

years to come. He or she will impact the lives of millions of Americans.

As Senators, we should ask ourselves, What kind of Justice does America expect on the Supreme Court? I am confident President Bush will choose a qualified nominee who will make America proud, someone of demonstrated character and integrity, someone who is fair, intelligent, open-minded, and impartial; he or she will listen to the merits of every case and make a determination based on the facts, the law, and the Constitution, not driven to prejudge cases, predetermine outcomes, or advance a personal political agenda; the nominee will treat litigants and their attorneys fairly and with dignity and respect; and above all, this person will uphold the Constitution and be fully committed to equal justice under the law.

I am confident of all these things because every day I have seen the care, seriousness, and the thoughtfulness President Bush brings to this task.

In addition to considering the type of nominee America expects, I also encourage my colleagues to ask themselves, What kind of Supreme Court nomination process does America expect from the Senate? The American people, through their votes, have put their trust in us. They have entrusted us to govern as their elected representatives. History will reflect on the Senate's deliberations, how Senators conduct themselves, how we treat a nominee, and how we reach a decision.

We owe it to the American people to conduct a fair process that treats nominees with dignity and respect. It should include a fair hearing, a floor debate in which all views are heard, and then an up-or-down vote on the confirmation. This process should not become a trial. It is a process by which we examine the character and credentials of someone willing to volunteer to serve America on its highest court.

In the past, the judicial nominations process has been marked by obstruction, many times partisan obstruction, and attacks on the character and integrity of nominees. I hope we have put this painful and humiliating process behind us. Given the monumental role this nominee will play sitting on America's highest court, we need the best of the best legal minds. This requires a process that will not deter the best of the best from serving. The fair and dignified nomination process requires civility, requires common sense and some self-restraint.

As we consider the nominee who will soon come before the Senate, I encourage my colleagues to focus on questions that are relevant to the nominee's qualifications and experience, questions such as: Will the nominee be fair, independent, and unbiased? Will the nominee consider each case before the Court with an open mind, examining the facts, the law, and the Constitution very carefully? Will the nominee place the Constitution and the law above personal political ideology?

Will the nominee approach his or her role as a Justice as an interpreter of the law and the Constitution and not as a lawmaker who will legislate from the bench? Is the nominee qualified to serve on our highest court? Does he or she have the necessary experience to serve as a Supreme Court Justice?

These are the questions nominees should be asked to answer honestly and thoroughly. They should not be asked to prejudge cases or to speculate on how they would rule or not rule on a hypothetical scenario that may or may not come before the Court.

I look forward to working with our colleagues on both sides of the aisle in the coming weeks. We should work together to conduct the kind of confirmation process America expects from its elected representatives, a fair and thorough confirmation process that treats nominees with dignity and respect and confirms a new Justice before the Supreme Court starts its new term on October 3. I am confident the President will nominate someone who will make America proud, someone who will be worthy of this seat he or she will fill. This is what the American people expect, what our justice system needs, and what our Nation and the nominee deserves.

I yield the floor.

#### RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Democratic leader is recognized.

#### SUPREME COURT NOMINATION PROCESS

Mr. REID. Mr. President, regarding the statement of my distinguished friend, my counterpart, the Republican leader, 90 percent of what he said is right on target. It is absolutely true that we need a process. That is why Senators HATCH and SPECTER have been working on this for several weeks prior to the resignation of Sandra Day O'Connor. The process is moving along very well.

I acknowledge that the meetings I have had with the President on this matter have been very productive. They have been good and are pointed in the right direction.

However, on a couple of things I disagree with my distinguished friend, the senior Senator from Tennessee; that is, we need to be very careful and put these problems we have had behind us, dealing with the so-called nuclear option. It is easy to throw words around like "obstructionism," but the fact is the vast majority of the President's nominees were approved easily. I don't know the exact numbers, but I believe 210 out of 219 were approved, and a number of them withdrew. The battles over 5 turned out to be 5 out of 219. We do not need words like that. We need to look at this in a positive sense.

There are times, as has been indicated in the recent debate that oc-

curred in the Senate, where certain nominees have to be viewed very cautiously and carefully. For example, the person the President has chosen to go to the United Nations has caused close scrutiny of this individual.

The other two people the President sent to the United Nations as our Ambassador are people who the minority proudly voted for. Ambassador Negroponte went through here very quickly. And then, of course, Jack Danforth, the former Senator from Missouri, whipped through here and was our United Nations Ambassador. John Bolton is a different story. We had to take a look at him. That is not obstructionism. We asked for certain information. It was not forthcoming.

So as I said, I agree with my friend from Tennessee that this is a process that needs to have the view of the American public, and they need to be proud of the work we do. I think we are headed in the right direction. I am cautiously optimistic we can move through this. I have given President Bush the benefit of every doubt that he is doing this with his heart in the right place. I have told him personally and in writing how much I appreciate his reaching out to me. And I continually will be optimistic until there is no need to do so.

It would be so good for the country if they could see the Senate at its best, moving a nomination that is a consensus candidate; that is, someone Democrats and Republicans both support to this very high, honorable position, a member of the U.S. Supreme Court.

I look forward to my continued consultation with the administration. I had a conversation yesterday with one of the President's representatives, his legal counsel. I am going to continue to do whatever I can to make this process move as quickly as possible, and not only as quickly as possible but as dignified as possible. And having done this, it would be a strong message for us to send to the people of America.

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

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

The legislative clerk proceeded to call the roll.

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

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

#### RESERVATION OF LEADER TIME

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

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

The ACTING PRESIDENT pro tempore. Under the previous order, the

Senate will resume consideration of H.R. 2360, which the clerk will report.

The legislative clerk read as follows:

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

Pending:

Byrd amendment No. 1200, to provide funds for certain programs authorized by the Federal Fire Prevention and Control Act of 1974.

Akaka amendment No. 1112, to increase funding for State and local grant programs.

Akaka amendment No. 1113, to increase funding for State and local grant programs and firefighter assistance grants.

Dorgan amendment No. 1111, to prohibit the use of funds appropriated under this Act to promulgate the regulations to implement the plan developed pursuant to section 7209(b) of the Intelligence Reform Act of 2004.

Durbin (for Boxer) amendment No. 1216, to provide for the strengthening of security at nuclear power plants.

Durbin (for Stabenow) amendment No. 1217, to provide funding for interoperable communications equipment grants.

Mr. GREGG. Mr. President, what is the regular order under the bill? What is the pending amendment?

The ACTING PRESIDENT pro tempore. The pending amendment is amendment No. 1217 offered on behalf of Senator STABENOW.

Mr. GREGG. Thank you. Today, Mr. President, we are going to try to continue to move forward on the Homeland Security appropriations bill. I hope Members, if they have amendments, will bring them to the floor so we can expedite this bill. I understand there are a number of Members who do intend to come to the floor, and we will look forward to entertaining their ideas.

AMENDMENT NO. 1124

Initially, Mr. President, let me send to the desk an amendment on behalf of Senator ENSIGN. I ask unanimous consent that the pending amendment be set aside.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. GREGG. I ask that the amendment be reported.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado [Mr. SALAZAR] proposes amendments numbered 1207, 1209, and 1210, en bloc.

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

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

Mr. GREGG. Mr. President, I have sent the amendment to the desk on behalf of Senator ENSIGN. I do not necessarily support this amendment as the chairman of the subcommittee, but as a courtesy to the Senator, I wanted to send it up to get him in the queue. We look forward to having other Senators bring amendments forward, and we will try to assist them in getting time and votes.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. VITTER). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. SALAZAR. Mr. President, I ask unanimous consent that the pending amendment be set aside.

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

AMENDMENTS NOS. 1207, 1209, AND 1210, EN BLOC

Mr. SALAZAR. Mr. President, I send to the desk three amendments en bloc, Nos. 1207, 1209, and 1210.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. SALAZAR] proposes amendments numbered 1207, 1209, and 1210, en bloc.

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

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

The amendments are as follows:

AMENDMENT NO. 1207

**Purpose:** To provide for a report on the effectiveness of programs concerning State and local government emergency officials, and for other purposes

At the appropriate place, insert the following:

SEC. \_\_\_\_\_. (a) Not later than September 30, 2006, the Secretary of Homeland Security shall submit a report to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Homeland Security of the House of Representatives that includes—

(1) the results of the survey under subsection (c); and

(2) a plan to implement changes to address problems identified in the survey.

(b) Not later than June 30, 2006, the Secretary of Homeland Security shall submit an interim report to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Homeland Security of the House of Representatives on the specific design of the survey under subsection (c).

(c) In preparing the report under subsection (a), the Secretary of Homeland Security shall conduct a survey of State and local government emergency officials that—

(1) involve enough respondents to get an adequate, representative response from po-

lice, fire, medical, and emergency planners on the regional, State, county, and municipal levels, and other State and local homeland security officials as determined by the Secretary; and

(2) identifies problems relating to the effectiveness and user-friendliness of programs in which the Department of Homeland Security interacts with State and local officials, including grant management, intelligence sharing, training, incident management, regional coordination, critical infrastructure prioritization, and long-term homeland security planning.

AMENDMENT NO. 1209

**Purpose:** To require a quadrennial review by the Department of Homeland Security

On page 100, between lines 11 and 12, insert the following:

**SEC. 519. QUADRENNIAL HOMELAND DEFENSE REVIEW.**

(a) IN GENERAL.—

(1) **FREQUENCY AND SCOPE.**—Beginning in fiscal year 2008, and every 4 years thereafter, the Secretary of Homeland Security shall conduct every 4 years, during a year following a year evenly divisible by 4, a comprehensive examination of the national homeland defense strategy, inter-agency cooperation, preparedness of Federal response assets, infrastructure, budget plan, and other elements of the homeland defense program and policies of the United States with a view toward determining and expressing the homeland defense strategy of the United States and establishing a homeland defense program for the next 20 years. Each review under this paragraph shall be known as the “quadrennial homeland defense review”.

(2) **CONSULTATION.**—Each quadrennial homeland defense review under paragraph (1) shall be conducted in consultation with the Attorney General of the United States and the Secretaries of State, Defense, Health and Human Services, and the Treasury.

(b) **CONTENTS OF REVIEW.**—Each quadrennial homeland defense review shall—

(1) delineate a national homeland defense strategy consistent with the most recent National Response Plan prepared under Homeland Security Presidential Directive 5 or any directive meant to replace or augment that directive;

(2) describe the inter-agency cooperation, preparedness of Federal response assets, infrastructure, budget plan, and other elements of the homeland defense program and policies of the United States associated with that national homeland defense strategy required to execute successfully the full range of missions called for in the national homeland defense strategy delineated under paragraph (1); and

(3) identify—

(A) the budget plan required to provide sufficient resources to successfully execute the full range of missions called for in that national homeland defense strategy at a low-to-moderate level of risk, and

(B) any additional resources required to achieve such a level of risk.

(c) **LEVEL OF RISK.**—The assessment of the level of risk for purposes of subsection (b)(3) shall be conducted by the Director of National Intelligence.

(d) **REPORTING.**—

(1) **IN GENERAL.**—The Secretary of Homeland Security shall submit a report regarding each quadrennial homeland defense review to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives. The report shall be submitted not later than September 30 of the year in which the review is conducted.

(2) **CONTENTS OF REPORT.**—The report submitted under paragraph (1) shall include—

On page 77, line 20, insert “of which \$367,552,000 shall be transferred to Customs and Border Protection for hiring an additional 1,000 border agents and for other necessary support activities for such agency; and” after “local grants.”

(A) the results of the quadrennial homeland defense review;

(B) the threats to the assumed or defined national homeland security interests of the United States that were examined for the purposes of the review and the scenarios developed in the examination of those threats;

(C) the status of cooperation among Federal agencies in the effort to promote national homeland security;

(D) the status of cooperation between the Federal Government and State governments in preparing for emergency response to threats to national homeland security, and

(E) any other matter the Secretary of Homeland Security considers appropriate.

AMENDMENT NO. 1210

(Purpose: To express the sense of the Senate regarding rail tunnel security research)

On page 100, between lines 11 and 12, insert the following:

**SEC. 519. RAIL TUNNEL SECURITY RESEARCH.**

(a) FINDINGS.—The Senate finds that—

(1) railroad tunnels, and underground stations have been identified as particularly high risk terrorist targets because of the potential for large passenger volumes, confined spaces, relatively unrestricted access, and the potential for network disruptions and significant economic, political and social impact;

(2) many rail tunnels have safety problems including structural deficiencies, ventilation problems, lack of communications equipment and insufficient emergency access and exits;

(3) there are more than 898 miles of rail tunnels in transit systems across the country;

(4)(A) security experts have identified a number of technology and training needs to prevent attacks on tunnels and to mitigate and remediate the impact of such attacks;

(B) technological needs include detection systems, dispersal control, and decontamination techniques; and

(C) training for emergency response to a variety of scenarios is also needed; and

(5) the Department of Transportation's Transportation Technology Center in Pueblo, Colorado—

(A) is one of the Nation's largest and most advanced rail safety research centers in the Nation; and

(B) offers full-scale testing, dynamic modeling, performance monitoring, technical analyses, feasibility and economic studies as well as training classes to prepare first responders and test new safety technologies.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Department of Homeland Security is urged to invest in research to promote tunnel rail safety as well as training to ensure first responders are prepared to respond to rail tunnel emergencies; and

(2) employing existing Federal facilities in this effort can result in efficiencies and permit this important research to proceed at decreased cost to the taxpayer and with minimal interference with ongoing passenger and freight rail traffic.

Mr. SALAZAR. Mr. President, I rise today to address an issue that is perhaps the most important challenge of our National Government, and that is protecting the security of our people in this Nation, securing our borders, and making sure we have a homeland security that addresses the concerns of the post-9/11 world in which we live.

For 6 years, I had the honor of serving with 14,000 men and women who are peace officers in the State of Colorado. I worked with them to ensure that we

had public safety on our streets and to help in the development of the best strategies we could develop in creating a homeland security that addressed the war on terror and the threats from terrorism within the State of Colorado.

The legislation we are currently considering is legislation that is specifically intended to address that issue on a national level. While there can be no doubt we have spent billions of dollars on the issue of homeland security since 9/11, the recent events in London remind us all that we can never be too far from having this issue at the forefront of our radar screens.

It is with that approach that I would like to speak about these amendments, as well as the amendment I cosponsored with Senators LIEBERMAN and COLLINS yesterday.

I commend Senator COLLINS and Senator LIEBERMAN on their efforts to dramatically improve our Nation's homeland security grant process. I also would like to discuss my three simple and straightforward amendments to the Homeland Security appropriations bill.

Before I arrived in the Senate, I was Colorado's attorney general. I worked hard to establish greater coordination between law enforcement agencies at the local, regional, and State level. This is a complicated task because often what happens with law enforcement agencies is they work within the stovepipes of their own jurisdictions. So bringing law enforcement agencies together to make sure they are coordinating and providing the greatest degree of public safety has been one of the monumental challenges of the last several years.

Unfortunately, at a national level, there is often very little consultation with local officials. Too often, lawmakers in Washington develop Federal policy without taking advantage of the expertise of the people who are on the ground. Too many local emergency officials in my State feel that the Department of Homeland Security policies are dictated to them from above.

One of the first things I did when I came to Washington was to survey Colorado's emergency response officials to ask them what they thought about a variety of issues. Those responses were alarming. Those chiefs of police and sheriffs told me that 66 percent of Colorado's first responders faced significant problems using radio equipment to communicate with other agencies. Fifty-nine percent said that Federal grants are not going to the right priorities. Fifty-nine percent said that the Federal grants were not going to the right priorities. And by a 4-to-1 margin, Colorado officials feel unprepared to handle a weapon of mass destruction. That is 4 to 1 of people on the ground in my State feel they are unprepared to handle a weapon-of-mass-destruction attack within my State.

By a 3-to-1 margin, responders feel that antiterrorism information they

receive from the Federal Government is insufficient or not actionable. That is a 3-to-1 margin. So my survey at the bottom line says that we must do better in preparing our homeland to be more secure.

Senator COLLINS and Senator LIEBERMAN have sponsored, and we in this Senate last night adopted, a thoughtful and comprehensive piece of legislation that will make Americans safer. It will significantly increase the amount of Federal money targeted to high-risk States and cities while assuring that first responders in all States receive the necessary equipment and training to prevent and to be prepared for potential terrorist acts. That is an important balance.

We obviously have to focus money where there has historically been a greater threat. New York and Washington in the past have been targets, and there are other areas of the Nation that have been impacted. Likewise, in California, an attack on the ports of Los Angeles could cost the Nation's economy billions of dollars. We clearly need to step up security efforts in America's largest cities and in the port cities of our Nation.

However, in the past, we also have seen that the terrorists are constantly looking for targets of opportunity no matter where they lie. Whether it was the bombing of the USS *Cole* in Yemen or the Oklahoma City bombing or the hostage takeover in the Russian schoolhouse in Beslan or the bombing of hotels in Bali, the terrorists struck, and they will strike where they can. We cannot, therefore, make any assumptions about where the enemy will strike. If we can make New York a fortress, the terrorists may hit Philadelphia or Seattle or Denver or any of the rural communities which span the countryside of America. Our national security is only as strong as our weakest link.

This amendment, which I was proud to cosponsor, succeeds in maintaining that critical balance between assuring that our Nation's top cities are protected and that the entire Nation has the resources and infrastructure to keep us safe.

The amendment also takes huge steps toward reducing waste in Federal homeland security spending and giving State and local officials guidance and resources needed to improve long-term planning and grant administration. Its focus on essential capabilities and coordination of homeland security grants across the Federal agencies will help make sure we get the most bang for our homeland security bucks.

I was proud to work with Senator COLLINS and Senator LIEBERMAN to improve their already good amendment. My proposals included in this amendment would ensure that State and local officials have a seat at the table when Federal officials review the Homeland Security Grant Program. We task the Department of Homeland Security to

make grant applications as user-friendly as possible, especially for the smaller police and fire departments of our Nation. My changes would also stiffen requirements on States that they do proper long-term planning and administration.

Together these changes will make it much easier for State and local officials to work with the Department of Homeland Security. They should ease the burdens on local first responders and help make America safer.

My amendments to the underlying appropriations bill build on the spirit of Collins-Lieberman and on the knowledge I have gained from Colorado's first responders.

My first amendment would improve the Department of Homeland Security's long-term planning. Every 4 years, the Department of Defense conducts a Quadrennial Defense Review. This invaluable document paints a detailed picture of the threats our country faces and a comprehensive plan for how to confront those threats in the future. My amendment would simply require the Department of Homeland Security to do the same.

The Homeland Security Secretary would work with the Director of National Intelligence to identify the greatest threats to our homeland security. The Secretary also would consult with the Department of Defense and other Federal agencies on how best to work together.

This is not just another reporting requirement. It is a move toward rational, strategic, long-term planning that will empower the Department of Homeland Security and Congress to make better decisions to protect the American people.

My second amendment would build on the knowledge I gained from the recent survey in Colorado. It would require the Department of Homeland Security to conduct a nationwide survey of police, fire, medical, and emergency management officials about the problems they are experiencing with Federal grants, intelligence sharing, infrastructure protection, and regional coordination. The Department of Homeland Security would have to report the results to Congress and come up with a plan on how to address the problems the locals have identified. This survey would help ensure that our significant investments in homeland security are going to the right priorities and that local officials are getting better direction to guide their efforts.

This sounds like a simple task, and it is, but I promise you that when we get this survey back, we will all learn something new that will help us improve America's security.

My last amendment is a sense of the Senate in support of research on tunnel rail safety. We have known for some time that subway and rail tunnels are particularly tempting terrorist targets. For the cost of a subway fare, a would-be bomber has access to thousands of people crammed into a very small

space. A relatively small amount of explosives can cause many deaths and bring an entire city to a halt, as we have recently seen in London. That carnage in London last week showed that a handful of terrorists can strike subway tunnels and cause grave havoc for a city. Our prayers go out to the more than 50 people who perished during that cowardly attack. America has known the terrible pain of terrorism, and last week, Americans were all Londoners.

