

DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2007—Continued

Mr. SCHUMER. 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. GREGG. 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 President, I ask unanimous consent that the order for the quorum call be rescinded.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. GREGG. Mr. President, I ask unanimous consent that upon the arrival of the Senator from West Virginia, he be recognized to offer two amendments, and that upon the disposition of those two amendments, the Senator from Maine be recognized to offer an amendment.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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 Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. COLLINS). Without objection, it is so ordered.

Mr. BYRD. Madam President, I was just saying as I came in, I saw these young pages here—I have been around here quite a long time, but I haven't gotten used to these. Our country has put a man on the Moon and brought him back to Earth again, but it hasn't yet perfected a really good public address system. A Senator such as myself is not used to the public address system and has to learn how to use the ones we have.

As I was saying, I said the person who really introduced court reporting in the Roman Senate was Cicero, which I will discuss at another time.

AMENDMENT NO. 4557

Mr. BYRD. Madam President, when the President sent his budget to the Congress in February, it was based on a false premise. The President's budget assumed that the Appropriations Committees would raise the aviation fees on airline passengers by \$1.23 billion. The President and his advisers at the Office of Management and Budget were aware that the Congress would not approve this tax increase on airline passengers because the administration tried a similar proposal last year, and the Congress responded with a bipartisan no. Thus, the President's budget is kind of a hollow one—h-o-l-l-o-w, hollow. It leaves a gaping \$1.23 billion hole in the homeland security budget.

The chairman of the Appropriations Committee, Senator COCHRAN, provided the subcommittee with some additional resources, but the fact remains that this bill is still \$515 million below the President's request and \$350 million

lower than the bill that was passed by the House of Representatives last month.

The amendment I am offering today attempts to rectify this discrepancy. My amendment provides an additional \$350 million for border security infrastructure enhancements, and it is fully paid for.

I am pleased that the chairman of the subcommittee, Senator GREGG, is working with me on this amendment. As we continue to hire more Border Patrol agents and other immigration enforcement officials, we need to give them the tools they need to do their job, and we need to start paying for those tools now so they will be available as more and more Border Patrol and immigration enforcement officials are hired and trained.

The Border Patrol needs new helicopters because the average age of its helicopters is nearly 40 years. The average age of our Customs primary fixed-wing aircraft is 30 years. All of our border enforcement officials, including the newly hired officials, need more vehicles, including all-terrain vehicles, high endurance vehicles, and even more buses to transport and remove illegal aliens.

Customs and Border Protection has a requirement for 18 unmanned aerial vehicles, or UAVs. The Senate-passed immigration bill authorizes more UAVs. Yet the only one we had operating on our border crashed in the desert this past spring.

The amendment I am offering provides real dollars for our aging border infrastructure. It provides \$90 million for additional fencing, tactical border infrastructure, and facilities. It provides \$105 million for air and marine items, such as new helicopters, unmanned aerial vehicles, the standing up of all planned northern border air wings, and the facilities to house and maintain these aircraft. It provides \$55 million for replacement vehicles for our border and immigration personnel, and it also provides \$15 million for the ongoing Information Technology Modernization Program at Immigration and Customs Enforcement.

The President's budget requested \$47 million in direct appropriations for the Business Transformation Program at U.S. Citizenship and Immigration Services. Because of the hollowness of the President's budget submission, these funds were not included in the bill reported out of committee. The program is a multiyear effort to modernize immigration benefits services.

So this amendment will help to reduce the rate of fraud in the program and to ensure the security and the integrity of the immigration system. This amendment provides the \$47 million requested by the President for this program.

Finally, my amendment adds \$38 million for fraud detection and national security activities at USCIS. This \$38 million will add 100 new positions to enable FDNS to conduct benefit fraud

assessments of additional immigration benefits, including training efforts necessary to further enhance the background checking process. We must have the technology and trained personnel in place now if we are to ensure that only those individuals who are legally allowed to be in this country are obtaining benefits and other privileges.

How is the amendment paid for? The amendment is fully paid for through increases in existing fees on non-U.S. citizens.

Border security in this country must be more than just a political slogan in this campaign year. Do you know this is a campaign year? I do. I am running. Border security must be one of the Nation's top priorities. The people out there watching through those lenses will agree with that. Border security must be one of this Nation's top priorities.

The United States is on track to hire over 6,500 new Border Patrol agents and immigration enforcement officers. But what happens once they are on the job? Do we send them to the border without weapons, without radios, without trucks and Jeeps? Without this amendment, without these resources, we will be telling our Border Patrol agents in essence to stem the tide of illegal immigration with little more than a polite smile—little more than a polite smile. Asking illegal immigrants to please turn around just won't cut it. Our Border Patrol must have the law enforcement resources to get the job done.

