.

#### SEC. 419. PROTECTION OF INFORMATION.

(a) DEFINITION OF PROTECTED INFORMATION.—

(1) IN GENERAL.—In this section, the term “protected information” means—

(A) a vulnerability assessment or site security plan required by subsection (a) or (b) of section 413;

(B) any study, analysis, or other document generated by the owner or operator of a chemical source primarily for the purpose of preparing a vulnerability assessment or site security plan (including any alternative approach analysis); or

(C) any other information provided to or obtained or obtainable by the Secretary solely for the purposes of this subtitle from the owner or operator of a chemical source that, if released, is reasonably likely to increase the probability or consequences of a terrorist release.

(2) OTHER OBLIGATIONS UNAFFECTED.—Nothing in this section affects—

(A) the handling, treatment, or disclosure of information obtained from a chemical source under any other law;

(B) any obligation of the owner or operator of a chemical source to submit or make available information to a Federal, State, or local government agency under, or otherwise to comply with, any other law; or

(C) the public disclosure of information derived from protected information, so long as the information disclosed—

(i) would not divulge methods or processes entitled to protection as trade secrets in accordance with the purposes of section 1905 of title 18, United States Code;

(ii) does not identify any particular chemical source; and

(iii) is not reasonably likely to increase the probability or consequences of a terrorist release, even if the same information is also contained in a document referred to in paragraph (1).

(b) DISCLOSURE EXEMPTION.—Protected information shall be exempt from disclosure under—

(1) section 552 of title 5, United States Code; and

(2) any State or local law providing for public access to information.

(c) RULE OF CONSTRUCTION.—Subsection (b) shall not be construed to apply to a certificate of compliance or a determination of noncompliance under clause (ii) or (iii), respectively, of section 413(b)(2)(B).

#### SEC. 420. NO EFFECT ON REQUIREMENTS UNDER OTHER LAW.

Nothing in this subtitle affects any duty or other requirement imposed under any other Federal or State law.

#### Subtitle B—Critical Infrastructure Prioritization

##### SEC. 421. CRITICAL INFRASTRUCTURE.

(a) COMPLETION OF PRIORITIZATION.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall complete the prioritization of the Nation’s critical infrastructure according to all of the following criteria:

(1) The threat of terrorist attack, based on threat information received and analyzed by

the Office of Information Analysis of the Department regarding the intentions and capabilities of terrorist groups and other potential threats to the Nation’s critical infrastructure.

(2) The likelihood that an attack would cause the destruction or significant disruption of such infrastructure.

(3) The likelihood that an attack would result in substantial numbers of deaths and serious bodily injuries, a substantial adverse impact on the national economy, or a substantial adverse impact on national security.

(b) COOPERATION.—Such prioritization shall be developed in cooperation with other relevant Federal agencies, State, local, and tribal governments, and the private sector, as appropriate.

#### SEC. 422. SECURITY REVIEW.

(a) REQUIREMENT.—Not later than 9 months after the date of the enactment of this Act, the Secretary, in coordination with other relevant Federal agencies, State, local, and tribal governments, and the private sector, as appropriate, shall—

(1) review existing Federal, State, local, tribal, and private sector plans for securing the critical infrastructure included in the prioritization developed under section 421;

(2) recommend changes to existing plans for securing such infrastructure, as the Secretary determines necessary; and

(3) coordinate and contribute to protective efforts of other Federal, State, local, and tribal agencies and the private sector, as appropriate, as directed in Homeland Security Presidential Directive 7.

(b) CONTENTS OF PLANS.—The recommendations made under subsection (a)(2) shall include—

(1) necessary protective measures to secure such infrastructure, including milestones and timeframes for implementation; and

(2) to the extent practicable, performance metrics to evaluate the benefits to both national security and the Nation’s economy from the implementation of such protective measures.

#### SEC. 423. IMPLEMENTATION REPORT.

(a) IN GENERAL.—Not later than 15 months after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate on the implementation of section 422. Such report shall detail—

(1) the Secretary’s review and coordination of security plans under section 422; and

(2) the Secretary’s oversight of the execution and effectiveness of such plans.

(b) UPDATE.—Not later than 1 year after the submission of the report under subsection (a), the Secretary shall provide an update of such report to the congressional committees described in subsection (a).

#### TITLE V—SECURING AIRPORTS, BAGGAGE, AND AIR CARGO

##### Subtitle A—Prohibition Against Increase in Security Service Fees

##### SEC. 501. PROHIBITION AGAINST INCREASE IN SECURITY SERVICE FEES.

None of the funds authorized under this Act may be derived from an increase in security service fees established under section 44940 of title 49, United States Code.

##### Subtitle B—Aviation Security

##### SEC. 511. FEDERAL FLIGHT DECK OFFICERS.

(a) TRAINING, SUPERVISION, AND EQUIPMENT.—Section 44921(c) of title 49, United States Code, is amended by adding at the end the following:

“(3) DATES OF TRAINING.—The Secretary shall ensure that a pilot who is eligible to receive Federal flight deck officer training is offered a choice of training dates and is pro-

vided at least 30 days advance notice of the dates.

“(4) TRAVEL TO TRAINING FACILITIES.—The Secretary shall establish a program to improve travel access to Federal flight deck officer training facilities through the use of charter flights or improved scheduled air carrier service.

##### “(5) REQUALIFICATION AND RECURRENT TRAINING.

“(A) STANDARDS.—The Secretary shall establish qualification standards for facilities where Federal flight deck officers can receive requalification and recurrent training.

“(B) LOCATIONS.—The Secretary shall provide for requalification and recurrent training at geographically diverse facilities, including military facilities, Federal, State, and local law enforcement facilities, and private training facilities that meet the qualification standards established under subparagraph (A).

##### “(6) COSTS OF TRAINING.

“(A) IN GENERAL.—The Secretary shall provide Federal flight deck officer training, requalification training, and recurrent training to eligible pilots at no cost to the pilots or the air carriers that employ the pilots.

“(B) TRANSPORTATION AND EXPENSES.—The Secretary may provide travel expenses to a pilot receiving Federal flight deck officer training, requalification training, or recurrent training.

“(7) ISSUANCE OF BADGES.—Not later than 180 days after the date of enactment of this paragraph, the Secretary shall issue badges to Federal flight deck officers.”.

(b) REVOCATION OF DEPUTIZATION OF PILOT AS FEDERAL FLIGHT DECK OFFICER.—Section 44921(d)(4) of title 49, United States Code, is amended to read as follows:

##### “(4) REVOCATION.

“(A) ORDERS.—The Assistant Secretary of Homeland Security (Transportation Security Administration) may issue, for good cause, an order revoking the deputization of a Federal flight deck officer under this section. The order shall include the specific reasons for the revocation.

“(B) HEARINGS.—An individual who is adversely affected by an order of the Assistant Secretary under subparagraph (A) is entitled to a hearing on the record. When conducting a hearing under this section, the administrative law judge shall not be bound by findings of fact or interpretations of laws and regulations of the Assistant Secretary.

“(C) APPEALS.—An appeal from a decision of an administrative law judge as a result of a hearing under subparagraph (B) shall be made to the Secretary or the Secretary’s designee.

“(D) JUDICIAL REVIEW OF A FINAL ORDER.—The determination and order of the Secretary revoking the deputization of a Federal flight deck officer under this section shall be final and conclusive unless the individual against whom such an order is issued files an application for judicial review, not later than 60 days following the date of entry of such order, in the appropriate United States court of appeals.”.

(c) FEDERAL FLIGHT DECK OFFICER FIREARM CARRIAGE PILOT PROGRAM.—Section 44921(f) of title 49, United States Code, is amended by adding at the end the following:

##### “(4) PILOT PROGRAM.

“(A) IN GENERAL.—Not later than 90 days after the date of enactment of this paragraph, the Secretary shall implement a pilot program to allow pilots participating in the Federal flight deck officer program to transport their firearms on their persons. The Secretary may prescribe any training, equipment, or procedures that the Secretary determines necessary to ensure safety and maximize weapon retention.

“(B) REVIEW.—Not later than 1 year after the date of initiation of the pilot program, the Secretary shall conduct a review of the safety record of the pilot program and transmit a report on the results of the review to Congress.

“(C) OPTION.—If the Secretary as part of the review under subparagraph (B) determines that the safety level obtained under the pilot program is comparable to the safety level determined under existing methods of pilots carrying firearms on aircraft, the Secretary shall allow all pilots participating in the Federal flight deck officer program the option of carrying their firearm on their person subject to such requirements as the Secretary determines appropriate.”

(d) REFERENCES TO UNDER SECRETARY.—Section 44921 of title 49, United States Code, is amended—

(1) in subsection (a) by striking “Under Secretary of Transportation for Security” and inserting “Secretary of Homeland Security”;

(2) by striking “Under Secretary” each place it appears and inserting “Secretary”; and

(3) by striking “Under Secretary’s” each place it appears and inserting “Secretary’s”.

#### SEC. 512. LETTERS OF INTENT.

(a) INSTALLATION OF EDS SYSTEMS.—Section 44923(d) of title 49, United States Code, is amended by adding at the end the following:

“(7) INSTALLATION OF EDS SYSTEMS.—Upon the request of a sponsor for an airport, the Assistant Secretary for Homeland Security (Transportation Security Administration) shall revise a letter of intent issued under this subsection to provide for reimbursement of such additional costs as may be necessary to achieve complete in-line explosive detection system installation at the airport.”.

(b) FEDERAL SHARE.—Section 44923(e) of title 49, United States Code, is amended by adding at the end the following:

“(3) DEADLINE FOR REVISIONS.—The Assistant Secretary for Homeland Security (Transportation Security Administration) shall revise letters of intent referred to in paragraph (2) not later than 30 days after the date of enactment of this paragraph.

“(4) EXTENSION OF REIMBURSEMENT SCHEDULES.—If the Assistant Secretary considers it necessary and appropriate due to fiscal constraints in any fiscal year, the Assistant Secretary, for purposes of ensuring reimbursement of the Federal share as provided in paragraph (1), may revise a letter of intent issued under this section to extend the reimbursement schedule for one or more fiscal years.”.

#### SEC. 513. AVIATION SECURITY CAPITAL FUND.

(a) IN GENERAL.—Section 44923(h)(1) of title 49, United States Code, is amended—

(1) in the second sentence by striking “in each of fiscal years 2004 through 2007” and inserting “in each of fiscal years 2004 and 2005, and \$650,000,000 in each of fiscal years 2006 and 2007.”; and

(2) in the third sentence by striking “at least \$250,000,000 in each of such fiscal years” and inserting “at least \$250,000,000 in each of fiscal years 2004 and 2005, and at least \$650,000,000 in each of fiscal years 2006 and 2007.”.

(b) DISCRETIONARY GRANTS.—Section 44923(h)(3) of such title is amended by striking “for a fiscal year, \$125,000,000” and inserting “, \$125,000,000 for each of fiscal years 2004 and 2005, and \$525,000,000 for each of fiscal years 2006 and 2007.”.

#### SEC. 514. AIRPORT CHECKPOINT SCREENING EXPLOSIVE DETECTION.

Section 44940 of title 49, United States Code, is amended—

(1) in subsection (d)(4) by inserting “, other than subsection (i),” before “except to”; and

(2) by adding at the end the following:

“(i) CHECKPOINT SCREENING SECURITY FUND.—

“(1) ESTABLISHMENT.—There is established in the Department of Homeland Security a fund to be known as the ‘Checkpoint Screening Security Fund’.

“(2) DEPOSITS.—In fiscal year 2006, after amounts are made available under section 44923(h), the next \$250,000,000 derived from fees received under subsection (a)(1) shall be available to be deposited in the Fund.

“(3) FEES.—The Secretary of Homeland Security shall impose the fee authorized by subsection (a)(1) so as to collect at least \$250,000,000 in fiscal year 2006 for deposit into the Fund.

“(4) AVAILABILITY OF AMOUNTS.—Amounts in the Fund shall be available until expended for the purchase, deployment, and installation of equipment to improve the ability of security screening personnel at screening checkpoints to detect explosives.”.

#### SEC. 515. FLIGHT COMMUNICATIONS.

Section 4021 of the Intelligence Reform and Terrorism Prevention Act of 2004 (118 Stat. 3723) is amended by adding at the end the following:

“(d) FLIGHT COMMUNICATION.—

“(1) STUDY.—To expand the purposes of the study under subsection (a), the Assistant Secretary shall conduct a study on the viability of devices to enable discreet, wireless communications between flight attendants, pilots, Federal air marshals, and ground-based personnel during a passenger commercial aircraft flight to improve coordination of planning and activities in the event of an act of terrorism.

“(2) REPORT.—Not later than 180 days after the date of enactment of this subsection, the Assistant Secretary shall transmit to Congress a report on the results of the study conducted under this subsection.”.

#### SEC. 516. AIRPORT SITE ACCESS AND PERIMETER SECURITY.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the security directives issued by the Acting Administrator of the Transportation Security Administration on July 6, 2004, regarding security measures concerning access to sensitive airport areas constitute an improvement over current practice but are not sufficient to provide adequate airport access controls.

(b) ACCESS TO STERILE AREAS.—Not later than 6 months after the date of enactment of this Act, the Secretary of Homeland Security shall require airport personnel including individuals employed in positions such as aircraft maintenance, catering personnel, aircraft cargo handlers, aircraft workers with access to an aircraft ramp, aircraft support facilities personnel, and personnel of airport vendors, accessing airport sterile areas from unrestricted areas to undergo security screening equivalent to screening of passengers and carry-on baggage each time any of these airport personnel enter a sterile area from an unrestricted area. The Secretary may issue a waiver of this provision on an airport-by-airport basis, subject to the following requirements:

(1) The Secretary shall promptly notify Congress of any waivers granted under this section, the purpose for which such waivers were granted, and the duration of the waiver.

(2) Under no circumstances shall a waiver be granted for more than 7 days, although the Secretary may issue as many waivers to an airport as is deemed appropriate by the Secretary. In the event of multiple waivers, the Secretary shall provide to Congress an estimate of when the airport will be in compliance with this subsection.

(c) BACKGROUND CHECKS FOR WORKERS.—The Secretary shall ensure that all

unesecured airport personnel accessing airport sterile and secured areas have successfully undergone a background check. The background checks required under this section shall include, at a minimum:

(1) A fingerprint-based criminal history records check, or, if such a check is not possible, a check of the National Criminal Information Center.

(2) A local criminal history check.

(3) Verification of previous employment.

(4) Verification of identity, to include, but not be limited to, social security number.

(5) A check of all terrorist watch lists operated by the Federal Government, or upon certification by the Secretary that it is suitably comprehensive, the terrorist watch list operated by the Terrorist Screening Center. This subsection shall apply to all airport personnel hired more than 3 months after the date of enactment of this Act and for all airport personnel, regardless of the date on which they were hired, no more than one year after such date of enactment.

(d) REPORT.—The Administrator of the Transportation Security Administration shall submit to Congress, no later than January 31, 2005, a report that contains a description of ongoing efforts and projected timelines for—

(1) developing and implementing uniform screening standards for airport personnel with access to sterile areas;

(2) completing an assessment of available technologies that are applicable to securing airport perimeters and making this information available to airport operators; and

(3) developing and implementing a standardized approach to conducting airport vulnerability assessments and compliance inspections.

(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to provide passengers, airport workers, or other personnel not granted regular access to secure areas before the date of enactment of this Act authority to do so, regardless of whether such person has undergone security screening.

(f) DEFINITIONS.—In this section, the following definitions apply:

(1) STERILE AREA.—The term “sterile area” means any part of an airport that is regularly accessible to passengers after having cleared a passenger security screening checkpoint.

(2) SECURE AREA.—The term “secure area” means parts of an airport complex not typically accessible to passengers, including areas outside of terminal buildings, baggage handling and loading areas, parked aircraft, runways, air control towers, and similar areas.

(3) AIRPORT PERSONNEL.—The term “airport personnel” shall mean those persons, whether employed by the airport, air carriers, or by companies that conduct business in airports.

(g) AUTHORIZATION OF APPROPRIATIONS.—Of the amount authorized under section 901, there is authorized to be appropriated such sums as may be necessary to carry out this section. Except as provided in the preceding sentence, this section shall have no force or effect.

#### SEC. 517. MANPAD COUNTERMEASURE RESEARCH.

(a) IN GENERAL.—In addition to research on air-based MANPAD countermeasures, the Secretary of Homeland Security shall conduct research on alternate technologies, including ground-based countermeasures.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$115,000,000 for fiscal year 2006 to carry out this section.

**SEC. 518. AIR CHARTER AND GENERAL AVIATION OPERATIONS AT RONALD REAGAN WASHINGTON NATIONAL AIRPORT.**

Notwithstanding any law, regulation, or agency policy or directive that has the effect of generally prohibiting general aviation aircraft from landing at Ronald Reagan Washington National Airport, not later than 60 days after the date of enactment of this Act, the Secretary of Transportation, acting through the Federal Aviation Administration, in consultation with the Secretary of Homeland Security, shall permit the resumption of nonscheduled, commercial air carrier air charter and general aviation operations at Ronald Reagan Washington National Airport. In complying with the requirements of this section, the Secretary of Transportation shall consult with the general aviation industry.

**SEC. 519. INSPECTION OF CARGO CARRIED ABOARD COMMERCIAL AIRCRAFT.**

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Homeland Security shall implement a system that uses equipment, technology, personnel, and other means to inspect 35 percent of cargo transported in passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate transportation. At a minimum, this system shall meet the same standards as those established by the Secretary for equipment, technology, and personnel used to screen passenger baggage. Within 2 years after the date of the enactment of this Act, the Secretary shall use this system to inspect at least 65 percent of cargo transported in passenger aircraft. Not later than three years after the date of enactment of this Act, the Secretary shall use this system to inspect at least 100 percent of cargo transported in passenger aircraft.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to the Congress a report describing the system established under subsection (a).

**TITLE VI—SECURING TRAINS ACROSS AMERICA****Subtitle A—Public Transit Security****SEC. 601. SHORT TITLE.**

This subtitle may be cited as the “Safe Transit and Rail Awareness and Investments for National Security Act of 2005” or the “Safe TRAINS Act”.

**SEC. 602. HOMELAND SECURITY PUBLIC TRANSPORTATION GRANTS.**

(a) AUTHORIZATION.—The Secretary of Homeland Security is authorized to make grants for the purpose of improving the security of public transportation systems against acts of terrorism. The grant program shall be administered by the Director of the Office of Domestic Preparedness to ensure that the program is consistent with other Department of Homeland Security grant programs.

(b) CONSIDERATIONS.—Among the considerations on which grants shall be awarded under this section are the following:

(1) Risk of terrorism, including threat assessment, vulnerabilities of public transportation systems, potential effects of acts of terrorism against public transportation systems, and past acts of terrorism against modes of transportation.

(2) Merits of the proposed projects to increase national security, based on a consideration of—

- (A) threats;
- (B) vulnerabilities;

(C) consequences, including human casualties and economic impacts;

- (D) consequence management;

(E) the likelihood that such projects would have been pursued in the normal course of business and in the absence of national security considerations; and

(F) feasibility, based on the technical and operational merits of the projects.

(c) ALLOWABLE USE OF FUNDS.—Grants made under this section shall be used for the purposes of—

(1) support for increased capital investments in cameras, close-circuit television, and other surveillance systems;

(2) increased capital investment in command, control, and communications systems, including investments for redundancy and interoperability and for improved situational awareness, such as emergency call boxes and vehicle locator systems;

(3) increased training, including for carrying out exercises under section 603, and technical support for public transportation employees, especially for security awareness, prevention, and emergency response, including evacuation and decontamination;

(4) expanded deployment of equipment and other measures, including canine detection teams, for the detection of explosives and chemical, biological, radiological, and nuclear agents;

(5) capital improvements and operating activities, including personnel expenditures, to increase the physical security of stations, vehicles, bridges, and tunnels;

(6) capital improvements and operating activities to improve passenger survivability in the event of an attack, including improvements in ventilation, drainage, fire safety technology, emergency communications systems, lighting systems, passenger egress, and accessibility by emergency response personnel;

(7) acquisition of emergency response and support equipment, including fire suppression and decontamination equipment; and

(8) expansion of employee education and public awareness campaigns regarding security on public transportation systems.

(d) ELIGIBLE RECIPIENTS.—Grants shall be made available under this section directly to owners, operators, and providers of public transportation systems. Owners, operators, and providers of infrastructure over which public transportation operates, but which is not primarily used for public transportation, may also be eligible for grants at the discretion of the Secretary.

(e) ACCOUNTABILITY.—The Secretary shall adopt necessary procedures, including audits, to ensure that grants made under this section are expended in accordance with the purposes of this subtitle and the priorities and other criteria developed by the Secretary. If the Secretary determines that a recipient has used any portion of the grant funds received under this section for a purpose other than the allowable uses specified for that grant under this section, the grantee shall return any amount so used to the Treasury of the United States.

(f) PROCEDURES FOR GRANT AWARD.—The Secretary shall prescribe procedures and schedules for the awarding of grants under this section, including application and qualification procedures, and a record of decision on applicant eligibility. The Secretary shall issue a final rule establishing the procedures not later than 90 days after the date of enactment of this Act.

(g) COST SHARE.—Grants made under this section shall account for no more than—

(1) 85 percent for fiscal year 2006;

(2) 80 percent for fiscal year 2007; and

(3) 75 percent for fiscal year 2008,

of the expense of the purposes for which the grants are used.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out the purposes of this section—

(1) \$1,200,000,000 for fiscal year 2006;

(2) \$900,000,000 for fiscal year 2007; and

(3) \$700,000,000 for fiscal year 2008.

Amounts appropriated pursuant to this subsection shall remain available until expended.

**SEC. 603. TRAINING EXERCISES.**

(a) GUIDELINES.—Not later than 4 months after the date of enactment of this Act, the Secretary of Homeland Security shall publish guidelines for the conduct by recipients of grants under section 602 of appropriate exercises for emergency response and public transportation employee training purposes.

(b) PLANS.—Not later than 6 months after receipt of a grant under section 602, the recipient of such grant shall transmit to the Secretary its emergency response plan as well as a plan for conducting exercises for emergency response and public transportation employee training purposes pursuant to the guidelines published under subsection (a).

**(c) EXERCISES.—**

(1) REQUIREMENT.—Not later than 1 year after receipt of a grant under section 602, the recipient of such grant shall conduct an exercise pursuant to the plan for conducting exercises transmitted under subsection (b).

(2) EXEMPTIONS.—The Secretary may exempt a grant recipient from the requirement under paragraph (1) if the recipient has recently conducted an equivalent exercise.

(3) NOTICE AND REPORT.—Not later than 30 days after conducting an exercise under paragraph (1) or as described in paragraph (2), the recipient shall notify the Secretary that such exercise has been completed, including a description of the results of the exercise and findings and lessons learned from the exercise, and shall make recommendations for changes, if necessary, to existing emergency response plans. If the recipient revises an emergency response plan as a result of an exercise under this subsection, the recipient shall transmit the revised plan to the Secretary not later than 6 months after the date of the exercise.

(d) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance in the design, preparation for, and conduct of emergency response exercises.

(e) USE OF PLANS.—The Secretary shall ensure that information submitted to the Secretary under this section is protected from any form of disclosure that might compromise public transportation security or trade secrets. Notwithstanding the preceding sentence, the Secretary may use such information, on a nonattributed basis unless otherwise agreed to by the source of the information, to aid in developing recommendations, best practices, and materials for use by public transportation authorities to improve security practices and emergency response capabilities.

**SEC. 604. SECURITY BEST PRACTICES.**

Not later than 120 days after the date of enactment of this Act, the Secretary of Homeland Security shall develop, disseminate to appropriate owners, operators, and providers of public transportation systems, public transportation employees and employee representatives, and Federal, State, and local officials, and transmit to Congress, a report containing best practices for the security of public transportation systems. In developing best practices, the Secretary shall be responsible for consulting with and collecting input from owners, operators, and providers of public transportation systems, public transportation employee representatives, first responders, industry associations, private sector experts, academic experts, and appropriate Federal, State, and local officials.

**SEC. 605. PUBLIC AWARENESS.**

Not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall develop a national plan

for public outreach and awareness. Such plan shall be designed to increase awareness of measures that the general public, public transportation passengers, and public transportation employees can take to increase public transportation system security. Such plan shall also provide outreach to owners, operators, providers, and employees of public transportation systems to improve their awareness of available technologies, ongoing research and development efforts, and available Federal funding sources to improve public transportation security. Not later than 9 months after the date of enactment of this Act, the Secretary shall implement the plan developed under this section.

**SEC. 606. NATIONAL TRANSPORTATION SECURITY CENTERS.**

(a) **ESTABLISHMENT.**—The Secretary of Homeland Security, working jointly with the Secretary of Transportation, shall establish more than 1 but not more than 4 National Transportation Security Centers at institutions of higher education to assist in carrying out this subtitle, to conduct research and education activities, and to develop or provide professional training, including the training of public transportation employees and public transportation-related professionals, with emphasis on utilization of intelligent transportation systems, technologies, and architectures.

(b) **CRITERIA.**—The Secretary shall designate the Centers according to the following selection criteria:

(1) The demonstrated commitment of the institution to transportation security issues.

(2) The use of and experience with partnerships with other institutions of higher education, Federal laboratories, or other non-profit laboratories.

(3) Capability to conduct both practical and theoretical research and technical systems analysis.

(4) Utilization of intelligent transportation system technologies and architectures.

(5) Ability to develop professional training programs.

(6) Capability and willingness to conduct education of transportation security professionals.

(7) Such other criteria as the Secretary may designate.

(c) **FUNDING.**—The Secretary shall provide such funding as is necessary to the National Transportation Security Centers established under subsection (a) to carry out this section.

**SEC. 607. WHISTLEBLOWER PROTECTIONS.**

(a) **IN GENERAL.**—No covered individual may be discharged, demoted, suspended, threatened, harassed, reprimanded, investigated, or in any other manner discriminated against (including by a denial, suspension, or revocation of a security clearance or by any other security access determination) if such discrimination is due, in whole or in part, to any lawful act done, perceived to have been done, or intended to be done by the covered individual.

(1) to provide information, cause information to be provided, or otherwise assist in an investigation regarding any conduct which the covered individual reasonably believes constitutes a violation of any law, rule or regulation relating to national or homeland security, which the covered individual reasonably believes constitutes a threat to national or homeland security, or which the covered individual reasonably believes constitutes fraud, waste or mismanagement of Government funds intended to be used for national or homeland security, when the information or assistance is provided to or the investigation is conducted by—

(A) a Federal, State or local regulatory or law enforcement agency (including an office

of Inspector General under the Inspector General Act of 1978);

(B) any Member of Congress, any committee of Congress, or the Government Accountability Office; or

(C) a person with supervisory authority over the covered individual (or such other person who has the authority to investigate, discover, or terminate misconduct);

(2) to file, cause to be filed, testify, participate in, or otherwise assist in a proceeding or action filed or about to be filed relating to an alleged violation of any law, rule or regulation relating to national or homeland security; or

(3) to refuse to violate or assist in the violation of any law, rule, or regulation relating to national or homeland security.

(b) **ENFORCEMENT ACTION.**—

(1) **IN GENERAL.**—A covered individual who alleges discharge or other discrimination by any person in violation of subsection (a) may seek relief under subsection (c) by—

(A) filing a complaint with the Secretary of Labor; or

(B) if the Secretary has not issued a final decision within 180 days after the filing of the complaint and there is no showing that such delay is due to the bad faith of the claimant, bringing an action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy.

(2) **PROCEDURE.**—

(A) **IN GENERAL.**—An action under paragraph (1)(A) shall be governed under the rules and procedures set forth in section 42121(b) of title 49, United States Code.

(B) **EXCEPTION.**—Notification made under section 42121(b)(1) of title 49, United States Code, shall be made to the person named in the complaint and to the person's employer.

(C) **BURDENS OF PROOF.**—An action brought under paragraph (1)(B) shall be governed by the legal burdens of proof set forth in section 42121(b) of title 49, United States Code.

(D) **STATUTE OF LIMITATIONS.**—An action under paragraph (1) shall be commenced not later than 1 year after the date on which the violation occurs.

(c) **REMEDIES.**—

(1) **IN GENERAL.**—A covered individual prevailing in any action under subsection (b)(1) shall be entitled to all relief necessary to make the covered individual whole.

(2) **DAMAGES.**—Relief for any action under paragraph (1) shall include—

(A) reinstatement with the same seniority status that the covered individual would have had, but for the discrimination;

(B) the amount of any back pay, with interest;

(C) compensation for any special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney fees; and

(D) punitive damages in an amount not to exceed the greater of 3 times the amount of any compensatory damages awarded under this section or \$5,000,000.

(d) **STATE SECRETS PRIVILEGE.**—If, in any action brought under subsection (b)(1)(B), the Government asserts as a defense the privilege commonly referred to as the “state secrets privilege” and the assertion of such privilege prevents the plaintiff from establishing a *prima facie* case in support of the plaintiff's claim, the court shall enter judgment for the plaintiff and shall determine the relief to be granted.

(e) **CRIMINAL PENALTIES.**—

(1) **IN GENERAL.**—It shall be unlawful for any person employing a covered individual to commit an act prohibited by subsection (a). Any person violating this paragraph shall be fined under title 18 of the United

States Code, imprisoned not more than 10 years, or both.

(2) **REPORTING REQUIREMENT.**—The Department of Justice shall submit to Congress an annual report on the enforcement of paragraph (1). Each such report shall (A) identify each case in which formal charges under paragraph (1) were brought, (B) describe the status or disposition of each such case, and (C) in any actions under subsection (b)(1)(B) in which the covered individual was the prevailing party or the substantially prevailing party, indicate whether or not any formal charges under paragraph (1) have been brought and, if not, the reasons therefor.