In America, there are more than 898 miles of rail tunnels and transit systems across the country. Many of our rail tunnels have structural deficiencies, ventilation problems, lack of communications equipment, and insufficient emergency access and exits. Detection systems, dispersal control, and decontamination techniques can greatly mitigate the effects of an attack, as can adequate training for emergency responders.

The Department of Transportation has long recognized the need to improve rail safety and has invested millions of dollars in researching new technologies and training first responders. The Department of Transportation's Transportation Technology Center in Pueblo, CO, is one of the largest and most advanced safety centers in the world. The Transportation Technology Center offers full-scale testing, dynamic modeling, performance monitoring, technical analyses, feasibility and economic studies, as well as training classes to prepare first responders and test new safety technologies. The center features 48 miles of test track and a variety of freight, passenger, and hazardous material cars, as well as other test vehicles. What the center does not yet have is the capability to simulate rail tunnel accidents. That is why the Transportation Technology Center's backers are now hoping to build a facility for underground rail security testing. This proposed complex of 1.5 miles of above-ground tunnels would simulate every major rail tunnel system in the country.

My amendment would not single out this or any particular facility. It simply encourages investment in research to promote tunnel rail safety as well as training to ensure first responders are prepared to respond to rail tunnel emergencies. It would put the Senate on record for taking a small step forward in protecting the millions of Americans who depend on subways and passenger trains all across the country.

I urge my colleagues to support these three amendments, and I urge my colleagues to move forward in working on what is our most important agenda, and that is making sure we are doing everything we can to protect America's homeland from the kinds of attacks we saw on 9/11 or the attacks we saw last week in London.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Ms. STABENOW. Mr. President, first, I congratulate my friend and colleague from Colorado for his excellent statement and his leadership on this issue and so many other issues. Since coming to the Senate 6 months ago, the Senator from Colorado has demonstrated his compassion, intelligence, and ability to speak to the issues that people in this country desperately care about and desperately need. I congratulate him, once again, on having amendments that are very important for the families of our country.

AMENDMENT NO. 1217

Ms. STABENOW. Mr. President, I ask unanimous consent that the pending amendments be set aside and call up my amendment No. 1217.

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

Ms. STABENOW. Mr. President, I ask further unanimous consent that Senators LEVIN, CORZINE, AKAKA, DODD, and LAUTENBERG be added as cosponsors.

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

Ms. STABENOW. Mr. President, one of the most important appropriations bills is before us now, and that is our Homeland Security bill. Certainly we are reminded again, because of what happened in London last week, that we on our soil are vulnerable and are looking to stop terrorists overseas.

Our goal, certainly the goal of our caucus, our goal as Democrats, has been to make sure Americans are prepared and protected both at home and abroad. That is what this bill is really all about. It is not a partisan issue. This is an American issue. All of us I know care about this issue, and we need to make sure this budget reflects the goals of making sure that our first responders are prepared, that all Americans are prepared, and that we are protected from terrorism in America. My amendment addresses a very important piece of that. We have come together in a bipartisan way to make sure that soldiers in America and Afghanistan have the most sophisticated technology so that they can be prepared to protect themselves and fight successfully abroad. Unfortunately, the same is not true at home for our police officers, our firefighters, and our emergency responders. Too many of them rely on outdated technology and equipment that is not integrated with our State departments, our transportation departments and our homeland security departments.

Even if we are defeating terrorists in Iraq, we are not providing the resources and the equipment at home to make sure that we are fully prepared to fight, succeed and, most importantly, protect our families and communities at home.

Too many of our police officers, our firefighters, our emergency medical services personnel and transportation officials are not able to communicate with each other. They have the basics.

That is what my amendment speaks to, the ability to make sure that every part of our emergency preparedness system has the ability to communicate with each other. Interoperability is the term often used.

Right now, they are not able to communicate with each other. How much more basic can we get than creating a way for everyone to be able to talk to each other, to literally be on the same wavelength as well as figuratively. Too many first responders, whom I have spoken to as I have moved around Michigan in the last 4 years, have said to me that their communications, alerts going up or down, often come from CNN. The communications are received from CNN before they actually receive them directly to their departments. This does not make any sense.

A June 2004 survey by the U.S. Conference of Mayors found that 80 percent of the cities that responded do not have communications equipment and the ability to communicate with the Department of Homeland Security or the Justice Department. My guess is that the people we represent in our States assume something very different, as they should. After September 11, 2001, everyone assumes that these things have been addressed, and yet they have not been addressed.

The survey also found that 94 percent of cities do not have interoperable capability between their rail facilities, their police, their fire, and their emergency responders. This is especially troubling, given what just happened and the tragic attacks on London's subway system last week.

Their survey also said almost half of the cities said that a lack of interoperable communications had made a response to an incident within the last year very difficult. Sixty percent of the cities said they do not have the communications capability within the State emergency operations center. I have spoken with police and fire chiefs across my State, and overwhelmingly they have expressed concern about this issue, as well as the fact that they actually have fewer police and firefighters in their departments now than they did before 9/11.

I believe we find ourselves in a very vulnerable situation for a number of reasons as it relates to homeland security, but a basic area that needs improvement, in terms of infrastructure, is our ability to have our communications systems connected so that our emergency responders can talk to each other and can respond quickly, both before something happens and during an emergency, and do it effectively.

This is a crisis now, not just a nagging inconvenience. Our lack of interoperable communications is a crisis in this country.

The September 11 attacks highlighted this crisis when New York police and fire personnel were on different radio systems and could not communicate. Over 50 different public safety organizations from Maryland,

Virginia, and the District of Columbia reported to the Pentagon that they could not talk to each other.

On more than one occasion now, we have had circumstances where we have been on the Senate floor, and there has come an alert to evacuate this very Chamber. We have been asked to move out away from the Capital complex over to Union Station or to other places around the city. We assume that folks are able to talk to each other, are able to communicate what is going on. Yet, unfortunately, the communication systems that need to be in place are not in place for full interoperable communications.

Nearly 4 years after September 11, 2001, the No. 1 request for appropriations that I receive each year from communities is on communication systems. This year, Michigan communities made over 41 requests. They requested over \$75 million for interoperable communications in this bill and in the CJS appropriations bill alone. My guess is, if I went to every community, they would gladly have a request for help to be able to be connected. We can do something about it, and that is what this amendment does.

Most estimates place the cost of equipping America's first responders with interoperable communications in excess of \$15 billion. In November 2003, the Congressional Budget Office testified before Congress that there is insufficient funding in place to solve our Nation's communications problems, and it would cost over \$15 billion to begin to fix the problem.

So my amendment begins that process by suggesting a 3-year funding stream. My amendment would provide the first year funding for that, \$5 billion for interoperable communications grants for America's first responders to provide a strong Federal commitment to the safety of our citizens. I might add, while that is a substantial sum of dollars, that is approximately what we are investing in Iraq each month. So my amendment would ask that we commit 1 month for America; 1 month for America's preparedness to protect the people of America; 1 month to be able to say that we have provided the resources, we have begun to make sure that we are prepared, that we are protected, that our communications systems are connected, and that we are doing all we can do to keep our families safe.

I urge the support of the Stabenow amendment on communications.

I see my colleague standing, I assume to make a motion, but I want to speak to one other amendment, briefly.

Mr. GREGG. Will the Senator from Michigan yield?

Ms. STABENOW. I would be happy to yield while retaining the floor, yes.

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

Mr. GREGG. My hope is that we can accept the amendments of the Senator from Colorado, then we will have further discussion of the pending amend-

ment of the Senator from Michigan, probably with a point of order being made at that point, and then we would turn to the Senator from Massachusetts for up to 15 minutes. That is the game plan, hopefully. So when the Senator from Michigan completes her statement, I will proceed with that proposal.

Ms. STABENOW. Mr. President, I rise to speak to an amendment that Senator DODD will be offering on his and my behalf in the next hour, I am sure. This relates to the other piece of what needs to happen to make sure that we are thoroughly prepared and protected. Again, that is our goal, to be prepared and protected. That is what we are fighting for. That is what we are working toward. That is what we need to do together.

My amendment would invest in the interoperable communication so that everyone could speak to each other and be able to respond.

There is another amendment that Senator DODD and I are introducing that speaks to the larger question of whether we are providing all that we need to, to invest at home in our first responders and what they need to be successful. We know that right now, based on a report that was done back in the spring of 2003, there was a blue ribbon panel of experts, led by former Republican Senator Warren Rudman, that found the United States is drastically underfunding local emergency responders and, in their words, remains dangerously unprepared to handle a catastrophic attack on American soil. They recommended at that time a major investment over a 5-year period to fully prepare us so that our families and communities are protected.

After that report was given to us, Senator DODD and I came to the Senate floor 2 years ago and offered an amendment for the first year of that 5-year funding.

It was not passed. We came last year and offered it again. We stand today asking our colleagues, with an even greater sense of urgency, to finally pass this amendment so that we can begin that 5-year process of fully preparing our first responders and supporting them so that our families are protected. It is a major investment of \$15 billion this year. But when we look at what we are spending abroad, we cannot be just concerned about fighting terrorism in somebody else's country. We know we have to be prepared to fight it here. Yet we see hundreds of billions being spent in Iraq, being spent overseas. I supported those dollars so our troops are successful, so they have what they need, but that is not enough. If the troops on the ground in America—our police officers, our firefighters, our emergency responders—do not have the same commitment from us, why would we say we are going to make sure our troops have what they need overseas and then dramatically underfund what they need at home? It makes absolutely no sense.

This is way beyond anything that is viewed as a partisan issue because it does not matter, Democrat or Republican, when we look at the vulnerabilities for our families and communities for us right now, this is something we should all be rallying around. I hope that we are not in a situation looking back at some point and saying we should have done this but, rather, aren't we glad that we did.

The Rudman report that was given to us in the spring of 2003 found that, on average, our fire departments have only half the number of radios they need, and I spoke to that in my other amendment, only enough breathing apparatus for one-third of their firefighters. So one out of three gets breathing equipment. Police departments across America do not have the protective gear to respond to a WMD attack. Our public health laboratories lack the basic equipment to respond to a chemical or biological attack and most report that they are overwhelmed with testing requests.

Finally, our first responders do not have the equipment they need to determine what kind of hazardous material they may be facing. The administration's support for first responders has been on a steady decline. It is less in this budget than it was in last year's budget. That makes no sense.

For example, last year's funding for Michigan State homeland security grants dropped from \$47 million to \$29.7 million. In this budget, the administration eliminates the law enforcement terrorism training program, cutting another \$400 million from our first responders.

Last week's tragedy in London has again shown how important it is to be able to respond quickly and effectively, for them to be able to speak to each other, for us to be able to have enough personnel who can respond. Michigan has three of the busiest commercial crossings in the United States—approximately 3,200 miles of coastline, three nuclear powerplants, ports, and other numerous critical infrastructure that we must protect. Our homeland security needs are somewhere between \$1.4 billion and \$2.7 billion that we need to invest in every year, yet the allocation in this budget is less than \$30 million—again, down from \$47 million. That is not even close to what we need to be prepared and protected—not even close.

I have also spoken with police and fire chiefs across the State. Again, it is amazing to me. I do not believe the average person would believe what is happening until they talk to local law enforcement officials. When I talk to them, there are fewer police officers on the beat today than 9/11/2001. It is shocking. It is truly shocking, and I believe it is truly irresponsible.

Last month we spent about \$5 billion in Iraq and Afghanistan. We need to put this in perspective. If we take 3 months of what we are spending there, we can fully fund what the Rudman re-

port says is necessary for our first responders. I believe we cannot afford another day without acting on this and other critical areas of infrastructure need. This is about whether we are going to be committed to protect the people of America.

The two amendments about which I have spoken today address and would make sure that we begin to invest in being fully prepared in case of a terrorist attack here at home, and that our families are truly protected.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from New Hampshire.

Mr. GREGG. Mr. President, I wish to respond to the Senator from Michigan, but prior to doing that, I yield to the Senator from Colorado so we can straighten out his amendments.

AMENDMENTS NOS. 1209 AND 1210, AS MODIFIED

Mr. SALAZAR. I ask unanimous consent amendments Nos. 1209 and 1210 be modified with the changes I now send to the desk.

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

The amendments are as follows:

AMENDMENT NO. 1209, AS MODIFIED

On page 100, between lines 11 and 12, insert the following:

**SEC. 519. QUADRENNIAL HOMELAND DEFENSE REVIEW.**

(a) IN GENERAL.—

(1) FREQUENCY AND SCOPE.—Beginning in fiscal year 2008, and every 4 years thereafter, the Secretary of Homeland Security shall conduct every 4 years, during a year following a year evenly divisible by 4, a comprehensive examination of the national homeland defense strategy, inter-agency cooperation, preparedness of Federal response assets, infrastructure, budget plan, and other elements of the homeland defense program and policies of the United States with a view toward determining and expressing the homeland defense strategy of the United States and establishing a homeland defense program for the next 20 years. Each review under this paragraph shall be known as the “quadrennial homeland defense review”.

(2) CONSULTATION.—Each quadrennial homeland defense review under paragraph (1) shall be conducted in consultation with the Attorney General of the United States and the Secretaries of State, Defense, Health and Human Services, and the Treasury.

(b) CONTENTS OF REVIEW.—Each quadrennial homeland defense review shall—

(1) delineate a national homeland defense strategy consistent with the most recent National Response Plan prepared under Homeland Security Presidential Directive 5 or any directive meant to replace or augment that directive;

(2) describe the inter-agency cooperation, preparedness of Federal response assets, infrastructure, budget plan, and other elements of the homeland defense program and policies of the United States associated with that national homeland defense strategy required to execute successfully the full range of missions called for in the national homeland defense strategy delineated under paragraph (1); and

(3) identify—

(A) the budget plan required to provide sufficient resources to successfully execute the full range of missions called for in that national homeland defense strategy at a low-to-moderate level of risk, and

(B) any additional resources required to achieve such a level of risk.

(c) LEVEL OF RISK.—The assessment of the level of risk for purposes of subsection (b)(3) shall be conducted by the Secretary of Homeland Security in consultation with the Director of National Intelligence.

(d) REPORTING.—

(1) IN GENERAL.—The Secretary of Homeland Security shall submit a report regarding each quadrennial homeland defense review to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives. The report shall be submitted not later than September 30 of the year in which the review is conducted.

(2) CONTENTS OF REPORT.—The report submitted under paragraph (1) shall include—

(A) the results of the quadrennial homeland defense review;

(B) the threats to the assumed or defined national homeland security interests of the United States that were examined for the purposes of the review and the scenarios developed in the examination of those threats;

(C) the status of cooperation among Federal agencies in the effort to promote national homeland security;

(D) the status of cooperation between the Federal Government and State governments in preparing for emergency response to threats to national homeland security, and

(E) any other matter the Secretary of Homeland Security considers appropriate.

AMENDMENT NO. 1210, AS MODIFIED

On page 100, between lines 11 and 12, insert the following:

**SEC. 519. RAIL TUNNEL SECURITY RESEARCH.**

(a) FINDINGS.—The Senate finds that—

(1) railroad tunnels, and underground stations have been identified as particularly high risk terrorist targets because of the potential for large passenger volumes, confined spaces, relatively unrestricted access, and the potential for network disruptions and significant economic, political and social impact;

(2) many rail tunnels have safety problems including structural deficiencies, ventilation problems, lack of communications equipment and insufficient emergency access and exits;

(3) there are more than 898 miles of rail tunnels in transit systems across the country;

(4)(A) security experts have identified a number of technology and training needs to prevent attacks on tunnels and to mitigate and remediate the impact of such attacks;

(B) technological needs include detection systems, dispersal control, and decontamination techniques; and

(C) training for emergency response to a variety of scenarios is also needed; and

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Department of Homeland Security is urged to invest in research to promote tunnel rail safety as well as training to ensure first responders are prepared to respond to rail tunnel emergencies; and

(2) employing existing Federal facilities in this effort can result in efficiencies and permit this important research to proceed at decreased cost to the taxpayer and with minimal interference with ongoing passenger and freight rail traffic.

Mr. GREGG. I ask unanimous consent the three amendments which are pending, by the Senator from Colorado, 1207, 1209, and 1210 be agreed to.

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

The amendments (No. 1207); (No. 1209), as modified; and (No. 1210), as modified, were agreed to.

Mr. GREGG. Mr. President, the Senator from Michigan has offered one amendment and intends to offer another amendment. The first amendment that is pending is her amendment relative to interoperability which would increase spending in this account by \$5 billion next year. The entire budget for homeland security, of course, is \$30 billion, so this would be a 20-percent plus-up in her amendment for the entire budget in one line item which line item does not exist. Interoperability is obviously a major issue of concern.

It should be noted, however, that the purchasing of communication equipment has traditionally fallen to the responsibility of and to the decision-making process of the local departments, whether they be fire, police, or first responders in the area of health. Equipment purchasing has been done by those departments over the years, city by city, town by town, State by State. The failure to have interoperability is not so much a Federal failure, it is a decision made at the local level for local reasons not to have interoperability. If a local police department wants to buy a type of communications equipment and the local fire department in the same town wants to buy a type of communications equipment and they decide to buy communications equipment that does not communicate with each other, that is a local decision. That equipment is physically in place. It is not as if these departments don't have the equipment. They purchased the equipment.

It is not the Federal role to come in and rebuy equipment for every police, fire, and health first responder in this country. That still remains a local responsibility to a large degree. However, we do as a Federal Government request that States put forward what is known as a plan of action relative to first responder coordination.

As part of their plan of action, a State can decide to fund interoperability grants to local communities. As part of the first responder initiative, that has occurred and is occurring across the country. In fact, within the first responder grants that have gone out so far, approximately \$1.8 or \$1.9 billion of that has been spent on interoperability activity by States deciding they wanted to pursue interoperability or communities deciding they wanted to pursue interoperability.

However, the concept that we should increase funding in this interoperability initiative by \$5 billion in 1 year is essentially an extraordinary statement as to what the priorities should be for the Federal Government in fighting terrorism. The Department of Homeland Security has a lot of issues of responsibility. The Federal Government has priority responsibility, for example, for protecting our borders. It has priority responsibility, for example, for protecting our airlines and air travel. It has priority responsibility for making sure we are ready to fight and

address the threat of weapons of mass destruction.

It does not necessarily have, as a first responsibility, making sure that every police department and fire department in this country buys new radio equipment that can communicate with every other police and fire department. In fact, this effort is, and always has been, a State and local effort. In fact, there is still no consensus as to how interoperability should occur. There has been an attempt to reach a standard agreement on interoperability going on for 25 years, called the P-25 standards, and those standards simply have not been reached. I know from my experience in New Hampshire we had a problem in Vermont. The New Hampshire police couldn't talk to the Vermont police and our State police couldn't talk to our local police and our Fish and Game people couldn't talk to our State Police and our Customs officers along the borders couldn't talk to anybody other than the other Customs officers, so we sat down in a room and figured out how to do it and we got everybody on the same page. But that was a State decision on the issue of interoperability. Then the State decided to take funds and use them to fund interoperability coming through the State grants.

That is the way you approach this problem. But by taking the Homeland Security budget and increasing it 20 percent for a line item that doesn't exist to fund interoperability grants is, in my opinion, not the best way to spend dollars in this present context. It should be put in the fuller context, which is this: These funds would go into a pot of money which presently exists, first responder money, of which \$7 billion still has not been spent. Seven billion dollars is still sitting here in the Federal Treasury waiting to be spent because the plans are not in place for how to efficiently spend it at the State and local level. So to put another \$5 billion on top of that, and then I understand Senator DODD and the Senator from Michigan are going to come forward with another \$15 billion or \$20 billion plus-up of State and local grants for next year when we still have \$7 billion in the pipeline that hasn't been spent is, to say the least, I think not good management of our dollars in the area of how we protect our Nation.