If we are truly serious about securing our borders—and not just engaging in hollow rhetoric—then we will put real dollars on the border. I commend my chairman, Senator GREGG, for his support, and I urge my colleagues to support this amendment.

Mr. President, I send the amendment to the desk.

The PRESIDING OFFICER (Mr. VOINOVICH). The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself, Mr. GREGG, Ms. Murray, Mr. ROCKEFELLER, and Mr. BINGAMAN, proposes an amendment numbered 4557.

Mr. BYRD. 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:
(Purpose: To provide additional resources for border infrastructure and program integrity initiatives)

At the appropriate place in the bill insert the following:

TITLE VI

BORDER SECURITY INFRASTRUCTURE ENHANCEMENTS

SEC. 601. (a) Notwithstanding any other provision of law, the Secretary of Homeland Security shall adjust fees charged by the Department against any non-United States citizen by notice in the Federal Register no later than January 1, 2007, to achieve not less than \$350,000,000 in additional receipts by September 30, 2007: *Provided*, That the

Secretary may adjust only those fees authorized under the Immigration and Nationality Act and the Illegal Immigration Reform and Immigrant Responsibility Act: *Provided further*, That this adjustment shall be in addition to fees authorized under 8 United States Code 1356.

(b) Amounts collected under subsection (a) shall be deposited in the accounts as provided by 8 United States Code 1356: *Provided*, That of the total amount collected pursuant to subsection (a) the Secretary shall transfer the following amounts:

(1) \$25,000,000 to Customs and Border Protection "Salaries and Expenses" for vehicle replacement;

(2) \$105,000,000 to Customs and Border Protection "Air and Marine Interdiction, Operations, Maintenance, and Procurement" for air asset replacement and air operations facilities upgrades;

(3) \$90,000,000 to Customs and Border Protection "Construction";

(4) \$30,000,000 to Immigration and Customs Enforcement "Salaries and Expenses" for vehicle replacement; and,

(5) \$15,000,000 to Immigration and Customs Enforcement "Automation Modernization".

(c) Of the total amount collected pursuant to subsection (a) \$85,000,000 shall be made available to United States Citizenship and Immigration Services: *Provided*, That of the additional amount available, \$47,000,000 shall be for Business Transformation and \$38,000,000 shall be for Fraud Detection and National Security initiatives.

(d) Amounts deposited under paragraph (b) shall remain available until expended for the activities and services described in paragraphs (b) and (c).

Mr. GREGG. Mr. President, I wish to commend the Senator from West Virginia for this amendment. Everything that he is proposing to fund in this amendment is needed and is critical. There is no question but that the agencies to which he is giving these additional dollars for the purposes of refurbishing both air and vehicle fleets are in dire need of these dollars, as he cited in his statement. The aircraft owned by Customs is 30 years beyond its useful life. Helicopters are averaging 20 years beyond their useful life. The vehicles in which these folks go out to protect our borders often break down and many times they can't fulfill their missions because the vehicles are not up to the capacity that is needed.

So this is a good amendment. It is a needed amendment. I support it. Senator BYRD has found an offset which is a reasonable offset. It increases the fees for non-Americans who seek to use the Immigration Service and the Customs Service—mostly the Immigration Service, I believe. This will not raise blue slip issues. So I am in support of this amendment and urge its adoption.

Mr. President, I ask unanimous consent that amendment No. 4557 be agreed to.

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

The amendment (No. 4557) was agreed to.

Mr. BYRD. Mr. President, I thank my chairman for his support. I ask unanimous consent that further consideration of the amendment be waived.

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

AMENDMENT NO. 4559

Mr. BYRD. Mr. President, the President of the United States, in his January State of the Union Address, told America: "The enemy has not lost the desire or the capability to attack us." He was right. I am sure the President is correct about that. But some of the speech writers and policy writers for the administration seem to be living in alternative worlds.

After the administration's decision to allow Dubai Ports World to operate terminals in six major U.S. ports, the administration asserted that it has a robust, layered security system for our ports. Yet the White House has proposed for the second straight year now to eliminate the Port Security Grant Program.