(f) **RIGHTS RETAINED BY COVERED INDIVIDUAL.**—Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any covered individual under any Federal or State law, or under any collective bargaining agreement. The rights and remedies in this section may not be waived by any agreement, policy, form, or condition of employment.

(g) **DEFINITIONS.**—For purposes of this section—

(1) the term “covered individual” means an employee of—

(A) the Department of Homeland Security (which, for purposes of this section, includes the Transportation Security Administration);

(B) a Federal contractor or subcontractor; and

(C) an employer within the meaning of section 701(b) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(b));

(2) the term “lawful” means not specifically prohibited by law, except that, in the case of any information the disclosure of which is specifically prohibited by law or specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs, any disclosure of such information to any Member of Congress, committee of Congress, or other recipient authorized to receive such information, shall be deemed lawful;

(3) the term “Federal contractor” means a person who has entered into a contract with the Department of Homeland Security;

(4) the term “employee” means—

(A) with respect to an employer referred to in paragraph (1)(A), an employee as defined by section 2105 of title 5, United States Code; and

(B) with respect to an employer referred to in subparagraph (A) or (B) of paragraph (1), any officer, partner, employee, or agent;

(5) the term “subcontractor”—

(A) means any person, other than the Federal contractor, who offers to furnish or furnishes any supplies, materials, equipment, or services of any kind under a contract with the Department of Homeland Security or a subcontract entered into in connection with such a contract; and

(B) includes any person who offers to furnish or furnishes general supplies to the Federal contractor or a higher tier subcontractor; and

(6) the term “person” means a corporation, partnership, State entity, business association of any kind, trust, joint-stock company, or individual.

(h) **TERMS AND CONDITIONS.**—A grant under this subtitle shall be subject to terms and conditions of section 5333 of title 49, United States Code.

(i) **AUTHORIZATION OF FUNDS.**—Of the amounts authorized under section 101, there is authorized to be appropriated amounts necessary for carrying out this section. Except as provided in the preceding sentence, this section shall have no force or effect.

**SEC. 608. DEFINITION.**

In this subtitle, the following definitions apply:

(1) PUBLIC TRANSPORTATION EMPLOYEES.—The term “public transportation employees” means security personnel, dispatchers, vehicle and vessel operators, other onboard employees, maintenance and support personnel, and other appropriate employees of owners, operators, and providers of public transportation systems.

(2) PUBLIC TRANSPORTATION SYSTEMS.—The term “public transportation systems” means passenger, commuter, and light rail, including subways, buses, commuter ferries, and other modes of public transit.

**SEC. 609. MEMORANDUM OF AGREEMENT.**

(a) REQUIREMENT TO WORK JOINTLY.—The Secretary of Homeland Security shall work jointly with the Secretary of Transportation in carrying out this subtitle.

(b) MEMORANDUM.—Within 60 days after the date of the enactment of this Act, the Secretary of Homeland Security and the Secretary of Transportation shall execute a memorandum of agreement governing the roles and responsibilities of the Department of Homeland Security and the Department of Transportation, respectively in addressing public transportation security matters, including the process their department will follow to carry out this subtitle and promote communications, efficiency, and nonduplication of effort.

**Subtitle B—Rail Security**

**SEC. 611. SHORT TITLE.**

This subtitle may be cited as the “Rail Security Act of 2005”.

**CHAPTER 1—RAILROAD SECURITY**

**SEC. 621. RAILROAD TRANSPORTATION SECURITY.**

(a) IN GENERAL.—

(1) REQUIREMENTS.—The Secretary shall develop, prepare, implement, and update—

(A) a railroad security assessment under subsection (b)(1);

(B) a railroad security plan under subsection (b)(2);

(C) prioritized recommendations for improving railroad security under subsection (d);

(D) guidance for the rail worker security training program as authorized by section 624; and

(E) a national plan for public outreach and awareness for improving railroad security as authorized by section 627.

(2) ROLE OF SECRETARY OF TRANSPORTATION.—The Secretary shall work jointly with the Secretary of Transportation, in developing, preparing, revising, implementing, and updating the documents required by paragraph (1).

(3) MEMORANDUM OF AGREEMENT.—Within 60 days after the date of enactment of this Act, the Secretary and the Secretary of Transportation shall execute a memorandum of agreement governing the roles and responsibilities of the Department of Homeland Security and the Department of Transportation, respectively, in addressing railroad transportation security matters, including the processes the departments will follow to carry out this chapter and promote communications, efficiency, and nonduplication of effort.

(b) SECURITY ASSESSMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall complete the security assessment of railroad transportation required under subsection (a)(1). The security assessment shall include—

(A) identification and evaluation of critical railroad assets and infrastructures;

(B) identification of threats to those assets and infrastructures;

(C) identification of vulnerabilities that are specific to the transportation of hazardous materials by railroad;

(D) identification of redundant and backup systems required to ensure the continued operation of critical elements of the railroad system in the event of an attack or other incident, including disruption of commercial electric power or communications networks; and

(E) identification of security weaknesses in passenger and cargo security, transportation infrastructure, protection systems (including passenger and cargo screening), procedural policies, communications systems, employee training, emergency response planning, and any other area identified by the assessment.

(2) SECURITY PLAN.—The Secretary shall use the security assessment completed under paragraph (1) to develop a transportation modal security plan under section 114(t)(1)(B) of title 49, United States Code, for the security of the Nation’s railroads. The plan shall—

(A) establish a strategy for minimizing terrorist threats to railroad transportation systems;

(B) establish a strategy for maximizing the efforts of railroads to mitigate damage from terrorist attacks;

(C) require the Federal Government to provide increased security support at high or severe threat levels of alert;

(D) set forth procedures for establishing and maintaining permanent and comprehensive consultative relations among the parties described in subsection (c);

(E) include a contingency plan to ensure the continued movement of freight and passengers in the event of an attack affecting the railroad system, which shall contemplate—

(i) the possibility of rerouting traffic due to the loss of critical infrastructure, such as a bridge, tunnel, yard, or station; and

(ii) methods of continuing railroad service in the Northeast Corridor in the event of a commercial power loss, or catastrophe affecting a critical bridge, tunnel, yard, or station; and

(F) account for actions taken or planned by both public and private entities to address security issues identified under paragraph (1) and assess the effective integration of such actions.

(c) CONSULTATION.—In developing the plan under subsection (b)(2) and the recommendations under subsection (d), the Secretary and the Secretary of Transportation shall consult with the freight and passenger railroad carriers, nonprofit employee organizations representing rail workers, nonprofit employee organizations representing emergency responders, owners or lessors of rail cars used to transport hazardous materials, shippers of hazardous materials, manufacturers of rail tank cars, State Departments of Transportation, public safety officials, and other relevant parties.

(d) RECOMMENDATIONS.—The Secretary shall develop prioritized recommendations for improving railroad security, including recommendations for—

(1) improving the security of rail tunnels, rail bridges, rail switching and car storage areas, other rail infrastructure and facilities, information systems, and other areas identified as posing significant railroad-related risks to public safety and the movement of interstate commerce, taking into account the impact that any proposed security measure might have on the provision of railroad service;

(2) deploying surveillance equipment;

(3) deploying equipment to detect explosives and hazardous chemical, biological, and radioactive substances, and any appropriate countermeasures;

(4) installing redundant and backup systems to ensure the continued operation of critical elements of the railroad system in

the event of an attack or other incident, including disruption of commercial electric power or communications networks;

(5) conducting public outreach campaigns on passenger railroads; and

(6) identifying the immediate and long-term costs of measures that may be required to address those risks.

(e) REPORT.—

(1) CONTENTS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall transmit to the Committee on Transportation and Infrastructure and the Committee on Homeland Security of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate a report containing the security assessment, plan, and prioritized recommendations required by this section, along with an estimate of the cost to implement such recommendations.

(2) FORMAT.—The report may be submitted in a classified format if the Secretary determines that such action is necessary.

(f) PERIODIC UPDATES.—The Secretary shall update the railroad security assessment, security plan, and prioritized recommendations for improving railroad security under subsection (a), and the guidance for a railroad worker security training program under section 105, every 2 years and submit a report, which may be submitted in both classified and redacted formats, to the Committee on Transportation and Infrastructure and the Committee on Homeland Security of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate not less frequently than April 1 of each even-numbered year.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary \$10,000,000 for the purpose of carrying out this section.

**SEC. 622. FREIGHT AND PASSENGER RAIL SECURITY UPGRADES.**

(a) SECURITY IMPROVEMENT GRANTS.—The Secretary, in coordination with the Secretary of Transportation, is authorized to make grants to freight and passenger railroad carriers, nonprofit employee organizations that represent rail workers, shippers of hazardous materials by rail, owners of rail cars used in the transportation of hazardous materials, manufacturers of rail tank cars, and State and local governments, for costs incurred in the conduct of activities to prevent or respond to acts of terrorism or sabotage against railroads, or other railroad security threats, including—

(1) perimeter protection systems, including access control, installation of better lighting, fencing, and barricades at railroad facilities;

(2) structural modification or replacement of rail cars transporting hazardous materials to improve their resistance to acts of terrorism;

(3) technologies for reduction of tank car vulnerability;

(4) security improvements to passenger railroad stations, trains, and infrastructure;

(5) tunnel protection systems;

(6) evacuation improvements;

(7) inspection technologies, including verified visual inspection technologies using hand-held readers and discs;

(8) security and redundancy for critical communications, computer, and train control systems essential for secure railroad operations or to continue railroad operations after an attack impacting railroad operations;

(9) train tracking and interoperable communications systems;

(10) chemical, biological, radiological, or explosive detection systems and devices;

(11) surveillance equipment;

(12) additional police and security officers, including canine units;

(13) accommodation of cargo or passenger screening equipment;

(14) employee security awareness, preparedness, and response training (including compliance with section 625);

(15) public security awareness campaigns;

(16) emergency response equipment, including fire suppression and decontamination equipment; and

(17) other improvements recommended by the report required by section 621, including infrastructure, facilities, and equipment upgrades.

(b) CONDITIONS.—The Secretary shall require recipients of funds for construction under this section and section 623 of this Act to apply the standards of section 24312 of title 49, United States Code, as in effect on September 1, 2004, with respect to the construction in the same manner as Amtrak is required to comply with such standards for construction work financed under an agreement made under section 24308(a) of such title 49.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary \$600,000,000 to carry out the purposes of this section, of which \$100,000,000 shall be used by the Secretary for making grants to Amtrak, in accordance with this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

#### SEC. 623. FIRE AND LIFE-SAFETY IMPROVEMENTS.

(a) LIFE-SAFETY NEEDS.—There are authorized to be appropriated to Amtrak for the purposes of carrying out this section the following amounts:

(1) For the 6 new york tunnels to provide ventilation, electrical, and fire safety technology upgrades, emergency communication and lighting systems, and emergency access and egress for passengers—

- (A) \$100,000,000 for fiscal year 2006;
- (B) \$100,000,000 for fiscal year 2007;
- (C) \$100,000,000 for fiscal year 2008;
- (D) \$100,000,000 for fiscal year 2009; and
- (E) \$170,000,000 for fiscal year 2010.

(2) For the baltimore & potomac tunnel and the union tunnel, together, to provide adequate drainage, ventilation, communication, lighting, and passenger egress upgrades—

- (A) \$10,000,000 for fiscal year 2006;
- (B) \$10,000,000 for fiscal year 2007;
- (C) \$10,000,000 for fiscal year 2008;
- (D) \$10,000,000 for fiscal year 2009; and
- (E) \$17,000,000 for fiscal year 2010.

(3) For the washington, district of columbia, union station tunnels to improve ventilation, communication, lighting, and passenger egress upgrades—

- (A) \$8,000,000 for fiscal year 2006;
- (B) \$8,000,000 for fiscal year 2007;
- (C) \$8,000,000 for fiscal year 2008;
- (D) \$8,000,000 for fiscal year 2009; and
- (E) \$8,000,000 for fiscal year 2010.

(b) AVAILABILITY OF APPROPRIATED FUNDS.—Amounts appropriated pursuant to this section shall remain available until expended.

#### SEC. 624. RAIL SECURITY RESEARCH AND DEVELOPMENT PROGRAM.

(a) ESTABLISHMENT OF RESEARCH AND DEVELOPMENT PROGRAM.—The Secretary shall carry out a research and development program for the purpose of improving railroad security that may include research and development projects to—

(1) reduce the vulnerability of passenger trains, stations, and equipment to explosives and hazardous chemical, biological, and radioactive substances;

(2) test new emergency response techniques and technologies;

(3) develop improved freight technologies, including—

(A) technologies for sealing rail cars;

(B) automatic inspection of rail cars; and

(C) communication-based train controls;

(4) test wayside detectors that can detect tampering with railroad equipment;

(5) support enhanced security for the transportation of hazardous materials by rail, including—

(A) technologies to detect a breach in a tank car and transmit information about the integrity of tank cars to the train crew;

(B) research to improve tank car integrity; and

(C) techniques to transfer hazardous materials from rail cars that are damaged or otherwise represent an unreasonable risk to human life or public safety; and

(6) other projects recommended in the report required by section 621.

(b) COORDINATION WITH OTHER RESEARCH INITIATIVES.—The Secretary shall ensure that the research and development program authorized by this section is coordinated with other research and development initiatives at the Department of Homeland Security, the Department of Transportation, and other Federal agencies.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary \$50,000,000 in each of fiscal years 2006 and 2007 to carry out the purposes of this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

#### SEC. 625. RAIL WORKER SECURITY TRAINING PROGRAM.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary, in consultation with appropriate law enforcement, security, and terrorism experts, representatives of railroad carriers, and nonprofit employee organizations that represent rail workers, shall develop and issue detailed guidance for a rail worker security training program to prepare rail workers for potential threat conditions.

(b) PROGRAM ELEMENTS.—The guidance developed under subsection (a) shall require such a program to include, at a minimum, elements that address the following:

(1) Determination of the seriousness of any occurrence.

(2) Crew and passenger communication and coordination.

(3) Appropriate responses to defend oneself.

(4) Use of protective devices.

(5) Evacuation procedures.

(6) Live situational training exercises regarding various threat conditions, including tunnel evacuation procedures.

(7) Any other subject the Secretary considers appropriate.

(c) RAILROAD CARRIER PROGRAMS.—Not later than 60 days after the Secretary issues guidance under subsection (a) in final form, each railroad carrier shall develop a rail worker security training program in accordance with that guidance and submit it to the Secretary for approval. Not later than 60 days after receiving a railroad carrier's program under this subsection, the Secretary shall review the program and approve it or require the railroad carrier to make any revisions the Secretary considers necessary for the program to meet the guidance requirements.

(d) TRAINING.—Not later than 1 year after the Secretary approves the training program developed by a railroad carrier under this section, the railroad carrier shall complete the training of all rail workers in accordance with that program.

(e) UPDATES.—The Secretary shall update the training guidance issued under subsection (a) from time to time to reflect new or different security threats, and require railroad carriers to revise their programs accordingly and provide additional training to their rail workers.

#### SEC. 626. WHISTLEBLOWER PROTECTION.

(a) IN GENERAL.—Subchapter I of chapter 201 of title 49, is amended by inserting after section 20115 the following:

##### “20116. Whistleblower protection for railroad security matters

“(a) DISCRIMINATION AGAINST EMPLOYEE.—No railroad carrier engaged in interstate or foreign commerce may discharge a railroad employee or otherwise discriminate against a railroad employee because the employee (or any person acting pursuant to a request of the employee)

“(1) provided, caused to be provided, or is about to provide or cause to be provided, to the employer or the Federal Government information relating to a perceived threat to security;

“(2) provided, caused to be provided, or is about to provide or cause to be provided, testimony before Congress or at any Federal or State proceeding regarding a perceived threat to security;

“(3) has assisted or participated, or is about to assist or participate, in any manner in a proceeding or any other action to enhance railroad security; or

“(4) refused to violate or assist in the violation of any law, rule, or regulation related to railroad security.

##### “(b) ENFORCEMENT ACTION.—

“(1) IN GENERAL.—A person who alleges discharge or other discrimination by any person in violation of subsection (a) may seek relief under subsection (c) by

“(A) filing a complaint with the Secretary of Labor; or

“(B) if the Secretary of Labor has not issued a final decision within 180 days of the filing of the complaint and there is no showing that such delay is due to the bad faith of the claimant, bringing an action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy.

##### “(2) PROCEDURE.—

“(A) IN GENERAL.—An action under paragraph (1)(A) shall be governed under the rules and procedures set forth in section 42121(b) of this title.

“(B) EXCEPTION.—Notification made under section 42121(b)(1) of this title, shall be made to the person named in the complaint and to the employer.

“(C) BURDEN OF PROOF.—An action brought under paragraph (1)(B) shall be governed by the legal burdens of proof set forth in section 42121(b) of this title.

“(D) STATUTE OF LIMITATIONS.—An action under paragraph (1)(A) shall be commenced not later than 90 days after the date on which the violation occurs.

##### “(E) REMEDIES.—

“(1) IN GENERAL.—An employee prevailing in any action under subsection (b)(1) shall be entitled to all relief necessary to make the employee whole.

“(2) COMPENSATORY DAMAGES.—Relief for any action under paragraph (1) shall include

“(A) reinstatement with the same seniority status that the employee would have had, but for the discrimination;

“(B) the amount of back pay, with interest; and

“(C) compensation for any special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney fees.

“(D) RIGHTS RETAINED BY EMPLOYEE.—Except as provided in subsection (e), nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any employee under any Federal or State law, or under any collective bargaining agreement.

“(E) ELECTION OF REMEDIES.—An employee of a railroad carrier may not seek protection

under both this section and another provision of law for the same allegedly unlawful act of the railroad carrier.

**(f) DISCLOSURE OF IDENTITY.—**

“(1) IN GENERAL.—Except as provided in paragraph (2), without the written consent of the employee, the Secretary of Labor may not disclose the name of an employee of a railroad carrier who has provided information about an alleged violation of this section.

“(2) EXCEPTION.—The Secretary of Labor shall disclose to the Attorney General the name of an employee described in paragraph (1) of this subsection if the matter is referred to the Attorney General for enforcement.”.

**(b) CONFORMING AMENDMENT.—**The table of sections for chapter 201 of title 49, is amended by inserting after the item relating to section 20115 the following:

“20116. Whistleblower protection for railroad security matters.”.

**SEC. 627. PUBLIC OUTREACH.**

Not later than 180 days after the date of enactment of this Act, the Secretary shall develop a national plan for public outreach and awareness. Such plan shall be designed to increase awareness of measures that the general public, railroad passengers, and railroad employees can take to increase railroad system security. Such plan shall also provide outreach to railroad carriers and their employees to improve their awareness of available technologies, ongoing research and development efforts, and available Federal funding sources to improve railroad security. Not later than 9 months after the date of enactment of this Act, the Secretary shall implement the plan developed under this section.

**SEC. 628. PASSENGER, BAGGAGE, AND CARGO SCREENING.**

The Secretary shall—

(1) analyze the cost and feasibility of requiring security screening for passengers, baggage, and cargo on passenger trains; and

(2) report the results of the study, together with any recommendations that the Secretary may have for implementing a rail security screening program to the Committee on Transportation and Infrastructure and the Committee on Homeland Security of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate not later than 1 year after the date of enactment of this Act.

**SEC. 629. EMERGENCY RESPONDER TRAINING STANDARDS.**

Not later than 90 days after the date of enactment of this Act, the Secretary of Transportation shall issue training standards for persons responsible for responding to emergency situations occurring during transportation of hazardous materials by rail, in accordance with existing regulations, to ensure their ability to protect nearby persons, property, or the environment from the effects of accidents involving hazardous materials.

**SEC. 630. INFORMATION FOR FIRST RESPONDERS.**

**(a) IN GENERAL.—**The Secretary of Transportation shall provide grants to Operation Respond Institute for the purpose of

(1) deploying and expanding the Operation Respond Emergency Information System software;

(2) developing, implementing, and maintaining a railroad infrastructure mapping program that correlates railroad right-of-way information with highway grid maps and overhead imagery of traffic routes, hazardous materials routes, and commuter rail lines; and

(3) establishing an alert and messaging capability for use during emergencies involving freight and passenger railroads.

**(b) AUTHORIZATION OF APPROPRIATIONS.—**There are authorized to be appropriated to

the Secretary of Transportation to carry out this section \$2,500,000 for each of fiscal years 2005, 2006, and 2007. Amounts appropriated pursuant to this subsection shall remain available until expended.

**SEC. 631. TSA PERSONNEL LIMITATIONS.**

Any statutory limitation on the number of employees in the Transportation Security Administration, before or after its transfer to the Department of Homeland Security, does not apply to the extent that any such employees are responsible for implementing the provisions of this title.

**SEC. 632. RAIL SAFETY REGULATIONS.**

Section 20103(a) of title 49, United States Code, is amended by striking “safety” the first place it appears, and inserting “safety, including security”.

**SEC. 633. RAIL POLICE OFFICERS.**

Section 28101 of title 49, United States Code, is amended by striking “the rail carrier” each place it appears and inserting “any rail carrier”.

**SEC. 634. DEFINITIONS.**

For purposes of this chapter—

(1) the terms “railroad” and “railroad carrier” have the meaning given those terms in section 20102 of title 49, United States Code; and

(2) the term “Secretary” means the Secretary of Homeland Security, acting through the Under Secretary of Homeland Security for Border and Transportation Security.

**CHAPTER 2—ASSISTANCE TO FAMILIES OF PASSENGERS**

**SEC. 641. ASSISTANCE BY NATIONAL TRANSPORTATION SAFETY BOARD TO FAMILIES OF PASSENGERS INVOLVED IN RAIL PASSENGER ACCIDENTS.**

**(a) IN GENERAL.—**Subchapter III of chapter 11 of title 49, United States Code, is amended by adding at the end the following:

**“§ 1138. Assistance to families of passengers involved in rail passenger accidents**

**“(a) IN GENERAL.—**As soon as practicable after being notified of a rail passenger accident within the United States involving a rail passenger carrier and resulting in a major loss of life, the Chairman of the National Transportation Safety Board shall

“(1) designate and publicize the name and phone number of a director of family support services who shall be an employee of the Board and shall be responsible for acting as a point of contact within the Federal Government for the families of passengers involved in the accident and a liaison between the rail passenger carrier and the families; and

“(2) designate an independent nonprofit organization, with experience in disasters and posttrauma communication with families, which shall have primary responsibility for coordinating the emotional care and support of the families of passengers involved in the accident.

**“(b) RESPONSIBILITIES OF THE BOARD.—**The Board shall have primary Federal responsibility for

“(1) facilitating the recovery and identification of fatally injured passengers involved in an accident described in subsection (a); and

“(2) COMMUNICATING WITH THE FAMILIES OF PASSENGERS INVOLVED IN THE ACCIDENT AS TO THE ROLES OF.—

“(A) the organization designated for an accident under subsection (a)(2);

“(B) Government agencies; and

“(C) the rail passenger carrier involved, with respect to the accident and the post-accident activities.

**“(c) RESPONSIBILITIES OF DESIGNATED ORGANIZATION.—**The organization designated for an accident under subsection (a)(2) shall have the following responsibilities with re-

spect to the families of passengers involved in the accident:

“(1) To provide mental health and counseling services, in coordination with the disaster response team of the rail passenger carrier involved.

“(2) To take such actions as may be necessary to provide an environment in which the families may grieve in private.

“(3) To meet with the families who have traveled to the location of the accident, to contact the families unable to travel to such location, and to contact all affected families periodically thereafter until such time as the organization, in consultation with the director of family support services designated for the accident under subsection (a)(1), determines that further assistance is no longer needed.

“(4) To arrange a suitable memorial service, in consultation with the families.

**“(d) PASSENGER LISTS.—**

**“(1) REQUESTS FOR PASSENGER LISTS.—**

**“(A) REQUESTS BY DIRECTOR OF FAMILY SUPPORT SERVICES.—**It shall be the responsibility of the director of family support services designated for an accident under subsection (a)(1) to request, as soon as practicable, from the rail passenger carrier involved in the accident a list, which is based on the best available information at the time of the request, of the names of the passengers that were aboard the rail passenger carrier’s train involved in the accident. A rail passenger carrier shall use reasonable efforts, with respect to its unreserved trains, and passengers not holding reservations on its other trains, to ascertain the names of passengers aboard a train involved in an accident.

**“(B) REQUESTS BY DESIGNATED ORGANIZATION.—**The organization designated for an accident under subsection (a)(2) may request from the rail passenger carrier involved in the accident a list described in subparagraph (A).

**“(2) USE OF INFORMATION.—**The director of family support services and the organization may not release to any person information on a list obtained under paragraph (1) but may provide information on the list about a passenger to the family of the passenger to the extent that the director of family support services or the organization considers appropriate.

**“(e) CONTINUING RESPONSIBILITIES OF THE BOARD.—**In the course of its investigation of an accident described in subsection (a), the Board shall, to the maximum extent practicable, ensure that the families of passengers involved in the accident

“(1) are briefed, prior to any public briefing, about the accident and any other findings from the investigation; and

“(2) are individually informed of and allowed to attend any public hearings and meetings of the Board about the accident.

**“(f) USE OF RAIL PASSENGER CARRIER RESOURCES.—**To the extent practicable, the organization designated for an accident under subsection (a)(2) shall coordinate its activities with the rail passenger carrier involved in the accident to facilitate the reasonable use of the resources of the carrier.

**“(g) PROHIBITED ACTIONS.—**

**“(1) ACTIONS TO IMPEDE THE BOARD.—**No person (including a State or political subdivision) may impede the ability of the Board (including the director of family support services designated for an accident under subsection (a)(1), or an organization designated for an accident under subsection (a)(2), to carry out its responsibilities under this section or the ability of the families of passengers involved in the accident to have contact with one another.

**“(2) UNSOLICITED COMMUNICATIONS.—**No unsolicited communication concerning a potential action for personal injury or wrongful

death may be made by an attorney (including any associate, agent, employee, or other representative of an attorney) or any potential party to the litigation to an individual (other than an employee of the rail passenger carrier) injured in the accident, or to a relative of an individual involved in the accident, before the 45th day following the date of the accident.

“(3) PROHIBITION ON ACTIONS TO PREVENT MENTAL HEALTH AND COUNSELING SERVICES.—No State or political subdivision may prevent the employees, agents, or volunteers of an organization designated for an accident under subsection (a)(2) from providing mental health and counseling services under subsection (c)(1) in the 30-day period beginning on the date of the accident. The director of family support services designated for the accident under subsection (a)(1) may extend such period for not to exceed an additional 30 days if the director determines that the extension is necessary to meet the needs of the families and if State and local authorities are notified of the determination.

“(h) DEFINITIONS.—In this section, the following definitions apply:

“(1) RAIL PASSENGER ACCIDENT.—The term ‘rail passenger accident’ means any rail passenger disaster occurring in the provision of

“(A) interstate intercity rail passenger transportation (as such term is defined in section 24102); or

“(B) interstate or intrastate high-speed rail (as such term is defined in section 26105) transportation,

regardless of its cause or suspected cause.

“(2) RAIL PASSENGER CARRIER.—The term ‘rail passenger carrier’ means a rail carrier providing

“(A) interstate intercity rail passenger transportation (as such term is defined in section 24102); or

“(B) interstate or intrastate high-speed rail (as such term is defined in section 26105) transportation,

except that such term shall not include a tourist, historic, scenic, or excursion rail carrier.

“(3) PASSENGER.—The term ‘passenger’ includes

“(A) an employee of a rail passenger carrier aboard a train;

“(B) any other person aboard the train without regard to whether the person paid for the transportation, occupied a seat, or held a reservation for the rail transportation; and

“(C) any other person injured or killed in the accident.

“(i) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed as limiting the actions that a rail passenger carrier may take, or the obligations that a rail passenger carrier may have, in providing assistance to the families of passengers involved in a rail passenger accident.

“(i) RELINQUISHMENT OF INVESTIGATIVE PRIORITY.—

“(1) GENERAL RULE.—This section (other than subsection (g)) shall not apply to a railroad accident if the Board has relinquished investigative priority under section 1131(a)(2)(B) and the Federal agency to which the Board relinquished investigative priority is willing and able to provide assistance to the victims and families of the passengers involved in the accident.

“(2) BOARD ASSISTANCE.—If this section does not apply to a railroad accident because the Board has relinquished investigative priority with respect to the accident, the Board shall assist, to the maximum extent possible, the agency to which the Board has relinquished investigative priority in assisting families with respect to the accident.”

“(b) CONFORMING AMENDMENT.—The table of sections for such chapter is amended by in-

serting after the item relating to section 1137 the following:

“1138. Assistance to families of passengers involved in rail passenger accidents.”

**SEC. 642. RAIL PASSENGER CARRIER PLANS TO ADDRESS NEEDS OF FAMILIES OF PASSENGERS INVOLVED IN RAIL PASSENGER ACCIDENTS.**

(a) IN GENERAL.—Part C of subtitle V of title 49, United States Code, is amended by adding at the end the following new chapter:

**“CHAPTER 251—FAMILY ASSISTANCE**

“Sec.

“25101. Plans to address needs of families of passengers involved in rail passenger accidents.

**“§ 25101. Plans to address needs of families of passengers involved in rail passenger accidents**

“(a) SUBMISSION OF PLANS.—Not later than 180 days after the date of the enactment of this section, each rail passenger carrier shall submit to the Secretary of Transportation and the Chairman of the National Transportation Safety Board a plan for addressing the needs of the families of passengers involved in any rail passenger accident involving a train of the rail passenger carrier and resulting in a major loss of life.

“(b) CONTENTS OF PLANS.—A plan to be submitted by a rail passenger carrier under subsection (a) shall include, at a minimum, the following:

“(1) A plan for publicizing a reliable, toll-free telephone number, and for providing staff, to handle calls from the families of the passengers.