Much higher priorities exist. To the extent we can find additional resources, those high priorities such as the borders, such as fighting weapons of mass destruction, such as hardening our systems in the area of chemical plants, in the area of nuclear plants, in the area of intelligence gathering—which is the key to this whole exercise—are priorities.

Yesterday Secretary Chertoff outlined how he intends to refocus the priorities of the Homeland Security agency and, yes, first responders are a key part of this. But a 20-percent plus-up makes no sense.

This amendment has, as part of its elements, an emergency designation.

Under the Budget Act an emergency is something that is sudden, urgent, and unforeseen. The failure of the police department to be able to talk to the fire department in Epping, NH, has been occurring for a long time. It is not a sudden, urgent, unforeseen event. It is actually something that should have been planned for. I am not picking Epping out, because I suspect Epping actually has everybody speaking to each other, knowing it is a very well-run town. But interoperability is not a sudden, unforeseen, urgent event. It is an event that needs to be addressed, it needs to be managed, and needs to be managed within the context of the plans the States have for developing their first responder response.

We know it is a big issue. Each State is hopefully grappling with this and coming forward with their plans. But clearly it does not fall within the context of an emergency designation as the budget perceives emergency designations. So this amendment as proposed is clearly outside the emergency designation qualification and it does represent a \$5 billion plus-up, which would be an addition to our deficit of \$5 billion were it to pass, and therefore is subject to a point of order and is not, in my humble opinion, good policy to pursue at this time.

Therefore, pursuant to section 401(b)(5) of H. Con. Res. 95 for the fiscal year 2006 Budget Resolution, I raise a point of order against the emergency designation provisions contained in this amendment and make that point of order.

Ms. STABENOW. Mr. President, I move to waive the applicable sections of the Congressional Budget Act for purposes of considering my amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GREGG. Mr. President, at a later time today we will set up this motion to waive the Budget Act vote. It looks as if we are not going to have votes until quite late this evening, probably not starting until 7:30 or 8 o'clock. This will obviously be one of those votes, should the leader decide he wants to hold votes at that time, and I appreciate the courtesy of the Senator from Michigan.

Pursuant to the prior discussion, I yield the floor to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

(The remarks of the Senator from Massachusetts, Mr. KENNEDY, are printed in today's RECORD under "Morning Business.")

Mr. KENNEDY. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. CORNYN. Mr. President, I will speak for a few minutes and highlight some of the important provisions of this appropriations bill, specifically as they pertain to the issue of border security. The Senator from New Hampshire, the chairman of the Subcommittee on Homeland Security, along with the entire Appropriations Committee, have done much good that should be heralded. But those steps should also be seen as just a first step toward getting us in the right direction, which is to obtain operational security of our Nation's borders, something we do not have now and something which represents a clear threat to our national security.

As the Senate Committee on Appropriations recognized, these resources are just a first step toward true reform of our immigration system. Additional enforcement resources along the border will be needed. In that connection, Senator KYL, the junior Senator from Arizona, and I will be filing a bill within the next couple of weeks that will authorize additional resources to secure our border.

Our Nation's immigration and border security system is badly broken. It leaves our borders unprotected and threatens our national security. It makes a mockery of the rule of law. This system unfortunately has suffered from years of neglect. But in a post-September 11 world we simply cannot tolerate this situation any longer. We stand here today almost 4 years from that terrible date, and we are reminded as recently as just last week—with the attacks in London—that terrorism is a real and tangible threat to the free world.

National security demands a comprehensive solution to our immigration system. That means both stronger enforcement and reasonable reform of our immigration laws. We have to confess that we have not devoted the funds, the resources, and the manpower necessary to enforce our immigration laws and protect our borders.

Representing a border State with about 1,600 miles of border with Mexico, I can state that for too long Washington has simply taken the attitude that this is a local or State problem. If it is not the duty of the Federal Government to deal with the security of our borders, whose responsibility is it? It is a Federal responsibility, and it is one that has simply been abdicated for far too long.

No discussion of comprehensive immigration reform, however, is possible without a clear commitment to and a substantial and dramatic escalation of our efforts to enforce the law. In my capacity as the chairman of the Subcommittee on Immigration, Border Security and Citizenship of the Senate Judiciary Committee, we have held a

number of hearings on this issue of border security and immigration enforcement. They have been quite revealing. I will share some of the information with our colleagues because it supports the direction in which this Homeland Security appropriations bill takes us, and puts us one step closer to the final goal: control of our borders and a secure, orderly immigration process.

The Department of Homeland Security has testified recently that they do not have operational control over parts of the southern border. That is obvious to those who live and work along that border and represent those States.

My constituents have told me as recently as last week when I traveled to south Texas, to Laredo, TX, when I traveled to McAllen, TX, and the Rio Grande Valley that the nature of the immigrants coming across our southern border is vastly different from what it has historically been. For example, over the last 3 years, the number of apprehensions of those designated as "OTM,"—other than Mexican—has doubled from 37,316 in 2002 to 75,000-plus in 2004. This year, it is currently 96,000. It is likely that the number will be twice this year what is was last year.

The vast majority of these individuals who are apprehended as they come across the border are from countries that you would expect: Mexico and countries in Central and South America. However, the Border Patrol chief, Chief Aguilar, has testified at one of our hearings that 400 aliens from special-interest countries had been apprehended last year. Some come from countries that support international terrorism. That ought to be a grave concern to all of us. We need to expend additional resources, both to ensure we are apprehending aliens who are trying to enter our country illegally, and to make sure we detain them and remove them in an expedited fashion.

Let me bring to the attention of our colleagues some of the facts because they may not be aware of them. I think they will be shocked to find out how unsuccessful we are, despite the best efforts of the Department of Homeland Security.

Last year alone, the Border Patrol detained roughly 1.1 million people coming across our borders. Now, my information, from those who are on the ground who deal with this on a day-in-and-day-out basis, is that they think they probably are capturing between one out of every three or one out of every four. Yet last year alone they captured approximately 1.1 million and detained them.

But the concern is that we only have roughly 20,000 detention beds. So what the Border Patrol does is, after doing a background check, after which they run these aliens' names against a terrorist watch list and various criminal justice data bases, they engage in what can only be called a catch-and-release program. In other words, they release them on their own recognizance based

on their promise to return for further proceedings later on. It should come as no surprise that the overwhelming number of these detainees do not reappear for their hearing, and they simply melt into the landscape.

As a result of this flawed policy, we know we have approximately 10 million people living in our country outside of our laws. And those numbers are getting bigger, not smaller.

I do not know how we can stand here, particularly in the face of the threat of international terrorism, and tell the American people we are doing the job they sent us here to do. Because we know that organized crime groups, which are only interested in making money, do not care whether they deal with human beings who want to come here to work, whether they engage in human trafficking, whether they engage in illegal drug transactions, illegal arms transactions, or any one of a number of other activities that are designed to generate money. We know in these organized smuggling activities, many of which originate from Asia and the Middle East, people are literally brought across the ocean to South America, or to Mexico, or Central America, and then they take advantage of our porous southern border and potentially threaten our national security.

I hope, and indeed I believe, that most of the people who come to this country across our border outside of our laws are coming here for the same reason they have always come here; and that is, to find work and the ability to support their families because they cannot do so where they live. But we have to acknowledge this porous border we have and our failure to obtain operational security of our borders is a national security threat because the same avenues of entry into the country by which construction workers and others might come are available for exploitation by international terrorists.

We have no idea, and no agency of the Federal Government can tell us, whether or not we have sleeper cells of terrorists who have exploited that border to come here. But we know they continue to come, that vulnerability continues to exist, as long as the Federal Government fails to live up to its responsibility to secure our border.

This bill, to the great credit of the subcommittee and its chairman, the Senator from New Hampshire, recommends a total of about \$6 billion for securing the Nation's borders, including \$1.7 billion for border staffing between the ports of entry.

Separately, the bill includes \$81 million for construction requirements associated with 1,000 new Border Patrol agents. I mentioned the issue of detention beds. There are only 20,000 beds right now, which is woefully inadequate. Given our failure to implement nationwide expedited removal processes for people who come to our country illegally, the Border Patrol and the

Federal agencies are simply left with this unworkable and inexcusable system of catch-and-release, which merely exacerbates the problem we have in this country with illegal immigration.

This bill moves us in the right direction by funding an additional 2,240 detention beds, with a \$77 million increase, bringing the total up to almost 23,000 beds. It is still not enough, but clearly this moves us in the right direction.

The Intelligence Reform Act authorizes 8,000 beds per year, and the Iraq war supplemental funded almost 2,000 beds.

The bill I alluded to earlier that Senator KYL and I intend to file shortly calls for an additional 10,000 detention beds to be constructed each year, at an estimated cost of \$330 million, which is an increase of 2,000 beds per year over what was authorized in the Intelligence Reform Act.

The recent surge of people coming illegally into our country outside of just our immediate neighbor of Mexico demonstrates this catch-and-release policy must be changed. It is only through the commitment of resources, such as being done in this bill, that we are going to get to where we need to be.

I am pleased to see the recommendations that are made as to additional resources in this bill, but I remind my colleagues there is still much that needs to be done when it comes to ensuring our security and our safety by enforcement of our laws.

I hope at another time to be able to come back and address my colleagues on the details of the bill Senator KYL and I intend to introduce which is composed of four main provisions.

One provision has to do with enhanced border security, which I have already alluded to here. The second provision has to do with interior enforcement. In other words, once people get past the border, then they are simply lost to our Federal law enforcement agencies. We simply, as the Federal Government, do not provide them the additional resources they need in order to be partners in our law enforcement effort when it comes to border security and immigration law enforcement.

Last week, I visited with a group of sheriffs in Victoria and Goliad Counties. They are about 200 miles inland. But you may recall, Mr. President, and my colleagues may recall, it was about 2 years ago when 19 immigrants, who had been smuggled illegally into the country, were left to die in a trailer because the human smuggler—a coyote, as they are called in our part of the country—cared nothing about them and left them to die in over 100-degree temperatures inside a cattle trailer.

These local law enforcement officials are willing to help and willing to be of assistance, but they want the training and they need additional resources so they can hire the personnel. We must meet our obligations to provide the ad-

ditional resources they need so we can work as partners with local law enforcement and State law enforcement to enforce the law.

So the first component is enhanced border security, and the second component is enhanced interior enforcement.

The third component of the bill Senator KYL and I will file has to do with employer accountability. It may come as a shock to the people of America to know we currently do not have in place an effective way for employers to authoritatively determine whether the person standing in front of them, who wants to be hired, is in fact authorized to work in the United States of America or whether they happen to be an illegal immigrant who cannot legally be hired by American employers.

What our bill will do is remedy that deficiency and provide employers with a reliable means to document the fact that indeed this perspective employee is authorized to work in the United States, and to do so in a reliable fashion.

We will also at the same time insist that employers, once we give them the tools they need, enforce the law and make sure they document that, in fact, this perspective employee is authorized to work in the United States.

The fourth and last component has to do with a temporary worker program. The President talked about this a couple of years ago. I think he is exactly right. But the problem is, it has to be combined with enhanced border security, enhanced interior enforcement, and tools that employers need in order to determine the legal status of the perspective employees that stand in front of them. But we also have to acknowledge the facts: America's economy is strong, and we have a demand for the labor many immigrants provide, but we simply need to provide a legal means for people to work and perform those jobs that American citizens do not want or are not available to do.

Then we need to provide a means to return those individuals who come here on a temporary basis and work in the United States under this legal regime, to return them to their home, with the skills and the savings they have acquired working in the United States. Because unless we deal also with the economic aspects of this problem that affects our national security, we will never have any hope of solving it.

I will speak more on that later. But I did want to give our colleagues a preview of what is being worked on as a comprehensive solution. And I did want to come to the floor and express my great appreciation to the Senator from New Hampshire, the chairman of the subcommittee, and all of those who have made it possible for us to focus our efforts on enhanced border security, and to explain why I believe it is absolutely critical to the safety and security of the American people that we obtain operational security of our border. It is something we cannot claim now and which, indeed, law enforce-

ment officials of the U.S. Government admit we do not currently have.

With that, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### LAUNCH OF SPACE SHUTTLE "DISCOVERY"

Mr. CORNYN. Mr. President, I would like to take about a minute more of our colleagues' time. I neglected to make some additional brief comments that I would like to make on the space shuttle launch that is occurring today.

It was my very first speech on the Senate floor, sadly, when I paid tribute to the astronauts who lost their lives in the *Columbia* disaster in February of 2003. The thoughts and admiration of the Nation are with the brave astronauts aboard *Discovery* today as they make their journey into space. It is the first one this Nation has attempted since that terrible tragedy in February 2003.

I believe the robust manned space program is critical to both America's proud tradition of exploration and its commercial and military preeminence in space.

NASA's missions foster technological and scientific advances and help ensure our national security as well as create jobs for thousands of Texans and thousands of Americans.

I believe the mission of NASA, together with the President's vision for future space exploration, will also encourage young people to study math and science and prepare for space-related careers. As so many young children have done in the past, they are inspired by the feats of daring and accomplishment by these brave astronauts who are launching into space again today. These goals are set not just for our current benefit, but also for future generations of leaders and innovators in Texas and across America.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. MURKOWSKI). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. McCONNELL. Madam President, I ask unanimous consent to proceed as in morning business.

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

(The remarks of Mr. McCONNELL are printed in today's RECORD under "Morning Business.")

Mr. McCONNELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1202

Mr. DODD. Madam President, I call up amendment No. 1202 and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD], for himself, Ms. STABENOW, Mr. LAUTENBERG, and Mr. CORZINE, proposes an amendment numbered 1202.

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

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

The amendment is as follows:

(Purpose: To fund urgent priorities for our Nation's firefighters, law enforcement personnel, emergency medical personnel, and all Americans by reducing the tax breaks for individuals with annual incomes in excess of \$1 million)

On page 77, line 22, strike \$425,000,000 and insert \$2,058,178,673.

On page 78, line 13, strike \$365,000,000 and insert \$1,878,088,040.

On page 78, line 16, strike \$200,000,000 and insert \$1,029,089,337.

On page 78, line 22, strike \$5,000,000 and insert \$25,727,233.

On page 78, line 24, strike \$10,000,000 and insert \$51,454,467.

On page 77, line 18, strike \$2,694,000,000 and insert \$13,863,377,000.

On page 77, line 20, strike \$1,518,000,000 and insert \$7,810,788,066.

On page 79, line 1, strike \$100,000,000 and insert \$514,544,668.

On page 79, line 5, strike \$50,000,000 and insert \$257,272,334.

On page 79, line 7, strike \$50,000,000 and insert \$257,272,334.

On page 79, line 9, strike \$40,000,000 and insert \$205,817,867.

On page 79, line 21, strike \$321,300,000 and insert \$1,653,232,019.

On page 81, line 24, strike \$615,000,000 and insert \$3,164,802,000.

On page 81, line 24, strike \$550,000,000 and insert \$2,830,311,000.

On page 81, line 26, strike \$65,000,000 and insert \$334,491,000.

On page 82, line 12, strike \$180,000,000 and insert \$926,284,000.

On page 83, line 12, strike \$203,499,000 and insert \$1,047,210,000.

On Page 89, line 3, strike \$194,000,000 and insert \$998,327,800.

Mr. DODD. Madam President, I offer this amendment on behalf of myself and my colleague from Michigan, Senator STABENOW, along with Senators CORZINE and LAUTENBERG of New Jersey.

The purpose of this amendment is very simple, although the amount I am asking for here is rather large. The purpose is to fund sufficiently the urgent priorities of our Nation's firefighters, law enforcement personnel, emergency medical personnel, trans-

portation systems, and other critical infrastructure such as our ports and chemical plants. The amendment's language suggests paying for these vital priorities by limiting some of the tax breaks for individuals with annual incomes in excess of \$1 million. I assume that at an appropriate time my colleague from New Hampshire or others will make a point of order against this amendment. I will then move to waive that point of order. In the meantime, let me explain the amendment.

It is one I initially offered two years ago during a similar debate regarding homeland security. I was not successful in having the amendment adopted then. I am hopeful that I will be successful today, especially in light of events during the last several days in London. But I understand, given the size of the amount I am requesting, that the chances of this amendment being adopted are not great.

Nevertheless, it is important to offer this measure anyway because it isn't an amendment I crafted per se, although I offer it here legislatively. The language and request of this amendment were a result of two task forces conducted by the Council on Foreign Relations that examined America's needs in the wake of the attacks on September 11, 2001, and laid out, by our former colleagues Senators Warren Rudman and Gary Hart, along with members of their task force, the vital importance of sufficiently preparing for the inevitable events that are occurring at the hands of terrorist organizations. I don't know how many more events it is going to take for us to respond with the kinds of resources we need to have in place.

I was a Member of this body when the Marine barracks in Lebanon were hit, the Lockerbie incident happened, the World Trade Center was first bombed, the USS *Cole* was attacked, the embassies in Africa were bombed, and then, of course, when the World Trade Center was attacked for the second time. We have seen in Tokyo the subway attacks in 1995, the Madrid train bombing in March of 2004 and, of course, the London Underground attacks only a few days ago. These are just a few of the hundreds of terrorist attacks that have taken place around our world over the last couple of decades.

Mr. DODD. Let me outline the Rudman report and why this amendment is important.

Two years ago the Council on Foreign Relations convened an independent task force to identify the challenges faced by our Nation in preventing and responding to acts of terrorism. This task force was chaired by our former colleague Senator Rudman. In June 2003, the task force issued a comprehensive report entitled "Emergency Responders: Dramatically Underfunded, Dangerously Unprepared."

Former Senator Rudman was joined on this task force by a very distinguished group of our fellow American citizens. I ask unanimous consent to

print in the RECORD the entire list of those people who prepared the report.

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

TASK FORCE MEMBERS

Charles G. Boyd is currently Chief Executive Officer and President of Business Executives for National Security (BENS). Before retiring from the U.S. Air Force in August 1995, General Boyd served as Deputy Commander in Chief for the U.S. European Command.

Richard A. Clarke is Senior Adviser to the Council on Foreign Relations and is currently Chairman of Good Harbor Consulting, LLC. Previously Mr. Clarke served under the last three presidents as a senior White House adviser.

William J. Crowe is Senior Adviser at Global Options. Previously, Admiral Crowe served as Chairman of the Joint Chiefs of Staff under President Ronald Reagan.

Margaret A. Hamburg is Vice President for Biological Weapons at the Nuclear Threat Initiative. Before coming to NTI, Dr. Hamburg was Assistant Secretary for Planning and Evaluation at the U.S. Department of Health and Human Services.

James Kallstrom is Senior Executive Vice President at MBNA America Bank. After September 11, 2001, Mr. Kallstrom took a leave of absence from MBNA America and served as Director of the Office of Public Security for the State of New York.

Joshua Lederberg is a Nobel Laureate and currently serves as President Emeritus and Sackler Foundation Scholar at Rockefeller University.

Donald B. Marron is Chairman of UBS America as well as Lightyear Capital. Previously, he served for twenty years as Chairman and Chief Executive Officer of Paine Webber Group, Inc., until its merger with UBS in 2000.

Jamie F. Metzl is Senior Fellow and Coordinator for Homeland Security Programs at the Council on Foreign Relations. He has served on the National Security Council at the White House, in the Department of State, and as Deputy Staff Director of the Senate Foreign Relations Committee.

Philip Odeon is former Chairman of TRW Inc. Previously, Mr. Odeon was President of BDM International, Inc., and a Vice Chairman at Coopers & Lybrand LLP.

Norman J. Ornstein is a Resident Scholar at the American Enterprise Institute, and Senior Counselor to the Continuity of Government Commission.