“(2) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, either by utilizing the services of the organization designated for the accident under section 1138(a)(2) of this title or the services of other suitably trained individuals.

“(3) An assurance that the notice described in paragraph (2) will be provided to the family of a passenger as soon as the rail passenger carrier has verified that the passenger was aboard the train (whether or not the names of all of the passengers have been verified) and, to the extent practicable, in person.

“(4) An assurance that the rail passenger carrier will provide to the director of family support services designated for the accident under section 1138(a)(1) of this title, and to the organization designated for the accident under section 1138(a)(2) of this title, immediately upon request, a list (which is based on the best available information at the time of the request) of the names of the passengers aboard the train (whether or not such names have been verified), and will periodically update the list. The plan shall include a procedure, with respect to unreserved trains and passengers not holding reservations on other trains, for the rail passenger carrier to use reasonable efforts to ascertain the names of passengers aboard a train involved in an accident.

“(5) An assurance that the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger within the control of the rail passenger carrier.

“(6) An assurance that if requested by the family of a passenger, any possession of the passenger within the control of the rail passenger carrier (regardless of its condition) will be returned to the family unless the possession is needed for the accident investigation or any criminal investigation.

“(7) An assurance that any unclaimed possession of a passenger within the control of the rail passenger carrier will be retained by

the rail passenger carrier for at least 18 months.

“(8) An assurance that the family of each passenger or other person killed in the accident will be consulted about construction by the rail passenger carrier of any monument to the passengers, including any inscription on the monument.

“(9) An assurance that the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers.

“(10) An assurance that the rail passenger carrier will work with any organization designated under section 1138(a)(2) of this title on an ongoing basis to ensure that families of passengers receive an appropriate level of services and assistance following each accident.

“(11) An assurance that the rail passenger carrier will provide reasonable compensation to any organization designated under section 1138(a)(2) of this title for services provided by the organization.

“(12) An assurance that the rail passenger carrier will assist the family of a passenger in traveling to the location of the accident and provide for the physical care of the family while the family is staying at such location.

“(13) An assurance that the rail passenger carrier will commit sufficient resources to carry out the plan.

“(14) An assurance that the rail passenger carrier will provide adequate training to the employees and agents of the carrier to meet the needs of survivors and family members following an accident.

“(15) An assurance that, upon request of the family of a passenger, the rail passenger carrier will inform the family of whether the passenger’s name appeared on any preliminary passenger manifest for the train involved in the accident.

“(c) LIMITATION ON LIABILITY.—A rail passenger carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of the rail passenger carrier in preparing or providing a passenger list, or in providing information concerning a train reservation, pursuant to a plan submitted by the rail passenger carrier under subsection (b), unless such liability was caused by conduct of the rail passenger carrier which was grossly negligent or which constituted intentional misconduct.

“(d) DEFINITIONS.—In this section—

“(1) the terms ‘rail passenger accident’ and ‘rail passenger carrier’ have the meanings such terms have in section 1138 of this title; and

“(2) the term ‘passenger’ means a person aboard a rail passenger carrier’s train that is involved in a rail passenger accident.

“(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed as limiting the actions that a rail passenger carrier may take, or the obligations that a rail passenger carrier may have, in providing assistance to the families of passengers involved in a rail passenger accident.”

(b) CONFORMING AMENDMENT.—The table of chapters for subtitle V of title 49, United States Code, is amended by adding after the item relating to chapter 249 the following new item:

**“251. FAMILY ASSISTANCE ..... 25101”**

**SEC. 643. ESTABLISHMENT OF TASK FORCE.**

(a) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation, in coordination with the National Transportation Safety Board, organizations potentially designated under section 1138(a)(2) of title 49, United States Code, rail passenger carriers,

and families which have been involved in rail accidents, shall establish a task force consisting of representatives of such entities and families, representatives of passenger rail carrier employees, and representatives of such other entities as the Secretary considers appropriate.

(b) MODEL PLAN AND RECOMMENDATIONS.—The task force established pursuant to subsection (a) shall develop—

(1) a model plan to assist passenger rail carriers in responding to passenger rail accidents;

(2) recommendations on methods to improve the timeliness of the notification provided by passenger rail carriers to the families of passengers involved in a passenger rail accident;

(3) recommendations on methods to ensure that the families of passengers involved in a passenger rail accident who are not citizens of the United States receive appropriate assistance; and

(4) recommendations on methods to ensure that emergency services personnel have as immediate and accurate a count of the number of passengers onboard the train as possible.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing the model plan and recommendations developed by the task force under subsection (b).

## TITLE VII—SECURING CRITICAL INFRASTRUCTURE

### SEC. 701. CRITICAL INFRASTRUCTURE.

(a) COMPLETION OF PRIORITIZATION.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall complete the prioritization of the Nation's critical infrastructure according to all of the following criteria:

(1) The threat of terrorist attack, based on threat information received and analyzed by the Office of Information Analysis of the Department regarding the intentions and capabilities of terrorist groups and other potential threats to the Nation's critical infrastructure.

(2) The likelihood that an attack would cause the destruction or significant disruption of such infrastructure.

(3) The likelihood that an attack would result in substantial numbers of deaths and serious bodily injuries, a substantial adverse impact on the national economy, or a substantial adverse impact on national security.

(b) COOPERATION.—Such prioritization shall be developed in cooperation with other relevant Federal agencies, State, local, and tribal governments, and the private sector, as appropriate.

### SEC. 702. SECURITY REVIEW.

(a) REQUIREMENT.—Not later than 9 months after the date of the enactment of this Act, the Secretary, in coordination with other relevant Federal agencies, State, local, and tribal governments, and the private sector, as appropriate, shall—

(1) review existing Federal, State, local, tribal, and private sector plans for securing the critical infrastructure included in the prioritization developed under section 701;

(2) recommend changes to existing plans for securing such infrastructure, as the Secretary determines necessary; and

(3) coordinate and contribute to protective efforts of other Federal, State, local, and tribal agencies and the private sector, as appropriate, as directed in Homeland Security Presidential Directive 7.

(b) CONTENTS OF PLANS.—The recommendations made under subsection (a)(2) shall include—

(1) necessary protective measures to secure such infrastructure, including milestones and timeframes for implementation; and

(2) to the extent practicable, performance metrics to evaluate the benefits to both national security and the Nation's economy from the implementation of such protective measures.

### SEC. 703. IMPLEMENTATION REPORT.

(a) IN GENERAL.—Not later than 15 months after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate on the implementation of section 702. Such report shall detail—

(1) the Secretary's review and coordination of security plans under section 702; and

(2) the Secretary's oversight of the execution and effectiveness of such plans.

(b) UPDATE.—Not later than 1 year after the submission of the report under subsection (a), the Secretary shall provide an update of such report to the congressional committees described in subsection (a).

## TITLE VIII—PREVENTING A BIOLOGICAL ATTACK

### SEC. 801. GAO REPORT OF DEPARTMENT BIOLOGICAL TERRORISM PROGRAMS.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate assessing the full history of Department of Homeland Security activities with regard to biological terrorism and recommending which Department of the Government should administer such activities.

(b) INCLUDED CONTENTS.—The report shall consider and discuss—

(1) progress made in implementing the BioShield program;

(2) how effectively the Department of Health and Human Services is administering the BioShield program;

(3) whether the Department of Health and Human Services has the administrative capability necessary to fully implement the BioShield program; and

(4) the legislative history of the BioShield program, including the legislation that established the program as it was introduced in the Congress and considered and reported by the Select Committee on Homeland Security of the House of Representatives.

### SEC. 802. REPORT ON BIO-COUNTERMEASURES.

Not later than 12 months after the date of enactment of this Act, the Secretary of Homeland Security in consultation with the Secretary of Health and Human Services shall transmit to the Congress a report with recommendations on—

(1) the feasibility of supplying first responders, not limited to law enforcement, firefighters and emergency medical service personnel, with biological and chemical agent countermeasures or vaccinations when necessary;

(2) the appropriate levels and types of biological and chemical agents, industrial materials and other hazardous substances that first responders should be protected against; and

(3) the system and appropriate means of accessing, delivering, storing and dispersing countermeasures to first responder personnel.

## TITLE IX—PROTECTION OF AGRICULTURE

### SEC. 901. REPORT TO CONGRESS ON IMPLEMENTATION OF RECOMMENDATIONS REGARDING PROTECTION OF AGRICULTURE.

The Secretary of Homeland Security shall report to the Committee on Homeland Secu-

rity of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate by no later than 120 days after the date of the enactment of this Act regarding how the Department of Homeland Security will implement the applicable recommendations from the Government Accountability Office report entitled "Homeland Security: Much is Being Done to Protect Agriculture from a Terrorist Attack, but Important Challenges Remain" (GAO-05-214).

## TITLE X—OPTIMIZING OUR SCREENING CAPABILITIES

### Subtitle A—U.S. Visitor and Immigrant Status Indicator Technology Database

#### SEC. 1001. INTEROPERABILITY OF DATA FOR UNITED STATES VISITOR AND IMMIGRANT STATUS INDICATOR TECHNOLOGY.

(a) FINDINGS.—The Congress finds as follows:

(1) The Congress is troubled by the security gap on the Nation's borders caused by delays in linking fingerprint data in IDENT with criminal history data contained in IAFIS.

(2) The Congress expected that, by the end of 2004, such interoperability would be in place at airports, seaports, and the largest and busiest Border Patrol stations and land border ports of entry, but this will not be completed until December 31, 2005.

(3) With implementation of a new visa tracking system, and enrollment of millions of visitors in US-VISIT, it is essential that the Directorate of Border and Transportation Security collaborate with the Federal Bureau of Investigations to ensure that IDENT can retrieve, in real time, biometric information containing in IAFIS, and that IAFIS can retrieve, in real time, biometric information contained in IDENT.

(b) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall prepare, and submit to the Committee on Homeland Security of the United States House of Representatives, a report that details the status of the effort to achieve real-time interoperability of IAFIS and IDENT, including the following:

(1) The steps the Department will take to achieve this goal, the funds needed to achieve this goal, and a timetable to achieve this goal.

(2) A description of the effort being made to address the recommendations in the March, 2004, Department of Justice Inspector General report and subsequent December, 2004, report, which documented the need to integrate existing biometric databases; and

(3) The plan for maintaining the interoperability of IAFIS and IDENT, once achieved.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "IAFIS" means the Integrated Automated Fingerprint Identification System maintained by the Federal Bureau of Investigation of the Department of Justice.

(2) The term "IDENT" means the Automated Biometrics Identification System maintained by the Bureau of Customs and Border Protection of the Department of Homeland Security.

(3) The term "US-VISIT" means the United States Visitor and Immigrant Status Indicator Technology maintained by the Bureau of Customs and Border Protection of the Department of Homeland Security.

### Subtitle B—Studies to Improve Border Management and Immigration Security

#### SEC. 1011. STUDY ON BIOMETRICS.

(a) IN GENERAL.—The Secretary of Homeland Security, in consultation with the Director of the National Institute of Standards and Technology, shall conduct a comprehensive study of all biometric identifiers that

might be collected for purposes of processing and adjudicating applications and petitions for immigration benefits, and shall determine which among these identifiers would be most appropriate for the purposes described in subsection (b). The Secretary shall provide the resources necessary to properly conduct the study.

(b) USES.—In carrying out subsection (a), the Secretary shall consider the use of a biometric identifier—

(1) to register or catalogue a petition or application for an immigration benefit upon submission to the appropriate Federal agency;

(2) to check the petitioner or applicant against watch lists;

(3) as part of the integrated entry and exit data system required under section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a); and

(4) to conduct background checks with Federal intelligence agencies.

(c) FACTORS.—The Secretary shall consider the following factors in making the determination under subsection (a):

- (1) Accuracy
- (2) The technology available.
- (3) Economic considerations.
- (4) Storage.
- (5) Efficiency.
- (6) Feasibility.

(d) SUBMISSION.—The study should be completed not later than January 1, 2006, and shall be submitted to the Committee on Homeland Security of the United States House of Representatives.

#### SEC. 1012. STUDY ON DIGITIZING IMMIGRATION BENEFIT APPLICATIONS.

(a) IN GENERAL.—The Secretary of Homeland Security shall conduct a comprehensive study on digitizing all applications and petitions for an immigration benefit, including digital storage, cataloguing, and the ability to apply for all types of immigration benefits through digital means. The study should consider costs for both the Federal Government and the applicant or petitioner, as well as the feasibility for all types of persons to apply by digital means.

(b) SUBMISSION.—The study should be completed not later than January 1, 2006, and shall be submitted to the Committee on Homeland Security of the United States House of Representatives.

#### SEC. 1013. STUDY ON ELIMINATION OF ARRIVAL/DEPARTURE PAPER FORMS.

(a) IN GENERAL.—The Secretary of Homeland Security shall conduct a comprehensive study on replacing Department of Homeland Security paper Form Number I-94 (Arrival/Departure Record) and Form Number I-94W (NIV Waiver Arrival/Departure Record) with procedures that ensure that the functions served by such forms are being carried out by electronic or digitized means. The study should consider the costs and savings to the Federal Government of such replacement.

(b) SUBMISSION.—The study should be completed not later than January 1, 2006, and shall be submitted to the Committee on Homeland Security of the United States House of Representatives.

#### SEC. 1014. CATALOGUING IMMIGRATION APPLICATIONS BY BIOMETRIC.

(a) IN GENERAL.—The Secretary of Homeland Security shall conduct a comprehensive study on whether all applications and petitions for an immigration benefit shall be registered or catalogued by the receiving agency using a biometric identifier. The Secretary of Homeland Security shall study one or more alternative biometric identifiers to be used for such purposes.

(b) SUBMISSION.—The study should be completed not later than January 1, 2006, and

shall be submitted to the Committee on Homeland Security of the United States House of Representatives. It shall include recommendations for resource allocation.

### TITLE XI—SECURING CYBERSPACE AND HARNESSING TECHNOLOGY TO PREVENT DISASTER

#### Subtitle A—Department of Homeland Security Cybersecurity Enhancement

##### SEC. 1101. SHORT TITLE.

This subtitle may be cited as the “Department of Homeland Security Cybersecurity Enhancement Act of 2005”.

##### SEC. 1102. ASSISTANT SECRETARY FOR CYBERSECURITY.

Section 201(b) of the Homeland Security Act of 2002 (6 U.S.C. 121(b)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph:

“(3) ASSISTANT SECRETARY FOR CYBERSECURITY.—There shall be in the Department an Assistant Secretary for Cybersecurity, who shall be appointed by the President.”; and

(3) in paragraph (4), as redesignated by subparagraph (A) of this paragraph—

(A) by striking “Analysis and the” and inserting “Analysis, the”; and

(B) by striking “Protection shall” and inserting “Protection, and the Assistant Secretary for Cybersecurity shall”.

##### SEC. 1103. CYBERSECURITY TRAINING PROGRAMS AND EQUIPMENT.

(a) IN GENERAL.—The Secretary of Homeland Security, acting through the Assistant Secretary for Cybersecurity, may establish, in conjunction with the National Science Foundation, a program to award grants to institutions of higher education (and consortia thereof) for—

(1) the establishment or expansion of cybersecurity professional development programs;

(2) the establishment or expansion of associate degree programs in cybersecurity; and

(3) the purchase of equipment to provide training in cybersecurity for either professional development programs or degree programs.

##### (b) ROLES.—

(1) DEPARTMENT OF HOMELAND SECURITY.—The Secretary, acting through the Assistant Secretary for Cybersecurity and in consultation with the Director of the National Science Foundation, shall establish the goals for the program established under this section and the criteria for awarding grants under the program.

(2) NATIONAL SCIENCE FOUNDATION.—The Director of the National Science Foundation shall operate the program established under this section consistent with the goals and criteria established under paragraph (1), including soliciting applicants, reviewing applications, and making and administering grant awards. The Director may consult with the Assistant Secretary for Cybersecurity in selecting awardees.

(3) FUNDING.—The Secretary shall transfer to the National Science Foundation the funds necessary to carry out this section.

##### (c) GRANT AWARDS.—

(1) PEER REVIEW.—All grant awards under this section shall be made on a competitive, merit-reviewed basis.

(2) FOCUS.—In making grant awards under this section, the Director shall, to the extent practicable, ensure geographic diversity and the participation of women and underrepresented minorities.

(3) PREFERENCE.—In making grant awards under this section, the Director shall give preference to applications submitted by consortia of institutions to encourage as many students and professionals as possible to benefit from this program.

(d) AUTHORIZATION OF APPROPRIATIONS.—Of the amount authorized under section 101, there is authorized to be appropriated to the Secretary for carrying out this section \$3,700,000 for fiscal year 2006.

(e) DEFINITIONS.—In this section, the term “institution of higher education” has the meaning given that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

##### SEC. 1104. CYBERSECURITY RESEARCH AND DEVELOPMENT.

Title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.) is amended by adding at the end the following new section:

##### “SEC. 314. CYBERSECURITY RESEARCH AND DEVELOPMENT.

“(a) IN GENERAL.—The Under Secretary for Science and Technology shall support research and development, including fundamental, long-term research, in cybersecurity to improve the ability of the United States to prevent, protect against, detect, respond to, and recover from cyber attacks, with emphasis on research and development relevant to large-scale, high-impact attacks.

“(b) ACTIVITIES.—The research and development supported under subsection (a), shall include work to—

“(1) advance the development and accelerate the deployment of more secure versions of fundamental Internet protocols and architectures, including for the domain name system and routing protocols;

“(2) improve and create technologies for detecting attacks or intrusions, including monitoring technologies;

“(3) improve and create mitigation and recovery methodologies, including techniques for containment of attacks and development of resilient networks and systems that degrade gracefully; and

“(4) develop and support infrastructure and tools to support cybersecurity research and development efforts, including modeling, testbeds, and data sets for assessment of new cybersecurity technologies.

“(c) COORDINATION.—In carrying out this section, the Under Secretary for Science and Technology shall coordinate activities with—

“(1) the Assistant Secretary for Cybersecurity; and

“(2) other Federal agencies, including the National Science Foundation, the Defense Advanced Research Projects Agency, and the National Institute of Standards and Technology, to identify unmet needs and cooperatively support activities, as appropriate.

“(d) NATURE OF RESEARCH.—Activities under this section shall be carried out in accordance with section 306(a) of this Act.”.

#### Subtitle B—Coordination With National Intelligence Director

##### SEC. 1111. IDENTIFICATION AND IMPLEMENTATION OF TECHNOLOGIES THAT IMPROVE SHARING OF INFORMATION WITH THE NATIONAL INTELLIGENCE DIRECTOR.

Section 201(d)(8) of the Homeland Security Act of 2002 (6 U.S.C. 121(d)) is amended by inserting “, including identifying and implementing technologies that improve sharing of information with the National Intelligence Director,” after “within the Federal Government”.

#### Subtitle C—Cybersecurity Research

##### SEC. 1121. SUPPORT OF BASIC CYBERSECURITY RESEARCH.

(a) IN GENERAL.—Title III of the Homeland Security Act of 2002 (Public Law 107-296; 6 U.S.C. 121 et seq.) is amended by adding the following:

##### “SEC. 314. SUPPORT OF BASIC CYBERSECURITY RESEARCH.

“The Secretary, through the Directorate of the Department of Science and Technology

and subject to the availability of appropriations, shall fund basic cybersecurity research, including the following:

“(1) Development of information technology design protocols, methodologies, and applications to improve the integration of security control and protocols into next-generation-networks, mobile and wireless networks, and computing devices and applications.

“(2) Development of network-based control mechanisms for improving the capability of operators and service providers to disable malicious action by hostile actors.

“(3) Development of mechanisms for improving international network responsiveness to cybersecurity threats, including predictive modeling, communication mechanisms and information sharing systems.

“(4) Modeling of the cyber vulnerabilities of the Nation’s critical infrastructures, including Supervisory Control and Data Acquisition (SCADA) and Digital Control Systems (DCS).

“(5) Mapping of key interdependences, choke-points, and single points-of-failure within the Nation’s cyber critical infrastructure and the development of remediation programs.

“(6) Development of technologies, methodologies, and applications to mitigate the most common cyber vulnerabilities affecting networks, including viruses, worms, and denial-of-service attacks.

“(7) Identification of emerging cybersecurity threats and vulnerabilities affecting next-generation networks and mobile and wireless networks.”.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by adding at the end of the items relating to title III the following:

“Sec. 314. Support of basic cybersecurity research.”.

#### Subtitle D—Cybersecurity Training and Equipment

##### SEC. 1131. CYBERSECURITY TRAINING PROGRAMS AND EQUIPMENT.

(a) IN GENERAL.—The Secretary of Homeland Security, acting through the Assistant Secretary for Cybersecurity, may establish, in conjunction with the National Science Foundation, a program to award grants to institutions of higher education (and consortia thereof) for—

(1) the establishment or expansion of cybersecurity professional development programs;

(2) the establishment or expansion of associate degree programs in cybersecurity; and

(3) the purchase of equipment to provide training in cybersecurity for either professional development programs or degree programs.

##### (b) ROLES.—

(1) DEPARTMENT OF HOMELAND SECURITY.—The Secretary, acting through the Assistant Secretary for Cybersecurity and in consultation with the Director of the National Science Foundation, shall establish the goals for the program established under this section and the criteria for awarding grants under the program.

(2) NATIONAL SCIENCE FOUNDATION.—The Director of the National Science Foundation shall operate the program established under this section consistent with the goals and criteria established under paragraph (1), including soliciting applicants, reviewing applications, and making and administering grant awards. The Director may consult with the Assistant Secretary for Cybersecurity in selecting awardees.

(3) FUNDING.—The Secretary shall transfer to the National Science Foundation the funds necessary to carry out this section.

##### (c) GRANT AWARDS.—

(1) PEER REVIEW.—All grant awards under this section shall be made on a competitive, merit-reviewed basis.

(2) FOCUS.—In making grant awards under this section, the Director shall, to the extent practicable, ensure geographic diversity and the participation of women and underrepresented minorities.

(3) PREFERENCE.—In making grant awards under this section, the Director shall give preference to applications submitted by consortia of institutions to encourage as many students and professionals as possible to benefit from this program.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary for carrying out this section \$3,700,000 for fiscal year 2006.

(e) DEFINITIONS.—In this section, the term “institution of higher education” has the meaning given that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

#### TITLE XII—HELPING FIRST RESPONDERS GET THEIR JOB DONE

##### Subtitle A—Communications Interoperability

###### SEC. 1201. INTEROPERABLE COMMUNICATIONS TECHNOLOGY GRANT PROGRAM.

Section 430 of the Homeland Security Act of 2002 (6 U.S.C. 238) is amended by adding at the end the following:

###### “(e) INTEROPERABLE COMMUNICATIONS GRANTS.—

“(1) DEFINITIONS.—In this subsection, the following definitions shall apply:

“(A) COMMUNICATIONS INTEROPERABILITY.—The term ‘communications interoperability’ means the ability of public safety service and support providers, including emergency response providers, to communicate with other responding agencies and Federal agencies if necessary, through information technology systems and radio communications systems, and to exchange voice, data, or video with one another on demand, in real time, as necessary.

“(B) ELIGIBLE STATE.—The term ‘eligible State’ means a State that—

“(i) has submitted a plan under paragraph (4); and

“(ii) the Secretary determines has not achieved adequate statewide communications interoperability.

“(C) PUBLIC SAFETY AGENCIES.—The term ‘public safety agencies’ includes emergency response providers and any other persons that the Secretary determines must communicate effectively with one another to respond to emergencies.

“(2) IN GENERAL.—The Secretary shall—

“(A) make grants on a competitive basis directly to local governments (including a consortium of local governments) and public safety agencies within eligible States, in consultation with the chief executives of the State or States, for the purpose of assisting in the development of interoperable communications systems at any stage, including—

“(i) planning, system design, and engineering;

“(ii) procurement and installation of equipment;

“(iii) operations and maintenance of equipment; and

“(iv) testing and technology development; and

“(B) make grants to eligible States for initiatives necessary to achieve communications interoperability within each State, including—

“(i) statewide communications planning;

“(ii) system design and engineering;

“(iii) procurement and installation of equipment;

“(iv) operations and maintenance of equipment; and

“(v) testing and technology development initiatives.

###### “(3) COORDINATION.—

“(A) IN GENERAL.—The Secretary shall ensure that grants administered under this subsection are coordinated with the activities of other entities of the Department and other Federal entities so that grants awarded under this subsection, and other grant programs related to homeland security, facilitate the achievement of the strategy developed under section 6 of the Faster and Smarter Funding for First Responders Act of 2005.

“(B) RELATIONSHIP TO EXISTING GRANT PROGRAMS.—Nothing in this Act shall provide for the combination of grant funds among the grant program established under this subsection and any other grant programs administered by the Department of Homeland Security, including the State Homeland Security Grant Program of the Department, or any successor to such grant program, and the Urban Area Security Initiative of the Department, or any successor to such grant program.

###### “(4) ELIGIBILITY.—

“(A) SUBMISSION OF PLAN.—To be eligible to receive a grant under this subsection, each eligible State, or local governments or public safety agencies within an eligible State or States, shall submit a communications interoperability plan to the Secretary that—

“(i) addresses any stage of the development of interoperable communications systems, including planning, system design and engineering, procurement and installation, operations and maintenance, and testing and technology development;

“(ii) if the applicant is not a State, includes a description of how the applicant addresses the goals specified in any applicable State plan or plans submitted under this section; and

“(iii) is approved by the Secretary.

“(B) INCORPORATION AND CONSISTENCY.—A plan submitted under subparagraph (A) may be part of, and shall be consistent with, any other homeland security plans required of the submitting party by the Department.

###### “(5) AWARD OF GRANTS.—

“(A) CONSIDERATIONS.—In approving plans and awarding grants under this subsection, the Secretary shall consider—

“(i) the nature of the threat to the eligible State or local jurisdiction;

“(ii) the location, risk, or vulnerability of critical infrastructure and key national assets;

“(iii) the number, as well as the density, of persons who will be served by interoperable communications systems;

“(iv) the extent of the partnerships, existing or planned, established between local jurisdictions and agencies participating in the development of interoperable communications systems, and their coordination with Federal and State agencies;

“(v) the level of communications interoperability already achieved by the jurisdictions;

“(vi) the extent to which the communications interoperability plan submitted under paragraph (4) adequately addresses steps necessary to implement short-term or long-term solutions to communications interoperability;

“(vii) the extent to which eligible States and local governments, in light of their financial capability, demonstrate their commitment to expeditiously achieving communications interoperability by supplementing Federal funds with non-Federal funds;

“(viii) the extent to which grants will expedite the achievement of interoperability in the relevant jurisdiction with Federal, State, and local agencies; and

“(ix) the extent to which grants will be utilized to implement advanced communications technologies to promote interoperability.

“(B) COST SHARING.—

“(i) IN GENERAL.—The Federal share of the costs of an activity carried out with a grant to an applicant awarded under this section shall not exceed 75 percent.

“(ii) IN-KIND MATCHING.—Each recipient of a covered grant may meet the matching requirement under clause (i) by making in-kind contributions of goods or services that are directly linked with the purpose for which the grant is made, including personnel overtime, contractor services, administrative costs, equipment fuel and maintenance, and rental space.

“(6) REIMBURSEMENT.—

“(A) IN GENERAL.—Unless otherwise requested by the recipient of a grant under this subsection, grants shall not be awarded to reimburse the recipient for prior expenditures related to achieving communications interoperability.

“(B) EXCEPTION.—The Secretary shall reimburse public safety agencies directly for costs incurred for expenditures related to achieving communications interoperability, if—

“(i) the public safety agency expended funds after September 11, 2001, and before the date of enactment of this subsection; and

“(ii) such expenditures are consistent with and supportive of the communications interoperability plan approved by the Secretary under paragraph (4)(A)(iii).

“(C) TERMINATION OF AUTHORITY.—The authority of the Secretary under subparagraph (B) shall terminate one year after the date on which the Department of Homeland Security first allocates grant funds for this program.

“(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary \$500,000,000 for fiscal year 2006, \$750,000,000 for fiscal year 2007, \$1,000,000,000 for fiscal year 2008, \$1,250,000,000 for fiscal year 2009, \$1,500,000,000 for fiscal year 2010, and such sums as are necessary each fiscal year thereafter, to carry out the purposes of this subsection.”.

**SEC. 1202. STUDY REVIEWING COMMUNICATION EQUIPMENT INTEROPERABILITY.**

(a) STUDY.—The Secretary of Homeland Security shall conduct a study reviewing communication equipment interoperability and the viability of an acquisition strategy that requires all agencies to purchase equipment made by manufacturers that have committed to allow their products to be reverse engineered, so that interoperability can be assured regardless of manufacturer.

(b) REPORT.—The Secretary shall submit to the Congress a report on the findings, conclusions, and recommendation of the study by not later than 6 months after the date of the enactment of this Act.

**SEC. 1203. PREVENTION OF DELAY IN REASSIGNMENT OF DEDICATED SPECTRUM FOR PUBLIC SAFETY PURPOSES.**

It is the sense of Congress that—

(1) communications interoperability is a critical problem faced by our Nation's first responders;

(2) permanently correcting this problem requires broadcast spectrum dedicated for use by first responders; and

(3) Congress supports prompt action to make certain dedicated spectrum is available for use by first responders.

**Subtitle B—Homeland Security Terrorism Exercises**

**SEC. 1211. SHORT TITLE.**

This subtitle may be cited as the “Homeland Security Terrorism Exercises Act of 2005.”

**SEC. 1212. NATIONAL TERRORISM EXERCISE PROGRAM.**

(a) IN GENERAL.—Section 430 of the Homeland Security Act of 2002 (6 U.S.C. 238) is amended by striking “and” after the semicolon at the end of paragraph (8), by striking the period at the end of paragraph (9) and inserting “; and”, and by adding at the end the following:

“(10) designing, developing, performing, and evaluating exercises at the National, State, territorial, regional, local, and tribal levels of government that incorporate government officials, emergency response providers, public safety agencies, the private sector, international governments and organizations, and other appropriate entities to test the Nation's capability to prevent, prepare for, respond to, and recover from threatened or actual acts of terrorism.”.

(b) NATIONAL TERRORISM EXERCISE PROGRAM.—

(1) ESTABLISHMENT OF PROGRAM.—Title VIII of the Homeland Security Act of 2002 (Public Law 107-296) is amended by adding at the end the following new subtitle:

**Subtitle J—Terrorism Preparedness Exercises**

**SEC. 899a. NATIONAL TERRORISM EXERCISE PROGRAM.**

“(a) IN GENERAL.—The Secretary, through the Office for Domestic Preparedness, shall establish a National Terrorism Exercise Program for the purpose of testing and evaluating the Nation's capabilities to prevent, prepare for, respond to, and recover from threatened or actual acts of terrorism that—

“(1) enhances coordination for terrorism preparedness between all levels of government, emergency response providers, international governments and organizations, and the private sector;

“(2) is—

“(A) multidisciplinary in nature, including, as appropriate, information analysis and cybersecurity components;

“(B) as realistic as practicable and based on current risk assessments, including credible threats, vulnerabilities, and consequences;

“(C) carried out with the minimum degree of notice to involved parties regarding the timing and details of such exercises, consistent with safety considerations;

“(D) evaluated against performance measures and followed by corrective action to solve identified deficiencies; and

“(E) assessed to learn best practices, which shall be shared with appropriate Federal, State, territorial, regional, local, and tribal personnel, authorities, and training institutions for emergency response providers; and

“(3) assists State, territorial, local, and tribal governments with the design, implementation, and evaluation of exercises that—

“(A) conform to the requirements of paragraph (2); and

“(B) are consistent with any applicable State homeland security strategy or plan.

(b) NATIONAL LEVEL EXERCISES.—The Secretary, through the National Terrorism Exercise Program, shall perform on a periodic basis national terrorism preparedness exercises for the purposes of—

“(1) involving top officials from Federal, State, territorial, local, tribal, and international governments, as the Secretary considers appropriate;

“(2) testing and evaluating the Nation's capability to detect, disrupt, and prevent threatened or actual catastrophic acts of terrorism, especially those involving weapons of mass destruction; and

“(3) testing and evaluating the Nation's readiness to respond to and recover from catastrophic acts of terrorism, especially those involving weapons of mass destruction.”.

(2) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by adding at the end of the items relating to title VIII the following:

“Subtitle J—Terrorism Preparedness Exercises

“Sec. 899a. National terrorism exercise program.”.

**Subtitle C—Citizenship Preparedness**

**SEC. 1221. FINDINGS.**

The Congress finds that individual citizens must be a significant part of our overall approach to the Nation's security because—

(1) September 11, 2001, confirmed that all Americans have responsibility for homeland security;

(2) the United States will not be secure until the hometown is secure and the “publicity and the vigilance of ordinary Americans make a difference” in their communities' abilities to prepare for, to train for, and to respond to disasters of all kinds; and

(3) emergency responders can become overwhelmed in a catastrophic event and citizens must be prepared and trained to take care of themselves and others.

**SEC. 1222. PURPOSES.**

The purpose of this title is to to provide an orderly and continuing means of assistance by the Federal Government to State, local, and tribal governments in carrying out their responsibilities to engage all Americans in homeland security to provide an orderly and continuing means of assistance by the Federal Government to State, local, and tribal governments in carrying out their responsibilities to engage all Americans in homeland security by—

(1) achieving greater coordination among citizens, the private sector, non-governmental organizations, and all emergency responder disciplines through Citizen Corps Councils;

(2) encouraging individuals and communities to prepare for all hazards and threats;

(3) providing Federal assistance to establish, to build, and to sustain Citizen Corps Councils, which foster a comprehensive partnership among all emergency responder disciplines, government officials, the private sector, community and faith-based organizations to develop a local, risk-based strategy plan to engage citizens in hometown security through accurate preparedness information through public education and outreach; timely event-based information, including alerts and warnings; training in preparedness, prevention, and emergency response skills; and opportunities for collaboration with local emergency responders through volunteer programs, exercises, community outreach, and other coordinated efforts to promote citizen preparedness;

(4) focusing on how both to include people with disabilities and special needs in emergency preparedness and response training and collaboration opportunities and to ensure that emergency responders are better preparedness to meet the needs of this segment of society; and

(5) endorsing homeland security plans and strategies that integrate citizen/volunteer resources and participation and task force/advisory council memberships that include advocates for increased citizen participation.

**SEC. 1223. CITIZENS CORPS; PRIVATE SECTOR PREPAREDNESS.**

Title I of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by adding at the end the following:

**SEC. 104. CITIZEN CORPS AUTHORIZATION.**

(a) ADMINISTRATION AND SUPERVISION.—Citizen Corps and other community preparedness programs in the Department of Homeland Security shall be administered by the Executive Director of the Office of State

and Local Government Coordination and Preparedness under the supervision and direction of the Secretary.

“(b) EXECUTIVE DIRECTOR.—The Executive Director—

“(1) shall serve as Chair of the National Citizen Corps Council;

“(2) shall convene meetings of the National Citizen Corps Council at his own discretion or at the direction of the Secretary;

“(3) shall coordinate with State, local, and tribal government personnel, agencies, and authorities, and with the private sector, to ensure adequate planning, equipment, training, and exercise activities to fulfill the mission of engaging citizens in homeland security; and

“(4) shall provide periodic reports on the status of Citizen Corps and citizen preparedness to the Homeland Security Council through the Secretary.

“(c) USES OF FUNDS.—Funds made available under this title shall be used for the following:

“(1) Activities related to the component programs of Citizen Corps, including but not limited to Community Emergency Response Teams, Fire Corps, Volunteers in Police Service, USA on Watch, and Medical Reserve Corps.

“(2) To provide funding to States in accordance with Public Law 107-296, except that States must pass through at least 80 percent of funds received under this title to local Citizen Corps Councils.

“(3) State and local Citizen Corps councils may purchase educational materials for use in elementary and secondary schools for emergency preparedness education programs.

“(d) COORDINATION WITH OTHER FEDERAL ENTITIES.—The Executive Director—

“(1) shall support the coordination among all Federal entities to develop and sustain Citizen Corps and citizen preparedness and participation, especially the Departments of Health and Human Services, Justice, Commerce, Education, the Environmental Protection Agency, and Corporation for National and Community Service; and

“(2) shall have the authority to make contracts, grants, and cooperative agreements, and to enter into agreements with other executive agencies, as may be necessary and proper to carry out the Executive Director's responsibilities under this title or otherwise provided by law.

“(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title—

“(1) for fiscal year 2006, \$50 million;

“(2) for fiscal year 2007, \$55 million;

“(3) for fiscal year 2008, \$60 million;

“(4) for fiscal year 2009, \$65 million; and

“(5) for fiscal year 2010, \$70 million.

#### SEC. 105. PRIVATE SECTOR EMERGENCY PREPAREDNESS PROGRAM.

“(a) PREPAREDNESS PROGRAM.—Not later than 90 days after the date of the enactment of this title, the Secretary shall develop and implement a program to enhance private sector preparedness for emergencies and disasters, including emergencies resulting from acts of terrorism.

“(b) PROGRAM ELEMENTS.—In carrying out the program, the Secretary shall develop guidance and identify best practices to assist or foster action by the private sector in—

“(1) identifying hazards and assessing risks and impacts;

“(2) mitigating the impacts of a wide variety of hazards, including weapons of mass destruction;

“(3) managing necessary emergency preparedness and response resources;

“(4) developing mutual aid agreements;

“(5) developing and maintaining emergency preparedness and response plans, as well as associated operational procedures;

“(6) developing and maintaining communications and warning systems;

“(7) developing and conducting training and exercises to support and evaluate emergency preparedness and response plans and operational procedures;

“(8) developing and conducting training programs for security guards to implement emergency preparedness and response plans and operations procedures; and

“(9) developing procedures to respond to external requests for information from the media and the public.

“(c) STANDARDS.—

“(1) IN GENERAL.—The Secretary shall support the development of, promulgate, and regularly update as necessary national voluntary consensus standards for private sector emergency preparedness that will enable private sector organizations to achieve optimal levels of emergency preparedness as soon as practicable. Such standards include the National Fire Protection Association 1600 Standard on Disaster/Emergency Management and Business Continuity Programs.

“(2) CONSULTATION.—The Secretary shall carry out paragraph (1) in consultation with the Under Secretary for Emergency Preparedness and Response, the Under Secretary for Science and Technology, the Under Secretary for Information Analysis and Infrastructure Protection, and the Special Assistant to the Secretary for the Private Sector.

“(d) COORDINATION.—The Secretary shall coordinate the program with, and utilize to the maximum extent practicable—

“(1) the voluntary standards for disaster and emergency management and business continuity programs developed by the American National Standards Institute and the National Fire Protection Association; and

“(2) any existing private sector emergency preparedness guidance or best practices developed by private sector industry associations or other organizations.”

#### Subtitle D—Emergency Medical Services

##### SEC. 1231. EMERGENCY MEDICAL SERVICES ADMINISTRATION.

“(a) ESTABLISHMENT.—Title V of the Homeland Security Act of 2002 (Public Law 107-296) is amended by adding at the end the following:

##### “SEC. 510. EMERGENCY MEDICAL SERVICES ADMINISTRATION.

“(a) ESTABLISHMENT.—There is established, within the Directorate of Emergency Preparedness and Response, an Emergency Medical Services Administration to oversee and coordinate government efforts related to emergency medical services response to incidents of terrorism, including governmental and nongovernmental emergency medical services.

“(b) RESPONSIBILITIES.—The head of the Emergency Medical Services Administration shall—

“(1) coordinate activities related to emergency medical services and homeland security;

“(2) serve as liaison to the emergency medical services community;

“(3) evaluate training programs and standards for emergency medical services personnel;

“(4) conduct periodic assessments into the needs and capabilities of emergency medical services providers, including governmental and nongovernmental providers;

“(5) conduct periodic research into the number of emergency medical services personnel, including governmental and non-governmental emergency medical services, as well as emergency medical services providers that are associated with fire departments or hospital-based.

“(c) NATIONWIDE NEEDS ASSESSMENT.—The head of the Emergency Medical Services Administration shall conduct nationwide needs assessment of emergency medical services capabilities and needs related to equipment, training, and personnel.”

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by adding at the end of the items related to title V the following:

“Sec. 510. Emergency Medical Services Administration.”

##### SEC. 1232. SENSE OF CONGRESS.

The Secretary of the Department of Homeland Security should review the current system for distributing Emergency Management Performance Grants and consider distributing grant funds to State emergency managers rather than to State homeland security directors.

#### Subtitle E—Lessons Learned Information Sharing System

##### SEC. 1241. LESSONS LEARNED, BEST PRACTICES, AND CORRECTIVE ACTION.

(a) IN GENERAL.—In conjunction with the National Memorial Institute for the Prevention of Terrorism (MIPT) in Oklahoma City, Oklahoma, the Secretary shall support the continued growth and operation of the Lessons Learned Information Sharing (LLIS.gov) system to promote the generation and dissemination of peer-validated lessons learned, best practices, and corrective actions across the entire range of emergency response and homeland security disciplines for all local, state, tribal, and national jurisdictions. Lessons Learned Information Sharing is the recognized national collaborative network to enhance preparedness and prevention capabilities throughout the country. In supporting Lessons Learned Information Sharing, the Secretary shall ensure the following:

(1) that the National Memorial Institute for the Prevention of Terrorism (MIPT), in its unique role as an independent and honest broker of lessons learned, best practices, and corrective action, remain the Department's official steward of Lessons Learned Information Sharing;

(2) that the Lessons Learned Information Sharing system be expanded to include research and analysis on all primary, secondary, and tertiary emergency response and homeland security disciplines;

(3) that the successful model of the Lessons Learned Information Sharing system be applied to address the lessons learned and best practices needs of both the private sector and the American public at large;

(4) that the Lessons Learned Information Sharing system be expanded and made available to the emergency responders and domestic security officials of our international allies, as deemed appropriate by the Secretary, to include the collection and accommodation of international lessons learned and best practices;

(5) that the Lessons Learned Information Sharing system serve as the host platform and parent system for the Department's Corrective Action and Improvement Program that supports the Homeland Security National Exercise Program, Senior Officials Exercises, and Top Officials (TopOff) exercises, in accordance with the Department's Homeland Security Exercise and Evaluation Program (HSEEP);

(6) that the Lessons Learned Information Sharing system support the continued analysis and implementation of the National Preparedness Goal and National Preparedness Guidance as required by Homeland Security Presidential Decision Directive Eight;

(7) that the Lessons Learned Information Sharing System shall study the feasibility of developing a non-secure section for non-confidential and non-sensitive information;

(b) AUTHORIZATION OF APPROPRIATIONS.—The Secretary is authorized to be appropriated \$17,000,000 for the fiscal year 2006 to carry out the above requirements.

**Subtitle F—Technology Transfer Clearinghouse**

**SEC. 1251. SHORT TITLE.**

This subtitle may be cited as the “Department of Homeland Security Technology Development and Transfer Act of 2005”.

**SEC. 1252. TECHNOLOGY DEVELOPMENT AND TRANSFER.**

(a) ESTABLISHMENT OF TECHNOLOGY CLEARINGHOUSE.—Not later than 90 days after the date of enactment of this Act, the Secretary shall complete the establishment of the Technology Clearinghouse under Section 313 of the Homeland Security Act of 2002.

(b) TRANSFER PROGRAM.—Section 313 of the Homeland Security Act of 2002 (6 U.S.C. 193) is amended—

(1) by adding at the end of subsection (b) the following new paragraph:

“(6) The establishment of a homeland security technology transfer program to facilitate the identification, modification, and commercialization of technology and equipment for use by Federal, State, and local governmental agencies, emergency response providers, and the private sector to prevent, prepare for, or respond to acts of terrorism.”;

(2) by redesignating subsection (c) as subsection (d); and

(3) by inserting after subsection (b) the following new subsection:

“(c) TECHNOLOGY TRANSFER PROGRAM.—In developing the program described in subsection (b)(6), the Secretary, acting through the Under Secretary for Science and Technology, shall—

“(1) in consultation with the other Undersecretaries of the Department and the Director of the Office for Domestic Preparedness, on an ongoing basis—

“(A) conduct surveys and reviews of available appropriate technologies that have been, or are in the process of being developed or demonstrated by the Department, other Federal agencies, or the private sector or foreign governments and international organizations and that may be useful in assisting Federal, State, and local governmental agencies, emergency response providers, or the private sector to prevent, prepare for, or respond to acts of terrorism;

“(B) conduct or support research and development as appropriate of technologies identified under subparagraph (A), including any necessary modifications to such technologies for anti-terrorism use;

“(C) communicate to Federal, State, and local governmental agencies, emergency response providers, or the private sector the availability of such technologies for anti-terrorism use, as well as the technology's specifications, satisfaction of appropriate standards, and the appropriate grants available from the Department to purchase such technologies;

“(D) coordinate the selection and administration of all technology transfer activities of the Science and Technology Directorate, including projects and grants awarded to the private sector and academia; and

“(E) identify priorities based on current risk assessments within the Department of Homeland Security for identifying, researching, developing, modifying, and fielding existing technologies for anti-terrorism purposes; and

“(2) in support of the activities described in paragraph (1)—

“(A) consult with Federal, State, and local emergency response providers;

“(B) consult with government and nationally recognized standards organizations as appropriate;

“(C) enter into agreements and coordinate with other Federal agencies and foreign governments and international organizations as the Secretary determines appropriate, in order to maximize the effectiveness of such technologies or to facilitate commercialization of such technologies; and

“(D) consult with existing technology transfer programs and Federal and State training centers that research, develop, and transfer military and other technologies for use by emergency response providers.”.

(c) REPORT.—Not later than one year after the date of enactment of this Act, the Under Secretary for Science and Technology shall transmit to the Congress a description of the progress the Department has made in implementing the provisions of section 313 of the Homeland Security Act of 2002, as amended by this Act, including a description of the process used to review unsolicited proposals received as described in subsection (b)(3) of such section.

(d) SAVINGS CLAUSE.—Nothing in this section (including the amendments made by this section) shall be construed to alter or diminish the effect of the limitation on the authority of the Secretary of Homeland Security under section 302(4) of the Homeland Security Act of 2002 (6 U.S.C. 182(4)) with respect to human health-related research and development activities.

**Subtitle G—Metropolitan Medical Response System**

**SEC. 1261. METROPOLITAN MEDICAL RESPONSE SYSTEM; AUTHORIZATION OF APPROPRIATIONS.**

(a) AUTHORIZATIONS OF APPROPRIATIONS.—For the Metropolitan Medical Response System within the Department of Homeland Security, there is authorized to be appropriated \$50,000,000 for each of the fiscal years 2006 through 2008.

(b) RESERVATION OF AMOUNTS FOR LOCAL RESPONSIBILITIES.—Of the amounts appropriated under subsection (a) for a fiscal year, the Secretary of Homeland Security shall reserve not less than 90 percent to provide funds to the appropriate local entities for carrying out local responsibilities with respect to the Metropolitan Medical Response System.

**TITLE XIII—FIGHTING DOMESTIC TERRORISM**

**SEC. 1301. ADVISORY COMMITTEE ON DOMESTIC TERRORIST ORGANIZATIONS.**

(a) REQUIREMENT TO ESTABLISH.—Title I of the Homeland Security Act of 2002 (Public Law 107-296) is amended by adding at the end the following:

**“SEC. 104. ADVISORY COMMITTEE ON DOMESTIC TERRORIST ORGANIZATIONS.**

“(a) ESTABLISHMENT.—To assist the Secretary in identifying the threat posed by domestic terrorist organizations, the Secretary shall establish an advisory body pursuant to section 871(a) by not later than 60 days after the date of the enactment of this section, which shall be known as the Advisory Committee on Domestic Terrorist Organizations.

“(b) REPORT.—The advisory committee shall submit to the Secretary, by not later than 6 months after its establishment by the Secretary under subsection (a) and not later than every 1 year thereafter, a report on the threat posed by domestic terrorist organizations. Each report shall—

“(1) include an assessment of the nature and scope of domestic terrorist organization threats to the homeland;

“(2) detect and identify threats of domestic terrorist organizations against the United States;

“(3) assess the Department's performance in detecting, identifying, and countering domestic terrorist organizations and their threat to the homeland; and

“(4) suggest improvements in the Department's efforts to detect, identify, and counter domestic terrorist organizations and their threat to the homeland.

“(c) ADVISE ON PARTICULAR THREATS.—At the Secretary's discretion, the Advisory Committee may also advise the Secretary on particular threats posed by domestic terrorist organizations.

“(d) MEMBERSHIP.—

“(1) IN GENERAL.—The Advisory Committee shall consist of representatives of 15 organizations that have long-standing experience in monitoring domestic terrorist organizations and assessing their danger, and shall include a representative of each of—

“(A) the Southern Poverty Law Center;

“(B) the Simon Wiesenthal Center;

“(C) the Anti-Defamation League;

“(D) the National Association for the Advancement of Colored People;

“(E) the Arab American Institute;

“(F) the American-Arab Anti-Discrimination Committee;

“(G) the National Coalition of Anti-Violence Programs; and

“(H) the National Abortion Federation.

“(2) EX OFFICIO MEMBERS.—The Secretary shall designate one or more officers of the Department to serve as ex officio members of the Advisory Committee. One of such ex officio members from the Department shall be the designated officer of the Federal Government for purposes of subsection (e) of section 10 of the Federal Advisory Committee Act (5 App. U.S.C.).

“(e) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—Notwithstanding section 871(a), the Federal Advisory Committee Act (5 App. U.S.C.), including subsections (a), (b), and (d) of section 10 of such Act, and section 552b(c) of title 5, Untied States Code, shall apply to the Task Force.

“(f) TERRORIST ORGANIZATION DEFINED.—In this section, the term ‘domestic terrorist organization’ means an organization that is based primarily in the United States and that engages in domestic terrorism (as that term is defined in section 2331 of title 18, United States Code) or that has the capability and intent to engage in domestic terrorism.”.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by adding at the end of the items relating to title I the following:

“Sec. 104. Advisory Committee on Domestic Terrorist Organizations.”.

**TITLE XIV—CREATING A DIVERSE AND MANAGEABLE DEPARTMENT OF HOMELAND SECURITY**

**Subtitle A—Authorities of Privacy Officer**

**SEC. 1401. AUTHORITIES OF PRIVACY OFFICER.**

Section 222 of the Homeland Security Act of 2002 (6 U.S.C. 142) is amended—

(1) by inserting before the first sentence the following: “(a) APPOINTMENT AND RESPONSIBILITIES.—”;

(2) in subsection (a) (as designated by the amendment made by paragraph (1) of this section) by striking “to assume” and inserting “as the Privacy Officer of the Department. The Privacy Officer shall have”; and

(3) by adding at the end the following:

“(b) AUTHORITY TO INVESTIGATE.—The Privacy Officer shall have the same authority as the Inspector General of the Department to require employees of the Department to produce documents and answer questions, with respect to any matter within the authority of the senior official under subsection (a).

“(c) TERM OF OFFICE.—The term of appointment of an individual as Privacy Officer shall be 5 years.

“(d) REPORTS TO CONGRESS.—The Privacy Officer shall submit reports directly to the

Congress regarding any matter within the authority of the Privacy Officer under this section, without any prior comment or amendment from the Secretary, Deputy Secretary, or any other officer or employee of the Department or the Office of Management and Budget.”.

**Subtitle B—Ensuring Diversity in Department of Homeland Security Programs**  
**SEC. 1411. ANNUAL REPORTS RELATING TO EMPLOYMENT OF COVERED PERSONS.**

(a) **DEFINITIONS.**—For purposes of this section—

(1) the term “Secretary” means the Secretary of Homeland Security;

(2) the term “Department” means the Department of Homeland Security;

(3) the term “covered persons” means—

(A) racial and ethnic minorities;

(B) women; and

(C) individuals with disabilities;

(4) the term “category”, as used with respect to covered persons, refers to the categories of persons identified in subparagraphs (A), (B), and (C), respectively, of paragraph (3); and

(5) the term “element”, as used with respect to the Department, means a directorate of the Department and the office of the Secretary.

(b) **ANNUAL REPORTS.**—Not later than February 1 of each year, the Secretary shall prepare and transmit to each House of Congress a report on the employment of covered persons by the Department during the preceding fiscal year. Each such report shall include, for each element of the Department, the following:

(1) The total number of individuals holding positions within such element as of the end of such fiscal year and, of that number, the percentage (in the aggregate and by category) that covered persons comprised.

(2) For each pay grade, pay band, or other pay classification of each pay schedule and for every other rate of pay—

(A) the total number of individuals holding positions within such element as of the end of such fiscal year who were subject to each such pay classification or rate; and

(B) of the respective numbers under subparagraph (A), the percentage (in the aggregate and by category) that covered persons comprised.

(3) The total number of individuals appointed to positions within such element during such fiscal year and, of that number, the percentage (in the aggregate and by category) that covered persons comprised.

(c) **UNCLASSIFIED FORM.**—Each report under this section shall be submitted in unclassified form, but may include a classified annex if the Secretary considers one to be necessary.

**SEC. 1412. PROCUREMENT.**

(a) **REPORT.**—Not later than 360 days after the date of the enactment of this Act, the Chief Procurement Officer of the Department of Homeland Security shall submit to the Secretary of Homeland Security, the Committee on Homeland Security of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate a report that—

(1) identifies each program of the Department for which the aggregate value of contracts awarded in fiscal year 2005 under the program to persons that are small disadvantaged business, women-owned small businesses, or historically underutilized business zones (popularly known as “HUBZones”) was less than 5 percent of the total value of all contracts awarded under the program in that fiscal year; and

(2) identifies and describes any barriers to achieving a goal of awarding to such persons each fiscal year contracts having an aggre-

gate value of at least 5 percent of the total value of all contracts awarded under the program in the fiscal year.

(b) **ACTION PLAN.**—

(1) **ACTION PLAN REQUIRED.**—Not later than 90 days after the date of the submission of the report required under subsection (a), the Chief Procurement Officer, in consultation with Office of Small and Disadvantaged Businesses Utilization of the Department, shall develop, submit to the Committees referred to in subsection (a), and begin implementing for each program identified under subsection (a)(1) an action plan for achieving the goal described in subsection (a)(2).

(2) **PERFORMANCE MEASURES AND TIME-TABLE.**—Each action plan shall include performance measures and a timetable for compliance and achievement of the goal described in subsection (a)(2).

**SEC. 1413. CENTERS OF EXCELLENCE PROGRAM.**

In selecting the first institution of higher education selected after the date of the enactment of this Act under the Department of Homeland Security Centers of Excellence program, the Secretary of Homeland Security shall select an otherwise eligible applicant that is an historically black college or university that receives assistance under part B of title III of the Higher Education Act of 1965 (20 U.S.C. 106 et seq), an hispanic-serving institution (as that term is defined in section 502 of the Higher Education Act of 1965 (20 U.S.C. 1101a), or a tribally controlled college or university (as that term is defined in section 2 of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801).

**Subtitle C—Protection of Certain Employee Rights**

**SEC. 1421. PROVISIONS TO PROTECT CERTAIN EMPLOYEE RIGHTS.**

(a) **COLLECTIVE BARGAINING, APPEALS, ETC.—**

(1) **IN GENERAL.**—Section 9701(c) of title 5, United States Code, is amended—

(A) in paragraph (1), by inserting “(F),” after “(E);” and

(B) in paragraph (2), by striking “59, 72, 73, and 79,” and inserting “and 59.”.

(2) **CONFORMING AMENDMENT.**—Section 9701(f) of title 5, United States Code, is re-pealed.

(b) **RATES OF PAY.**—Section 9701(d) of title 5, United States Code, is amended—

(1) in paragraph (2), by striking “or” after the semicolon;

(2) in paragraph (3), by striking the period and inserting “; or;” and

(3) by inserting after paragraph (3) the following:

“(4) to fix the pay for any position at a rate that is less than—

“(A) in the case of a position that (if this chapter had not been enacted) would have been subject to the provisions of this title relating to the General Schedule, the rate determined under such provisions; or

“(B) in the case of any other position, the rate determined under such provisions for the position that is most similar in its duties and responsibilities to those of such other position (as determined under regulations) and that is subject to such provisions.”.

(c) **EFFECTIVE DATES.**—

(1) **SUBSECTION (A).**—The amendments made by subsection (a) shall take effect as if included in the enactment of the Homeland Security Act of 2002 (Public Law 107-296; 6 U.S.C. 101 note).

(2) **SUBSECTION (B).**—The amendments made by subsection (b) shall take effect on the date of the enactment of this Act and shall apply with respect to pay for service performed in any pay period beginning on or after such date.

**Subtitle D—Whistleblower Protections**

**SEC. 1431. WHISTLEBLOWER PROTECTIONS.**

(a) **IN GENERAL.**—No covered individual may be discharged, demoted, suspended, threatened, harassed, reprimanded, investigated, or in any other manner discriminated against (including by a denial, suspension, or revocation of a security clearance or by any other security access determination) if such discrimination is due, in whole or in part, to any lawful act done, perceived to have been done, or intended to be done by the covered individual—

(1) to provide information, cause information to be provided, or otherwise assist in an investigation regarding any conduct which the covered individual reasonably believes constitutes a violation of any law, rule or regulation relating to national or homeland security, which the covered individual reasonably believes constitutes a threat to national or homeland security, or which the covered individual reasonably believes constitutes fraud, waste or mismanagement of Government funds intended to be used for national or homeland security, when the information or assistance is provided to or the investigation is conducted by—

(A) a Federal, State or local regulatory or law enforcement agency (including an office of Inspector General under the Inspector General Act of 1978);

(B) any Member of Congress, any committee of Congress, or the Government Accountability Office; or

(C) a person with supervisory authority over the covered individual (or such other person who has the authority to investigate, discover, or terminate misconduct);

(2) to file, cause to be filed, testify, participate in, or otherwise assist in a proceeding or action filed or about to be filed relating to an alleged violation of any law, rule or regulation relating to national or homeland security; or

(3) to refuse to violate or assist in the violation of any law, rule, or regulation relating to national or homeland security.

(b) **ENFORCEMENT ACTION.**—

(1) **IN GENERAL.**—A covered individual who alleges discharge or other discrimination by any person in violation of subsection (a) may seek relief under subsection (c) by—

(A) filing a complaint with the Secretary of Labor; or

(B) if the Secretary has not issued a final decision within 180 days after the filing of the complaint and there is no showing that such delay is due to the bad faith of the claimant, bringing an action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy.

(2) **PROCEDURE.**—

(A) **IN GENERAL.**—An action under paragraph (1)(A) shall be governed under the rules and procedures set forth in section 42121(b) of title 49, United States Code.

(B) **EXCEPTION.**—Notification made under section 42121(b)(1) of title 49, United States Code, shall be made to the person named in the complaint and to the person’s employer.

(C) **BURDEN OF PROOF.**—An action brought under paragraph (1)(B) shall be governed by the legal burdens of proof set forth in section 42121(b) of title 49, United States Code.

(D) **STATUTE OF LIMITATIONS.**—An action under paragraph (1) shall be commenced not later than 1 year after the date on which the violation occurs.

(e) **REMEDIES.**—

(1) **IN GENERAL.**—A covered individual prevailing in any action under subsection (b)(1) shall be entitled to all relief necessary to make the covered individual whole.

(2) **DAMAGES.**—Relief for any action under paragraph (1) shall include—

(A) reinstatement with the same seniority status that the covered individual would have had, but for the discrimination;

(B) the amount of any back pay, with interest;

(C) compensation for any special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney fees; and

(D) punitive damages in an amount not to exceed the greater of 3 times the amount of any compensatory damages awarded under this section or \$5,000,000.