Dennis Reimer is Director of the National Memorial Institute for the Prevention of Terrorism in Oklahoma City. Prior to that, General Reimer served in the U.S. Army in a variety of joint and combined assignments, retiring after 37 years as the Chief of Staff of the U.S. Army in 1999.

Warren B. Rudman is Chairman of the Independent Task Force on Emergency Responders. He is currently a partner in the international law firm Paul, Weiss, Rifkind, Wharton and Garrison and formerly Chairman of the President's Foreign Intelligence Advisory Board under President Clinton. Previously, he represented New Hampshire in the U.S. Senate from 1980 to 1992.

George P. Shultz is the Thomas W. and Susan B. Ford Distinguished Fellow at the Hoover Institution. He has served as Secretary of State, Secretary of the Treasury, Secretary of Labor, and director of the Office of Management and Budget.

Anne-Marie Slaughter is Dean of the Woodrow Wilson School of Public and International Affairs at Princeton University.

Prior to her appointment at Princeton, she was the J. Sinclair Armstrong Professor of International, Foreign and Comparative Law at Harvard Law School.

David Stern has been Commissioner of the National Basketball Association since 1984. He joined the NBA in 1978 as General Counsel and became the league's Executive Vice President in 1980.

Paul Tagliabue is Commissioner of the National Football League. Prior to becoming NFL Commissioner in 1990, he served as Chief Legal Counsel to his predecessor.

Harold E. Varmus is President and Chief Executive Officer of Memorial Sloan-Kettering Cancer Center. Previously, he served as Director of the National Institutes of Health.

John W. Vessey is Chairman of the Council on Foreign Relations' Center for Preventive Action and previously served as Chairman of the Joint Chiefs of Staff as well as Vice Chief of Staff of the U.S. Army.

William H. Webster is a Partner at the law firm of Milbank, Tweed, Hadley & McCloy. He previously served as Director of the Central Intelligence Agency from 1987 to 1991 and Director of the Federal Bureau of Investigation from 1978 to 1987.

Steven Weinberg is Director of the Theory Group of the University of Texas. He is a Nobel Laureate in Physics, and a recipient of the National Medal of Science.

Mary Jo White is Chair of the 192 lawyer litigation group of Debevoise & Plimpton. She also served as U.S. Attorney for the Southern District of New York from 1993 until 2002.

Mr. DODD. Let me mention several of them because they are important. What I am offering as an amendment were suggestions made by this panel to the Department of Homeland Security and to the Congress as a way of bolstering our security needs across the Nation.

The membership of this distinguished panel included George Shultz, former Secretary of State, Treasury, and Labor; William Webster, former Director of the Central Intelligence Agency; Charles Boyd, chief executive officer and president of the Business Executives for National Security; Margaret Hamburg, vice president for biological weapons at the Nuclear Threat Initiative and former Assistant Secretary for planning and evaluation at the Department of Health and Human Services; Don Marron, former chairman of UBS America; James Metzl, former staff member of the NSC, the Department of State, and former staff director of the Senate Foreign Relations Committee; Norman Ornstein, resident scholar at the American Enterprise Institute; Anne-Marie Slaughter, dean of the Woodrow Wilson School of Public and International Affairs at Princeton University; and Harold Varmus, president and chief executive officer of the Memorial Sloan-Kettering Cancer Institute.

The list goes on. These are the people who "prepared," in a sense, the amendment I am offering. The suggestions I am offering are ones suggested as a result of the task force's recommendations.

Let me say that I have great respect for Senator GREGG and Senator BYRD who have dealt with these issues in

their capacities as Chairman and Ranking Member on the Homeland Security Appropriations Subcommittee respectively. It is not easy to put together these bills under budget caps. I understand that, and I have respect for it. I understand the constraints under which my colleagues operate. Certainly, they are trying to provide adequate resources for our emergency responders and critical infrastructure needs in this country.

If the tragic events in London and the events I mentioned at the outset say anything to us as a people, it is that we must renew and redouble our efforts to prevent and respond to terrorism at home. The Rudman report only underscores the sense of urgency that we ought to have about protecting our country from the risk of terrorism.

I appreciate that the managers of the bill are seeking to have \$100 million of added resources for transit security. They are working within very tight budget constraints. Nevertheless, the security needs of our country far exceed what the managers are able to provide with the limited resources they have been given under this bill.

The Rudman report says our Nation should immediately spend—and this was 2 years ago—\$20 billion per year for 5 years to hire, equip, and train first responders and to better protect our critical infrastructure from attack. This bill spends roughly \$3.9 billion—less than one-fifth of what the Rudman report called for 2 years ago. That, I might add, is close to \$700 million less than was spent 2 years ago. So it appears we are headed in the wrong direction and doing less than what we should be doing.

I would like to read various passages of the Rudman report to try to persuade Members of the sense of urgency that Senator Rudman and the Commission certainly had 2 years ago, and to shed light, if you will, on a survey and study done by those who are very knowledgeable about the challenges posed by international terrorism and about the needs and steps that need to be taken to make our Nation more prepared to meet those challenges.

I will read the conclusion of the report prepared by Senator Rudman:

The terrible events of September 11 have shown the American people how vulnerable they are because attacks on that scale had never been carried out on United States soil. The United States and the American people were caught underprotected and unaware of the magnitude of the threat facing them.

In the wake of September 11, ignorance of the nature of the threat or of what the United States must do to prepare for future attacks can no longer explain America's continuing failure to allocate sufficient resources in preparing local emergency responders. It would be a terrible tragedy indeed if it took another catastrophic attack to drive the point home.

I do not think any words can express the problem before us more clearly than those of Senator Rudman.

I will quote from the foreword written by Les Gelb, the former President of the Council on Foreign Relations:

As I sit to write this forward, it is likely that a terrorist group somewhere in the world is developing plans to attack the United States and/or American interests abroad using chemical, biological, radiological, nuclear or catastrophic conventional means. At the very same time, diplomats, legislators, military, and intelligence officers, police, fire, and emergency medical personnel, and others in the U.S. and across the globe are working feverishly to prevent or prepare for such attacks. These two groups of people are ultimately in a race with one another. This is a race we cannot afford to lose.

Several months prior to the issuance of the Rudman report, in October 2002, the Council on Foreign Relations convened another task force, the Independent Task Force on Homeland Security, which issued the report, "America: Still Unprepared, Still in Danger." The task force, co-chaired by Senators Rudman and Hart, came to the general conclusion that:

America remains dangerously unprepared to prevent and respond to a catastrophic terrorist attack on U.S. soil.

The report further warned that:

America's own ill-prepared response could hurt its people to a much greater extent than any single attack by a terrorist, and the risk of self-inflicted harm to America's liberties and the way of life is greatest during and immediately following a national trauma.

So here you have two seminal reports, issued within 8 months of one another, prepared by some of the most respected individuals in this country, who have longstanding experience in the matters of diplomacy and national security. These are not lightweights who made these recommendations I am offering as part of this amendment. They are top experts and they have sounded the alarm to us. They sounded it after 9/11; they sounded it before Madrid and London. How many more events before we put the kind of resources in place that allows this Nation to have a much higher sense of security, as we ought to have in light of the attacks presently being prepared and focused against us?

The funding level that Senator STABENOW and I are proposing in this amendment is over \$16 billion. It is huge; I understand that. It supplements the approximately \$4 billion that the underlying measure devotes to emergency responders and infrastructure security. Together the bill and the amendment provide \$20 billion in emergency responder funding over the next year.

This is the recommendation of the Rudman report. This is the recommendation of the individuals who helped prepare that report. It is a recommendation made by respected experts and leaders in the fields of national security, intelligence, foreign relations, military affairs, bio-terrorism, business, public health, and budget analysis. These distinguished

men and women spent significant time analyzing the problems facing our first responders and our Nation's security. They gave us their best professional judgment of what we need to do. Regrettably, we are falling woefully short of what needs to be done in this country.

I understand the need for a budget resolution that sets caps on appropriations bills. Effective budget resolutions in the Senate are those that achieve balance. They curb reckless spending while providing a sound investment in our domestic and foreign priorities. Unfortunately, I don't find the current budget resolution and the caps it has imposed very balanced at all. While constraining our ability to invest adequately in our emergency responders and domestic security, this resolution causes, in my view, the national deficit to increase by at least \$130 billion over the next 5 years, principally through tax cuts that only benefit the most affluent of our citizens.

I represent if not the most affluent State, one of the most affluent States in the country. I have no doubt that the people of Connecticut would certainly be prepared—when asked whether they could do with a little less in order to provide the Nation with more security—to agree. They understand this issue. I believe that given the choice, they would rather see the tax cut they are receiving go to this kind of investment.

The report before us represents an uncomfortable reality that we have to face as a nation. I certainly applaud the hard and groundbreaking work done so far to reduce the threat of terrorism in this Nation. A lot of good people are working hard at this. Yet as the tragedy in London vividly showed us last week, no nation, including ours, is invulnerable. We still possess weaknesses in our domestic security and our infrastructure that must be strengthened.

For over 2 years now, we have possessed in the form of the Rudman and Hart reports a clear message from the most qualified experts in our Nation that we need to do more to prepare ourselves. While I apologize for offering an amendment that costs over \$16 billion, I ask my colleagues why we should not offer an amendment that encompasses what the Rudman report recommends and what is dearly needed. Why not offer an amendment that meets the needs of our emergency responders while doing significantly more to boost security measures along our rails, on our trucks, and in our seaports and harbors? In my view, we should decide whether we think the recommendations made by these distinguished Americans deserve our support and whether we have the will to do what is needed to be done to put our country on a more sound and secure footing.

The Rudman report makes several comprehensive recommendations to increase our investment in emergency re-

sponders and domestic security. Among these recommendations are: One, developing a standard for emergency responder minimum essential capabilities in fields such as training, interoperable communications systems, and response equipment; two, developing a standard for determining the nature of cost sharing between Federal, State, and municipal governments for homeland security activities; three, guaranteeing multiyear Federal funding for homeland security activities funded jointly by Federal municipal resources; four, reforming congressional oversight; five, allowing for greater flexibility in using Federal homeland security resources; six, developing a standard for evaluating best practices; and seven, developing a standard to ensure more effective coordination between Federal, State, and municipal governments.

While the Department of Homeland Security has started to address some of these recommendations—and I note that this morning Secretary Chertoff announced some significant administrative changes to the Department of Homeland Security, and I applaud him for that—I think many more changes and resources must be implemented and provided respectively to meet the Rudman report recommendations fully. I think we ought to be doing more by supporting the financial needs that are going to provide for the various gaps that occur in the security of our various infrastructure systems.

Finally, we all know that the cost of this amendment is large. I want to put this figure in perspective. We are spending roughly \$5 billion every month in Iraq and Afghanistan—\$1 billion a week in Iraq and \$1 billion a month in Afghanistan. That is \$15 billion in vital spending and funding every 3 months to ensure that our men and women in uniform can deal with the threats in those foreign lands. Senator STABENOW, the other cosponsors of this amendment, and I are asking for \$16 billion for a whole year to make us more secure at home. I understand the needs and I have supported the funding for our troops in the field. We know as a result of the Rudman report that we are woefully short in what needs to be done at home to keep our Nation more secure.

As I mentioned a moment ago at the outset of these remarks, how many more incidents need to occur before we do what the Rudman report has called for? How many more times do we have to be attacked to realize what major steps need to be taken to be better prepared?

I believe that if we have the will, we can find the resources that we know are needed to make sure we have the infrastructure security in place and the personnel support in place to give our fellow citizenry the greater sense of security that they ought to have.

With that, at the appropriate time, I will ask for the yeas and nays on this amendment.

I yield the floor.

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

Mr. GREGG. Madam President, it is my intention to respond to the amendment proposed by the Senator from Connecticut and make a point of order relative to it. Prior to doing that, I will yield to the Senator from Arkansas for 5 minutes so he may offer an amendment and get it in the queue. Then we can agree to it.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. Madam President, I ask unanimous consent that the pending amendment be set aside.

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

AMENDMENT NO. 1125

Mr. PRYOR. Madam President, I ask that amendment No. 1125 be called up.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. PRYOR] proposes an amendment numbered 1125.

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

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

The amendment is as follows:

(Purpose: To encourage the acquisition by the Secretary of Homeland Security of an integrated mobile medical system)

On page 83, line 26, before the period, insert the following: “*Provided further*, That of the total amount made available under this heading for the support and acquisition of mobile medical units to be used by the Federal Emergency Management Agency, Directorate of Emergency Preparedness and Response, in response to domestic disasters, the Secretary of Homeland Security is encouraged to acquire an integrated mobile medical system for testing and evaluation in accordance with subchapter V of chapter 35 of title 31, United States Code (commonly known as the ‘Competition in Contracting Act’).”

Mr. PRYOR. Madam President, my amendment simply encourages the Secretary of Homeland Security to consider an integrated mobile medical system as part of the Department's requirement for mobile medical systems.

The DOD is currently evaluating a fully integrated mobile medical system, and it appears that this system holds very promising results to provide quality medical treatment for emergency situations.

My amendment encourages the Department of Homeland Security to look at this issue and maybe allocate some resources for it.

I thank the majority staff, as well as the minority staff, and the two bill managers for their assistance on this amendment. The amendment has been agreed to. I thank my staff as well for all the hard work and diligence they put into it. The amendment has been cleared on both sides. I thank specifically Chairman GREGG and Senator BYRD for their support and assistance.

Madam President, I ask for the immediate consideration of amendment No. 1125.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 1125) was agreed to.

The PRESIDING OFFICER. The Senator from New Hampshire.

AMENDMENT NO. 1202

Mr. GREGG. Madam President, the Senator from Connecticut, joined by the Senator from Michigan, as I understand it, has offered an amendment which would increase the funding for first responder activity by \$16 billion. I note, as an initial comment, that this represents a 50-percent increase in funding for this bill in toto. In other words, the entire funding of the Homeland Security agency is about \$31 billion, and \$15 billion on top of that would be a dramatic increase, to say the least.

The logic for the approach is that there is a representation that the Rudman Commission and other people who have looked at this issue say first responders need more money. It is hard to argue with the fact that first responders do need more money, but the question becomes, in a world where we do not have unlimited resources, where should we put the resources to get the best results in this fight on the war on terrorism?

An additional logic for their position is because we are spending significant dollars in Iraq and Afghanistan on a monthly basis, \$5 billion is the number suggested by both Senators that we should be able to simply, easily afford and \$15 billion of additional spending for the Homeland Security agency in the area of first responder activity.

I suggest, at the beginning, that type of logic could lead to basically there being no end of spending on all sorts of programs. If we are going to use the example of the amount of dollars it takes to keep our service people properly equipped and properly armed and properly taken care of when they are in a field of battle, when they are engaged with an enemy on a daily basis, if we are going to use that number as the number which defines what we should spend, whether it is fire departments in New Hampshire or education departments in Connecticut or libraries in Michigan or colleges in West Virginia, we are going to end up with amendment after amendment which spends billions upon billions of dollars on the representation that, gee, we are spending all this money in fighting this war to try to make sure our troops are properly supported so, therefore, why can't we spend a lot of money somewhere else? I do not think there is a lot of consistency to that logic.

We know we have a limited amount of money as a Federal Government to spend—at least we should. We did pass a budget to try to put in place the context of how much money we have to spend. And in the context of that budget, we did fund the war, we did fund the

Defense Department, and we did fund the other functions of Government at a certain level. We dramatically increased the funding, for example, in education, we dramatically increased the funding in the area of homeland security, and we dramatically increased the funding for first responders, but within the context of a budget.

So when you bring an amendment to the floor that essentially says, Ignore the budget and spend \$15 billion next year on first responders and then spend another \$5 billion on top of that, which would be the Stabenow amendment on providing communications equipment, you are essentially saying we have no fiscal discipline and our purposes are not controlled by any sort of logic as to the relationship of the amount of money which the Federal Government takes in versus the amount of money the Federal Government spends.

The representation from the Senator from Connecticut is, if we were simply to repeal some of these permanent taxes that were extended in the budget, we could pay for this. I note for the Senator from Connecticut that he may not have noted this because he did not vote for the budget, and I understand he may not have focused a lot of time on it. But the budget, as passed by the Congress, did not have any permanent tax extensions in it relative to general income tax.

The only permanent extensions in the budget are for tuition tax credits for kids going to school, tax deductions for teachers who spend money to pay for school supplies in their classrooms, and a couple of other lesser tax deductions within the Code. So maybe he wants to repeal those extensions. I think those extensions are good policy. If that is his position, that will recover maybe—I don't know, I am not sure how much it would recover off the top of my head, but it would not be a great deal of money, and it certainly would not be enough money to cover this \$16 billion which is being proposed.

The budget did not, and it is a misrepresentation to come to the floor and represent that it did, extend permanently any rate tax cuts at all.

So this argument that, well, we can just do it by changing the budget, by changing the terms as to the way it applies to tax policy is incorrect on its face because there were no permanent extensions.

The issue really is this: Within the context of a reasonable budget for national defense and for homeland security, where should the dollars go first? What are the priorities? We made a conscious decision in this bill to focus the dollars on what we saw as the primary threats. I believe, and I was joined by the Senator from West Virginia and I think he agrees, that we should have a threat-based funding approach to the whole issue of homeland security. If one listened to Secretary Chertoff yesterday, that is what he plans to do.

What are the priority threats? No. 1, right at the top of the list, unquestion-

ably the most significant threat is the question of weapons of mass destruction. So we have put a significant amount of dollars into trying to increase our capacity to address, first, the detection and, second, a response capability in the area of weapons of mass destruction.

No. 2, the second largest threat which we have, in our opinion, is the fact that we have borders which are extraordinarily porous. Madam President, 3 million a year is the estimate of how many people come into this country illegally; 500 million people come into this country legally, and we really do not know a great deal about what their purpose is or what they are doing coming in and out of the country. In fact, we do not know if they are criminals because our databases are not capable of analyzing their entry documentation to determine whether they are some sort of threat or whether they are just citizens from another country who are coming here to enjoy our great Nation.

We have committed significant resources in this bill. We have moved more than \$600 million from various accounts into border security, specifically putting more feet on the border in the sense of adding many more Border Patrol personnel, giving those Border Patrol personnel the capital structure they need to support themselves, physical infrastructure, adding more detention beds, focusing on upgrading our computer and IT systems relative to entry-exit activity, especially the US-VISIT Program. That is because that is a huge threat.

Those are the two huge priority threats on which we focused.

The issue of first responders is a priority for us as a nation, but is it the No. 1 item that should be focused on in this bill? No. Is it Homeland Security's first line of activity? Quite honestly, it is not. It is a major line of activity, but the first lines of activity are the ones for which Federal Government is primarily responsible, such as airline safety, border safety, making sure we are ready to deal with weapons of mass destruction. That is why we mention those issues. But in the specific area of first responder accounts, this proposal, which would up the funding in first responders by \$16 billion and the proposal of the Senator from Michigan which would up the funding for a new line item, it would create a new line item in first responders of \$5 billion for communications assistance, truly is a misallocation of resources.

Even if we could afford it, we would not want to put that money into those accounts at that level. Why? Because these groups involved in developing first responder capability are not capable of spending that amount of money. How do we know that? Because we have \$7 billion—\$3 billion from the year 2004 and \$4 billion from the year 2005—sitting in Washington, in the Federal Treasury, which has not gone out yet for first responder funding activity.

Why is that? It is because, first, the Department of Homeland Security has some problems, and we are trying to address those in this bill, and we put in specific language to try to change that, and I know Secretary Chertoff has addressed it, but it is larger than that. It is not just the homeland security issue, it is the fact that one of the points the Rudman Commission made, and was even more aggressively made by the Gilmore Commission, which was another high-quality group of people who got together to study this issue, was that until you have a plan for how you are going to spend this money, if you just send it back to the States and to the communities without a plan which they have to follow, all you are doing is revenue sharing. It is going to end up being a plus-up for local agencies. Some will buy new cruisers or buy bomb dogs or just buy dogs, and they will buy whatever they want to buy without any plan or organization.