(d) STATE SECRETS PRIVILEGE.—If, in any action brought under subsection (b)(1)(B), the Government asserts as a defense the privilege commonly referred to as the “state secrets privilege” and the assertion of such privilege prevents the plaintiff from establishing a *prima facie* case in support of the plaintiff’s claim, the court shall enter judgment for the plaintiff and shall determine the relief to be granted.

(e) CRIMINAL PENALTIES.—

(1) IN GENERAL.—It shall be unlawful for any person employing a covered individual to commit an act prohibited by subsection (a). Any person violating this paragraph shall be fined under title 18 of the United States Code, imprisoned not more than 10 years, or both.

(2) REPORTING REQUIREMENT.—The Department of Justice shall submit to Congress an annual report on the enforcement of paragraph (1). Each such report shall (A) identify each case in which formal charges under paragraph (1) were brought, (B) describe the status or disposition of each such case, and (C) in any actions under subsection (b)(1)(B) in which the covered individual was the prevailing party or the substantially prevailing party, indicate whether or not any formal charges under paragraph (1) have been brought and, if not, the reasons therefor.

(f) RIGHTS RETAINED BY COVERED INDIVIDUAL.—Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any covered individual under any Federal or State law, or under any collective bargaining agreement. The rights and remedies in this section may not be waived by any agreement, policy, form, or condition of employment.

(g) DEFINITIONS.—For purposes of this section—

(1) the term “covered individual” means an employee of—

(A) the Department of Homeland Security (which, for purposes of this section, includes the Transportation Security Administration);

(B) a Federal contractor or subcontractor; and

(C) an employer within the meaning of section 701(b) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(b));

(2) the term “lawful” means not specifically prohibited by law, except that, in the case of any information the disclosure of which is specifically prohibited by law or specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs, any disclosure of such information to any Member of Congress, committee of Congress, or other recipient authorized to receive such information, shall be deemed lawful;

(3) the term “Federal contractor” means a person who has entered into a contract with the Department of Homeland Security;

(4) the term “employee” means—

(A) with respect to an employer referred to in paragraph (1)(A), an employee as defined by section 2105 of title 5, United States Code; and

(B) with respect to an employer referred to in subparagraph (A) or (B) of paragraph (1), any officer, partner, employee, or agent;

(5) the term “subcontractor”—

(A) means any person, other than the Federal contractor, who offers to furnish or furnishes any supplies, materials, equipment, or services of any kind under a contract with the Department of Homeland Security or a subcontract entered into in connection with such a contract; and

(B) includes any person who offers to furnish or furnishes general supplies to the Federal contractor or a higher tier subcontractor; and

(6) the term “person” means a corporation, partnership, State entity, business association of any kind, trust, joint-stock company, or individual.

(h) AUTHORIZATION OF FUNDS.—Of the amounts authorized under section 101, there is authorized to be appropriated amounts necessary for carrying out this section. Except as provided in the preceding sentence, this section shall have no force or effect.

**Subtitle E—Authority of Chief Information Officer**

**SEC. 1441. AUTHORITY OF CHIEF INFORMATION OFFICER.**

Section 703 of the Department of Homeland Security Act of 2002 (6 U.S.C. 343) is amended by inserting “(a) IN GENERAL.—” before the first sentence, and by adding at the end the following:

“(b) LINE AUTHORITY.—The Secretary shall delegate to the Chief Information Officer direct line authority to oversee all chief information officers of the agencies of the Department, and other key information technology personnel of the Department, with respect to their responsibilities to oversee, integrate, and protect information technology systems of the Department. The Chief Information Officer shall report directly to the Secretary.”.

**Subtitle F—Authorization for Office of Inspector General**

**SEC. 1451. AUTHORIZATION FOR OFFICE OF INSPECTOR GENERAL.**

In lieu of any amount otherwise authorized for the Office of the Inspector General of the Department of Homeland Security, there is authorized to be appropriated for such office \$200,000,000 for fiscal year 2006.

**Subtitle G—Regional Office**

**SEC. 1461. COLOCATED REGIONAL OFFICES.**

Not later than 45 days after the date of the enactment of this Act, the Secretary of Homeland Security shall develop and implement a plan for establishing consolidated and colocated regional offices for the Department of Homeland Security in accordance with section 706 of the Homeland Security Act of 2002 (6 U.S.C. 346), that will—

(1) enable a rapid, robust, and coordinated Federal response to threats and incidents;

(2) enhance all-hazards preparedness across the United States with respect to terrorism, natural disasters, other emergencies;

(3) provide integrated capabilities among the Department of Homeland Security, other Federal agencies, and State and local governments; and

(4) maximize cost savings and efficiencies through establishment of regional offices at current DHS agency regional structures with contiguous multi-State operations.

**Subtitle H—DHS Terrorism Prevention Plan**

**SEC. 1471. SHORT TITLE.**

This subtitle may be cited as the “Department of Homeland Security Terrorism Prevention Plan Act of 2005”.

**SEC. 1472. DEPARTMENT OF HOMELAND SECURITY TERRORISM PREVENTION PLAN.**

(a) REQUIREMENTS.—Not later than one year after the date of enactment of the Act, and on a regular basis thereafter, the Sec-

retary of Homeland Security shall prepare and submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a Department of Homeland Security Terrorism Prevention Plan. The Plan shall be a comprehensive and integrated plan that includes the goals, objectives, milestones, and key initiatives of the Department of Homeland Security to prevent acts of terrorism on the United States, including its territories and interests.

(b) CONTENTS.—The Secretary shall include in the Plan the following elements:

(1) Identification and prioritization of groups and subgroups that pose the most significant threat of committing acts of terrorism on the United States and its interests.

(2) Identification of the most significant current, evolving, and long term terrorist threats to the United States and its interests, including an evaluation of—

(A) the materials that may be used to carry out a potential attack;

(B) the methods that may be used to carry out a potential attack; and

(C) the outcome the perpetrators of acts of terrorism aim to achieve.

(3) A prioritization of the threats identified under paragraph (2), based on an assessment of probability and consequence of such attacks.

(4) A description of processes and procedures that the Secretary shall establish to institutionalize close coordination between the Department of Homeland Security and the National Counter Terrorism Center and other appropriate United States intelligence agencies.

(5) The policies and procedures the Secretary shall establish to ensure the Department gathers real time information from the National Counter Terrorism Center; disseminates this information throughout the Department, as appropriate; utilizes this information to support the Department’s counter terrorism responsibilities; integrates the Department’s information collection and analysis functions; and disseminates this information to its operational units, as appropriate.

(6) A description of the specific actions the Secretary shall take to identify threats of terrorism on the United States and its interests, and to coordinate activities within the Department to prevent acts of terrorism, with special emphasis on prevention of terrorist access to and use of weapons of mass destruction.

(7) A description of initiatives the Secretary shall take to share critical terrorism prevention information with, and provide terrorism prevention support to, State and local governments and the private sector.

(8) A timeline, with goals and milestones, for implementing the Homeland Security Information Network, the Homeland Security Secure Data Network, and other departmental information initiatives to prevent acts of terrorism on the United States and its interests, including integration of these initiatives in the operations of the Homeland Security Operations Center.

(9) Such other terrorism prevention-related elements as the Secretary considers appropriate.

(c) CONSULTATION.—In formulating the Plan the Secretary shall consult with—

(1) the Director of National Intelligence;

(2) the Director of the National Counter Terrorism Center;

(3) the Attorney General;

(4) the Director of the Federal Bureau of Investigation;

(5) the Secretary of Defense;

(6) the Secretary of State;

(7) the Secretary of Energy;  
 (8) the Secretary of the Treasury; and  
 (9) the heads of other Federal agencies and State, county, and local law enforcement agencies as the Secretary considers appropriate.

(d) CLASSIFICATION.—The Secretary shall prepare the Plan in both classified and non-classified forms.

**SEC. 1473. ANNUAL CROSSCUTTING ANALYSIS OF PROPOSED FUNDING FOR DEPARTMENT OF HOMELAND SECURITY PROGRAMS.**

(a) REQUIREMENT TO SUBMIT ANALYSIS.—The Secretary of Homeland Security shall submit to the Congress, concurrently with the submission of the President's budget for each fiscal year, a detailed, crosscutting analysis of the budget proposed for the Department of Homeland Security, by budget function, by agency, and by initiative area, identifying the requested amounts of gross and net appropriations or obligational authority and outlays for programs and activities of the Department for each of the following mission areas:

(1) To prevent terrorist attacks within the United States.

(2) To reduce the vulnerability of the United States to terrorism.

(3) To minimize the damage, and assist in the recovery, from terrorist attacks that do occur within the United States.

(4) To carry out all functions of the agencies and subdivisions within the Department that are not related directly to homeland security.

(b) FUNDING ANALYSIS OF MULTIPURPOSE FUNCTIONS.—The analysis required under subsection (a) for functions that are both related directly and not related directly to homeland security shall include a detailed allocation of funding for each specific mission area within those functions, including an allocation of funding among mission support functions, such as agency overhead, capital assets, and human capital.

(c) INCLUDED TERRORISM PREVENTION ACTIVITIES.—The analysis required under subsection (a)(1) shall include the following activities (among others) of the Department:

(1) Collection and effective use of intelligence and law enforcement operations that screen for and target individuals who plan or intend to carry out acts of terrorism.

(2) Investigative, intelligence, and law enforcement operations that identify and disrupt plans for acts of terrorism or reduce the ability of groups or individuals to commit acts of terrorism.

(3) Investigative activities and intelligence operations to detect and prevent the introduction of weapons of mass destruction into the United States.

(4) Initiatives to detect potential, or the early stages of actual, biological, chemical, radiological, or nuclear attacks.

(5) Screening passengers against terrorist watch lists.

(6) Screening cargo to identify and segregate high-risk shipments.

(7) Specific utilization of information sharing and intelligence, both horizontally (within the Federal Government) and vertically (among Federal, State, and local governments), to detect or prevent acts of terrorism.

(8) Initiatives, including law enforcement and intelligence operations, to preempt, disrupt, and deter acts of terrorism overseas intended to strike the United States.

(9) Investments in technology, research and development, training, and communications systems that are designed to improve the performance of the Department and its agencies with respect to each of the activities listed in paragraphs (1) through (8).

(d) SEPARATE DISPLAYS FOR MANDATORY AND DISCRETIONARY AMOUNTS.—Each anal-

ysis under subsection (a) shall include separate displays for proposed mandatory appropriations and proposed discretionary appropriations.

**Subtitle I—Tribal Security**

**SEC. 1481. OFFICE OF TRIBAL SECURITY.**

The Homeland Security Act of 2002 (Public Law 107-296) is amended—

(1) by inserting after section 801 the following new section:

**“SEC. 802. OFFICE OF TRIBAL SECURITY.**

“(a) SHORT TITLE.—This section may be cited as the ‘Tribal Homeland Security Act’.

“(b) ESTABLISHMENT.—There is established within the Department of Homeland Security the Office of Tribal Security.

“(c) DIRECTOR.—The Office of Tribal Security shall be administered by a Director, who shall be appointed by the President and confirmed by the Senate. The Director shall report to the Secretary of Homeland Security.

“(d) DUTIES.—The Director shall be responsible for coordinating relations between the Federal Government and federally recognized Indian tribes on issues relating to homeland security, which shall include the following duties:

“(1) Providing a point of contact within Department of Homeland Security which shall be responsible for—

“(A) meeting the broad and complex Federal responsibilities owed to federally recognized Indian tribes by the Department of Homeland Security; and

“(B) soliciting and, where appropriate, addressing the homeland security concerns of federally recognized Indian tribes and other parties interested in Indian affairs.

“(2) Communicating relevant policies of the Department of Homeland Security to federally recognized Indian tribes and the public.

“(3) Promoting internal uniformity of Department of Homeland Security policies relating to Indian country (as defined in section 1151 of title 18, United States Code).

“(4) Coordinating with the Directorate of Border and Transportation Security and tribal governments to develop a comprehensive border security policy that addresses law enforcement, personnel, and funding issues in Indian country (as defined in section 1151 of title 18, United States Code) on the United States borders with Canada and with Mexico.

“(5) Coordinating with the Directorate for Information Analysis and Infrastructure Protection and tribal governments to develop appropriate policies for infrastructure protection on Indian lands, as well as information sharing mechanisms with tribal governments.

“(6) Coordinating with the Directorate of Emergency Preparedness and Response and the Office of State and Local Government Coordination and Preparedness to help ensure that tribal governments are fully informed of, have access to, and may apply for all Department of Homeland Security grant opportunities for emergency response providers, and to develop and achieve preparedness goals for tribal governments that are consistent with national goals for terrorism preparedness, as determined by the Department.

“(7) Coordinating with the Director of Science and Technology to identify opportunities to conduct research and development of homeland security technologies or scientific understanding for tribal universities or private sector entities.

“(8) Coordinating with the Office of Citizenship and Immigration Services and other relevant offices within the Department of Homeland Security with immigration service and enforcement related functions to develop policies on issues related to citizenship

and the movement of members of federally recognized Indian tribes across the United States border, taking into consideration the unique characteristics of certain federally recognized Indian tribes with jurisdiction over lands adjacent to the Canadian and Mexican borders.

“(9) Coordinating with other offices within the Department of Homeland Security to develop and implement sound policies regarding Indian country (as defined in section 1151 of title 18, United States Code) and tribal governments.”; and

(2) in the table of sections, by inserting after the item relating to section 801 the following new item:

“Sec. 802. Office of Tribal Security.”.

**TITLE XV—SECURING OUR PORTS AND COASTLINES FROM TERRORIST ATTACK**

**SEC. 1501. SECURITY OF MARITIME CARGO CONTAINERS.**

**(a) REGULATIONS.—**

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall issue regulations for the security of maritime cargo containers moving within the intermodal transportation system in accordance with the requirements of paragraph (2).

(2) REQUIREMENTS.—The regulations issued pursuant to paragraph (1) shall be in accordance with recommendations of the Maritime Transportation Security Act Subcommittee of the Advisory Committee on Commercial Operations of the Department of Homeland Security, including recommendations relating to obligation to seal, recording of seal changes, modal changes, seal placement, ocean carrier seal verification, and addressing seal anomalies.

(b) INTERNATIONAL AGREEMENTS.—The Secretary shall seek to enter into agreements with foreign countries and international organizations to establish standards for the security of maritime cargo containers moving within the intermodal transportation system that, to the maximum extent practicable, meet the requirements of subsection (a)(2).

**(c) CONTAINER TARGETING STRATEGY.—**

(1) STRATEGY.—The Secretary shall develop a strategy to improve the ability of the Department of Homeland Security to use information contained in shipping bills of lading to identify and provide additional review of anomalies in such bills of lading. The strategy shall include a method of contacting shippers in a timely fashion to verify or explain any anomalies in shipping bills of lading.

(2) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report on the implementation of this subsection, including information on any data searching technologies that will be used to implement the strategy.

**(d) CONTAINER SECURITY DEMONSTRATION PROGRAM.—**

(1) PROGRAM.—The Secretary is authorized to establish and carry out a demonstration program that integrates non-intrusive inspection equipment, including radiation detection equipment and gamma ray inspection equipment, at an appropriate United States seaport, as determined by the Secretary.

(2) REQUIREMENT.—The demonstration program shall also evaluate automatic identification methods for containers and vehicles and a data sharing network capable of transmitting inspection data between ports and appropriate entities within the Department of Homeland Security.

(3) REPORT.—Upon completion of the demonstration program, the Secretary shall submit to the appropriate congressional committees a report on the implementation of this subsection.

(e) CONSOLIDATION OF CONTAINER SECURITY PROGRAMS.—The Secretary shall consolidate all programs of the Department of Homeland Security relating to the security of maritime cargo containers, including the demonstration program established pursuant to subsection (d), to achieve enhanced coordination and efficiency.

(f) PORT SECURITY GRANT FUNDING.—Section 70107(h) of title 46, United States Code, is amended to read as follows:

“(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out subsections (a) through (g) \$400,000,000 for fiscal years 2006 through 2012.”.

(g) DEFINITION.—In this section, the term “appropriate congressional committees” means—

(1) the Committee on Homeland Security of the House of Representatives; and

(2) the Committee on Homeland Security and Governmental Affairs of the Senate.

#### SEC. 1502. STUDY ON PORT RISKS.

The Secretary of Homeland Security shall complete a study evaluating the terrorism risk factors associated with the port of Miami and ports along the Gulf of Mexico and in the Caribbean, including the United States Virgin Islands. This study should include: whether these ports are more at risk of terrorist attack considering the larger trade volume with Central American countries than other coastal ports, whether these ports are currently receiving the grants that are needed to ensure their safety, considering the studied risks and what are the vulnerabilities of these Gulf ports.

#### TITLE XVI—AUTHORITY OF OTHER FEDERAL AGENCIES

##### SEC. 1601. AUTHORITY OF OTHER FEDERAL AGENCIES UNAFFECTED.

Nothing in this Act affects the authority under statute, regulation, or Executive order of other Federal agencies than the Department of Homeland Security.

The Acting CHAIRMAN. Pursuant to House Resolution 283, the gentleman from Mississippi (Mr. THOMPSON) and a Member opposed each will control 20 minutes.

The Chair recognizes the gentleman from Mississippi (Mr. THOMPSON).

Mr. THOMPSON of Mississippi. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I appreciate the work of the gentleman from California (Mr. Cox) to include many Democratic suggestions in this bill, and I want to say that most of the provisions in his bill are good ones.

But the truth is that this bill does not address a large number of dangerous security gaps. For example, this bill does not close serious security gaps in chemical plants, aviation, railroads, passenger trains and railroads, buses, border security, the ability of first responders to communicate in an emergency, the importance of protecting privacy, and a whole host of other areas where we must improve security. This bill does not even mention chemical plants or airports. How can we call this an authorization bill?

My substitute, Madam Chairman, addresses all of these areas, and more.

First, the substitute makes funding for homeland security a priority. The President's budget and this bill does not fulfill the commitment we made in the 9/11 Act the President signed into law in December, but this substitute meets those challenges.

For example, for just a mere \$92 million called for in the 9/11 Act, we could install radiation portal monitors in every port of entry in this country. My substitute offers solutions where the bill does not give the answers. For example, it protects our borders by requiring DHS to put technology in place to ensure that every mile of the border is monitored 24 hours a day, 7 days a week. It protects our ports by authorizing new port security grants. It protects airlines and prevents hijackings by installing new, in-line baggage screening systems that work better and faster. And, in an area where I strongly disagree with the chairman, we fully sponsor the development of research on how to counter shoulder-fired missiles that terrorists can use to shoot down a plane.

My substitute also strengthens security requirements for chemical plants, which the GAO recently found must have security standards.

Finally, my substitute also recognizes that DHS is a new agency and is not perfect. We provide new authority to protect privacy, sponsor diversity, and create a stronger Inspector General. In the end, if we are going to call something an authorization bill, let us use it to close genuine security gaps. My substitute will do that; this bill will not.

There can be no more wasted time. We must do what it takes now to make America secure.

Madam Chairman, I reserve the balance of my time.

Mr. COX. Madam Chairman, I rise to claim the time in opposition to the substitute amendment, and I yield myself such time as I may consume.

If my colleague from Mississippi would indulge me for a moment, I would like to yield the first portion of my time for purposes of a colloquy to the gentleman from Connecticut (Mr. SIMMONS), and I yield to him 1 minute.

Mr. SIMMONS. Madam Chairman, I thank the chairman and the gentleman from Mississippi for all the hard work that they have done to bring this authorization bill to the floor. I fully intend to support the bill as I did in committee, but I would like to take a moment at this time to discuss a concern that Members have, like myself, the gentleman from Connecticut (Mr. SHAYS) and the gentleman from New York (Mr. KING), and ask for the chairman's commitment that the committee will pursue these issues.

We have heard from the Department of Homeland Security employees and their representatives regarding their concerns with the final personnel regulations that the Department issued in February. Some of these provisions in the regulations are troubling. They

limit collective bargaining rights, and they appear to reduce due process standards for employees of the Department. Both of these issues were specifically addressed in the Homeland Security Act that created the Department, and my concern is that the regulations promulgated following that act do not adhere to the requirements of the act to maintain collective bargaining rights.

I would ask that the committee provide its members with the opportunity to question appropriate administration officials about these regulations, as well as to provide employees and their representatives the opportunity to give us their views.

Mr. Chairman, I would also ask that if we find these regulations do not follow the mandate of the original law or do not promote fairness and efficiency, that the committee will review these regulations and consider making appropriate changes to the regulations.

Mr. COX. Mr. Chairman, reclaiming my time, the gentleman from Connecticut raises an important issue. I thank the gentleman for his leadership, not only on this issue, but across the board as an outstanding member and chairman of the Committee on homeland security.

The Acting CHAIRMAN (Mr. LAHOOD). The time of the gentleman from Connecticut (Mr. SIMMONS) has expired.

Mr. COX. Mr. Chairman, I yield myself such time as I may consume.

Section 841 of the Homeland Security Act of 2002 authorized the Department of Homeland Security to establish a 21st century human resources management system. That new system, referred to as MAX HR, is designed to allow the Department to respond quickly to homeland security threats, while supporting the Department's employees with modern human resources principles.

I will ensure that the committee conducts a review of the new personnel regulations with special attention, I say to the gentleman, to the concerns that he raised, and I commit to working with him on any appropriate changes to those regulations, in close coordination with the gentleman from Virginia (Chairman DAVIS) of the Committee on Government Reform, which developed the underlying legislation in this area.

Mr. Chairman, I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 3 minutes to the gentlewoman from California (Ms. ZOE LOFGREN).

(Ms. ZOE LOFGREN of California asked and was given permission to revise and extend her remarks.)

Ms. ZOE LOFGREN of California. Mr. Chairman, I want to commend the gentleman from Mississippi (Mr. THOMPSON) and the gentleman from California (Chairman Cox) for their work and leadership on this bill, but I would also especially like to compliment the

ranking member for his work on this substitute. There is much in the bill that is good; the substitute is even better, for the reasons outlined by the gentleman from Mississippi (Mr. THOMPSON).

However, there is one provision that is the same in both the bill and the substitute and equally good in both cases, and that is the provisions regarding cyber security.

As Members know, in the 108th Congress there was a Subcommittee on Cyber Security within the Select Committee on Homeland Security. The gentleman from Texas (Mr. THORNBERRY) was the chairman and I was the ranking member, and we worked very hard together to craft the provision that is incorporated in the bill and in the substitute. We held over 17 hearings and further briefings, and we heard from the private sector.

I think that is why the following people support our provision: The Business Software Alliance, the Computer and Communications Industry Association, the Cyber Security Industrial Alliance, the Financial Services Roundtable, the Higher Education and Information Technology Alliance, the Information Technology Association of America, the Information Technology Industry Council, the National Association of State Chief Information Officers, the Software and Information Industry Association, Tech Net, and the Association of American Universities, the Association of Research Libraries, the National Association of College and University Business Officers, and the list goes on and on.

□ 1700

The bill does something, and the substitute does something that is very important, and that is, to elevate the attention paid to cybersecurity within the Department.

You know, several years ago when the strategy for cybersecurity was adopted, we had a cyberperson in the White House who drafted that plan and had the attention of the White House.

Since that time, this position has devolved to one that really does not have direct access to decision-makers. In fact, the last person to hold the job, Amit Yoran, from Silicon Valley, quit 1 year to the day after he took the job; and we do not have a permanent replacement for him to this day.

We have got contractors. In fact, the current contractor is not even on the payroll. It is a Carnegie Mellon employee. We need to have attention at the highest level for cybersecurity. Let me be clear. The job of securing cyberspace at DHS is just not getting done.

Recently, Berkley professor Shankar Sastry warned of the possibility of what he called a digital Pearl Harbor. He urged that the Nation act before it is too late. We in Congress must not stand by while our cyberinfrastructure remains vulnerable and so little is accomplished in the Department of Homeland Security.

Securing cyberspace must be a national priority. The substitute and the bill do it. And I thank the gentleman from Mississippi (Mr. THOMPSON) for including it.

Mr. COX. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Alabama (Mr. MIKE ROGERS).

Mr. ROGERS of Alabama. Mr. Chairman, I rise in opposition to the amendment. As chairman of the Management Integration Oversight Subcommittee, I have concerns about some of the management changes proposed today.

In my analysis, this amendment would create several conflicting changes. It would modify the roles and responsibilities of several key officials within the Department. It would also limit the Secretary's flexibility in making organizational decisions.

And, finally, it seems the amendment contains several duplicating and premature measures. For example, this amendment would require the chief information officer to report directly to the Secretary. In the process, it would also give the CIO direct line authority over other chief information officers in agencies throughout the Department.

Now, I agree with my colleague, the gentleman from Mississippi (Mr. THOMPSON), that it is important we address the reporting and line authority issues. In fact, just last month we held a hearing with these officials to explore ways to improve information sharing within the DHS.

However, we also found other improvements to consider. The chief financial officer, the chief procurement officer, and the chief human capital officer, for example, may also need additional authorities.

So in regards to this amendment, while I agree we need to reassess the internal management issues, I believe they should not be addressed in this type of piecemeal fashion.

Secretary Chertoff has begun a 90-day review of the Department's programs, policies and operations. Until we hear the results of the Secretary's review at the end of this month, I believe we should hold off on making these types of changes.

Mr. Chairman, I would also like to point out that the amendment adds \$7 billion in unauthorized spending above the bill's proposed funding level. In contrast, the bipartisan Homeland Security Committee bill, as written, provides the Secretary the needed flexibility during this top-to-bottom review while ensuring our limited resources are spent wisely.

Therefore, I urge my colleagues to oppose the pending amendment.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 4½ minutes to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Chairman, James Carafano, who is a homeland security researcher, said recently that technology is not a substitute for strategy.

And we know, as has been earlier reported this month by Eric Lipton, and he wrote the following, "After spending more than \$4.5 billion on screening devices to monitor the Nation's ports and borders and airports and mail and air, the Federal Government is moving to replace or alter much of the antiterrorism equipment, concluding that it is ineffective, unreliable, or too expensive to operate."

He went on to say: "Each of those areas where we have missed the mark." That is why I think this substitute should be given great consideration by all of us, not only those that serve on the Homeland Security Committee.

We have a unity of effort here. Do not translate, do not interpret this substitute as breaking that commitment that we have made to that unity of purpose. And I want to commend my good friend, the gentleman from Mississippi (Mr. THOMPSON), who stood shoulder to shoulder with the gentleman from California (Chairman Cox) through all of these hearings that we have been having.

But, the ranking member, the gentleman from Mississippi (Mr. THOMPSON), your steady leadership on our committee is going to go a long way beyond our vote today. I applaud you for offering a substitute.

The Department of Homeland Security was formed because of the catastrophic terrorist attack on September 11. Our joint mission now is to help prevent and respond to any potential future assault.

Nothing that we do here in Washington is more important. Nothing. The critical duty with which we are charged warrants legislative proposals that are as comprehensive and judicious as possible. The substitute succeeds in this regard. It makes America safer.

For example, the substitute requires a comprehensive border protection plan. We all agree on that. It puts technology in place to monitor the entire border all the time, not some of the time.

Secures the chemical plants. We have even had an amendment to that effect. Makes vital port and transit security improvements and creates necessary structural changes at the Department of Homeland Security. We all agree on that.

We know that the State and local governments need as much help as possible to meet their urgent security needs. We note that first responders require an array of assistance to help them achieve even a baseline level of readiness. The substitute addresses this. For example, we authorize \$500 million in grants for interoperability communications equipment to our men and women on the frontlines.

As the 9/11 report states, again, we go back to what we consider to be the dictionary for us to look at: "Compatible and adequate communications among public safety organizations at the local, State and Federal levels remains an important problem."

Our legislation should reflect what is in the 9/11 report and nothing less and nothing more. Yet the Congress has done nothing to address this. Indeed, many provisions signed into law by last year's 9/11 Act, a bipartisan measure as you recall, have gone unfunded and forgotten by this administration. We voted on it. Where is the power of both bodies involved in our unity of purpose?

What is the use if we vote, both sides of the aisle, and the administration does not follow through? This substitute attempts to remedy this situation. We authorize additional border agents. We mandate risk assessment for chemical and nuclear plants, and we assure that port and rail are adequately secured. We all agree on these things.

We know that there can be no more wasted time. We must do what it takes now to make our country safe, stronger, and more secure. This substitute does that, Mr. Chairman. I implore my colleagues on both sides of the aisle to vote "aye."

Mr. COX. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Connecticut (Mr. SIMMONS).

Mr. SIMMONS. Mr. Chairman, I thank our ranking member, the gentleman from Mississippi (Mr. THOMPSON), for being such a great leader on this new committee, for being bipartisan, and for being an advocate for a safe and secure America.

Unfortunately, I rise in option to this amendment, the Thompson substitute, not so much because of what it does, but because of what it fails to do.

My reading of the amendment suggests that it does not incorporate many of the provisions of the Homeland Security Authorization Act that passed unamended and by voice vote in the Subcommittee on Intelligence, Information Sharing and Terrorism Risk Assessment, of which I am the chairman.

For example, personnel flexibility, such as bonuses for the Information Analysis and Infrastructure Protection Directorate, so we can attract the best and brightest young people into this Department to engage in good productive intelligence activities, you cannot have good intelligence activities without good people. And those personnel flexibilities are lacking. I do not see any provision requiring that the office of information analysis receive all terrorist threat information from components within DHS, which goes to the heart of information sharing.

One of the great tragedies of 9/11 is that so many components of our government did not share information; and perhaps if they had, we could have avoided that tragedy.

I do not see any recommendations with regard to the color-coded homeland security advisory system, which so many of us feel is confusing to the American people, and which we recommended be more risk-based, re-

gional, and focused so that people have a legitimate picture of what the risks may be on any particular day when there is an alert.