The reason the \$7 billion is still in the Treasury instead of out there on the streets helping out the fire, police, and local agencies is that the assessment plans, which are critical to the effort of getting in place a thoughtful approach to first responder funding and how they use these dollars, have not yet been completed. States are still working on assessment plans so they can come forward with these plans, and then the money will go out, and it will be spent in an orderly way instead of a haphazard way.

We do not want to get back into the situation we had in the 1970s, where essentially we were sending out hundreds of millions of dollars—not billions of dollars as we are today—to various groups across the country in the name of better law enforcement. A great deal of it ended up buying equipment and items that turned out to be not only not productive but counterproductive because a lot of interoperability communications was bought with that money when there was no plan overriding that LEA money to require interoperability. So the police department would get a grant for \$20,000, \$30,000 and go out and buy their system of communications, and then the fire department in the same town would get their \$20,000 or \$30,000, and they would go out and buy theirs, and neither could talk to each other because there was no plan.

The whole concept behind the assessment approach is so we can have a plan so that the civil defense centers in the States—fire in the States, police in the States, first responder health care communities in the States—are all co-ordinated and the money goes out in a coordinated way, that when it is completed, we actually have a situation where, if there is an incident and these folks who are so committed to making their communities stronger and better have to respond to it, it will be done in a focused and coordinated way pursuant to a plan which has been funded and focused in a coordinated way.

First off, the theory behind this, that we can spend another \$21 billion because we are spending \$30 billion in Iraq is—I think that theory totally disconnects.

Secondly, the concept that this may be paid for some day by repealing the budget point on permanent extension of tax cuts is purely incorrect because there were no permanent extensions in the budget.

Thirdly, if we are going to spend money on national security in the homeland area, we should spend it on threat-based activity, which is what this bill does. And the threats, in order of priority, put the issue of first responders lower than some of the first responsibilities of Homeland Security, such as border security, airline security, weapons of mass destruction protection, and intelligence-gathering agencies. That is absolutely critical.

Fourth, as a practical matter, we can appropriate all this money, but it cannot be spent, so there is no point in appropriating it at this time. Maybe a year from now, maybe 2 years from now, after that \$7 billion has come down a little bit. Remember, we are adding another \$4 billion to it this year anyway. This bill is not cheap on the side of first responders. We are putting another \$4 billion on top of the \$7 billion that still has not been spent.

When these assessment plans get in place and we start to generate some proper activity that allows this money to be spent in an orderly way and does not get wasted, then we might want to significantly increase this funding because we know it will be effectively used. But right now, to increase this funding just means it is going to sit at the Treasury, instead of being used where it really needs to be used, which is on threats which exist today and which we have to address today, which brings me to the underlying issue of threat because we are going to hear about this again and again. There is going to be an attempt to spend another \$1 billion, \$2 billion, or \$3 billion—I do not know what the final number will be—on mass transit.

The key to our capacity to defend ourselves from these terrorists is our capacity to stop them before they get here, and that means we have to have better intelligence and we have to have better border security. When they do get here, the key is to make sure they do not have the opportunity to use their hate and their commitment to trying to kill Americans in a vast way versus in a confined way by stopping them from having weapons of mass destruction or using a vehicle that would allow them to plus up their heinous crimes such as they did on 9/11 when they used airplanes as weapons, as missiles essentially.

So it all becomes a matter of order of threat, where the dollars should be. And the No. 1 issue we have to address is better gathering of intelligence, in which Homeland Security has a limited role, but Secretary Chertoff is going to

expand that effort; followed by the issue of weapons of mass destruction; followed by border security; followed by the first responsibilities of the Federal Government which are things such as air traffic control and air management; followed by, of course, funding and helping out first responders, which we have done, which is why there is still \$7 billion sitting in the bank because we have done it, but the system is not yet ready to effectively handle that money. It will be soon, hopefully. A lot of pressure is being put on both the Department of Homeland Security in this bill and on the State assessment plans to accomplish that.

This proposal is maybe well intentioned, but it is misguided at all sorts of different levels. Therefore, I cannot support it. Obviously, even if it were within the budget I would not support it because this is not where we need to allocate resources at this time at this level of activity.

I make my point of order at this time that under section 302(f) of the Congressional Budget Act the amendment provides spending in excess of the subcommittee's 302(b) allocation.

Mr. DODD. Madam President, I move to waive the budget point of order and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. I simply note that we will be voting on this, hopefully, later today when we have more of a contingency available to participate.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. I know my colleague from Hawaii is in the Chamber, but I want to respond to comments made by my friend from New Hampshire. He gave a good response to this amendment. It is a good bureaucratic response. As I said during my remarks, I apologize for offering an amendment of this magnitude. The Senator from New Hampshire is absolutely correct, the entire budget we are talking about for homeland security is around \$31 billion. This amendment is 50 percent of that budget.

I was fully aware, when I came to the floor to offer this amendment, of the reaction it would receive, but I also happen to believe the Rudman report, written by a group of people who are serious about these matters, has laid out for us very clearly what needs to be done.

Whether our domestic security is funded by reducing millionaire tax cuts or by some other mechanism, I am willing to listen. I just tried to offer one idea of where these resources could come from. Obviously, when an amendment like this is offered, I do not have the right to offer necessarily an offset so large. Tax cuts provided to the most affluent Americans was simply a suggestion as to where the resources could come from.

The underlying point needs to be made that we are not doing enough in the areas where we are terribly vulnerable. I will state how we are spending this money and lay it out. First, we are spending actually less this year than we have in the previous 2 years. In the Office of State and Local Government Coordination and Preparedness, which covers port security, truck security, rail security, training, technical assistance and development, we are going to spend just under \$2.7 billion. Last year, it was in excess of \$3 billion. The numbers are coming down, and yet almost everyone now knows in this country that our ports across the Nation are entirely vulnerable.

Less than 5 percent of containers have any screening done on them. Our rail and freight systems are virtually wide open. Stories get written every single day about the vulnerabilities that exist. We take the bulk of the funding proposed by this amendment—in excess of \$11 billion—and put it into these critical areas.

Again, I know it is a lot of money, but let another attack occur in this country, as I believe it will, and then look back and say: I wonder if we might have done a little more in the areas where we were vulnerable to prevent the attack, or I wonder whether or not the Senator from Connecticut was asking for too much.

I merely cited Iraq and Afghanistan to give a sense of proportionality. I have strongly supported the resources that ensure our troops receive the adequate funding they need.

And by the way, in certain areas like equipment, they are not even getting what they ought to be getting.

I make the point that there we are spending roughly \$15 billion every 3 months. This amendment costs roughly the same amount over a full year.

I have a pretty good sense, after a number of years here, as to what is going to happen with this amendment. It is probably going to fail. But I want the American public to know there are those of us who believe that if one has the will, one can find a way to do this. Whether one likes my proposed offset or not, if one believes that we ought to be doing more to make our ports, our rail systems, our truck security, and other infrastructure far better prepared than they are today, then they ought to support this amendment.

If they think we are doing enough already, then vote against it. I believe we are not doing enough, and I think many people in this country believe that as well. That is why I offer this amendment.

In conclusion, I would like to add a summary of the conclusions and recommendations of the Rudman report. The full report is some 70 or 80 pages and that is too long to include in the RECORD. It is available to Members who would care to have a full copy of it. This is approximately 12 pages. I ask unanimous consent that the conclusions and recommendations of the Rud-

man Report on Homeland Security be printed in the RECORD.

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

REPORT PREPARED BY THE COUNCIL ON FOREIGN RELATIONS—CONCLUSIONS AND RECOMMENDATIONS

1. DEFINE AND PROVIDE FOR MINIMUM ESSENTIAL CAPABILITIES

The Task Force found that there is no systematic national standard that defines the essential minimum capabilities for emergency responders that every jurisdiction of a given population size should possess or be able to access. Because of this, there are currently no comprehensive, systematic, and consolidated principles or measures against which the degree and quality of preparedness can be tracked nationwide. Current efforts to develop such standards are inconsistent and dispersed among various government agencies and nongovernmental organizations. Additionally, existing standards for minimum capabilities for emergency responders are a patchwork with many missing pieces that lacks systematic integration, are insufficient to address many major challenges—including that of catastrophic terrorism involving WMD—and are not harmonized across the many types of emergency responders. While existing standards provide a useful starting point, they do not constitute “national standards for emergency response training and preparedness,” as called for in the National Strategy for Homeland Security. (A selection from this document is included in Appendix B.) At the end of five years of federal funding, therefore, some metropolitan areas may still lack fundamental emergency responder capabilities.

Congress should require DHS and HHS to work with other federal agencies, state and local emergency responder agencies and officials, and standard-setting bodies from the emergency responder community to establish clearly defined standards and guidelines for federal, state, and local government emergency preparedness and response in such areas as training, interoperable communication systems, and response equipment. These standards must be sufficiently flexible to allow local officials to set priorities based on their needs, provided that they reach nationally determined preparedness levels within a fixed time period. These capabilities must be measurable and subject to federal audit.

Congress should require that the FY05 budget request for DHS be accompanied by a minimum essential emergency responder capability standard of WMD—and terrorism-related disaster equipment and training per 100,000 persons in a metropolitan region, and by separate standards for rural areas. Each recipient state and metropolitan area should then be required to submit a plan detailing how it intends to achieve that standard, to incorporate it into all appropriate training programs, and to regularly test its effectiveness.

National performance standards could be implemented through an incentive grant system making federal funding conditional and available to those localities that adopt federally approved standards of preparedness.

2. DEVELOP REQUIREMENTS METHODOLOGY

National capability standards for levels of preparedness must drive an emergency preparedness requirements process. This process must evolve into one similar to that currently used by the U.S. military. Threats must be identified, capabilities for addressing threats determined, and requirements generated for establishing or otherwise gaining access to necessary capabilities. The

Task Force found that the administration and Congress were funding emergency preparedness without any agreement on methodology to determine how much is enough or what the requirements are. It is therefore extremely difficult, if not impossible, to measure how well prepared the United States is.

Congress should include in the FY04 appropriations for DHS and HHS a provision calling on each agency to accompany the FY05 budget request with a detailed methodology for determining the national requirements for emergency responder capability and assistance.

Congress should require that DHS and HHS submit a coordinated plan for meeting national preparedness standards by the end of FY07.

Congress should require DHS and HHS to report annually on the status of emergency preparedness across the United States. This report should indicate the levels of federal, state, and local expenditures for emergency preparedness, evaluate how effectively that funding is being used, and assess the status of preparedness in each state based on national preparedness standards.

3. ACCEPT NECESSARY BURDEN-SHARING

The Task Force found that there were no accepted national guidelines for determining the nature of burden-sharing between the federal government and state and local jurisdictions. Although state and local jurisdictions should maintain primary responsibility for funding normal levels of public health and safety readiness, the Task Force found that the federal government should be responsible for providing the funds necessary to cover the incremental costs of achieving essential standards in responding to the additional national security threat posed by terrorism. In some outstanding cases, federal funds may be required to enhance state and local emergency responder infrastructure that has been starved of resources if the deterioration of capabilities is such that it poses a threat to national security and state and local resources are not reasonably sufficient for addressing this shortfall.

4. GUARANTEE SUSTAINED MULTIYEAR FUNDING

The Task Force found that many state and local governments are unwilling or unable to accept federal funding for programs that will generate long-term costs in the absence of guarantees that the federal government will make funds available for sustaining such programs. Stable and long-term funding is critical for encouraging state and local governments to develop the necessary emergency response capabilities and, most critically, to sustain them over time.

Congress should accompany all authorizations for emergency responder assistance grants in FY04 and thereafter with budget authority for sustaining those grants through the following two fiscal years.

5. REFOCUS FUNDING PRIORITIES

The Task Force found existing systems for determining the distribution of appropriated funds to states to be badly in need of reform. The federal government currently determines levels for emergency preparedness funding to states primarily on a formula that guarantees minimum funding levels to all states and then determines additional funding based on each state's population. All citizens of the United States deserve a base level of protection regardless of where they live. Nevertheless, the state and population-drive approach has led to highly uneven funding outcomes. Wyoming, for example,

receives \$10.00 per capita from DHS for emergency preparedness while New York State receives only \$1.40 per capita. While this approach may have political appeal, it unnecessarily diverts funding from areas of highest priority. In addition, decision by state officials regarding the allocation of funds in their states have not sufficiently taken into account the multitude of necessary factors.

Congress should establish a system for allocating scarce resources based less on dividing the spoils and more on addressing identified threats and vulnerabilities. To do this, the federal government should consider such factors as population, population density, vulnerability assessment, and presence of critical infrastructure within each state. State governments should be required to use the same criteria for distributing funds within each state.

Congress should also require each state receiving federal emergency preparedness funds to provide an analysis based on the same criteria to justify the distribution of funds in that state.

#### 6. RATIONALIZE CONGRESSIONAL OVERSIGHT

The Task Force found that the proliferation of committees and subcommittees in Congress makes it hard to devise a coherent homeland security policy and a focused homeland defense system. Congress needs to have a lead committee, or an effective joint committee, to shape overall policy. Otherwise the system is likely to be fragmented and plagued with pork.

The U.S. House of Representatives should transform the House Select Committee on Homeland Security into a standing committee and give it a formal, leading role in the authorization of all emergency responder expenditures in order to streamline the federal budgetary process.

The U.S. Senate should consolidate emergency preparedness and response oversight into the Senate Government Affairs Committee.

#### 7. ACCELERATE DELIVERY OF ASSISTANCE

The Task Force found that many metropolitan areas and states had actually received and spent only a small portion of the funds for emergency responders that have been appropriated by Congress since September 11. The current inflexible structure of homeland security funding, along with shifting federal requirements and increased amounts of paperwork, places unnecessary burdens on state and local governments as they attempt to provide badly needed funds to emergency responders. While a balance should be maintained between the need for the rapid allocation of emergency preparedness funds and the maintenance of appropriate oversight to ensure that such funds are well spent, the current danger is too great to allow for business as usual. According to the National Emergency Managers Association, “appropriation cycles have been erratic causing extreme burdens on state and local governments to continue preparedness activities when there is no federal funding, and then forcing them to thoughtfully and strategically apply several years of federal funds and millions of dollars at one time.” (NEMA, State Spending and Homeland Security Funds, April 2, 2003) As a first step toward addressing this problem, Congress instructed the DHS Office of Domestic Preparedness in the FY03 consolidated appropriations measure (P.L. 108-7) to distribute grant funds to states within 60 days of the enactment of the bill and required states to distribute at least 80 percent of those funds to localities within 45 days of receipt.

Congress should ensure that all future appropriations bills funding emergency response include strict distribution timeframes as exemplified by the FY03 consolidated appropriations measure.

Congress should require states to submit data regarding the speed of distribution of the federal funds for emergency responders appropriated to states.

Congress should grant DHS the authority to allow states greater flexibility in using past homeland security funding. As a first step in this direction, Congress should authorize greater flexibility in the federal guidelines laid out in the FY03 Omnibus Appropriations Bill for the percentages of funds that can be used for various emergency response activities (e.g., 70 percent for equipment, 18 percent for exercises, 7 percent for planning, 5 percent for training) to make it possible for states to better allocate resources according to their most urgent needs. This authority should be granted on a case by case basis by means of a waiver from the Secretary of the Department of Homeland Security.

#### 8. FIX FUNDING MECHANISMS

Many states have been mandated to develop more than five separate homeland security plans. While the information requested by each homeland security plan is similar, states and communities are often required to reinvent the wheel from one emergency plan to the next.

DHS should move the Office of Domestic Preparedness from the Bureau of Border and Transportation Security to the Office of State and Local Government Coordination in order to consolidate oversight of grants to emergency responders within the Office of the Secretary.

States should develop a prioritized list of requirements in order to ensure that federal funding is allocated to achieve the best return on investments.

Congress should require DHS to work with other federal agencies to streamline homeland security grant programs in a way that reduces unnecessary duplication and establishes coordinated “one-stop shopping” for state and local authorities seeking grant funds. Efforts to streamline the grants process should not, however, be used as a justification for eliminating existing block grant programs that support day-to-day operations of emergency responder entities. In many cases, such grants must be expanded.

Congress should create an interagency committee to eliminate duplication in homeland security grants requirements and simplify the application process for federal grants.

#### 9. DISSEMINATE BEST PRACTICES

Although emergency responders have consistently identified as a high priority the need to systematically share best practices and lessons learned, the Task Force found insufficient national coordination of efforts to systematically capture and disseminate best practices for emergency responders. While various federal agencies, professional associations, and educational institutions have begun initiatives to develop and promulgate best practices and lessons learned, these disparate efforts generally are narrow and unsystematic and have not sufficiently reached potential beneficiaries. Such information-sharing could be one of the most effective ways to extract the greatest amount of preparedness from a finite resource pool. Once centralized and catalogued, such data will allow all emergency responders to learn from past experiences and improve the quality of their efforts, thereby assuring taxpayers the maximum return on their investment in homeland security. Access to this resource will provide the analytical foundation for future decisions regarding priorities, planning, training, and equipment.

Congress should establish within DHS a National Institute for Best Practices in Emergency Preparedness to work with state

and local governments, emergency preparedness professional associations, and other partners to establish and promote a universal best practices/lessons learned knowledge base. The National Institute should establish a website for emergency preparedness information and should coordinate closely with HHS to ensure that best practices for responding to biological attack are sufficiently incorporated into the knowledge base.

#### 10. ENHANCE COORDINATION AND PLANNING

The Task Force found that although effective coordination and planning are among the most important elements of preparedness, jurisdictions across the country are neither sufficiently coordinating emergency response disciplines within their jurisdictions nor adequately reaching across jurisdictional lines to coordinate their efforts with neighboring communities. Although Title VI of the Stafford Act (P.L. 106-390) authorizes the Director of FEMA to coordinate federal and state emergency preparedness plans, this authority has not been applied sufficiently to ensure adequate levels of coordination and planning between and among federal, state, and local jurisdictions. In addition, state and local emergency management agencies lack the resources to develop and maintain critical emergency management capabilities. More also needs to be done to encourage and facilitate mutual aid and other cross-jurisdictional agreements that pool resources, minimize costs, and enhance national preparedness.

DHS should require that all states and territories submit statewide mutual assistance plans, including cross-border plans for all cities and counties adjoining state or territorial borders. Reference to such plans should be required in all homeland security grant applications for federal funding. Whenever possible, grants should be structured to reward the pooling of assets across jurisdictional lines.

DHS should develop a comprehensive national program for exercises that coordinates exercise activities involving federal agencies, state and local governments, and representatives from appropriate private sector entities including hospitals, the media, telecommunications providers, and others. These exercises should prepare emergency responders for all types of hazards, with a specific focus on WMD detection and response. When necessary, funds should be provided to ensure that exercises do not interfere with the day-to-day activities of emergency responders.

Congress should work with DHS to expand the capacity of existing training facilities involved in the National Domestic Preparedness Consortium and to identify any new training facilities for emergency responders that may be required.

Mr. DODD. Again, I have great respect for my colleague from New Hampshire. He has a very difficult job, and there are constraints, but I also have been around long enough to know that when faced with emergencies that we have a way of getting around those constraints and doing what needs to be done. We have certainly done that in Iraq. We have done it in Afghanistan. I believe we ought to do it at home as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Madam President, I ask unanimous consent to speak as in morning business.

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

(The remarks of Mr. AKAKA are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER (Mr. CHAFEE.) The Senator from Arizona.

Mr. McCAIN. Mr. President, I send three modifications of my amendments Nos. 1171, No. 1150, and No. 1151, to the desk and ask unanimous consent those modifications be in order.

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

Mr. McCAIN. Mr. President, I have now three pending amendments that have been modified, is that correct?

The PRESIDING OFFICER. Does the Senator wish to make those amendments pending?

Mr. McCAIN. Mr. President, I believe they are not pending.