All of the work on open-source intelligence, which I believe is so critical to strengthening our intelligence capabilities nationally, I do not see them in there. And so it does not appear to me to address some very fundamental issues relative to the intelligence piece of the Department of Homeland Security which we are trying to build.

On this basis, Mr. Chairman, I would like to reluctantly urge my colleagues to vote against the substitute.

(Mr. DICKS asked and was given permission to revise and extend his remarks at this point in the RECORD.)

Mr. DICKS. Mr. Chairman, I rise today in support of this legislation and the Democratic Substitute being offered by the gentleman from Mississippi. I would like to commend the Chairman and Ranking Member of the Committee on Homeland Security for bringing this bill to the floor—the first authorizing bill for the Department of Homeland Security since the Department was created.

This bill does many good things. It authorizes additional funding to cover the full cost of hiring an additional two thousand border patrol agents in order to meet the first year target established in the Intelligence Reform bill last year. Regrettably, the appropriations bill that passed the House yesterday fell short of actually finding these critically needed personnel by 500. But that does not diminish this accomplishment in the bill. This bill contains several important provisions that will help to fix the Directorate for Intelligence Analysis and Infrastructure Protection, which, in my judgment, has struggled the most to find its direction in the new department. And the bill raises the level of our government's top cybersecurity official to an Assistant Secretary within IAIP, something that should have been done when the Department was created.

This bill makes progress in some key areas, and I intend to support it, but I regret that it falls short in a number of critical areas, leaving us terribly vulnerable on many fronts.

Cargo security, both in the air and on the sea, have not been adequately addressed in this legislation. Our Nation's plan to secure cargo containers, I believe, makes sense; but it relies entirely on knowing—and trusting—the people that are packing the containers overseas. Customs and Border Protection is way behind in certifying participants in the C-T PAT program, and this bill does not authorize adequate funding to accelerate the process of validating the applications of those who are already gaining the benefits. My friend from California, Ms. SANCHEZ, sought to propose an amendment to address this problem, but the rule did not allow for its consideration, a serious oversight.

And there is absolutely no excuse for permitting unscreened cargo onto passenger aircraft. This is a problem we have known about since Pan Am Flight 103 was destroyed by a terrorist's bomb over Lockerbie, Scotland killing over 270 people. My good friend from Massachusetts, Mr. MARKEY, wanted to offer an amendment to the bill that would require this cargo to be screened, and it is long overdue. A similar amendment had been approved previously by the House, but the leadership has refused to allow its consideration today.

This bill also fails to take sufficient steps to meet other critical needs that we have been talking about here in the House since 9/11. The installation of in-line explosive detection systems at all of our Nation's passenger airports is one of the top technological solutions to improving the performance of our TSA screener force. Given what terrorist were able to perpetrate in Madrid, providing funding for real rail and transit security must become a higher priority. And we must work harder to improve security at our Nation's chemical plants—especially those that are located in heavily populated areas. Some of my Democratic colleagues offered amendments to accomplish these goals, but each has been blocked from consideration by the Majority.

But we now have an opportunity to vote on these items en bloc. The Democratic substitute, proposed by Mr. THOMPSON, addresses all of these issues, and is a much more complete blueprint for combating terrorism than the underlying document. The House must move aggressively to fill the gaps that we see everyday in the operations of the Department of Homeland Security. We do our constituents a grave disservice if we do not.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 3 minutes to the gentleman from Rhode Island (Mr. LANGEVIN).

(Mr. LANGEVIN asked and was given permission to revise and extend his remarks.)

Mr. LANGEVIN. Mr. Chairman, I rise in strong support of Ranking Member THOMPSON's substitute amendment.

While H.R. 1817 takes important steps in improving our security and preparedness, it simply does not go far enough.

Now, the Thompson substitute contains the critical provisions that I believe must be in any comprehensive, effective DHS authorization. Now, all told this amendment would provide about \$41 billion for our homeland security needs, nearly \$7 billion more than requested by the President.

This substitute would provide additional grant funds for continuing needs, in port, rail, transit and bus security, communications interoperability and firefighter hiring and preparedness. It also enhances air security by requiring that 100 percent of air cargo be screened within 3 years, tightening restrictions on access to sensitive airport areas, and providing flight crews the training and communications tools to effectively respond in an emergency.

Furthermore, the Thompson amendment ensures that we fulfill commitments made in the intelligence reform bill to implement the 9/11 Commission's recommendations.

It authorizes funding for nearly 2,000 new border patrol agents and provides resources to install explosive detection systems to baggage screening at airports, which is a critical unmet need at T.F. Green Airport in Rhode Island.

Now, as ranking member of the Subcommittee on Prevention of Nuclear and Biological Threats, I am particularly pleased to note that the Democratic substitute would provide for the

installation of radiation portal monitors at all ports of entry. This is a key step in our efforts to keep dangerous materials out of our borders.

Finally, this substitute makes significant progress in addressing critical infrastructure protection. It provides funding for an assessment of risks to nuclear and chemical plants and requires that chemical plants capable of threatening a large number of people in the worst-case situation take steps to increase security, implement safer technologies when feasible.

Just as importantly, the amendment sets deadlines for completion of a list of high-priority critical infrastructure assets. Now, this list should be the very basis for our Nation's security plans and funding decisions, and there is no excuse for the continuing delays in its completion.

□ 1715

Mr. Chairman, while we are indeed safer today than we were on September 11, the truth is that there still remains a significant security gap that must be filled.

The Thompson substitute takes a comprehensive approach to addressing these vulnerabilities, and I urge my colleagues to support it.

Mr. COX. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Georgia (Mr. LINDER).

Mr. LINDER. Mr. Chairman, I thank the chairman for yielding me time, and I rise in opposition to the Thompson substitute.

As the chairman of the Subcommittee on the Prevention of Nuclear and Biological Attack, I want to point out that the minority's substitute proposal is not, contrary to its billing, complete, especially in the area of nuclear terrorism.

Mr. Chairman, while some consider the probability of nuclear attack to be low, I fear that this lax position could have devastating consequences on the United States. If a terrorist organization were to smuggle and detonate a 10-kiloton nuclear device, which is not unreasonable for a basic terrorist bomb, in downtown Manhattan, it would immediately kill more than half a million people. The consequences, however, would not stop with the tragic loss of life.

The New York Stock Exchange could lose trillions in business transactions alone and the world's financial markets would be immediately crippled. Cleaning up the radioactive mess could cost billions, if not trillions, of dollars and take years to complete. We could, in essence, witness a total economic meltdown in the United States.

The Thompson substitute does little to prevent such a catastrophe. H.R. 1817 does.

Section 105 of H.R. 1817, for example, authorizes funding for a Nuclear Detection Office within the Department to coordinate and advance weapons of mass destruction detection efforts domestically as well as abroad. The Thompson substitute does not.

In addition, section 213 of H.R. 1817 revises the 2002 Homeland Security Act to ensure that the appropriate analytical expertise is employed by the Directorate of Information Analysis and Infrastructure Protection in the Department to discern specific threats involving use of nuclear weapons or biological agents to inflict mass casualties. The Thompson substitute does not.

Furthermore, section 214 of H.R. 1817 establishes an entity within the Department that will be responsible for alternative analysis of threats to ensure that the government's efforts at our borders and at foreign ports to prevent the importation and subsequent use of nuclear weapons or biological agents are actually effective. The Thompson substitute does not.

Mr. Speaker, I cannot imagine a scenario whereby this government has to answer the question of how we failed to prevent an attack by terrorists using a weapon of mass destruction on the American people. Such an attack is much too important and too critical for our national security to simply include it as a footnote in a 220-page substitute. I can assure my colleagues that my subcommittee will, in the coming months, vigorously work to produce legislation that focuses on the Department's attention on preventing such catastrophic terrorist events.

H.R. 1817 is not the final word on this issue, but it is an important first step, and as such, I encourage my colleagues to join me in opposing the Thompson substitute and supporting H.R. 1817.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. HOYER), the Democratic whip.

Mr. HOYER. Mr. Chairman, I thank the gentleman from Mississippi (Mr. THOMPSON) for yielding me time.

Mr. Chairman, despite the expenditure of billions of dollars on homeland security since September 11, the reality is that America's ports, chemical facilities, transportation systems and critical infrastructure are still to this day vulnerable to attack.

Are we better off? Yes. Are we where we need to be? No.

As Stephen Flynn, the former U.S. Coast Guard Commander and a foremost expert on homeland security, stated a few months ago on Meet the Press, "The measures we have been cobbling together are hardly fit to deter amateur thieves, vandals and hackers, never mind determined terrorists."

This Congress can and must, Mr. Chairman, do more to protect our citizens from attack at home, even as we take the fight to our enemies abroad.

That is what the Thompson substitute does.

It provides \$6.9 billion more than the Republican bill, including funding to fulfill our homeland security commitments in the Intelligence Reform Act.

It includes \$1 billion for grants for port, rail, transit and bus security, critical priorities; \$380 million to hire

2,000 new border agents; and \$500 million to ensure that first responders can communicate with one another.

It requires a plan to ensure that all air cargo on passenger planes is screened, giving sufficient time to develop the requisite technologies, and it sets deadlines for establishing security plans for critical infrastructures.

Republicans will and are objecting to the funding level in our substitute, but let us put it in perspective, Mr. Chairman.

This additional funding is nearly \$2 billion less than the funding the Bush administration has failed to account for, some \$8.8 billion, in Iraq. Mr. Chairman, if the Bush administration can lose track of nearly \$9 billion in Iraq, I submit that we ought to be able to find \$6.9 billion to make this Nation, its people, its communities and its families safer and more secure.

I urge my colleagues to support the Thompson substitute.

Mr. COX. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. DANIEL E. LUNGREN), but before I yield, Mr. Chairman, can the Chair tell me how much time remains on our side?

The Acting CHAIRMAN (Mr. LAHOOD). The gentleman from California (Mr. Cox) has 11 minutes remaining.

Mr. DANIEL E. LUNGREN of California. Mr. Chairman, I thank the gentleman for yielding me time.

Once again, I want to thank both the gentleman from Mississippi (Mr. THOMPSON), the ranking member, and the chairman of our committee for the fine work they did in producing the bipartisan base bill, but I rise in opposition to the ranking member's substitute amendment.

This 221-page substitute amendment offered in the nature of a substitute to the 40-some page base bill that we have is obviously more extensive than what was presented on the floor, and the explanation has been presented on both sides as to why this is the case. However, I would like to refer specifically to the comments of the gentleman from Maryland about the additional cost involved in the substitute, nearly \$7 billion.

The American people have told us they do want us to do what is necessary for homeland security, but they have also said they want us to spend our money wisely. Press reports, as well as our own examination, has shown that there is in the pipeline in homeland security approximately \$7 billion that is unspent. The answer is not to come in here and, therefore, increase the base bill by \$7 billion, which is \$7 billion over the President's budget, \$7 billion over the House-passed budget, which, therefore, somehow tries to make a statement that more money spent is obviously going to make us safer.

We need to make sure that the Department of Homeland Security is setting the priorities that are necessary,

is spending the money in the appropriate ways and answers the question why money is stuck in the pipeline.

I would suggest the way to do that is not to give them an additional \$7 billion somehow as some sort of attraction for them to tell us how they have not spent that \$7 billion, that extra \$7 billion that is out there.

Let me just say that the provisions in this substitute constitute sweeping changes, sweeping comprehensive changes in the responsibility, mission and funding for the Department over and above what our bipartisan committee presented in the base bill. Such changes cannot be made, I would suggest, in this type of setting without full debate, certainly more than 40 minutes, and consideration of a possible alternatives and consequences.

There are important questions here. How do we provide security in the area of the chemical industry? The chemical security portion of this amendment requires broad and sweeping regulation of the chemical industry by the Department of Homeland Security. Maybe that is appropriate, maybe it is not. I do not think we have the basis to make a judgment on this. I would also suggest it is counterproductive to improving our chemical infrastructure security. It places unnecessary burdens on potentially thousands of sites that may or may not be the sites at risk that we should be focusing on. Again, it is a question of priority.

It ignores the concept of examining high risk to effectively target our security resources. One of the things I thought we had done as a bipartisan committee was come to the conclusion that we really have to be very careful and demand that we set proper priorities, that we cannot go out and try and protect everything; we have to protect those things that are most vulnerable, those things that have the greatest threat, those things that have the worst consequences. I would suggest that this substitute does not do that.

I thank the gentleman for the time that he extended to me.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Chairman, right now in the Republican bill there is no protection added for the single greatest problem that we know still exists, which is the protection of chemical facilities in the United States of America. Whether it be on land or in rail cars, both of these chemical-type storage areas are still wide open.

Secondly, whistleblowers, if they turn in a shareholder scandal at Enron, get more protection than a nuclear power plant guard or a TSA guard who, as a latter day homeland security Paul Revere comes forward to warn the public that there is danger, the Republicans do not protect these whistleblowers. The Democratic bill does.

Finally, the cargo which goes onto planes in America, passenger planes, is

not screened. Something this size, not screened. Something this size, which is cargo, which goes on to passenger planes next to our bags, is not screened. The Republican bill says this to those people: Warning, cargo on this plane has not been screened for explosives for your children.

Vote for the substitute if my colleagues want to protect the children and families of this country.

Mr. COX. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Pennsylvania (Mr. DENT).

Mr. DENT. Mr. Chairman, as a member of the Subcommittee on Emergency Preparedness, Science, and Technology, I rise in opposition to the EPS&T provisions in the Thompson substitute.

The base bill presents well-thought-out solutions to real terrorist threats by prioritizing and maximizing how U.S. tax dollars are spent. The Thompson substitute does not prioritize spending. It does not recognize that not all threats are created equal. It does not exercise any fiscal restraint whatsoever. It just throws a lot of money at problems. Such an approach does not enhance our Nation's security or provide adequate support for our dedicated first responders.

The emergency preparedness, science, and technology, EPS&T, provisions in the Thompson substitute address important issues, but are ill-conceived and fraught with unintended consequences.

For example, subtitle A of title VII would establish a new, separate grant interoperability program. It is ill-advised. A new program will encourage inconsistencies in communication systems purchased with Federal grants and, unfortunately, dilute funding for other critical grant programs.

This program is also not needed. Indeed, in fiscal year 2004, grant recipients obligated over \$925 million for interoperability projects through existing programs, the single largest use of grant funding with more than \$6 billion in the pipeline, it is unspent and unobligated, to State and local government available for first responders.

Subtitle D of title VII would establish a parallel EMS bureaucracy within the Department's Emergency Preparedness and Response, EP&R, Directorate. Such a new bureaucracy will not enhance terrorism preparedness. EMS entities already exist within the Department of Transportation and the U.S. Fire Administration of the EP&R Directorate. This provision is also premature and will undercut the Department's efforts to implement organizational reform.

Subtitle G of title VII would authorize the Metropolitan Medical Response System. Yet, MMRS, which provides funding to U.S. cities to develop plans and capabilities for coping with the medical consequences of a terrorist attack involving weapons of mass destruction is nearly complete. Since its inception in 1997, the program has as-

sisted 124 cities in establishing such plans and capabilities.

There is simply no need to maintain MMRS as a separate grant program. Indeed, the funds provided under other existing grant programs, such as the State Homeland Security Grant Program and the Urban Area Security Initiative, may be used for such purposes.

For these and other reasons, I urge my colleagues to vote against the Thompson substitute.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 1 minute to the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN).

(Mrs. CHRISTENSEN asked and was given permission to revise and extend her remarks.)

□ 1730

Mrs. CHRISTENSEN. Mr. Chairman, I rise in strong support of the Thompson substitute, and I commend him for his leadership and hard work in crafting this amendment, which fills many of the security gaps we were not able to do in the underlying bill.

I also congratulate our chairman, the gentleman from California (Mr. Cox), for fulfilling his promise to establish an annual legislative review of the Department and for his leadership.

Mr. Chairman, included in the Thompson substitute is an amendment I sponsored during the markup to provide for a border patrol unit in the Virgin Islands, a number one priority of all law enforcement in my district, the single most important missing ingredient in the defense of the territory, and one more weak link in the protection of our Nation.

With over 175 miles of unprotected and open borders, the Virgin Islands is increasingly becoming a gateway of choice to the U.S. for human smugglers. Because of the lack of such a unit, the Immigration and Customs Enforcement, our local police, Fish and Wildlife, and the National Park Service have to utilize their stretched resources and personnel to respond and to assist.

I want to thank Chairman COX for including language in the report to have the Department station some of the additional border patrol units in the Virgin Islands and for also including tribal coordination in the Office of State and Local Coordination in recognition of the sovereign nature of the tribal nations.

Mr. Chairman, H.R. 1817 is a good bill; but, nonetheless, the substitute makes significant improvements in many areas, and I urge my colleagues to support the Thompson substitute.

Mr. Chairman, I rise in strong support of the Thompson Substitute and I urge my colleagues to support its adoption. I commend the gentleman from Mississippi for his hard work in crafting an amendment which seeks to fill many of the security gaps that were not able to be addressed in the underlying bill.

I want to begin though, Mr. Chairman, by congratulating the Chairman of the Home-

land Security, my friend CHRIS COX for fulfilling his promise to establish an annual legislative review of the Department of Homeland Security. It has been an honor and a distinct pleasure to serve with Chairman COX, first as a member of the Select Committee on Homeland Security in the last Congress and again in this Congress on the permanent Committee.

Over the past nearly two and a half years, our committee has traveled across the country meeting with the men and women on the front lines of defending our homeland. The bill before us today as well as the Faster and Smarter Funding for First Responders Act which we debated and passed last week are largely the product of those efforts.

Included in the Thompson substitute, Mr. Chairman, is an amendment I sponsored during the markup of H.R. 1817 in committee, to provide for a border patrol unit in the Virgin Islands—the number one priority of all of the law enforcement first responders in my district and the single most important missing ingredient in the defense of the Territory and yet another weak link in the protection of our Nation.

With over 175 miles of unprotected and open borders, the Virgin Islands is today the gateway to the U.S. and our Nation's southern most border. It is also increasingly becoming the gateway of choice to the U.S. for human smugglers.

Since 1998 hundreds of Chinese nationals have entered the U.S. Virgin Islands, but there are many more from other countries of the Caribbean and South America and the Middle East as well.

Those dropping the aliens ashore have identified the Virgin Islands as an area from which illegals can try to travel undetected to the U.S. mainland. In fact, the Coast Guard, this past February 29th, detained 72 illegal immigrants on St. Thomas.

Because of the lack of a Border Patrol Unit in the territory other federal agencies such as Immigration and Customs Enforcement (ICE) have to spend a significant amount of man-hours apprehending, processing, detaining and watching aliens in custody.

ICE has to use between 6 and 8 agents in every landing of 12 to 15 aliens. At a rate of on average 3 to 4 landing per month more than 80 hours are spent processing these aliens. Time which could be used to investigate conspiracies, smuggling organizations and dismantling rings.

In addition, our local Police Department, Fish and Wildlife, and the National Park Service also have to utilize their stretched resources and personnel to respond and assist.

Mr. Chairman, having a Border Patrol Unit assigned to the Virgin Islands would also enable us to deal with the other serious problem we face which is drug smuggling. ICE has identified several trafficking organizations that use the USVI to conduct drug smuggling operations, with marihuana, cocaine and heroin being shipped to the territory on a weekly basis. And we know, Mr. Chairman, of the connection and relationship between drugs and terrorism.

Mr. Chairman, I want to thank Chairman COX for agreeing to include language in the report of H.R. 1817, to encourage DHS to station some of the additional 2000 Boarder Patrol agents called for in the bill in the Virgin Is-

lands. I also want to thank him for amending the title of the Office of State and Local Coordination to the Office of State, Local and Tribal Coordination in response to another amendment I offered in committee in recognition of the sovereign nature of our Tribal Nations.

Mr. Chairman, H.R. 1817 is a good bill. I am proud to have been a part of its development as a member of the Homeland Security Committee. I would nonetheless urge my colleagues to support the substitute offered by Ranking Member BENNIE THOMPSON because it makes significant improvements in key areas including fulfilling our commitments in the Intelligence Reform and Terrorism prevention, as well as new security measures for rail and public transit biometrics and other screening measures.

I urge my colleagues to support the Thompson substitute.

Mr. COX. Mr. Chairman, may I inquire as to how much time remains on the other side.

The Acting CHAIRMAN (Mr. LAHOOD). The gentleman from California (Mr. COX) has 5 minutes remaining, and the gentleman from Mississippi (Mr. THOMPSON) has 2½ minutes remaining.

Mr. COX. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, I want to thank the ranking member and the other members of the committee right in the teeth of this debate about the differences between the base bill and the Democratic substitute simply to remind us what we agree about. We agree about the base bill. And what we are talking about doing in the Democratic substitute is, in some part, restating the base bill and, in some part, adding money to it to go further.

One of the principles that I hope we can establish in this annual authorization process is that when we bring a bipartisan DHS authorization bill to the floor, that that bill is within the House-passed budget; it bears a close connection to the appropriations process, and this year we have a unique circumstance where we are on the floor literally 1 day after the homeland security appropriation bill has passed, so we know exactly what kind of money we are dealing with so that when we impose national security priorities on the executive branch and we provide policy guidance to the Department of Homeland Security, we are doing so in the real world, not in a fantasy world with pretend numbers and budget resources that simply do not exist.

The only real objection that I have to the Democratic substitute, because I agree with a great deal of the policy, is that it takes \$7 billion from thin air and adds it on top of, not in substitute for, the provisions of the base bill. As a result, it is not about setting priorities; it is merely a wish list without any sense of priority.

I would say that it abdicates the responsibility of the authorizing committee and places all the burden on the

appropriators were it not for the fact that we just voted on the appropriation bill yesterday. So every single Member knows that this is not a real \$7 billion we are playing with here.

Rather than being called the Complete Homeland Security Act, it might be called the Death By Report Act because it does not help the Department of Homeland Security to run down terrorists; it instead sends them off on a mission to fill out reports. This substitute, in one of its key differences from the base text, is very heavy on reports and on plans and on studies and on assessments. It includes no fewer than 61 new initial reports, annual reports, follow-up reports, plans, strategies, studies, and reviews. That is not congressional direction; it is congressional misdirection.

There has got to be a focus on preventing terrorism, on doing the job, this most important, fundamental national security mission that we have assigned to the Department to do, rather than filling out paperwork. The substitute itself is 221 pages long, and in some respects it is not ready for action by the full House because its provisions have not yet been vetted even in hearings in subcommittee or full committee before the Department.

I daresay that some of those things, such as port security, chemical plant security, and so on, are policies with which I would agree. They are things that we intend to do as a committee this year. I have stated over and over, as recently as yesterday before the Committee on Rules, that because this is the first authorization bill for a Department which itself has existed for only 2 years, and which was thoroughly authorized in a charter written from top to bottom by this Congress just a few years ago, this bill is smaller this year than it will ever be in future years.

Moreover, because the Secretary is in the midst of his 90-day review of the Department's operation top to bottom as he takes the helm of what for him is a brand-new responsibility, we are trying to give him a few days more, he is due to report to us in June, to give us his roadmap. And that means we will be back on this floor with more authorizing legislation on the very subjects covered by the substitute amendment.

For all those reasons, I respectfully, but strongly, oppose this amendment.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 1 minute to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Chairman, I thank the gentleman for yielding me this time.

The Thompson substitute is necessary. It fills great holes in our major bill. There is not one dollar in this bill for the transportation that America

uses to go to work: rail, light rail, buses, subways, ferries. Yet even after Madrid, we are not dealing with the al Qaeda favorite. One-third of all the attacks has been on public transportation.

Cargo within four blocks of the Capitol. Explosives. One car, 14 miles. If one attack occurred, 100,000 people dead in a half-hour. How can we reauthorize or authorize the first homeland security bill without having any section in that bill on rail security? I do not think we can.

The American people deserve better. The Thompson substitute is clearly superior.

Mr. COX. Mr. Chairman, I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Chairman, I rise in support certainly of H.R. 1817, but it is not enough. It is not good enough.

This administration claims to make fighting terrorism its top priority, and that is why we set up the Department of Homeland Security. You are not supposed to tell us from homeland security what it is we cannot do, but what we can do.

I agree that maybe Secretary Ridge did not have enough information, did not have enough at his disposal, so he told us about the alerts; the yellow lights, the orange and the red and all of that; told us to go out and buy flashlights, duct tape, water, and plastic sheeting. But it is time to get serious.

Homeland security should not be a sound bite or a reelection strategy. We have got to do something about the border. This President promised us 2,000 border agents. We have citizens who have taken it upon themselves to protect our border, and here we are talking about we do not have enough money to fund 2,000 agents when we are giving a bonus to Halliburton. Give me a break.

We need money for first responders. We need money for our ports and our containers. This substitute will help to fill that gap. It is time we put our money where our mouths are.

The Acting CHAIRMAN. The gentleman from Mississippi (Mr. THOMPSON) has 30 seconds remaining.

Mr. COX. Mr. Chairman, I would be pleased to yield 30 seconds to the gentleman from Mississippi.

The Acting CHAIRMAN. The gentleman from Mississippi has 1 minute.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 30 seconds to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Chairman, immediate action should have been taken on chemical plant security after the wake-up call we got from the 9/11 attacks. I have introduced the Chemical Security Act in the past two Congresses, but the House has never considered my legislation.

Across the country, the EPA has identified 123 facilities where a toxic

gas release due to a terrorist attack could injure or kill more than 1 million people. The Thompson substitute would give the problem of chemical security plants and their security the attention it needs, and I would urge the House to adopt the Thompson substitute for that provision and all the other reasons that have been given here today.

Mr. COX. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON of Mississippi. I yield to the gentleman from California.

Mr. COX. Mr. Chairman, I would simply say to the gentleman from New Jersey that the point he raises about chemical security is an extremely important one, and I wanted to make sure that all the Members knew that on June 14 the Committee on Homeland Security will be having a hearing on that very topic. We intend, in the balance of this year, to go very deeply into our responsibilities for chemical plant security.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, this is a substitute that is complete. If you look at it, it addresses all the vulnerabilities of our country; and I ask the body to support it.

Mr. COX. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I spoke just a moment ago about some of the provisions in this bill that, in my view, do not belong there, most notably the \$7 billion that has no offset and, therefore, breaks the House-passed budget and is completely out of sync with the homeland security appropriation bill for which we had a large, nearly unanimous bipartisan vote yesterday.

But I would like to talk in the remaining seconds available about what this bill, the Thompson substitute, does not do. It does not incorporate, inexplicably, many of the bipartisan provisions that we have already agreed upon in the base bill. I have to believe that that was a drafting oversight; but were we to substitute for the base bill, we would lose the provisions that give, for example, flexibilities to the Information Analysis Office in the Department of Homeland Security to hire more intelligence agencies, something that has been a big priority of our committee for 3 years now. We would lose the reforms of the color-coded Homeland Security Advisory System, which both Republicans and Democrats have agreed upon.

As a result, we would be far better off to stick with the bipartisan provisions that are in the bill, rather than in the partisan provisions that appear in the Thompson substitute. I urge Members to reject the substitute.

Mr. ORTIZ. Mr. Chairman, as so many of you know, I represent a border district and am a former law enforcement officer. For the last year, I have been talking to a number of you about my concerns about border security, based on things I am hearing from border law enforcement officers.

I rise in support of the gentleman from Mississippi's substitute, which contains the amendment the Rules Committee yesterday disallowed from consideration by the House. Mr. THOMPSON's substitute draws from some ideas included in a border security bill I introduced earlier this year.

So many of my constituents—and our colleagues here in Congress—are profoundly frustrated with the budget-driven nature of our border security. This amendment requires the Department of Homeland Security to develop and implement a Comprehensive Border Strategy to secure U.S. borders—one that focuses on the needs of our national and border security rather than on the cost.

This amendment seeks a comprehensive approach that considers: staffing, infrastructure, technology, coordination of intelligence among agencies, legal responsibilities, jurisdictional issues, apprehension statistics, budgetary consequences, and the impact on the flow of commerce and legitimate travelers. It also requires implementation of the "American Shield Initiative" to address vulnerabilities between the ports-of-entry, which remains largely unaddressed since 9-11.

I urge all of us to focus our attention on a comprehensive border security policy by both authorizing and appropriating the funds necessary to secure our borders. The men and women who protect our border do an extraordinary job.

We owe them full funding of the security initiatives we determine are necessary for the protection of the people and places that we hold dear in the United States. It is simply not enough to talk about border security, it is an urgent matter for us to put our money where our mouth is when it comes to protecting our borders and our Nation.

I urge my colleagues to support this amendment—and I thank Mr. THOMPSON, Mr. STUPAK and Mr. REYES for their leadership on this issue.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise in strong support of the amendment in Nature of a Substitute as offered by the distinguished Ranking Member of the Homeland Security Committee, the gentleman from Mississippi. It provides for \$6.9 billion more in funding than the base bill (or the President's budget), including the funding needed to fulfill the homeland security commitments in the Intelligence Reform and Terrorism Prevention Act of 2004 and to meet other priorities.

Of the priorities that it proposes to meet is \$380 million to hire 2,000 new border agents. As the Ranking Democrat of the Judiciary Subcommittee on Immigration, Border Security, and Claims, I understand the gravity of this allocation and how irresponsible it would be to omit it from the base bill. First Responder communications is funded under the Amendment in the amount of \$500 million. As a major proponent of the Citizen Corps Council model that was created by President Bush himself but not funded, I appreciate the value of this level of funding for better communications systems for our front line personnel.

In addition, the Thompson substitute would provide \$1 billion in grants for port, rail, transit, and bus security. These aspects of our transportation system have been given inadequate attention by the underlying bill. Again, with respect to aiding our first responders, the Thompson substitute would allocate \$150 million to restore funding for FIRE Act grants.