The PRESIDING OFFICER. The amendments have been filed for future consideration.

Mr. McCAIN. Yes. That is fine. The modifications to the filed amendments have been agreed to.

I would like to make a statement about rail security legislation and then, after conversations with Senator GREGG, bring up an amendment on UAVs, which is filed, and then have two additional amendments pending, because I am afraid I may need up-or-down votes.

I am pleased the Senate continues to make progress on the Department of Homeland Security appropriations bill. It is important that we adequately fund this Department and its essential programs which are critical to our Nation's efforts to secure our homeland as we fight the war on terrorism.

In addition to this funding measure, legislation authorizing security efforts is equally important. I am particularly concerned about an authorizing bill the Senate passed by unanimous consent in the 108th Congress, but which has not yet been enacted. Earlier this week I introduced the Rail Security Act of 2005, legislation that is nearly identical to the rail security bill that passed the Senate last year, as I say, unanimously. I sincerely hope we once again pass this important legislation and, given current events, the sooner we act, the better. Rail security must be made a top priority in this Congress.

I would like to mention the Rail Security Act we passed in the 108th Congress was the product of numerous hearings in the Commerce Committee, with expert witnesses and with administration support. So that is why I believe it should have relatively little controversy associated with it.

We are all deeply saddened by the tragic loss of life caused by the terrorist attacks in London last week. Those instances are a painful reminder of the cruel nature of our enemies in this war and of what we must do to fight and win against those who wish to eradicate our way of life. I have said on many occasions that we cannot just play defense in this war, that instead we must take the fight to the enemy. Still, we must do what is possible to

protect Americans at home. The London bombings and the attacks on Madrid's commuter rail system last year demonstrate all too vividly the continuing need for this legislation.

We have taken considerable action to address aviation security and devoted significant resources to that mode. I think all would agree aviation is safer now than before 9/11. However, since the terrorist attacks nearly 4 years ago, only relatively modest resources have been dedicated to rail security. Our Nation's transit system, Amtrak, and the freight railroads, I am sad to say, remain vulnerable to terrorist attacks, this despite the fact that the Department of Homeland Security has identified as potential terrorist targets the freight and rail passenger networks, which are critical to the Nation's transportation system and national defense.

The 9/11 Commission, in its report on the facts and circumstances surrounding the 9/11 attacks, called for improved security in all modes of transportation, noting that "terrorists may turn their attention to other modes."

The Rail Security Act would authorize a total of almost \$1.2 billion for rail security. More than half of this funding would be authorized to complete tunnel safety and security improvements at New York's Penn Station, which is used by over 500,000 transit, commuter, and inner city passengers each workday. The legislation would also establish a grant program authorized at \$350 million to encourage security enhancements by the freight railroads, Amtrak shippers of hazardous materials, and local governments with security responsibility for passenger stations not owned by Amtrak.

Further, DHS would be required to complete a vulnerability assessment of the rail network to terrorist attack, and make recommendations to Congress for addressing security weaknesses. Importantly, to protect the taxpayers' interests, all Amtrak authorizations would be managed by the Department of Transportation through formal grant agreements.

We face a dedicated, focused, intelligent foe in the war on terrorism. This enemy will probe to find our weaknesses and move against them. We have seen the vulnerability of rail to terrorism in other countries and the devastating consequences of such an attack. It is essential we move expeditiously to protect all the modes of transportation from potential attack.

Also, at this time I ask unanimous consent that the Senator from Delaware, Mr. BIDEN, be listed as a cosponsor of the Rail Security Act.

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

Mr. McCAIN. I thank the Senator for his cosponsorship of this legislation, particularly given that Mr. BIDEN travels daily on the rails, back and forth to his home in Delaware.

I trust the Senate will move quickly to once again pass this essential legis-

lation. We owe at least that much to the American people as we continue our struggle against an enemy that wants nothing less than to destroy everything we stand for and believe in.

AMENDMENT NO. 1151, AS MODIFIED

Mr. McCAIN. I ask unanimous consent to set aside pending legislation and take up amendment 1151 as modified, UAVs at the southwestern border.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN] proposes an amendment numbered 1151, as modified.

The amendment is as follows:

(Purpose: To specify how certain vehicles are to be deployed to enhance border security)

On page 61, line 26, insert "which may be deployed between ports of entry along the southwestern border of the United States, taking into consideration the particular security risks in the area and the need for constant surveillance of such border," after "unmanned aerial vehicles."

Mr. McCAIN. Mr. President, despite the worthy efforts that have been made to secure our homeland, much remains to be done. I, for one, do not believe we can ever expect to fully secure our Nation until we enact comprehensive immigration reform that includes strong and effective enforcement requirements. We cannot accomplish that in this pending bill, but in the meantime we can still take additional measures to better secure our border.

I commend the chairman, subcommittee chairman, and the ranking members for putting forward an appropriations bill that includes a number of sound border security funding provisions. One area I would like to see strengthened, as is proposed by this amendment, is to ensure we are more fully monitoring the southwestern border where most of the illegal crossing and needless deaths occur annually.

Let me cite a few of the more alarming statistics about what is going on in the southwestern border region. Over 300 people died in the desert last year trying to cross the border. About 200 of those deaths occurred in the Arizona desert. The Border Patrol is currently apprehending approximately 1,300 undocumented immigrants a day in Arizona. This number is expected to rise. An estimated 3,000 people enter the United States illegally from Mexico every single day. Last year, 1.1 million illegal immigrants were caught by the Border Patrol and more than half of those were in the State of Arizona. The Border Patrol releases more than 90 percent of the people they catch through voluntary repatriation, because the system is simply overwhelmed.

I want to repeat that, Mr. President. Anybody who has visited our border and seen those wonderful men and women who serve there in the Border Patrol and Immigration will agree they are simply overwhelmed.

We have our work cut out for us. We need more manpower and better focused technology. This legislation provides some needed funding for both, but I hope by the time it passes the Senate that we redirect some of the \$31.8 billion in this bill to allow us to fulfill a commitment we made just 7 months ago as part of the intelligence reform legislation. In that law we authorize for the coming year 2,000 more Border Patrol agents, twice as many as would be provided for in the underlying bill, and 8,000 detention beds, 5,790 more than provided for in the bill before us.

I filed amendments to fulfill these authorized levels and would like to work with the bill managers to address these important security issues.

Another area of particular concern along the southwestern border, particularly to Arizonans, since our State is now the leading gateway to illegal entry, is the Federal Government's use of technologies that are already available to strengthen our security efforts.

Manpower alone is not the answer when we are dealing with a 6,000-mile border area. The February grounding of the unmanned aerial vehicles, UAVs, in southern Arizona sent the absolute wrong message to those seeking to illegally enter our country. They are a helpful and needed deterrent to illegal entry and have been very useful in helping to monitor and better secure our southern border. Halting this program even temporarily needlessly jeopardizes our citizens and Nation.

The temperature today on the border between Arizona and Mexico is probably, in the middle of the day, 120 degrees. It is awfully hard on Border Patrol people, and there is no way we can patrol these hundreds of miles of border simply with ground vehicles. UAVs have proved extremely effective in Afghanistan, Iraq, and other places in the world. Clearly it would have tremendous utility in monitoring what is happening along our borders, not only to prevent illegal crossings but also, once those crossings are made, to track down and arrest those who are doing so. And as is well known, not everyone who is crossing the border is simply coming for a job. We have significant drug trafficking, and the Director of the FBI has stated that we are apprehending more and more citizens of "countries of interest" that are crossing our borders as well.

In our efforts to counter terrorism and promote national security, it is essential that we use all appropriate assets available to ensure the safety of our citizens and the security of our borders. As we learned through extensive military operations, UAVs have proven to be a highly effective aerial surveillance system that can be used as a force multiplier in coordination with other air and ground surveillance technologies. Of course, we should work to ensure the most effective UAV technologies are employed over the border, but it is important that some form of UAV be deployed in the short term to

augment ongoing enforcement efforts. Grounding the UAVs also creates a perception in an already volatile border region that the Federal Government is abandoning its responsibilities.

We are now into our fifth month with grounded UAVs at the southern border, and I find this inexcusable and unacceptable. A UAV program not only helps to deter illegal immigrants but also maximizes the effectiveness of our law enforcement agents on the ground.

I commend the bill managers for recognizing the need for UAVs and hope they can agree to support my amendment that will make clear to DHS that the funding provided in this bill is not to support grounded technologies but, rather, is provided to support a robust UAV program that best meets the area's security risks while recognizing the need for constant surveillance along the southwestern border.

I urge my colleagues to support this amendment to ensure UAV surveillance at the Nation's borders and maximize our law enforcement efforts.

Mr. President, it is my understanding that the managers of the bill would agree to this amendment by voice vote at the appropriate time, but I would clearly await the presence of the managers before proceeding.

Mr. President, I ask unanimous consent to set aside the pending amendment.

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

AMENDMENT NO. 1150, AS MODIFIED

Mr. McCAIN. Mr. President, I call up amendment No. 1150 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN] proposes an amendment numbered 1150, as modified.

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

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

The amendment is as follows:

On page 100, between lines 11 and 12, insert the following:

SEC. 519. (a) The amount appropriated for salaries and expenses by title II under the heading "CUSTOMS AND BORDER PROTECTION" is increased by \$367,552,000, all of which may be made available to hire an additional 1,000 border patrol agents.

(b) The amount appropriated by title III for State and local grants under the heading "STATE AND LOCAL PROGRAMS" is reduced by \$367,552,000.

Mr. McCAIN. Mr. President, despite worthy efforts to secure our homeland, much remains to be done, and I do not believe we can expect to secure fully our Nation until we enact comprehensive immigration reform that includes strong and effective enforcement requirements.

I commend the chairman and subcommittee chairman and ranking members for putting forward an appropriations bill that includes a number of

important border security funding provisions. Clearly, they do not have an easy job. And I know they have worked to fund critical homeland security needs.

One area that I strongly believe should be strengthened, however, concerns the number of Border Patrol agents as they play one of the most critical roles in securing our homeland.

To help my colleagues to understand the great need for more manpower, let me cite just a few of the more alarming statistics about what is going on in the southwestern border region. Over 300 people died last year; an estimated 3,000 people enter the United States from Mexico every day. A few weeks ago, 79 people were found in a Phoenix alley crammed into a commercial horse trailer. The heat was over 100 degrees, and they had been there for several days. Of the 79, 11 were children, including a 4-month-old baby. At the beginning of the summer, when the temperature in the desert rose unexpectedly, 12 people died crossing into Arizona in 1 weekend.

Mr. President, we have our work cut out for us. We need more manpower and better focused technology. This legislation provides some needed funding for both. But I hope that by the time it passes the Senate, we redirect some of the \$31.8 billion in this bill to allow us to fulfill a commitment we made just 7 months ago as part of the intelligence reform legislation.

Mr. President, a dangerous state of lawlessness exists along the southwestern border, and it has become increasingly volatile. The Federal Government's inability to stem the illegal traffic flowing across the border has shifted substantial financial and social burdens to residents of the border region. Recent action by minutemen along the Arizona border provided the Nation with an image of the frustration felt by many Americans.

Border States are suffering from the immediate and downstream problems associated with illegal immigration. Our hospitals are burdened with enormous uncompensated costs, and so are our State and local law enforcement agencies. We simply need more manpower to protect the border in the near term. While I strongly believe that once we fix our broken immigration system, we will see the day that some of our border resources can be shifted to other priorities, until then Congress must have the will to take the action needed to reform our broken immigration system. We need to have a robust Border Patrol force hired, trained, and on the job.

While providing solid resources to state and local officials to ensure the readiness of our first responders is imperative, the men and women serving in the Border Patrol are literally on the front lines in the fight to keep the terrorists out of our country. CIA Director Muller has said that more and more people from "countries of interest" are looking at our southwest border as a possible point of entry into the

United States. Why shouldn't they. Hundreds of thousands and potentially millions of migrants who enter the United States illegally each year to work represent the perfect cover for potential terrorists. Of course, if others have offsets to suggest, that would be preferable. I am open to any and all options that will enable us to meet the full level of Border Patrol agents so desperately needed on the front lines.

Mr. President, I am aware that the managers are not in agreement with this amendment, and that is why I ask unanimous consent to set aside the pending amendment.

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

AMENDMENT NO. 1171, AS MODIFIED

Mr. McCAIN. Mr. President, I call up amendment No. 1171 as modified.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN] proposes an amendment numbered 1171, as modified.

The amendment is as follows:

On page 100, between lines 11 and 12, insert the following:

SEC. 519. (a) The amount appropriated for salaries and expenses by title II under the heading "IMMIGRATION AND CUSTOMS ENFORCEMENT" is increased by \$198,990,000, all of which may be made available to add an additional 5,760 detention beds and additional positions or FTEs in the United States.

(b) The amount appropriated by title III for State and local grants under the heading "STATE AND LOCAL PROGRAMS" is reduced by \$198,990,000.

Mr. McCAIN. Mr. President, the situation on our borders, as I have said, has reached a critical juncture. I have given the statistics. The Border Patrol releases more than 90 percent of the people they catch. I want to repeat that. The Border Patrol releases through voluntary repatriation more than 90 percent of the people they catch because the system is overwhelmed. That probably sounds unbelievable to most Americans. The unfortunate reality is that the Border Patrol simply cannot take into custody the vast number of people that are apprehended. Because of this, they must prioritize. Due to space limitations, our Federal agents rightly give a higher priority to aliens who represent potential criminal threats.

Mexican nationals who are apprehended are usually returned to Mexican Government officials, voluntarily taken back across the border, and, in the case of a recent pilot program, repatriated to the interior of Mexico with the hope they are less likely to risk crossing again.

However, foreign nationals from other countries often get off much easier. Because of the lack of detention space, the fact that their home countries are farther away, and limitations in our immigration laws, nationals from Guatemala, El Salvador, Brazil, and a number of other countries are frequently apprehended by Federal offi-

cials, given a court summons to report to deportation proceedings, and released.

Mr. President, let me tell you that again. They are apprehended, they find out they are from Brazil, they say, OK, show up in court, show up in court inside the United States, and then they are released. How many of those do you think we ever see again?

The reality has become demoralizing to the men and women serving in the Border Patrol. Word about this loophole has quickly traveled back to Central and South American countries. Summons to report to deportation proceedings are frequently called "permisos" or permission slips. Smugglers now take migrants as far as they can and tell them to approach the first Border Patrol agent they see and turn themselves in. After migrants obtain their permiso, they are then free to continue their journey to Chicago, New York, or wherever there is a job or a family member awaiting them.

One result of this loophole has been a dramatic increase in the number of Brazilians crossing the border illegally.

Fox News channel, Monday, July 11, 2005. "Other Than Mexicans? Welcome to America."

LOS ANGELES.—For many people around the world, the U.S.-Mexico border is a doorway to opportunity—one that's unlocked and wide open.

Brazilians, Chinese, Pakistanis and many others are joining the tide of Mexicans who sneak across every day.

"OTMs include people from all over the world—South America, the Middle East, the Caribbean," explained former Immigration and Naturalization Service Special Agent Michael W. Cutler, currently a fellow at the Center for Immigration Studies. "Anyone other than Mexican is an OTM."

In 2001 5,251 "OTMs" were caught crossing over from Mexico. Last year the number was more than 35,000.

In the first eight months of this fiscal year, it's up to 70,000 already—230 people a day—and they're only the ones getting caught.

"The vulnerability of a porous border is a security problem, and we always have to be concerned the real bad guys will exploit these vulnerabilities," said Frank Sharry, executive director of the National Immigration Forum.

Critics are concerned at the way OTMs are handled.

Mexicans are processed and sent back across the border within a few hours but Mexico won't allow the United States to send them citizens from other countries—and under U.S. law they're entitled to a deportation hearing.

Because the immigration service lacks prison beds to hold them, the vast majority of OTMs are released from custody and asked to voluntarily return for their court date—which the majority of them obviously do not do.

"They are given a piece of paper called a notice to appear, which administratively starts the ball rolling for a deportation hearing," said Cutler. "Not surprisingly, fewer than 15 percent show up."

"Our bureaucracy is not up to the challenge of protecting this country, our Congress is not dealing with the reality in a 21st Century way, our immigration laws are terribly out of place," commented Sharry.

So what's the answer? While some say more legal immigration is needed, others want the borders effectively closed. Both sides seem to agree that giving illegal immigrants a free pass is no solution at all.

I read from another article, "Loop-hole to America":

In the silvery-blue light of dusk, 20 Brazilians glided across the Rio Grande in rubber rafts propelled by Mexican smugglers who leaned forward and breast-stroked through the gentle current.

Once on the U.S. side, the Brazilians scrambled ashore and started looking for the Border Patrol. Their quick and well-rehearsed surrender was part of a growing trend that is demoralizing the Border Patrol and beckoning a rising number of illegal immigrants from countries beyond Mexico.

"We used to chase them; now they're chasing us," Border Patrol Agent Gus Balderas said as he frisked the Brazilians and collected their passports late last month.

What happened next explains the odd reversal.

The group was detained overnight and given a court summons that allowed them to stay in the United States pending an immigration hearing. Then a Border Patrol agent drove them to the McAllen bus station, where they continued their journey into America.

The formal term for the court summons is a "notice to appear." Border Patrol agents have another name for it. They call it a "notice to disappear."

Of the 8,908 notices to appear that the immigration court in nearby Harlingen issued last year to non-Mexicans, 8,767 failed to show up for their hearings, according to statistics compiled by the Justice Department's Executive Office of Immigration Review. That is a no-show rate of 98 percent.

The problem is that U.S. immigration authorities are short on detention space. They can send Mexicans back across the border within hours. But international law prohibits them from sending non-Mexicans to Mexico. Instead, they must arrange travel documents and flights directly to the immigrant's country of origin. The process, which the U.S. government pays for, takes weeks or even months.

The result is an unintended avenue of entry for a rapidly growing class of illegal immigrants from Central and South America who now see the Border Patrol more as a welcome wagon than a barrier.

It is one example of the tears in the "seamless web of enforcement" that immigration authorities vowed to establish along the U.S.-Mexico border during the 1990s, when they spent billions of dollars on strategically placed lights, sensors, roads, fences and agents. It also helps explain why the nation's illegal immigrant population has grown to record levels despite the buildup.

The morning after Agent Balderas encountered the 20 Brazilians, another Border Patrol agent drove them to the McAllen bus station where they headed toward their destinations. They were armed with notices to appear that carried them safely past Border Patrol checkpoints.

Two days later, Graice De Oliveira-Silva and three companions from Brazil were working for her relatives' house-cleaning business in Atlanta.

It is a world turned upside down for the Border Patrol, especially here in South Texas. Back in 1985, things were so different that a woman was convicted on charges that she drove illegal immigrants from El Salvador around the Border Patrol and to the same McAllen bus station.

Now smugglers operate with impunity. After their loads of immigrants splash

ashore, the smugglers slip back across the river.

As word of this border loophole filters back to Central and South America, the volume of people coming to exploit it is likely to grow, according to Border Patrol agents.

A Guatemalan arrested late last month in the McAllen sector who gave his name as Hugo said that when word gets back home, "Anyone who has a little money will be coming."

Mr. President, I ask unanimous consent both articles be printed in the RECORD.

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

[From FoxNews.com, July 11, 2005]

#### OTHER THAN MEXICAN? WELCOME TO AMERICA

LOS ANGELES.—For many people around the world, the U.S.-Mexico border is a doorway to opportunity—one that's unlocked and wide open.

Brazilians, Chinese, Pakistanis and many others are joining the tide of Mexicans who sneak across every day.

"OTMs include people from all over the world—South America, the Middle East, the Caribbean," explained former Immigration and Naturalization Service Special Agent Michael W. Cutler, currently a fellow at the Center for Immigration Studies. "Anyone other than Mexican is an OTM."

In 2001, 5,251 "OTMs" were caught crossing over from Mexico. Last year, the number was more than 35,000.

In the first eight months of this fiscal year, it's up to 70,000 already—230 people a day—and they're only the ones getting caught. Hundreds more make it across undetected, experts believe.

"The vulnerability of a porous border is a security problem, and we always have to be concerned that the real bad guys will exploit those vulnerabilities," said Frank Sharry, executive director of the National Immigration Forum.

Critics are concerned at the way OTMs are handled.

Mexicans are processed and sent back across the border within a few hours but Mexico won't allow the United States to send them citizens from other countries—and under U.S. law, they're entitled to a deportation hearing.

Because the immigration service lacks prison beds to hold them, the vast majority of OTMs are released from custody and asked to voluntarily return for their court date—which the majority of them do not do.

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So what's the answer? While some say more legal immigration is needed, others want the borders effectively closed. Both sides seem to agree that giving illegal immigrants a free pass is no solution at all.

[From SignOnSanDiego.com, June 4, 2005]

#### LOOPOLE TO AMERICA

(By Jerry Kammer)

MCALLEN, TX.—In the silvery-blue light of dusk, 20 Brazilians glided across the Rio Grande in rubber rafts propelled by Mexican smugglers who leaned forward and breaststroked through the gentle current.

Once on the U.S. side, the Brazilians scrambled ashore and started looking for the

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The problem is that U.S. immigration authorities are short on detention space. They can send Mexicans back across the border within hours. But international law prohibits them from sending non-Mexicans to Mexico. Instead, they must arrange travel documents and flights directly to the immigrant's country of origin. The process, which the U.S. government pays for, takes weeks or even months.

The result is an unintended avenue of entry for a rapidly growing class of illegal immigrants from Central and South America who now see the Border Patrol more as a welcome wagon than a barrier.

It is one example of the tears in the "seamless web of enforcement" that immigration authorities vowed to establish along the U.S.-Mexico border during the 1990s, when they spent billions of dollars on strategically placed lights, sensors, roads, fences and agents. It also helps explain why the nation's illegal immigrant population has grown to record levels despite the buildup.

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It is a world turned upside down for the Border Patrol, especially here in South Texas. Back in 1985, things were so different that a woman was convicted on charges that she drove illegal immigrants from El Salvador around the Border Patrol and to the same McAllen bus station.

Now smugglers operate with impunity. After their loads of immigrants splash ashore, the smugglers slip back across the river.

As word of this border loophole filters back to Central and South America, the volume of people coming to exploit it is likely to grow, according to Border Patrol agents.

Apprehension statistics bolster their assertion. Arrests of non-Mexicans along the U.S.-Mexico border totaled 14,935 in 1995, 28,598 in 2000 and 65,814 last year. In the first eight months of this federal fiscal year, which began Oct. 1, more than 85,000 have been apprehended. Nearly all are no-shows at their court hearings, but comprehensive federal figures are not available.

Statistics aren't the only evidence. Interviews with immigrants caught sneaking across the border recently suggest the problem will only increase as Central and South American migrants learn of the unintended opportunity.

"We thought they were going to deport us," said Ciedy Milady Canales Alvarez, a 22-year-old Honduran recently arrested by the Border Patrol in the McAllen sector. She said a cousin in Atlanta had encouraged her to make the trip. So she quit her \$50-a-week job sewing shirts and pants that are exported to the United States and crossed the border.

A Guatemalan arrested late last month in the McAllen sector who gave his name as Hugo said that when word gets back home, "Anyone who has a little money will be coming."

In his office on Capitol Hill, Rep. Silvestre Reyes, D-Texas., fumed at the news from South Texas and called for emergency measures similar to those he adopted in 1989, when he was the Border Patrol's agent in charge of the McAllen sector.

"We need somebody with a stiff spine who can make a decision and say, 'We're going to build a temporary detention facility,'" Reyes said. "We need to send a message that anybody who crosses that border illegally is going to be detained. That message gets back (to the sending countries) instantaneously."

Sixteen years ago, Reyes faced a rush of immigrants fleeing the violence of Central American civil wars. Most of their asylum claims were rejected, but only after the migrants had moved far away, armed with notices to appear in court.

"They were coming across and flagging my men down," Reyes said. "It was destroying their morale."

He got permission from the commissioner of the old Immigration and Naturalization Service to establish a temporary tent city with several thousand beds for detained immigrants. That measure, coupled with an increase in the number of agents at key border crossing points, shut off the flow, Reyes said.

But the current director of immigration detention and removal operations in South Texas wants nothing to do with such emergency measures.

"Anytime you have temporary facilities, you have a degradation of services, you have anxieties," said Marc Moore, who administers 1,700 detention spaces.

Reyes reacted angrily to Moore's remarks. While a temporary facility would be expensive and might not be as tidy as Moore would like, Reyes said, "All these things are worth it given the alternative of the permiso syndrome."

Central and South Americans call the notice to appear their "permiso," which in Spanish means permission slip.

About 19,450 immigration detention beds are available nationwide under funding levels established by Congress. Although that is twice the number of beds Congress funded a decade ago, it is far less than the number needed.

With the shortage of beds, immigration authorities must choose between using a bed to hold a migrant with a serious criminal record in the United States or one who has come across the border without a criminal record. It's an easy choice. They release the immigrant without the criminal record.

Many Border Patrol agents express frustration over the dilemma. They also worry that the high volume of non-Mexicans is taking up much of their time and might be making it easier for potential terrorists to slip past. Some said they spend much of their 10-hour shift processing non-Mexicans.

One night last month when six agents were processing non-Mexicans at the Border Patrol's Rio Grande City station, for example,

only seven agents were patrolling the 84 miles of river under their watch.

Agent Isidro Noyola, who that night detained illegal immigrants from Brazil and Honduras, said, "Our fear is that when we are processing and not patrolling the border, somebody else is going to be coming through."

Another agent expressed astonishment at the cheekiness of some of the migrants.

"They come up to you and say, 'I want my permiso,'" Agent Larry Alvarez said. "They want us to hurry up and get them out of here."

Others with the Border Patrol complained that they are being reduced to little more than gun-toting travel agents in uniforms.

In particular, the growth in the number of Brazilians taking advantage of the loophole has been spectacular, largely because of that country's poor economic conditions. In 1995, the Border Patrol detained 260 Brazilians along the Mexican border. Five years later, the number had grown to 1,241. But over the past eight months, it has soared to some 22,000.

The number of Brazilians floating north over the Rio Grande might continue to increase because of a prime-time soap opera in Brazil whose central character is smuggled across the Mexican border and finds work as an exotic dancer in Miami.

Since its first episode aired in March, "America" has become Brazil's most popular "telenovela." In a country of 178 million, it has an audience of some 60 million.

Mr. McCAIN. I am not sure this amendment will solve that problem, but I do believe a clear case is made for more detention beds. The underlying bill adds 2,240 new detention beds for fiscal year 2006. The amendment I am offering today further increases the number of detention beds by 5,760 beds, bringing the number of new beds to the level we authorized 7 months ago in the Intelligence Reform and Terrorism Prevention Act of 2004.

Lest there be any mistake made about me authorizing on an appropriations bill, this is authorized by the Intelligence Reform and Terrorism Prevention Act, as is the previous amendment.

I look forward to working with the managers of the bill on both of these amendments. I am grateful the first amendment I proposed has been agreed to.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I ask unanimous consent the pending amendment be laid aside.

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

AMENDMENT NO. 1183 WITHDRAWN

Mr. SCHUMER. Mr. President, I ask that amendment 1183 be called up.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER] proposes an amendment numbered 1183.

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

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

The amendment is as follows:

(Purpose: To provide additional funding to counter man portable air defense systems)

On page 91, line 23, insert before the period "...: *Provided further*, That of the total funds made available under this heading, not less than \$140,000,000 shall be for activities to demonstrate the viability, economic costs, and effectiveness of adapting military technology to protect commercial aircraft against the threat of man portable air defense systems (MANPADS).

Mr. SCHUMER. I now ask that amendment 1183 be withdrawn.

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

The amendment (No. 1183) was withdrawn.

AMENDMENT NO. 1184, AS MODIFIED

Mr. SCHUMER. Mr. President, I ask that the pending amendment be set aside.

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

Mr. SCHUMER. I rise to call up amendment 1184, as modified, and ask for its immediate consideration.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER], for himself and Mrs. BOXER, proposes an amendment numbered 1184, as modified.

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

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

The amendment is as follows:

(Purpose: To encourage the Secretary of Homeland Security to designate an agency within the Department of Homeland Security as having responsibility for countermeasures for man portable air defense systems (MANPADS))

On page 100, between lines 11 and 12, insert the following:

SEC. 519. Upon completion of the Department of Homeland Security's operational testing of man portable air defense system (MANPAD) countermeasure systems for commercial aircraft, the Secretary of Homeland Security is encouraged to designate an agency within the Department as having responsibility for managing the procurement and installation of such systems, and may use any unobligated funds provided under title I to establish an office within the designated agency for that purpose.

Mr. SCHUMER. Mr. President, this amendment is about something the Senator from California and I have long cared about, arming our planes with Stinger missiles.

It is my understanding the managers of the bill have cleared the modified text. I ask unanimous consent the amendment as modified be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1184), as modified, was agreed to.

AMENDMENT NO. 1189

Mr. SCHUMER. Mr. President, I rise to call up amendment No. 1189.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER], for himself and Mr. LIEBERMAN, proposes an amendment numbered 1189.

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

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

The amendment is as follows:

(Purpose: To provide that certain air cargo security programs are implemented, and for other purposes)

On page 69, beginning on line 2, strike \$4,452,318,000 and all that follows through "That" on line 5, and insert the following: "\$4,754,299,000, to remain available until September 30, 2007, of which not to exceed \$3,000 shall be for official reception and representation expenses: *Provided*, That of the amount made available under this heading, not to exceed \$2,000,000 shall be available to carry out section 4051 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-09458; 118 Stat. 3728): *Provided further*, That of the amount made available under this heading, not to exceed \$100,000,000 shall be available to carry out the improvements described in section 4052(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-09458; 118 Stat. 3728): *Provided further*, That"."

Mr. SCHUMER. Mr. President, my amendment addresses the issues of air cargo security and how we need to be doing much more to protect our Nation's skies. Right now, TSA security procedures leave a staggering 95 percent of cargo on passenger and all-cargo flights unscreened. In addition, TSA security regulations are voluntary and go unenforced.

My amendment provides a total of \$302 million for fiscal year 2006 to improve air cargo security. We all know not only are there planes that carry cargo exclusively but most commercial flights have cargo in the belly of their plane.

I ask a rhetorical question: What good does it do to make sure all of the passengers onboard the plane are screened so that there are no explosives or any other weapons, yet allow cargo that would ride in the belly of the plane to not be screened 19 out of 20 times, thus keeping every passenger on that plane, as well as the pilots and everyone else, at risk? The answer is obvious. It makes no sense.

For all the money we have put into passenger screening, we are leaving a gaping hole alongside, and that is cargo screening. While passenger screening has, indeed, improved rather significantly—anyone who goes to any airport in this country knows that cargo security has not.

My amendment gives \$200 million to improve the existing air cargo security measure and \$100 million for a competitive grant program to fund private research and development into air cargo

security technology, and \$2 million to fund a pilot program to evaluate the use of blast-resistant cargo containers in commercial and all-cargo aircraft.

Last year, I was proud to join our good friend, former Senator Hollings from South Carolina, in cosponsoring an amendment included in the Intelligence Reform and Terrorism Prevention Act and signed into law by the President, authorizing these exact funding levels, totaling almost \$1 billion over 3 years to improve air cargo security.

My amendment would fully fund 1 year of the 3 years of authorization. This is the second step in something that this body has found very necessary; that is, adequately protecting us from terrorists who might put bombs, explosives, or whatever in air cargo. The potential threat from unchecked air cargo is just as serious, just as dangerous as a threat from an actual terrorist boarding a commercial flight.

It has been reported that TSA considers the likelihood of a terrorist bombing a passenger airplane to be between 35 and 65 percent. It is the likely primary aviation target for terrorists.

An analysis done by the RAND Corporation on security measures at Los Angeles International Airport determined that a bomb smuggled onto a passenger plane by a passenger but through uninspected cargo posed the greatest threat relative to other types of attack. RAND determined it would be the most likely to succeed and, unfortunately, the most likely to kill the most people.

Twenty-six percent of all air cargo in the United States is not carried on cargo planes but rather on passenger flights, and only a tiny fraction of that is inspected. Even more cause for alarm is the fact that 46 percent of all international air cargo is carried on international cargo flights. The best way to protect against biological, chemical, or nuclear weapons being smuggled onto a flight is to ensure that as much cargo as possible is screened through advanced detection systems. However, TSA only screens 5 percent of the nearly 3 billion tons of cargo carried on commercial flights each year.

My amendment does three things. It gives \$200 million to improve existing air cargo security measures, in addition to the \$50 million already recommended by the committee for air cargo security activities.

Right now, TSA's principal means for checking cargo are through known shipper programs where so-called "trusted" shippers can avoid additional screening in exchange for following stricter security protocols. However, TSA does little to ensure that shippers are trustworthy and have adequate security measures in place. In addition, enrollment in a known shipper program is voluntary, with only a third of domestic shippers currently participating. Since the TSA screens such a

small percentage of cargo, it is very likely something could be missed.

It is clear we need an additional line of defense. That is why I am proposing such a significant investment in new screening equipment and security infrastructure so the TSA can check more cargo and protect more flights.

Second, the amendment adds \$100 million for the Secretary of Homeland Security to establish and carry out a competitive grant program to encourage the development of advanced air cargo security technology. The amendment will fund research into new cargo screening technology, including the use of x rays, CT scans, and chemical trace detection to speed up the screening process and allow more cargo to be screened more effectively.

Third, my amendment would fully fund a pilot program to evaluate the use of blast-resistant cargo containers, cargo baggage containers. You put the baggage in a container and even if, God forbid, it explodes, it cannot damage the plane. The 9/11 Commission recommended every passenger aircraft have at least one hardened container in which questionable or suspicious cargo can be shipped to reduce or eliminate the risk to passengers in the case of an explosion.

I know there are many competing demands for Homeland Security funding, but we are not investing enough time, effort, and resources into air cargo security. This amendment will help address this critical area. I hope my colleagues will support the amendment.

#### AMENDMENT NO. 1190

Mr. SCHUMER. I ask unanimous consent the pending amendment be set aside.

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

Mr. SCHUMER. Mr. President, I call up amendment numbered 1190.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER] proposes an amendment numbered 1190.

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

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

The amendment is as follows:

(Purpose: To appropriate \$70,000,000 to identify and track hazardous materials shipments)

On page 71, between lines 10 and 11, insert the following:

For necessary expenses of the Transportation Security Administration related to developing and implementing a system for identifying and tracking shipments of hazardous materials (as defined in section 385.402 of title 49, Code of Federal Regulations) by truck using global positioning system technology, \$70,000,000.

Mr. SCHUMER. Mr. President, this amendment is about truck security and how we need to be doing much more to protect our highways and communities from the threat of truck bombs and stolen hazardous material.

Madrid was a wake-up call for us. And now London is a second wake-up call. Obviously, there is a lot of focus on rail. I support that focus and had my amendment which was going to add another \$300 million to the \$100 million already requested in rail security, but I have joined efforts with the Senator from Alabama, Mr. SHELBY, and the Senator from Maryland, Mr. SARBANES, and the Senator from Rhode Island, Mr. REED, and others to have one mass transit amendment which will have an amount far greater than the amount I was going to propose—and we will also have a colloquy—so that money can go to more things.

The MTA, in my area, the leading mass transit agency that runs New York City subways, the Long Island railroad, Metro-North, carrying millions of passengers every year—billions of passengers every year, and millions, I guess, every week—has said they cannot spend the money on what they need, such as explosive-detecting dogs, which is one of the best types of ways to stop explosives. But that is rail security. As I said, that will come for another time in debate, I believe, tomorrow.

But what Madrid also teaches us and London also teaches us is that terrorists look for weak pressure points. If we strengthen air, they may look to rail. If we strengthen rail, they may look to trucks. If we strengthen trucks, they may look to our ports. So it is extremely important we have a multifaceted war on terror at home.

As you know, I support a strong war on terror abroad. And we are fighting a strong war on terror abroad, maybe too strong in the eyes of some. But we also have to have not only a good offense in the war on terror, we have to have a good defense. We have to look across the board. It has been a great concern of mine that we are not doing enough in various areas. I have tried to put my efforts into the areas where there is clearly a great danger compared to meager effort. Truck security is one of those areas.

My amendment gives \$70 million—not a large sum in this very large budget—to the Transportation Security Administration to develop and implement a system for identifying and tracking hazardous material shipments using global positioning system technology.

According to the 1997 Census of Interstate Commerce, 740,000 Hazmat shipments travel by truck each day in the United States. Approximately 50,000 trips are made daily by gasoline tankers, and many of them hold as much fuel as a Boeing 757. These trips often end with a late-night delivery to a deserted gas station.

Trucks also cross the country carrying potentially deadly chemicals, such as ammonium nitrate, chlorine, and cyanide. An attack with these types of chemicals could cause an even greater level of destruction because these chemicals can form clouds of

deadly fumes which would affect individuals miles away from the site of a terrorist incident.

My amendment simply provides TSA with the financial resources to look into how we go about monitoring what has been shown to us as a vulnerability within our existing plan to secure our country from terrorist threats.

Have we forgotten the initial attack on the World Trade Center in 1993 and the bombing of the Alfred P. Murrah Federal Building in Oklahoma City in 1995, both of which were the result of truck bombs? While the Nation has completely revamped aviation security since the September 11 attacks—we have a longer way to go, but we have come a long way—we have done next to nothing to secure our country from the danger that can be caused by a truck filled with explosives, chemicals, or biological weapons.

Today, on their own, many of the larger trucking companies have GPS systems on their trucks, like an ever-growing percentage of American automobiles. Frankly, they have put the GPS systems on often to deal with theft as much as to deal with the threat from terrorism. The systems allow the companies to know where the trucks in the fleet are. If the truck moves off a route, the company knows. If a truck is stolen, the company knows.

I believe it is important the TSA take a similar approach and create a nationwide tracking system so that if a terrorist should steal or hijack a truck loaded with dangerous materials, we will find them quickly. It would be very similar to when a plane goes off track, we now know that. F-16s are scrambled. We have learned that here in the Capitol over the last year, twice. The same thing can be done with trucks, not very expensively.

My amendment provides TSA with tremendous flexibility and much-needed funds to address truck security and have none of the mandates or the high costs to industry that the ATA alleges.

In addition, my amendment specifically limits the type of commercial vehicles and content subject to tracking to the most dangerous and high-hazard materials. It is not going to affect every truck shipment.

Both the TSA and DOT are currently working on improving truck-tracking systems and background checks for commercial driver's licenses with a Hazmat endorsement. My amendment would help continue and build on those existing efforts, which have been slow, in part, due to lack of funding.

So I urge my colleagues to support this amendment and help close this hole in our Nation's homeland security.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, if I can get the attention of the Senator from New York, as I understand it, we

reached an understanding on your amendment No. 1184, as modified. Are you going to send a modification to the desk? We can just agree to it now.

Mr. SCHUMER. I believe I have sent the modification to the desk.

Mr. GREGG. Mr. President, I ask unanimous consent that the Senator's amendment No. 1184 be agreed to.

Mr. SCHUMER. Be?

Mr. GREGG. Be agreed to, unless the Senator wishes to oppose it.

Mr. SCHUMER. No. I think I have asked that already. But if you want to do it twice, maybe it will increase my legislative batting average.

The PRESIDING OFFICER. It has been agreed to.

Mr. GREGG. It has been agreed to? OK, we missed that.

Mr. SCHUMER. If my colleague from New Hampshire would yield, I also withdrew amendment No. 1183, as per our agreement.