Amidst the contentious debate about aviation security and the question as to the adequacy of our screening processes, Ranking Member THOMPSON seeks to attack the root of the issue by providing \$418 million for aviation security research.

In terms of overall policy provisions, the Amendment calls for a comprehensive border strategy and technology that would monitor the entire border 24/7; new authority to ensure chemical plants are secured; a 3-year plan to ensure all air cargo on passenger planes is screened maritime cargo container security standards; new security measures for rail and public transit deadlines for establishing security plans for all critical infrastructure improvements in biometrics and other screening technology a new DHS council to monitor domestic terrorism; creation of an Assistant Secretary of Cybersecurity; and changes to DHS to ensure its operations are diverse and manageable.

Mr. Chairman, the Thompson substitute is a prudent, comprehensive, and responsible alternative to that offered by the Chairman of the Homeland Security Committee. I support it fully and ask that my colleagues join me.

Mr. OBERSTAR. Mr. Chairman, I rise in strong support of the Thompson amendment in the nature of a substitute. This amendment sets forth a comprehensive, integrated policy to promote homeland security. This amendment is a true substitute amendment and covers important areas where Federal security plans are sorely needed—such as rail and transit transportation—that are omitted from the underlying bill. Frankly, the Thompson amendment demonstrates that the Democrats in this body have the better plan for securing our Nation.

I'd like to thank the Ranking Member of the Committee on Homeland Security, Congressman THOMPSON, for actively working with me to develop this comprehensive amendment. In particular, I'd like to thank him for recognizing the important role that the Department of Transportation (DOT) has in devising and implementing transportation security regulations. DOT has extensive experience in security and has the primary responsibility for the efficiency and safety of transportation. For transportation security to work well, it is imperative that the Department of Homeland Security (DHS) and DOT work on security plans in tandem. The transportation provisions in this amendment insure that the Department of Homeland Security and Department of Transportation will work together to ensure that this Nation has the strongest, smartest homeland security procedures, which do not unnecessarily undermine efficiency or compromise safety.

I'd like to highlight some of these provisions. Section 518 of the amendment is the language from H.R. 1496, a bipartisan bill which I cosponsored and which was reported by the Transportation and Infrastructure Committee in April, to allow general aviation to return to National Airport. Opening National Airport to general aviation is long overdue.

In Vision 100, reported by the Transportation Committee and passed by Congress in 2003, Congress mandated that National Airport be open to general aviation after a security plan is established. To date, this Administration has not taken action to comply with this directive. I am disappointed that the Administration has avoided reopening general aviation at National Airport for this long, and this legis-

lation is necessary to fully restore our transportation system, and our economy.

Further, I strongly support Title VI of the Thompson amendment. This title provides for transit security and passenger and freight rail security. Again, rail and transit security are areas where DOT and DHS must work together. This amendment would provide for that.

Subtitle B is taken directly from H.R. 2351, the "Rail Security Act of 2005," which I introduced earlier this month. It requires that within 180 days of enactment, the Secretary of Homeland Security and the Secretary of Transportation shall develop and implement a railroad security assessment, a railroad security plan, and prioritized recommendations for improving railroad security. The amendment also requires the Secretary of Homeland Security and the Secretary of Transportation to execute a memorandum of agreement governing the roles and responsibilities of their Departments in addressing railroad transportation security matters.

Moreover, the amendment focuses on an issue that security bills often ignore: the importance of ensuring that key workers have the support and training required to protect our rail system, whether those workers are railroad employees or emergency responders. Rail workers are truly the eyes and ears of the rail industry. They greet passengers, sell tickets, operate trains, maintain track and signal systems, dispatch trains, operate bridges, and repair cars. They are in the most direct position to spot security risks and potential threats. This bill requires rail carriers to provide security training to these workers to ensure that they are prepared to take appropriate action against threat conditions.

While I do support most of these provisions in the Thompson amendment, I have serious concerns about one particular section. Section 519 would mandate that 100 percent of air cargo on passenger planes be physically inspected. While ensuring the security of air cargo is a laudable goal, this mandate is not the best way to accomplish that goal. The effect of this amendment would be to force air carriers to remove all cargo from passenger aircraft, jeopardizing 27,000 direct jobs and \$4 billion in annual revenue.

No available technology exists today to efficiently and effectively screen all air cargo for explosives. Most of the cargo screening technologies referenced by those in favor of this amendment are basic or high energy x-ray systems, which currently are not certified explosive detection systems (EDS) for cargo. U.S. airlines have implemented significant cargo inspection and screening measures mandated by Congress and enforced by TSA. First, only known shippers (shippers who are part of the Known Shipper database) may ship cargo on passenger aircraft. Second, all cargo is subject to random inspection. In addition, U.S. airlines have collaborated with TSA and the U.S. Postal Service to develop and implement a canine mail-screening program for mail carried on passenger airlines. The airlines continue to assist TSA in programs to evaluate the utility of explosive detection systems (EDS) and canines for cargo screening. These programs are the best methods available for ensuring cargo security.

However, Mr. Chairman, my concerns about the cargo security provision are outweighed by the many good security provisions in the

amendment. I support the Thompson amendment. It is a comprehensive approach to providing the best security for our Nation. I urge its passage.

The Acting CHAIRMAN. All time has expired.

The question is on the amendment in the nature of a substitute offered by the gentleman from Mississippi (Mr. THOMPSON).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. THOMPSON of Mississippi. Mr. Chairman, I demand a recorded vote.

Pursuant to clause 6 of rule XVIII, further proceedings on the amendment in the nature of a substitute offered by the gentleman from Mississippi (Mr. THOMPSON) will be postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order:

Amendment No. 1 printed in part B offered by the gentleman from Florida (Mr. MEEK), amendment No. 13 printed in part B offered by the gentlewoman from Oregon (Ms. HOOLEY), amendment No. 18 printed in part B offered by the gentleman from Georgia (Mr. NORWOOD), amendment No. 20 printed in part B offered by the gentlewoman from Texas (Ms. JACKSON-LEE), and amendment No. 24 printed in part B offered by the gentleman from Mississippi (Mr. THOMPSON).

The Chair will reduce to 5 minutes the time for any electronic votes after the first vote in this series.

AMENDMENT NO. 1 OFFERED BY MR. MEEK OF FLORIDA

The Acting CHAIRMAN. The pending business is the demand for a recorded vote on amendment No. 1 offered by the gentleman from Florida (Mr. MEEK) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 184, noes 244, not voting 5, as follows:

[Roll No. 183]  
AYES—184

Abercrombie	Boswell	Cleaver
Ackerman	Boyd	Clyburn
Allen	Brady (PA)	Conyers
Andrews	Brown (OH)	Cooper
Baca	Brown, Corrine	Costello
Baldwin	Butterfield	Crowley
Barrow	Capps	Cuellar
Becerra	Capuano	Cummings
Berkley	Cardin	Davis (AL)
Berman	Cardoza	Davis (CA)
Berry	Carnahan	Davis (FL)
Bishop (GA)	Carson	Davis (IL)
Bishop (NY)	Chandler	Davis (TN)
Blumenauer	Clay	DeFazio

DeGette	Langevin	Ross	Marshall	Pickering	Simpson	Brown (OH)	Grijalva	Miller (NC)
Delahunt	Lantos	Rothman	Matheson	Pitts	Skelton	Brown (SC)	Gutierrez	Miller, Gary
DeLauro	Larsen (WA)	Royal-Allard	McCaul (TX)	Platts	Smith (NJ)	Brown, Corrine	Hall	Miller, George
Diaz-Balart, L.	Lee	Ruppersberger	McCotter	Poe	Smith (TX)	Brown-Waite,	Harmann	Mollohan
Dicks	Levin	Rush	McCrary	Pombo	Sodrel	Ginny	Hart	Moore (KS)
Dingell	Lipinski	Ryan (OH)	McHenry	Porter	Souder	Burgess	Hastings (FL)	Moore (WI)
Doggett	Lofgren, Zoe	Sabo	McHugh	Price (GA)	Stearns	Burton (IN)	Hastings (WA)	Moran (VA)
Doyle	Lowey	Salazar	McKeon	Pryce (OH)	Sullivan	Butterfield	Hayworth	Murphy
Edwards	Lynch	Sánchez, Linda	McMorris	Putnam	Sweeney	Calvert	Hefley	Murtha
Emanuel	Maloney	T.	Mica	Radanovich	Taylor (MS)	Camp	Herger	Musgrave
Engel	Markey	Sanchez, Loretta	Miller (FL)	Ramstad	Taylor (NC)	Capito	Herseth	Myrick
Eshoo	Matsui	Sanders	Miller (MI)	Regula	Terry	Capps	Higgins	Napolitano
Etheridge	McCarthy	Serrano	Miller, Gary	Rehberg	Thomas	Capuano	Hinchey	Neal (MA)
Farr	McCullum (MN)	Schakowsky	Mollohan	Reichert	Thompson (CA)	Cardin	Hinojosa	Neugebauer
Fattah	McDermott	Schiff	Moran (KS)	Renzi	Thornberry	Cardoza	Hobson	Northup
Filner	McGovern	Schwartz (PA)	Murphy	Reynolds	Tiaht	Carnahan	Holden	Norwood
Ford	McIntyre	Scott (GA)	Murtha	Rogers (AL)	Tiberi	Carson	Holt	Nunes
Frank (MA)	McKinney	Scott (VA)	Musgrave	Rogers (KY)	Tierney	Carter	Honda	Nussle
Gonzalez	McNulty	Serrano	Myrick	Rogers (MI)	Turner	Case	Hooley	Oberstar
Gordon	Meehan	Sherman	Neugebauer	Rohrabacher	Upton	Castle	Hostettler	Olver
Green, Al	Meek (FL)	Slaughter	Ney	Royce	Walden (OR)	Chabot	Hoyer	Ortiz
Green, Gene	Meeks (NY)	Smith (WA)	Northup	Ryan (WI)	Walsh	Chandler	Hulshof	Osborne
Grijalva	Melancon	Snyder	Norwood	Ryun (KS)	Wamp	Chocola	Hunter	Owens
Gutierrez	Menendez	Solis	Nunes	Saxton	Weldon (FL)	Clay	Hyde	Oxley
Harman	Michaud	Spratt	Nussle	Schwarz (MI)	Weldon (PA)	Cleaver	Inglis (SC)	Pallone
Hastings (FL)	Miller (NC)	Stark	Osborne	Sensenbrenner	Weiler	Clyburn	Inslee	Pascrell
Herseth	Miller, George	Strickland	Otter	Sessions	Westmoreland	Coble	Israel	Pastor
Higgins	Moore (KS)	Stupak	Oxley	Shadegg	Whitfield	Conaway	Issa	Paul
Hinchey	Moore (WI)	Tanner	Pastor	Shaw	Wicker	Conyers	Jackson (IL)	Payne
Hinojosa	Moran (VA)	Tauscher	Paul	Shays	Wilson (NM)	Costello	Jackson-Lee	Pearce
Holden	Nadler	Thompson (MS)	Pearce	Sherwood	Wilson (SC)	Cox	(TX)	Pelosi
Holt	Napolitano	Towns	Pence	Shimkus	Wolf	Cramer	Jefferson	Peterson (PA)
Honda	Neal (MA)	Udall (CO)	Peterson (PA)	Shuster	Young (AK)	Crenshaw	Jenkins	Pickering
Hooley	Oberstar	Udall (NM)	Petri	Simmons	Young (FL)	Crowley	Jindal	Pitts
Hoyer	Obey	Van Hollen				Cubin	Johnson (CT)	Poe
Inslee	Olver	Velázquez				Cueilar	Johnson (IL)	Pombo
Israel	Ortiz	Visclosky	Larson (CT)	Millender-		Culberson	Johnson, E. B.	Pomeroy
Jackson (IL)	Owens	Wasserman	Lewis (GA)	McDonald		Cummings	Jones (NC)	Porter
Jackson-Lee	Pallone	Schultz	Lucas	Tancredo		Cunningham	Jones (OH)	Price (NC)
(TX)	Pascarell					Davis (AL)	Kanjorski	Pryce (OH)
Jefferson	Payne	Waterson				Davis (CA)	Kaptur	Putnam
Johnson, E. B.	Pelosi	Watson				Davis (IL)	Keller	Rahall
Jones (OH)	Peterson (MN)	Wat				Davis (KY)	Kelly	Ramstad
Kaptur	Pomeroy	Waxman				Davis (TN)	Kennedy (MN)	Rangel
Kennedy (RI)	Price (NC)	Weiner				Davis, Jo Ann	Kennedy (RI)	Regula
Kildee	Rahall	Wexler				Davis, Tom	Kildee	Rehberg
Kilpatrick (MI)	Rangel	Woolsey				Deal (GA)	Kilpatrick (MI)	Reichert
Kind	Reyes	Wu				DeFazio	Kind	Renzi
Kucinich	Ros-Lehtinen	Wynn				DeGette	King (NY)	Reyes

## NOES—244

Aderholt	Cox	Harris				Delahunt	Kirk	Reynolds
Akin	Cramer	Hart				DeLay	Kline	Rogers (AL)
Alexander	Crenshaw	Hastings (WA)				Dent	Knollenberg	Rogers (KY)
Bachus	Cubin	Hayes				Dent	Kolbe	Rogers (MI)
Baird	Culberson	Hayworth				Diaz-Balart, L.	Kucinich	Ros-Lehtinen
Baker	Cunningham	Hefley				Diaz-Balart, M.	Kuhl (NY)	Ross
Barrett (SC)	Davis (KY)	Hensarling				Dicks	LaHood	Rothman
Bartlett (MD)	Davis, Jo Ann	Herger				Dingell	Langevin	Royal-Allard
Barton (TX)	Davis, Tom	Hobson				Doolittle	Lantos	Ruppersberger
Bass	Deal (GA)	Hoekstra				Doyle	Latham	Rush
Bean	DeLay	Hostettler				Drake	Leach	Ryan (OH)
Beauprez	Dent	Hulshof				Dreier	Lee	Salazar
Biggert	Diaz-Balart, M.	Hunter				Duncan	Levin	Sánchez, Linda
Bilirakis	Doolittle	Hyde				Edwards	Lewis (CA)	T.
Bishop (UT)	Drake	Inglis (SC)				Emanuel	Lewis (KY)	Sanchez, Loretta
Blackburn	Dreier	Issa				Emerson	Linder	Sanders
Blunt	Duncan	Istoock				Engel	Lipinski	Saxton
Boehlert	Ehlers	Jenkins				Eshoo	LoBiondo	Schakowsky
Boehner	Emerson	Jindal				Etheridge	Lofgren, Zoe	Schiff
Bonilla	English (PA)	Johnson (CT)				Evans	Lowey	Schwartz (PA)
Bonner	Evans	Johnson (IL)				Farr	Lynch	Schwartz (MI)
Bono	Everett	Johnson, Sam				Fattah		
Boozman	Feeney	Jones (NC)				The Acting CHAIRMAN. A recorded		
Boren	Ferguson	Kanjorski				vote has been demanded.		
Boucher	Fitzpatrick (PA)	Keller				A recorded vote was ordered.		
Boustany	Flake	Kelly				The Acting CHAIRMAN. This will be		
Bradley (NH)	Foley	Kennedy (MN)				a 5-minute vote.		
Brady (TX)	Forbes	King (IA)				The vote was taken by electronic de-		
Brown (SC)	Fortenberry	King (NY)				vice, and there were—ayes 363, noes 65,		
Brown-Waite,	Fossella	Kingston				not voting 5, as follows:		
Ginny	Foxx	Kirk				[Roll No. 184]		
Burgess	Franks (AZ)	Kline				AYES—363		
Burton (IN)	Frelinghuysen	Knollenberg						
Buyer	Gallegly	Kolbe						
Calvert	Garrett (NJ)	Kuhl (NY)						
Camp	Gerlach	LaHood						
Cannon	Gibbons	Latham	Abercrombie	Barton (TX)	Blumenauer	Gibbons	McHugh	Snyder
Cantor	Gilchrest	LaTourette	Ackerman	Bass	Boehlert	McIntyre	Sodrel	
Capito	Gillmor	Leach	Aderholt	Bean	Boehner	Gingrey	Spratt	
Carter	Gingrey	Lewis (CA)	Akin	Beauprez	Bonner	Gohmert	Stark	
Case	Gohmert	Lewis (KY)	Alexander	Becerra	Bono	Gonzalez	McKinney	
Castle	Goode	Linder	Allen	Berkley	Boozman	Goodlatte	McMorris	
Chabot	Goodlatte	LoBiondo	Andrews	Berman	Boren	Gordon	Stearns	
Chocola	Granger	Lungren, Daniel	Baca	Biggert	Boswell	Granger	McDermott	
Coble	Graves	E.	Baker	Bilirakis	Boucher	Graves	Garrett (NJ)	
Cole (OK)	Green (WI)	Mack	Baldwin	Bishop (GA)	Boyd	Green (WI)	McGovern	
Conaway	Gutknecht	Manzullo	Barrett (SC)	Bishop (NY)	Bradley (NH)	Green, Al	McHenry	
Costa	Hall	Marchant	Barrow	Bishop (UT)	Brady (PA)	Green, Gene	Snyder	



Filner	Lowey	Royal-Allard	Norwood	Reynolds	Sullivan	Filner	Matsui	Salazar
Ford	Lynch	Ruppersberger	Nunes	Rogers (AL)	Sweeney	Ford	McCarthy	Sánchez, Linda
Frank (MA)	Maloney	Rush	Nussle	Rogers (KY)	Tanner	Frank (MA)	McCullom (MN)	T.
Gonzalez	Markey	Ryan (OH)	Osborne	Rogers (MI)	Taylor (MS)	Gonzalez	McGovern	Sanchez, Loretta
Gordon	Marshall	Sabo	Otter	Rohrabacher	Terry	Gordon	McIntyre	Sanders
Green, Al	Matheson	Salazar	Oxley	Ros-Lehtinen	Thomas	Green, Al	McKinney	Schakowsky
Green, Gene	Matsui	Sánchez, Linda	Paul	Royce	Thompson (CA)	Grijalva	McNulty	Schiff
Grijalva	McCarthy	T.	Pearce	Ryan (WI)	Thornberry	Gutierrez	Meehan	Schwartz (PA)
Gutierrez	McCullom (MN)	Sanchez, Loretta	Pence	Ryun (KS)	Tiahrt	Harman	Meek (FL)	Scott (GA)
Harman	McDermott	Sanders	Peterson (MN)	Saxton	Tiberi	Hastings (FL)	Meeks (NY)	Scott (VA)
Hastings (FL)	McGovern	Schakowsky	Peterson (PA)	Schwarz (MI)	Tierney	Herseth	Melancon	Serrano
Higgins	McIntyre	Schiff	Petri	Scott (GA)	Turner	Hinchey	Menendez	Shays
Hinchey	McKinney	Schwartz (PA)	Pickering	Sensenbrenner	Upton	Hinojosa	Michaud	Sherman
Hinojosa	McNulty	Pitts	Sessions	Walder (OR)	Walden	Miller (NC)	Miller, George	Skelton
Holden	Meehan	Platts	Shadegg	Walsh	Walden	Miller, George	Mollohan	Slaughter
Holt	Meek (FL)	Serrano	Poe	Shays	Wamp	Honda	Moore (KS)	Smith (WA)
Honda	Meeks (NY)	Slaughter	Pombo	Pomeroy	Sherwood	Hooley	Moore (WI)	Snyder
Hooley	Melancon	Smith (WA)	Porter	Shimkus	Weldon (FL)	Hoyer	Moran (VA)	Solis
Hostettler	Menendez	Snyder	Price (GA)	Shuster	Weller	Inslee	Murtha	Spratt
Hoyer	Michaud	Solis	Price (GA)	Sodrel	Wolf	Johnson, E. B.	Nadler	Stark
Insee	Miller (NC)	Spratt	Pryce (OH)	Rehberg	Young (AK)	Jones (OH)	Napolitano	Strickland
Israel	Miller, George	Stark	Putnam	Reichert	Young (FL)	Kanjorski	Neal (MA)	Stupak
Jackson (IL)	Moore (KS)	Radanovich	Skelton	Rahall	Wilson (NM)	Kennedy (RI)	Oberstar	Tanner
Jackson-Lee	Moore (WI)	Stupak	Smith (NJ)	Ramstad	Wilson (SC)	Jefferson	Obey	Tauscher
(TX)	Moran (VA)	Tauscher	Smith (TX)	Regula	Young (AK)	Johnson, E. B.	Oliver	Thompson (CA)
Jefferson	Nadler	Thompson (MS)	Smith (TX)	Rehberg	Young (FL)	Jones (OH)	Ortiz	Thompson (MS)
Johnson, E. B.	Napolitano	Towns	Smith (TX)	Reichert	Wilson (SC)	Kanjorski	Owens	Tierney
Jones (OH)	Neal (MA)	Udall (CO)	Wilson (SC)	Renzi	Young (FL)	Kennedy (RI)	Pallone	Towns
Kanjorski	Oberstar	Udall (NM)	Young (FL)			Kildee	Pascarella	Udall (CO)
Kaptur	Obey	Van Hollen				Kilpatrick (MI)	Pastor	Van Hollen
Kennedy (RI)	Olver	Velázquez				Kind	Payne	Velázquez
Kildee	Ortiz	Visclosky				Kucinich	Pelosi	Visclosky
Kilpatrick (MI)	Owens	Wasserman	Larson (CT)	Millender-		Langevin	Peterson (MN)	Wasserman
Kind	Pallone	Schultz	Lewis (GA)	McDonald		Lantos	Pomeroy	Schultz
Kucinich	Pascarella	Waters	Lucas	Tancredo		Larsen (WA)	Price (NC)	Waters
Langevin	Pastor	Watson				Lee	Rahall	Watson
Lantos	Payne	Wat				Levin	Rangel	Watson
Larsen (WA)	Pelosi	Watman				Lipinski	Reyes	Watt
Leach	Price (NC)	Weiner				Lofgren, Zoe	Ross	Waxman
Lee	Rangel	Wexler				Lowey	Rothman	Weiner
Levin	Reyes	Woolsey				Lynch	Royal-Allard	Wexler
Lipinski	Ross	Wu				Maloney	Ruppersberger	Woolsey
Lofgren, Zoe	Rothman	Wynn				Markey	Rush	Wu

## NOES—245

Aderholt	Davis (KY)	Hunter
Akin	Davis, Jo Ann	Hyde
Alexander	Davis, Tom	Inglis (SC)
Bachus	Deal (GA)	Issa
Baker	DeLay	Istoak
Barrett (SC)	Dent	Jenkins
Bartlett (MD)	Diaz-Balart, L.	Jindal
Barton (TX)	Diaz-Balart, M.	Johnson (CT)
Bass	Doolittle	Johnson (IL)
Beauprez	Drake	Johnson, Sam
Berry	Dreier	Jones (NC)
Biggert	Duncan	Keller
Bilirakis	Ehlers	Kelly
Bishop (UT)	Emerson	Kennedy (MN)
Blackburn	English (PA)	King (IA)
Blumenauer	Everett	King (NY)
Blunt	Feeney	Kingston
Boehlert	Ferguson	Kirk
Boehner	Fitzpatrick (PA)	Kline
Bonilla	Flake	Knollenberg
Bonner	Foley	Kolbe
Bono	Forbes	Kuhl (NY)
Boozman	Fortenberry	LaHood
Boren	Fossella	Latham
Boustany	Foxx	LaTourette
Boyd	Franks (AZ)	Lewis (CA)
Bradley (NH)	Frelinghuysen	Lewis (KY)
Brady (TX)	Gallegly	Linder
Brown (SC)	Garrett (NJ)	LoBiondo
Brown-Waite,	Gerlach	Lungren, Daniel
Ginny	Gibbons	E.
Burgess	Gilchrest	Mack
Burton (IN)	Gillmor	Manzullo
Buyer	Gingrey	Marchant
Calvert	Gohmert	McCaull (TX)
Camp	Goode	McCotter
Cannon	Goodlatte	McCrary
Cantor	Granger	McHenry
Capito	Graves	McHugh
Cardoza	Green (WI)	McKeon
Carter	Gutknecht	McMorris
Castle	Hall	Mica
Chabot	Harris	Miller (FL)
Chocola	Hart	Miller (MI)
Coble	Hastings (WA)	Miller, Gary
Cole (OK)	Hayes	Mollohan
Conaway	Hayworth	Moran (KS)
Costa	Hefley	Murphy
Cox	Hensarling	Murtha
Cramer	Herger	Musgrave
Crenshaw	Herseth	Myrick
Cubin	Hobson	Neugebauer
Culberson	Hoekstra	Ney
Cunningham	Hulshof	Northup

## NOT VOTING—6

Ms. BEAN changed her vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 24 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. THOMPSON OF MISSISSIPPI

The Acting CHAIRMAN. The pending business is the demand for a recorded vote on the amendment No. 24 in the nature of a substitute offered by the gentleman from Mississippi (Mr. THOMPSON) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment in the nature of a substitute.

The Clerk redesignated the amendment in the nature of a substitute.

## RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 196, noes 230, not voting 7, as follows:

[Roll No. 187]

## AYES—196

Aderholt	Deal (GA)	Hulshof
Akin	DeLay	Hunter
Alexander	Dent	Hyde
Bachus	Diaz-Balart, L.	Inglis (SC)
Baker	Diaz-Balart, M.	Issa
Barrett (SC)	Doolittle	Istoak
Bartlett (MD)	Drake	Jenkins
Barton (TX)	Dreier	Jindal
Bass	Duncan	Johnson (CT)
Beauprez	Ehlers	Johnson (IL)
Biggert	Emerson	Johnson, Sam
Bilirakis	English (PA)	Jones (NC)
Bishop (UT)	Everett	Keller
Blackburn	Feeney	Kelly
Blunt	Ferguson	Kennedy (MN)
Boehlert	Fitzpatrick (PA)	King (IA)
Boehner	Flake	King (NY)
Bonilla	Foley	Kingston
Bonner	Ford	Kirk
Bono	Fortenberry	Kline
Boozman	Fossella	Knollenberg
Boren	Foxx	Kolbe
Boustany	Franks (AZ)	Kuhl (NY)
Boyd	Frelinghuysen	LaHood
Bradley (NH)	Gallegly	Latham
Brady (TX)	Garrett (NJ)	LaTourette
Brown (SC)	Garrett (NJ)	Gibbons
Brown-Waite,	Gerlach	Lewis (CA)
Ginny	Gibbons	Lewis (KY)
Burgess	Gilchrest	Mica
Burton (IN)	Gillmor	McCotter
Buyer	Gingrey	McCotter
Calvert	Gohmert	McCrery
Camp	Goode	McHenry
Cannon	Goodlatte	McHugh
Cantor	Granger	McKeon
Capito	Graves	McMorris
Cardoza	Green (WI)	Mica
Carter	Gutknecht	McCotter
Castle	Hall	McCotter
Chabot	Harris	McCotter
Chocola	Hart	McCotter
Coble	Hastings (WA)	McCotter
Cole (OK)	Hayes	McCotter
Conaway	Hayworth	McCotter
Costa	Hefley	McCotter
Cox	Hensarling	McCotter
Cramer	Herger	McCotter
Crenshaw	Herseth	McCotter
Cubin	Hobson	McCotter
Culberson	Hoekstra	McCotter
Cunningham	Hulshof	McCotter

Neugebauer	Reichert	Sullivan
Ney	Renzi	Sweeney
Northup	Reynolds	Taylor (MS)
Norwood	Rogers (AL)	Taylor (NC)
Nunes	Rogers (KY)	Terry
Nussle	Rogers (MI)	Thomas
Osborne	Rohrabacher	Thornberry
Otter	Ros-Lehtinen	Tiahrt
Oxley	Royce	Tiberi
Paul	Ryan (WI)	Turner
Pearce	Ryun (KS)	Upton
Pence	Saxton	Walden (OR)
Peterson (PA)	Schwarz (MI)	Walsh
Petri	Sensenbrenner	Wamp
Pickering	Sessions	Weldon (FL)
Pitts	Shadegg	Weldon (PA)
Platts	Shaw	Weller
Poe	Sherwood	Westmoreland
Pombo	Shimkus	Whitfield
Porter	Shuster	Simmons
Price (GA)	Shuster	Wicker
Pryce (OH)	Simpson	Wilson (NM)
Putnam	Smith (NJ)	Wilson (SC)
Radanovich	Smith (TX)	Smith (TX)
Ramstad	Sodrel	Wolf
Regula	Souder	Young (AK)
Rehberg	Souder	Young (FL)
	Stearns	Stearns

## NOT VOTING—7

Kaptur	Lucas	Millender-
Larson (CT)	McDermott	McDonald
Lewis (GA)		Tancredo

□ 1847

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The Acting CHAIRMAN (Mr. LAHOOD). Are there further amendments to the bill?

There being no other amendments, the question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The Acting CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. HASTINGS of Washington) having assumed the chair, Mr. LAHOOD, Acting Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1817) to authorize appropriations for fiscal year 2006 for the Department of Homeland Security, and for other purposes, pursuant to House Resolution 283, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. THOMPSON OF MISSISSIPPI

Mr. THOMPSON of Mississippi. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. THOMPSON of Mississippi. I am, Mr. Speaker, in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Thompson of Mississippi moves to recommit the bill H.R. 1817 to the Committee on Homeland Security with instructions to report the same back to the House forthwith with the following amendment:

At the end of the bill, add the following:

**TITLE VI—ADDITIONAL AUTHORIZATIONS OF APPROPRIATIONS**

**SEC. 601. AVIATION SECURITY RESEARCH AND DEVELOPMENT.**

To carry out section 4011(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 (118 Stat. 3714), there is authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration \$20,000,000 for fiscal year 2006 for research and development of advanced biometric technology applications to aviation security, including mass identification technology.