Mr. GREGG. All right. Great. So that leaves us with your amendment No. 1189, dealing with air cargo, and amendment No. 1190, dealing with hazardous materials; is that correct?

Mr. SCHUMER. Correct.

Mr. GREGG. We are on the same page. That is good. That is a starting point.

#### AMENDMENT NO. 1171

Mr. President, I ask unanimous consent that it be in order to request the yeas and nays on amendment No. 1171, Senator McCAIN's amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. It is in order to request the yeas and nays on that amendment.

Mr. GREGG. Mr. President, I ask for the yeas and nays on amendment No. 1171.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. GREGG. Thank you.

#### AMENDMENTS NOS. 1189 AND 1190

Mr. President, as to the two proposals by the Senator from New York, I am going to make a point of order that both proposals exceed the budget allocation which we received. Obviously, they are well-intentioned, and they are reasonably confined compared to some of the other proposals we have received this morning in the billions of dollars. These are in the hundreds of millions—in one case even under \$100 million.

The fact is, in both instances, the Department does not believe it is necessary to do this at this time. They believe they have proposals in the pipeline which will address air cargo, and they have proposals in the pipeline which will deal with hazardous material shipments. But as of right now, they are not ready to deal with these additional dollars in a way that will use them constructively. So the Department opposes both of these proposals based essentially on the fact that they are pilot programs, and their

initiatives in these areas are not ripe enough, are not at the level of capacity yet to handle these types of dollars.

As the Senator from New York has noted, this is really a question for us, as a Congress, and for the Homeland Security agency, as an agency, to allocate resources where they can get the most return and the most effective use. And within the limited dollars we have—and they are fairly significant dollars; actually, the increase in homeland security is significant—the focus has been on areas where we think we can get constructive results quickly with the dollars put into the accounts, specifically: weapons of mass destruction, water patrol—I have mentioned this before a number of times—and other items like that.

So, Mr. President, these dollars at this time exceed the budget and, therefore, I make a point of order against each of these two amendments. And so, on each amendment, beginning with 1189, I make a point of order that under section 302(f) of the Budget Act that the amendment provides spending in excess of the subcommittee's allocation under 302(f).

The PRESIDING OFFICER. The Senator is making it against 1189?

Mr. GREGG. Yes, 1189.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I move to waive the Budget Act as applicable to 1189 and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. GREGG. Mr. President, I make a budget point of order against amendment No. 1190 by the Senator from New York. It is the same point of order I just made against 1189.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I move to waive the Budget Act and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. GREGG. Mr. President, I thank the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, I would like to spend a few moments talking about an issue of great concern, and that is transit security. I know my colleagues are working as we speak. I will be working with them—the Senator from New Hampshire; the Senator from West Virginia; my colleague, Senator SHELBY from Alabama—to raise the amount of resources devoted to transit security. The sticking point at the moment is how much we can raise these funds. I have urged a significant increase because of the significant threat.

We were all shocked last Thursday when we became aware of the news that 52 innocent transit riders in London were killed and over 700 injured in a series of cowardly attacks in the heart of London on their transit system, both on their underground system and their aboveground bus system. This horrific attack was reminiscent of other attacks in Madrid, Moscow, Israel, and elsewhere. All these attacks are specifically targeted to public transportation. We know this is a target for terrorists. We also understand that our system in the United States is still vulnerable to those types of attacks.

Every workday, 14 million Americans take a train or a bus. To put that in perspective, that is roughly 28 times the population of the State of Wyoming. Each and every day these 14 million Americans get on a bus or take a metro subway to work and to other necessary obligations and appointments. We know, quite clearly, that these transit systems are the prime target of terrorists. Subways, light rail, buses, and ferries are designed for easy access and to move large numbers of people efficiently. As a result, they do not have all the panoplies today of protection that you see at airline terminals, for example.

The facts are clear. There have already been numerous attacks on transit. We have 6,000 transit systems in the United States, with 14 million riders every workday. I do not think anyone could disagree with those facts or disagree with the fact that we have to do more to harden and protect our transit systems.

Yet the Federal Government's response to these facts has been underwhelming at best. In contrast to aviation, where we have invested \$9 in security improvements per passenger, to date we have invested roughly \$0.006 per passenger, a little over half a cent, to protect transit passengers throughout the country.

Now, I think we have to do much better. Perhaps we can never reach the level of protection for airlines because of the nature of that process—we can put screening devices in terminals; we can have elaborate followthrough in terms of passenger lists and identifying who is getting on which aircraft—but we have to do more in public transit. That is a consensus, a conclusion, I hope we all reach. Again, I think the debate today and tomorrow will be about how much we can do.

Now, I will make the case we have to do much more. I am working with my colleagues. I hope we can achieve a sufficient level of investment in transit security that is commensurate with the threat that has materialized just a few days ago, and, unfortunately, is likely to materialize again here or across the globe.

Now, after September 11, when I was serving as chairman of the Subcommittee on Housing and Transportation, I held a hearing on the topic of

transit security. At that time it was clear that we needed to do more than simply rely on the Federal Transit Administration, whose expertise is building systems, not essentially making them secure. Their efforts were commendable but very limited. They were reviewing security procedures. They were trying to disseminate information. But they were not able to because of their expertise as well as because of the resources needed to go in and start making significant capital improvements, supporting operational changes, doing all those things that are absolutely key to protecting our security systems, our transit systems.

After the hearing, Senator SARBANES and I asked the General Accounting Office to do a study on transit security. That report was completed in 2002. They found that one-third of all terrorist attacks throughout the world were directed against transit. Yet we have nowhere committed the resources commensurate with that level of activity. And even more telling was the GAO's conclusion that, in their words, "insufficient funding is the most significant obstacle agencies face in trying to make their systems more safe and secure."

Typically, in the United States, transit systems are local systems. They depend upon riders' fares, local and State subsidies, and all of these sources are highly constrained in terms of coming up with the extra dollars to ensure protection of the system. Because of these conclusions from the GAO report, from our hearings, Senator SARBANES and I have come to the floor on several occasions to argue for additional funding. We have done this with respect to supplemental appropriations bills. We have done it with respect to other Department of Homeland Security appropriations bills. And indeed, we also tried to suggest increased funding during the National Intelligence Reform Act debate.

I have been pleased to work with many colleagues, particularly Senator SHELBY, chairman of the Banking Committee. Last year we were able to pass authorizing legislation in the Senate that would have created a threat-based transit security policy, along with authorizing \$3.5 billion to help transit systems deter, detect, and respond to terrorist attacks. While the Senate did its part in passing the legislation, regrettably it was not passed by the House, nor was it supported with the kind of energy and enthusiasm by the administration which is so critical to achieving the objective of improved transit security. We are here again today on this legislation, in the wake of London, arguing for additional resources so that we can meet this threat to our transit systems.

There are some who might oppose these efforts. They might say it is too much money. Frankly, when you look at what has to be done—6,000 transit systems—when you look at the amount of training, the amount of capital

equipment—just in terms of communications, for example—that is a huge number. And when you measure that with the threat—a third of all terrorist attacks over the last several decades have been directed at transit, and we have seen it in Madrid, in London, in Moscow, in Tokyo, where a Japanese fanatical group attempted to disperse a chemical agent in the tunnels—the threat is there; the resources are not.

Since 1992, the Federal Government actually has invested \$68 billion to construct transit systems, but we haven't yet been able to commit ourselves to protecting those systems adequately. It has been estimated that roughly \$6 million is necessary to provide the kind of protection that at least provides a minimal level of protection. These investments range from fencing to high-tech explosive detection systems, to communication upgrades. All of these things could be put in place, enhancing significantly the security of our systems.

In the wake of London, in the wake of Madrid, in the wake of the transit attacks in Russia, I don't think it is too much to ask to spend 12 cents per transit passenger, as some amendments have proposed, to protect them.

I have also heard that we should direct all of our efforts to threat-based approaches—don't single out transit, don't single out aviation, any particular mode of transportation or infrastructure. But frankly, the attractiveness—and I say this with regret—of transit to terrorists as a target is so compelling that this argument also does not hold water.

I also hope that we can continue to support these efforts, understanding that the primary responsibility is local. These systems are local or regional. The States and the localities have an obligation. But the reality is—and I don't think I have to spend too much time saying this—most transit systems are already just scraping by in terms of keeping their ridership up, making sure fares are affordable, making sure that they can make improvements in their basic rolling stock and facilities. These additional resources for security properly could be supported by the Federal Government.

We also authorized and created a few years ago the Department of Homeland Security. It is the appropriations for that Department we are discussing today. With respect to that Department, there was an acknowledgment that the Federal Government was stepping up to the issue of protecting all of our vital infrastructure, including transit, that we do have an obligation. We have assumed that obligation with the creation of the Department of Homeland Security and other steps to protect all of our vital infrastructure. Indeed, our situation with respect to transit is one that cries out for additional resources.

The President just ordered, in the wake of London, our transit systems to go to alert level orange. The threat is

there. I hope our efforts over today and tomorrow will not only recognize this threat but match it with commensurate resources so that we can begin to seriously protect our transit systems and our riders.

One other point, too. Our transit systems—buses, subways—are integral parts of our economy. That is one reason why they are so attractive to terrorists. The attack in London was planned so that the bombs would go off right in the midst of the financial district, not only with the intent to cause the loss of life, the symbolic and psychological horror of such a dastardly act, but also to cripple the economy. If a successful attack is conducted against a transit system in a major city, it will not be measured just in terms of casualties but also in potentially huge economic losses. Our efforts today are not only sensible because of the threat, sensible because of the need to protect Americans in areas where they are vulnerable, but to avoid the kind of economic chaos that could result from a successful attack against transit.

I hope in the next few hours we can come together with support for these efforts. I know Senators BYRD and GREGG, SHELBY and SARBANES, and others, are working toward that end so we can come up with sufficient resources to meet this great threat.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SUNUNU). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1075

Mr. VOINOVICH. Mr. President, I rise today to offer amendment No. 1075 to the Department of Homeland Security Appropriations Act of 2006.

First, I acknowledge the hard work of Senators GREGG and BYRD and thank them for their diligence in coming to a consensus on this crucial legislation. The balance between enhanced security and responsible stewardship of the taxpayers' dollars is a fine one. I applaud their attention to both, and I support the legislation.

In an effort to increase the sound management of homeland security funds, I offer an amendment that would increase the funding of the Emergency Management Performance Grant Program by \$10 million. I am joined on this amendment by Senators COLLINS and LIEBERMAN, the chair and ranking members of the Homeland Security and Governmental Affairs Committee, as well as 17 other Senators. I thank them all for their support. I believe that redirecting funds to the EMPG Program, which has a proven track record, is both fiscally responsible and strategically sound.

The EMPG Program assists the emergency management agencies and pro-

grams of the States, the District of Columbia, U.S. Territories, and local and tribal governments to prepare for all hazards and disasters, both natural and manmade. The EMPG Program is the only source of Federal assistance that supports comprehensive emergency management, coordination, and planning.

Funding for this program is split 50/50 between the Federal and State governments. This unique and important program provides States and localities with the flexibility to allocate funds according to risk, which helps address their most urgent needs in disaster mitigation, preparedness, response and recovery. Most importantly, EMPG funds are also used to pay for personnel costs, including training and exercises. This aspect of the program is important given the tight budget constraints and increased counterterrorism responsibilities currently faced by State and local governments. States also have the flexibility to develop intrastate emergency management systems that encourage the building of partnerships which include government, business, volunteer, and community organizations.

As Governor of Ohio, I had first-hand experience with the EMPG Program and would note some examples that illustrate its effectiveness.

Since 2002, Ohio has issued eight major disaster declarations and two emergency declarations. The 2005 winter storm was the most widespread disaster in Ohio's history, with 59 counties declared disaster areas with damage assessments that exceeded \$260 million. EMPG funding has played a critical role in allowing Ohio State and local emergency management agencies to plan for these disasters, respond in a timely manner to those areas hit hardest, and pay the salaries of local emergency management staff.

Additionally, Ohio has elected to use a portion of the annual EMPG funding for special projects, such as local emergency operations center construction. This is one of the few funding streams that allow for brick and mortar type projects. At any given time there are several counties benefiting from the use of these dollars.

Ohio is not the only State that has benefited from the EMPG Program. For example, EMPG funds play a critical role in helping the State of Alabama develop its plans to respond to natural disasters, particularly hurricanes. EMPG grants have been used for contingency planning, including evacuation plans, debris removal plans, and plans for postdisaster distribution of critical aid to those affected by the storms.

The State of Kansas is struck by nearly 50 tornadoes every spring. Without local government emergency management staff paid for by EMPG funding, there wouldn't be adequate coordination to help respond to those tornadoes in a timely manner.

York County, ME, has had 12 declared disasters in 12 years, including

coastal flooding and severe ice storms. The York County Office of Emergency Management works with 29 towns on the full range of emergency management, including preparedness, response, recovery and mitigation. Without the help of EMPG funds they would have only one full-time person; with EMPG support they have three.

Additionally, during last year's devastating hurricane season, the EMPG Program proved its worth. The Emergency Management Assistance Compact, which is funded by the EMPG, enabled 38 States to provide \$15 million worth of aid and over 800 personnel to support Florida and the other impacted States for over 85 days.

These are just a few examples of how EMPG funds are used to help State and local governments prepare for the worst situations. They demonstrate that EMPG funds are the backbone of emergency management and disaster response in America.

Many of the people who have been involved in emergency management in the States have been impacted by the budget crisis we are experiencing in many States throughout the country. In Ohio, for example, they substantially cut back on the State funds for local and State government. Again, they are being asked to do the ordinary work that they do in emergency management and, at the same time, take on added responsibilities to deal with the issue of responding to terrorists.

I will now address how EMPG funds have been spent relative to other grant programs. The Senator from New Hampshire has noted how billions of dollars of Department of Homeland Security grant money remains unspent by State and local government. However, according to the Department of Homeland Security, EMPG funds are spent rapidly compared to other programs. In other words, there may be a problem with some of these other funds getting through to the folks who need them, but in this particular case, these moneys flow very rapidly.

In other words, if Congress appropriates extra EMPG funding, it will not go unused. Although both Congress and President Bush have recognized the importance of this program, it still faces a shortfall. The disaster relief fund is our Government's rainy day fund, and it is robust in comparison to other programs in this bill. Therefore, my amendment would take \$10 million from this \$2 billion account to increase EMPG funding. Increased EMPG funding will ensure strong management and planning prior to any disaster. In other words, when asked about the logic of taking \$10 million out of the \$2 billion account for the disaster relief fund, our arguments would be, as a result of this additional money, we can do a lot better job of preventing more of these disasters in the long run and make sure the dollars that are spent in the disaster relief fund are spent in the most efficient and effective way.

Increased EMPG funding will ensure strong management and planning prior

to any disaster. In other words, redirecting these funds will enhance the effectiveness of every disaster relief fund dollar directed toward response and recovery and ensure we get the biggest bang for the buck when it comes to Federal disaster relief funding.

Again, there are some other funds in the Homeland Security appropriations. It was our best judgment that going after the disaster relief fund was the most logical way to pay and add this \$10 million to the EMPG program.

As I mentioned, this amendment is sponsored by both the chairman and ranking member of the Homeland Security and Governmental Affairs Committee which has the oversight responsibility for homeland security, as well as 17 other Senators, including Senator GRASSLEY, chairman of the Finance Committee, which is significant.

In closing, we must prepare for terrorist attacks in addition to natural disasters. The EMPG program is a proven method of doing this. It is my strong belief that by enhancing the EMPG funding, we increase the capacity of State and local emergency management agencies to get the job done when the needs of our citizens are the greatest.

Once again I applaud the efforts of Senator GREGG and Senator BYRD, and I ask my colleagues to support increased funding for the EMPG program.

Mr. President, I was going to ask for the yeas and nays, but the fact is, we are negotiating now with Senator GREGG's staff and Senator GREGG and perhaps we can find some other language that might be more acceptable to them. I am not going to ask for the yeas and nays now. If we are unable to reach a compromise, then I will ask for the yeas and nays at a later date.

I yield the floor.

The PRESIDING OFFICER. If the Senator will withhold, does the Senator wish to request that the pending amendments be set aside so his amendment can be called up?

Mr. VOINOVICH. Yes, I do request that.

The PRESIDING OFFICER. Without objection, the amendment will be considered. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. VOINOVICH] proposes an amendment numbered 1075.

The amendment is as follows:

(Purpose: To increase funds for emergency management performance grants, with an offset)

On page 82, line 12, strike "\$180,000,000" and insert "\$190,000,000".

On page 85, line 17, strike "\$2,000,000,000" and insert "\$1,990,000,000".

Mr. VOINOVICH. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. I ask unanimous consent that the pending amendment be laid aside.

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

AMENDMENT NO. 1218

Mr. REID. Under the authority of the agreement pending before the Senate, I send an amendment to the desk on behalf of Senator BYRD.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. BYRD, proposes an amendment numbered 1218.

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

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

The amendment is as follows:

(Purpose: To provide additional funding for intercity passenger rail transportation, freight rail, and mass transit)

On page 77, line 18, strike "\$2,694,300,000" and insert "\$4,025,300,000".

On page 78, line 13, strike "\$365,000,000" and insert "\$1,696,000,000".

On page 79, strike lines 1 through 4 and insert the following:

(D) \$265,000,000 shall be for intercity passenger rail transportation (as defined in section 24102 of title 49, United States Code) and freight rail and \$1,166,000,000 for transit security grants; and

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

RECESS

Mr. GREGG. Mr. President, I ask unanimous consent the Senate stand in recess until 4 o'clock.

There being no objection, the Senate, at 3:02 p.m., recessed until 4 p.m. and reassembled when called to order by the Presiding Officer (Mr. COBURN).

DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2006—Continued

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I will speak to the underlying bill for a moment. I find it interesting in debating this Homeland Security appropriations bill, there have been many colleagues come to the floor expressing the intention to amend the bill to add more resources here or there or someplace else. I think it is instructive that the chairman of this subcommittee has this year determined it is beyond the time that we need to begin fully funding some of the

particular accounts that enable us to better control our border and that my colleagues are now coming, I suggest in the case of some later than I would like, but at least to the realization that we have not begun to put the resources to controlling our border and some of our other homeland areas of need that we should have.

This is a good development in the sense that we are finally beginning to realize we have not done what we should do. But I am troubled a little bit that there still is not adequate funding available to do everything we need to do on the border that I am concerned about, and that is our southwest border.

Compliments to the subcommittee and to the Appropriations Committee for substantially increasing the funding for more Border Patrol agents, for more detention space for people whom we have to detain who should not be in the United States and who cannot be returned to their country of origin immediately, for the technology which is funded here, and for all the other things we are trying to do to secure our border. Congratulations to Chairman GREGG and to the other members of the committee for doing this. For my colleagues who would like to add more, I appreciate their efforts as well because we all know that whatever we are able to do this year, it is still not going to be enough to actually gain control of our border.

One of the problems that has arisen is the problem of what the border control calls "other than Mexican" illegal immigrants. As we all know, most of the people coming across our southwestern border are from the country of Mexico, but a lot of them are simply transiting through Mexico. This population is of increasing concern to us. In fact, we were recently informed that already this fiscal year over 119,000 third-country nationals, that is third country other than Mexico, have been apprehended crossing our borders. We know there is a rough rule of thumb that three or four are not apprehended for every one that is apprehended, so you get a situation here where it is pretty clear that we have a huge influx of people coming into the United States from countries other than Mexico.

What does this mean? We know most of the people coming in from Mexico are coming for work. Perhaps some have criminal backgrounds or other nefarious purposes, but at least we don't suspect most of them are coming here for purposes of harming us. In the case of these "other than Mexican" nationals, the same thing cannot be said because between 20 or 30 of these countries are countries of special interest to the United States; in other words, countries from which terrorists have come. The question is both on the southern and on the northern border, which is equally a problem here, how many of the folks coming into this country from countries other than Mexico mean us harm?