**SEC. 602. BIOMETRIC CENTER OF EXCELLENCE.**

To carry out section 4011(d) of the Intelligence Reform and Terrorism Prevention Act of 2004 (118 Stat. 3714), there is authorized to be appropriated \$1,000,000 for fiscal year 2006 for the establishment by the Secretary of Homeland Security of a competitive center of excellence that will develop and expedite the Federal Government's use of biometric identifiers.

**SEC. 603. PORTAL DETECTION SYSTEMS.**

To carry out section 44925 of title 49, United States Code, there is authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration \$250,000,000 for fiscal year 2006 for research, development, and installation of detection systems and other devices for the detection of biological, chemical, radiological, and explosive materials.

**SEC. 604. IN-LINE CHECKED BAGGAGE SCREENING.**

To carry out section 4019 of the Intelligence Reform and Terrorism Prevention Act of 2004 (49 U.S.C. 44901 note; 118 Stat. 3721), there is authorized to be appropriated for fiscal year 2006 \$400,000,000 to carry out the in-line checked baggage screening system installations required by section 44901 of title 49, United States Code.

**SEC. 605. CHECKED BAGGAGE SCREENING AREA MONITORING.**

To carry out section 4020 of the Intelligence Reform and Terrorism Prevention Act of 2004 (49 U.S.C. 44901 note; 118 Stat. 3722), there is authorized to be appropriated to the Secretary of Homeland Security for the use of the Under Secretary for Border and Transportation Security such sums as may be necessary for fiscal year 2006 to provide assistance to airports at which screening is required by section 44901 of title 49, United States Code, and that have checked baggage screening areas that are not open to public view, in the acquisition and installation of security monitoring cameras for surveillance of such areas in order to deter theft from checked baggage and to aid in the speedy resolution of liability claims against the Transportation Security Administration.

**SEC. 606. IMPROVED EXPLOSIVE DETECTION SYSTEMS.**

To carry out section 4024 of the Intelligence Reform and Terrorism Prevention Act of 2004 (49 U.S.C. 44913 note; 118 Stat. 3724), there is authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration \$100,000,000 for fiscal year 2006 for the purpose of research and development of improved explosive detection systems for

aviation security under section 44913 of title 49, United States Code.

**SEC. 607. MAN-PORTABLE AIR DEFENSE SYSTEMS (MANPADS).**

To carry out section 4026 of the Intelligence Reform and Terrorism Prevention Act of 2004 (22 U.S.C. 2751 note; 118 Stat. 3724), there is authorized to be appropriated such sums as may be necessary for fiscal year 2006.

**SEC. 608. PILOT PROGRAM TO EVALUATE USE OF BLAST RESISTANT CARGO AND BAGGAGE CONTAINERS.**

To carry out subsections (a) and (b) of section 4051 of the Intelligence Reform and Terrorism Prevention Act of 2004 (49 U.S.C. 44901 note; 118 Stat. 3728), there is authorized to be appropriated \$2,000,000 for fiscal year 2006. Such sums shall remain available until expended.

**SEC. 609. AIR CARGO SECURITY.**

To carry out section 4052(a) of the Intelligence Reform and Terrorism Prevention Act of 2004 (49 U.S.C. 44901 note; 118 Stat. 3728), there is authorized to be appropriated to the Secretary \$100,000,000 for fiscal year 2006 for research and development related to enhanced air cargo security technology, as well as for deployment and installation of enhanced air cargo security technology. Such sums shall remain available until expended.

**SEC. 610. FEDERAL AIR MARSHALS.**

To carry out section 4016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (49 U.S.C. 44917 note; 118 Stat. 3720), there is authorized to be appropriated to the Secretary of Homeland Security for the use of the Bureau of Immigration and Customs Enforcement \$83,000,000 for fiscal year 2006 for the deployment of Federal air marshals under section 44917 of title 49, United States Code. Such sums shall remain available until expended.

**SEC. 611. INCREASE IN FULL-TIME IMMIGRATION AND CUSTOMS ENFORCEMENT INVESTIGATORS.**

To carry out section 5203 of the Intelligence Reform and Terrorism Prevention Act of 2004 (118 stat. 3734), there is authorized to be appropriated such sums as may be necessary in fiscal year 2006 for the Secretary of Homeland Security to increase by not less than 800 the number of positions for full-time active duty investigators within the Department of Homeland Security investigating violations of immigration laws (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)) in fiscal year 2006 above the number of such positions for which funds were made available during the preceding fiscal year.

**SEC. 612. INCREASE IN DETENTION IN DETENTION BED SPACE.**

To carry out section 5204 of the Intelligence Reform and Terrorism Prevention Act of 2004 (118 Stat. 3734), there is authorized to be appropriated such sums as may be necessary in fiscal year 2006 for the Secretary of Homeland Security to increase by not less than 8,000 the number of beds available for immigration detention and removal operations of the Department of Homeland Security above the number for which funds were allotted for the preceding fiscal year.

**SEC. 613. BORDER SECURITY TECHNOLOGIES FOR USE BETWEEN PORTS OF ENTRY.**

To carry out subtitle A of title V of the Intelligence Reform and Terrorism Prevention Act (118 Stat. 3732), there is authorized to be appropriated \$25,000,000 for fiscal year 2006 for the formulation of a research and development program to test various advanced technologies to improve border security between ports of entry as established in sections 5101, 5102, 5103, and 5104 of the Intelligence Reform and Terrorism Prevention Act of 2004.

## SEC. 614. INCREASE IN FULL-TIME BORDER PATROL AGENTS.

To carry out section 5202 of the Intelligence Reform and Terrorism Prevention Act of 2004 (118 Stat. 3734), there is authorized to be appropriated \$380,000,000 for the Secretary of Homeland Security to increase by not less than 2,000 the number of positions for full-time, active-duty border patrol agents within the Department of Homeland Security, in fiscal year 2006, above the number of such positions for which funds were allotted for the preceding fiscal year.

## SEC. 615. IMMIGRATION SECURITY INITIATIVE.

To carry out section 7206 of the Intelligence Reform and Terrorism Prevention Act (118 Stat. 3817), there are authorized to be appropriated to the Secretary of Homeland Security to carry out the amendments made by subsection (a) \$40,000,000 for fiscal year 2006.

## TITLE VII—CARGO INSPECTION

## SEC. 701. INSPECTION OF CARGO CARRIED ABOARD COMMERCIAL AIRCRAFT.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Homeland Security shall implement a system that uses equipment, technology, personnel, and other means to inspect 35 percent of cargo transported in passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate transportation. At a minimum, this system shall meet the same standards as those established by the Secretary for equipment, technology, and personnel used to screen passenger baggage. Within 2 years after the date of the enactment of this Act, the Secretary shall use this system to inspect at least 65 percent of cargo transported in passenger aircraft. Not later than three years after the date of enactment of this Act, the Secretary shall use this system to inspect at least 100 percent of cargo transported in passenger aircraft.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to the Congress a report describing the system established under subsection (a).

Mr. THOMPSON of Mississippi (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Mississippi (Mr. THOMPSON) is recognized for 5 minutes in support of his motion.

Mr. THOMPSON of Mississippi. Mr. Speaker, last year we passed the Intelligence Reform and Terrorism Prevention Act, which included significant funding boosts for homeland security programs.

When the President signed the 9/11 bill, he made a commitment to our law enforcement personnel. He said, “We will continue to work with Congress to make sure they have got the resources necessary to do their jobs.”

However, when the President’s budget came out in January, it failed to fully fund the programs in the 9/11 Act. Frontline officers tell us that they do not have the resources they need to get the job done. The Immigration and Customs Enforcement Service has been

in a hiring freeze since late last year. The border patrol simply does not have the manpower or the support staff to be able to effectively do its job.

Simply signing a bill is not enough. You have got to do what you promised to do. What we have been asking for today, in introducing this bill, is for the President to explain why it is not necessary to fully fund the 9/11 Act to better secure our Nation.

Accountability is the key to homeland security. If the President is not going to make sure that homeland security increases are identified as being needed and are in the budget, then the American people deserve to know why.

Additionally, this motion to recommit addresses a major threat in aviation security. The Rules Committee blocked consideration of this important measure, Mr. Speaker. Every day the TSA fails to inspect the millions of tons of cargo shipped in the belly of passenger planes is yet another day American lives are put at risk.

I urge my colleagues to join me and approve this motion to recommit.

Mr. Speaker, I now yield 1½ minutes to my colleague, the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, in this recommitment motion, you will get a chance, on the majority side, to vote on whether or not you want to screen cargo that is on passenger planes.

We take off our shoes. Americans take off their shoes, families putting their children on flights to head on vacation or go to school. They all take off their shoes.

But underneath, in the cargo bay of those passenger planes, almost none of the cargo which sits right next to those bags is screened. If something is this size, 16 ounces, no paperwork. Nothing.

If it is the same size as the bag your children and you have, it does not get screened. It is going on right next to your bags. And so what our amendment says is, you got a warning. The cargo on this plane has not been screened for explosives. That is the Republican bill.

The Democratic substitute says that 100 percent of all baggage, all cargo as well, on passenger planes is screened. If you care about your families, if you care about implementing one of the key recommendations in the 9/11 report, then vote for the Democratic recommitment motion. This is the only chance you are going to have to vote on this issue. Vote “yes” on the recommitment motion.

Mr. THOMPSON of Mississippi. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, the motion to recommit would authorize full funding for all of the homeland security measures called for in the Intelligence Reform Act adopted last year: aviation security research and development, full detection systems, biological, chemical, radiation and explosive materials, passenger baggage screening equipment, air cargo security, Federal air marshals and border security measures.

It also includes a requirement that within 3 years all air cargo on passenger planes be screened.

Mr. Speaker, I ask for a “yes” vote on this motion to recommit.

Mr. Speaker, I yield back the balance of my time.

Mr. COX. Mr. Speaker, I rise in opposition to the motion to recommit.

Mr. Speaker, I want to draw our attention to what is actually in the motion to recommit. It consists of 15 sequential sections that do nothing more than authorize monies, and a final section, which my colleague from Massachusetts just spoke about, concerning air cargo which contains no reference to money, whatsoever, but which, according to the Department of Homeland Security, would effectively double the budget of the TSA.

Let me read to you the dollar amounts in each of the sections, because I want to draw Members’ attention to the fact that there are no offsets. There are no sources of funding for these provisions.

Section 601 adds \$20 million without any funding source; section 602, \$1 million; section 603, a quarter billion dollars; section 604, \$400 million dollars and so on.

I mention this because we are here on the floor for the first time considering the Department of Homeland Security authorization bill in an annual process that is beginning now, but which will go on for the indefinite future. And we are seeking to establish a precedent.

And that precedent is that just as with other national security authorize legislation that we bring to the floor, in this bill, it is real money. In this bill, we are authorizing funding within the House-passed budget and consistent with amounts that we actually intend to appropriate.

Now, we have a unique opportunity this year because the order of consideration of the appropriations bill and the authorization bill was reversed. Just yesterday on the floor of this House, Members voted on the appropriations bill so we actually know real dollar numbers that Secretary Chertoff and the Department of Homeland Security will have to work with. And virtually every Member on this floor just voted for that bill yesterday.

□ 1900

So, if we are to come to the floor today and vote for funding figures which are different from what we know will actually happen, we will be placing priorities before the Department of Homeland Security and mandates on the Department of Homeland Security that we know it cannot meet.

There are some other anomalies with the funding provisions in the motion to recommit that I am certain must be drafting mistakes.

I do not doubt for a moment the passion of the gentleman from Massachusetts when it comes to the question of screening air cargo, but I have to draw Members’ attention to the fact that

the dollar figure that is authorized for the Department of Homeland Security for air cargo in the motion to recommit is \$100 million. That would be a \$15 million cut from the actual number that we appropriated last year and a \$28 million cut from what we just voted for air cargo screening in yesterday's appropriations bill. I do not know why we would do that.

The same thing is true for air marshals. This House is very interested in putting air marshals on airplanes to protect the flying public. The motion to recommit sets the authorized funding level for air marshals at \$83 million. The appropriations bill that we just voted for yesterday would give the Department of Homeland Security \$700 million, not \$83 million for air marshals. Why would we cut air marshals, unless it is a drafting mistake in the motion to recommit?

As I said, this is an historic moment on the floor of this House, and I want to draw our attention to what we are about to do, as soon as we finish the motion to recommit. We are about to vote on what will be the first of an annual authorization for the Department of Homeland Security.

That bill is bipartisan. Both sides agree on everything that is in it. It fully funds 2,000 new Border Patrol agents. It establishes a top level new Assistant Secretary for Cyber Security within the Department of Homeland Security. It beefs up the intelligence capability at the Department of Homeland Security. It reforms the threat warning system. It establishes the Homeland Security Information Network that will link thousands of local agencies across the country in real-time to the Department. It does all of this and much more within the House-passed budget and within the confines of the appropriations bill that we just passed yesterday.

This is exactly the norm that is set for us in the authorizing legislation that comes from the Committee on Armed Services to fund the Pentagon and that comes to us from the House Permanent Select Committee on Intelligence to fund the intelligence community. Those authorization bills all live within the budget. So, too, must we in this homeland security authorization bill this year and every year hereafter.

To my colleagues on the Democratic side, I understand what they are doing in this motion, seeking to draw attention to critical issues such as cargo security and chemical plant security that are not yet the subject of authorizing language on the floor of this House. I commit to my colleagues that this bill on which we agree is a beginning and that our new committee will use its jurisdiction to develop bipartisan legislation on these subjects, just as we have on first responders, just as we did last week on the floor of this House, and just as we have on this historic \$34 billion authorization for the Department of Homeland Security.

Mr. Speaker, if I may in conclusion say that I am thoroughly impressed with the effort and the work that has been put forth on both sides of the aisle on this bill, with the performance and the leadership of the gentleman from Mississippi (Mr. THOMPSON), my colleague. May I say that there has not been 1 day since September 11 when any Member of this House has forgotten the lesson of homeland security that we learned on that day, chief among which is that we must always put the security of this country ahead of partisan politics.

The bill that we will vote on in a moment, the homeland security authorization bill, does that, and I look forward to standing shoulder-to-shoulder with the gentleman from Mississippi (Mr. THOMPSON), with all the members of the committee, and with, I believe, all the Members of this House.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

#### RECORDED VOTE

Mr. THOMPSON of Mississippi. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—ayes 199, noes 228, not voting 6, as follows:

[Roll No. 188]

AYES—199

Abercrombie	Cramer	Hinchey	McDermott	Peterson (MN)	Solis
Ackerman	Crowley	Hinojosa	McGovern	Spratt	
Allen	Cuellar	Holden	McIntyre	Stark	
Andrews	Cummings	Holt	McKinney	Strickland	
Baca	Davis (AL)	Honda	McNulty	Stupak	
Baldwin	Davis (CA)	Hooley	Meek (FL)	Tanner	
Barrow	Davis (FL)	Hoyer	Meeks (NY)	Tauscher	
Bean	Davis (IL)	Inslee	Melancon	Taylor (MS)	
Becerra	Davis (TN)	Israel	Menendez	Thompson (CA)	
Berkley	DeFazio	Jackson (IL)	Michaud	Thompson (MS)	
Berman	DeGette	Jackson-Lee	Miller (NC)	Tierney	
Berry	Delahunt	(TX)	Miller, George	Towns	
Bishop (GA)	DeLauro	Jefferson	Mollohan	Udall (CO)	
Bishop (NY)	Dicks	Johnson, E. B.	Moore (KS)	Udall (NM)	
Blumenauer	Dingell	Jones (OH)	Moore (WI)	Van Hollen	
Boren	Doggett	Kanjorski	Moran (VA)	Velázquez	
Boswell	Doyle	Kaptur	Murtha	Viscosky	
Boucher	Edwards	Kennedy (RI)	Nadler	Wasserman	
Boyd	Emanuel	Kildee	Napolitano	Schultz	
Brady (PA)	Engel	Kilpatrick (MI)	Neal (MA)	Schwartz (PA)	
Brown (OH)	Eshoo	Kind	Oberstar	Scott (GA)	
Brown, Corrine	Etheridge	Kucinich	Obey	Scott (VA)	
Butterfield	Evans	Langevin	Olver	Serrano	
Capps	Farr	Lantos	Ortiz	Shays	
Capuano	Fattah	Larsen (WA)	Owens	Sherman	
Cardin	Filner	Lee	Pallone	Skelton	
Cardoza	Ford	Levin	Pascarella	Slaughter	
Carnahan	Frank (MA)	Lipinski	Payne	Smith (WA)	
Carson	Gonzalez	Lofgren, Zoe	Pelosi	Snyder	
Case	Gordon	Lowey			
Chandler	Green, Al	Lynch			
Clay	Green, Gene	Maloney			
Cleaver	Grijalva	Markey			
Clyburn	Gutierrez	Marshall			
Conyers	Harman	Matheson			
Cooper	Hastings (FL)	Matsui			
Costa	Herseth	McCarthy			
Costello	Higgins	McCollum (MN)			

Peterson (MN)	Solis
McGovern	Spratt
McIntyre	Stark
McKinney	Strickland
McNulty	Stupak
Meehan	Tanner
Meek (FL)	Tauscher
Meeks (NY)	Taylor (MS)
Melancon	Thompson (CA)
Menendez	Thompson (MS)
Michaud	Tierney
Miller (NC)	Towns
Miller, George	Udall (CO)
Mollohan	Udall (NM)
Moore (KS)	Van Hollen
Moore (WI)	Velázquez
Moran (VA)	Viscosky
Murtha	Wasserman
Nadler	Schultz
Napolitano	Schwartz (PA)
Neal (MA)	Waters
Oberstar	Watson
Obey	Watt
Olver	Waxman
Ortiz	Weiner
Owens	Wexler
Pallone	Woolsey
Pascarella	Wu
Payne	Wynn
Pelosi	

#### NOES—228

Aderholt	Foley	Manzullo
Akin	Forbes	Marchant
Alexander	Fortenberry	McCaull (TX)
Bachus	Fossella	McCotter
Baird	Foxx	McCreary
Baker	Franks (AZ)	McHenry
Barrett (SC)	Frelinghuysen	McHugh
Bartlett (MD)	Garrett (NJ)	McKeon
Barton (TX)	Gerlach	McMorris
Bass	Gibbons	Mica
Beauprez	Gilchrest	Miller (FL)
Biggert	Gillmor	Miller (MI)
Bilirakis	Gingrey	Miller, Gary
Bishop (UT)	Gohmert	Moran (KS)
Blackburn	Goode	Murphy
Blunt	Goodlatte	Musgrave
Boehlert	Granger	Myrick
Boehner	Graves	Neugebauer
Bonilla	Green (WI)	Ney
Bonner	Gutknecht	Northup
Bono	Hall	Nunes
Boozman	Harris	Nussle
Boustany	Hart	Osborne
Bradley (NH)	Hastings (WA)	Otter
Brady (TX)	Hayes	Oxley
Brown (SC)	Brown-Waite,	Pastor
Brown-Waite,	Ginny	Paul
Brown, Corrine	Burgess	Pearce
Brown, Corrine	Burton (IN)	Pence
Brown, Corrine	Buyer	Peterson (PA)
Brown, Corrine	Calvert	Petri
Brown, Corrine	Camp	Pickering
Brown, Corrine	Cannon	Pitts
Brown, Corrine	Cantor	Platts
Brown, Corrine	Capito	Poe
Brown, Corrine	Carter	Pombo
Brown, Corrine	Castle	Porter
Brown, Corrine	Chabot	Price (GA)
Brown, Corrine	Chocola	Pryce (OH)
Brown, Corrine	Coble	Putnam
Brown, Corrine	Cole (OK)	Radanovich
Brown, Corrine	Conaway	Ramstad
Brown, Corrine	Cox	Regula
Brown, Corrine	Crenshaw	Rehberg
Brown, Corrine	Cubin	Keller
Brown, Corrine	Culberson	Reichert
Brown, Corrine	Cunningham	Renzi
Brown, Corrine	Davis (KY)	Reynolds
Brown, Corrine	Davis, Jo Ann	Rogers (AL)
Brown, Corrine	Davis, Tom	Rogers (KY)
Brown, Corrine	DeLay	Rohrabacher
Brown, Corrine	Dent	Ros-Lehtinen
Brown, Corrine	Diaz-Balart, L.	Royce
Brown, Corrine	Diaz-Balart, M.	Ryan (WI)
Brown, Corrine	Doolittle	Ryun (KS)
Brown, Corrine	Drake	Saxton
Brown, Corrine	Dreier	Schwarz (MI)
Brown, Corrine	Drummond	Sensenbrenner
Brown, Corrine	Ehlers	Sessions
Brown, Corrine	Emerson	Shadegg
Brown, Corrine	English (PA)	Shaw
Brown, Corrine	Everett	Sherwood
Brown, Corrine	Ferguson	Shimkus
Brown, Corrine	Fitzpatrick (PA)	Shuster
Brown, Corrine	Flake	Simmons
Brown, Corrine		Simpson

Smith (NJ)	Thornberry	Weller	Frank (MA)	Lofgren, Zoe	Rohrabacher	NOES—4
Smith (TX)	Tiahrt	Westmoreland	Franks (AZ)	Lowey	Ros-Lehtinen	
Sodrel	Tiberi	Whitfield	Frelinghuysen	Lungren, Daniel	Ross	Gutierrez
Souder	Turner	Wicker	Gallegly	E.	Rothman	Obey
Stearns	Upton	Wilson (NM)	Garrett (NJ)	Lynch	Royal-Allard	Markley
Sullivan	Walden (OR)	Wilson (SC)	Gerlach	Mack	Royce	Paul
Sweeney	Walsh	Wolf	Gibbons	Maloney	Ruppersberger	NOT VOTING—5
Taylor (NC)	Wamp	Young (AK)	Gilchrest	Manzullo	Rush	Larson (CT)
Terry	Weldon (FL)	Young (FL)	Gillmor	Marchant	Ryan (OH)	Lucas
Thomas	Weldon (PA)		Gingrey	Marshall	Ryan (WI)	Millender-Lewis (GA)
NOT VOTING—6						
Feeney	Lucas	Tancredo	Gonzalez	Matsui	Sabo	Lewis (GA)
Larson (CT)	Millender-Lewis		Goode	McCarthy	Salazar	McDonald
Lewis (GA)	McDonald		Goodlatte	McCaull (TX)	Sánchez, Linda	Tancredo
ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE						
The SPEAKER pro tempore (Mr. HASTINGS of Washington) (during the vote). There are 2 minutes remaining in this vote.						
□ 1920						
So the motion to recommit was rejected.						
The result of the vote was announced as above recorded.						
The SPEAKER pro tempore. The question is on the passage of the bill.						
The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.						
RECORDED VOTE						
Mr. COX. Mr. Speaker, I demand a recorded vote.						
A recorded vote was ordered.						
The SPEAKER pro tempore. This is a 5-minute vote.						
The vote was taken by electronic device, and there were—ayes 424, noes 4, not voting 5, as follows:						
[Roll No. 189]						
AYES—424						
Abercrombie	Brown (SC)	Davis (FL)	Istook	Northup	Tanner	
Ackerman	Brown, Corrine	Davis (IL)	Jackson (IL)	Norwood	Tauscher	
Aderholt	Brown-Waite,	Davis (KY)	Jackson-Lee	Nunes	Taylor (MS)	
Akin	Ginny	Davis (TN)	(TX)	Nussle	Taylor (NC)	
Alexander	Burgess	Davis, Jo Ann	Jefferson	Oberstar	Terry	
Allen	Burton (IN)	Davis, Tom	Jenkins	Olver	Thomas	
Andrews	Butterfield	Deal (GA)	Jindal	Ortiz	Thompson (CA)	
Baca	Buyer	Defazio	Johnson (CT)	Osborne	Thompson (MS)	
Bachus	Calvert	DeGette	Johnson (IL)	Moran (KS)	Trotter	
Baird	Camp	Delahunt	Johnson, E. B.	Hooley	Smith (NJ)	
Baker	Cannon	DeLauro	Johnson, Sam	Moran (VA)	Smith (TX)	
Baldwin	Cantor	DeLay	Jones (NC)	Hersh	Smith (WA)	
Barrett (SC)	Capito	Dent	Jones (OH)	Hooley	Snyder	
Barrow	Capps	Diaz-Balart, L.	Kanjorski	Istook	Sodrel	
Bartlett (MD)	Capuano	Diaz-Balart, M.	Kaptur	Jackson	Solis	
Barton (TX)	Cardin	Dicks	Keller	Jackson-Lee	Shuster	
Bass	Cardoza	Dingell	Johnson, E. B.	Jones	Simmons	
Bean	Carnahan	DeLauro	Johnson, Sam	Kanjorski	Simpson	
Beauprez	Carson	Doolittle	Jones (NC)	Kaptur	Skelton	
Becerra	Carter	Dent	Jones (OH)	Jones	Miller, Gary	
Berkley	Case	Diaz-Balart, L.	Kanjorski	Kaptur	Miller, George	
Berman	Castle	Dicks	Keller	Jones	Moran (VA)	
Berry	Chabot	Dingell	Johnson, E. B.	Kanjorski	Murphy	
Biggert	Chandler	DeLauro	Jones (NC)	Kaptur	Murtha	
Bilirakis	Chocola	Doolittle	Jones (OH)	Jones	Hulshof	
Bishop (GA)	Clay	Dent	Kanjorski	Kaptur	Musgrave	
Bishop (NY)	Cleaver	Diaz-Balart, M.	Kanjorski	Jones	Hunter	
Bishop (UT)	Clyburn	Dicks	Kaptur	Jones	Myrick	
Blackburn	Coble	Dingell	Jones (NC)	Jones	Hyde	
Blumenauer	Cole (OK)	DeLauro	Jones (OH)	Kanjorski	Nadler	
Blunt	Conaway	Doolittle	Kanjorski	Jones	Napolitano	
Boehlert	Conyers	Dent	Kanjorski	Kaptur	Murphy	
Boehner	Cooper	Diaz-Balart, L.	Kanjorski	Jones	Nussle	
Bonilla	Costa	Dicks	Kanjorski	Kaptur	Oberstar	
Bonner	Costello	Dingell	Kanjorski	Jones	Olver	
Bono	Cox	DeLauro	Kanjorski	Kaptur	Ortiz	
Boozman	Cramer	Doolittle	Kanjorski	Jones	Perez	
Boren	Crenshaw	Dent	Kanjorski	Kaptur	Perez	
Boswell	Crowley	Diaz-Balart, M.	Kanjorski	Jones	Perez	
Boucher	Cubin	Dicks	Kanjorski	Kaptur	Perez	
Boustany	Cuellar	Dingell	Kanjorski	Jones	Perez	
Boyd	Culberson	DeLauro	Kanjorski	Kaptur	Perez	
Bradley (NH)	Cummings	Doolittle	Kanjorski	Jones	Perez	
Brady (PA)	Cunningham	Dent	Kanjorski	Kaptur	Perez	
Brady (TX)	Davis (AL)	Diaz-Balart, L.	Kanjorski	Jones	Perez	
Brown (OH)	Davis (CA)	Dicks	Kanjorski	Kaptur	Perez	
	Foxx	Dingell	Kanjorski	Jones	Perez	
		DeLauro	Kanjorski	Kaptur	Perez	
		Doolittle	Kanjorski	Jones	Perez	
		Dent	Kanjorski	Kaptur	Perez	
		Diaz-Balart, L.	Kanjorski	Jones	Perez	
		Dicks	Kanjorski	Kaptur	Perez	
		Dingell	Kanjorski	Jones	Perez	
		DeLauro	Kanjorski	Kaptur	Perez	
		Doolittle	Kanjorski	Jones	Perez	
		Dent	Kanjorski	Kaptur	Perez	
		Diaz-Balart, L.	Kanjorski	Jones	Perez	
		Dicks	Kanjorski	Kaptur	Perez	
		Dingell	Kanjorski	Jones	Perez	
		DeLauro	Kanjorski	Kaptur	Perez	
		Doolittle	Kanjorski	Jones	Perez	
		Dent	Kanjorski	Kaptur	Perez	
		Diaz-Balart, L.	Kanjorski	Jones	Perez	
		Dicks	Kanjorski	Kaptur	Perez	
		Dingell	Kanjorski	Jones	Perez	
		DeLauro	Kanjorski	Kaptur	Perez	
		Doolittle	Kanjorski	Jones	Perez	
		Dent	Kanjorski	Kaptur	Perez	
		Diaz-Balart, L.	Kanjorski	Jones	Perez	
		Dicks	Kanjorski	Kaptur	Perez	
		Dingell	Kanjorski	Jones	Perez	
		DeLauro	Kanjorski	Kaptur	Perez	
		Doolittle	Kanjorski	Jones	Perez	
		Dent	Kanjorski	Kaptur	Perez	
		Diaz-Balart, L.	Kanjorski	Jones	Perez	
		Dicks	Kanjorski	Kaptur	Perez	
		Dingell	Kanjorski	Jones	Perez	
		DeLauro	Kanjorski	Kaptur	Perez	
		Doolittle	Kanjorski	Jones	Perez	
		Dent	Kanjorski	Kaptur	Perez	
		Diaz-Balart, L.	Kanjorski	Jones	Perez	
		Dicks	Kanjorski	Kaptur	Perez	
		Dingell	Kanjorski	Jones	Perez	
		DeLauro	Kanjorski	Kaptur	Perez	
		Doolittle	Kanjorski	Jones	Perez	
		Dent	Kanjorski	Kaptur	Perez	
		Diaz-Balart, L.	Kanjorski	Jones	Perez	
		Dicks	Kanjorski	Kaptur	Perez	
		Dingell	Kanjorski	Jones	Perez	
		DeLauro	Kanjorski	Kaptur	Perez	
		Doolittle	Kanjorski	Jones	Perez	
		Dent	Kanjorski	Kaptur	Perez	
		Diaz-Balart, L.	Kanjorski	Jones	Perez	
		Dicks	Kanjorski	Kaptur	Perez	
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