How serious is the administration about port security when it decides to allow Dubai Ports World to control six major U.S. ports? How serious is the administration when it underfunds port security? How serious are they about port security when Customs and Border Protection inspects only 5 percent of the 11 million containers that come into the country each year? How serious is the administration about port security when the Coast Guard inspects only one-third of the foreign ports that trade with our country? How serious is the administration when the Coast Guard Deepwater budget for replacing its ships, planes, and helicopters will not be completed until 2026? How old will I be then, in 2026? Well, it really doesn't matter. That is 20 years away.

How serious are they when it takes over 11 months to make grant funds available to ports for needed security measures?

My amendment would provide \$648 million to fill critical gaps in our paper-thin—paper-thin—do you see how thin this paper is—our paper-thin port security programs. The amendment would provide resources for more container inspection equipment and personnel, more port inspections, more Coast Guard ships, more Coast Guard planes that are essential to securing our borders, and more port security grants.

Currently, only 5 percent of all of the cargo containers entering the United States are physically inspected by opening the containers. Now, this is paper-thin security. My amendment would fund 60 more cargo container imaging machines at our seaports and rail border crossings that can view inside a container. It will also fund the hiring of 354 additional Customs and Border Protection officers to inspect these containers and address anomalies in cargo containers that may be triggered by the radiation portal monitors deployed at the ports.

Currently, the Coast Guard has only 82 inspectors to conduct facility investment compliance at domestic ports and 34 inspectors to review security plans at foreign ports. Of the 144 countries that conduct maritime trade with our

country, the Coast Guard has assessed security at only 51. At the current rate of inspections, Coast Guard inspectors will visit countries that trade with the United States only once every 4 years. Now, this is paper-thin security.

Under my amendment, the Coast Guard would complete the assessment of all 144 countries every 2 years. My amendment would also provide the Coast Guard with funding to conduct random spot checks of all domestic port facilities and assess the vulnerability of our most strategic ports here at home.

Domestically, the Coast Guard inspects the 3,064 U.S. facilities that are subject to the Maritime Transportation Security Act regulations just once per year. The Coast Guard has no funding to conduct random spot checks of these facilities. My amendment includes funding for approximately 80 new positions to establish a robust spot check program at each Coast Guard sector office, an important element in any enforcement regime, wouldn't you think so?

The Coast Guard has completed vulnerability assessments at 55 militarily and economically strategic ports. Currently, no funding is available to update these assessments which were completed 2 years ago. But my amendment would allow the Coast Guard to reassess the vulnerability of approximately 10 ports.

The condition of Coast Guard ships and planes is declining rapidly. These assets spend more and more time out of service. For example, total patrol boat hours in 2004 were 25 percent lower than in 1998. Current Coast Guard maritime patrol airplanes can only provide half of the hours required to meet operational commitments. At the same time, funding constraints require maintenance on these aging assets to be deferred more and more every year.

My amendment provides \$184 million for the Coast Guard to buy new patrol boats, maintain existing cutters, buy new maritime patrol aircraft, and arm its helicopters for homeland defense in U.S. ports and harbors.

Coast Guard Patrol boats are operating in theater less today than they were in 1998. Total boat hours were only 75,000 in 2004, compared to the 1998 baseline of approximately 100,000 hours. The decline in operational hours has been the result of aging assets and the loss of 8 patrol boats deployed to the Middle East for Operation Iraqi Freedom. Under the Coast Guard's Deepwater modernization plan, this gap won't be closed until 2012 at the earliest. Funding in my amendment would enable the Coast Guard to purchase 2 additional patrol boats for a total of 5 in fiscal year 2007. This will provide the Coast Guard with 6,000 desperately needed Deepwater patrol boat hours in drug and migrant transit zones.

Finally, my amendment includes \$190 million for port security grants, which would bring fiscal year 2007 funding to \$400 million. The Coast Guard estimates that \$5.4 billion is needed

through 2012 for security at our ports. To date, only 15 percent of that amount has been funded despite the fact that United States ports handle over 95 percent of U.S. overseas trade. Last year, Homeland Security was able to fund only 24 percent of the projects requested. This is paper-thin security.

I ask unanimous consent that a letter from the American Association of Port Authorities supporting the amendment be printed in the RECORD.

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

(See exhibit 1)

Mr. BYRD. The White House knew, when it sent the budget to the Congress, that the funding relied on a tax hike on air travelers—a tax hike the Congress had already rejected. The Appropriations committees lack jurisdiction to increase the aviation passenger tax, and, of course could not do so in this bill. As a result, despite Chairman GREGG's best efforts, the bill that is before the Senate does not provide the necessary resources for port security. My amendment addresses that shortfall.

Just 2 months ago, the Senate approved my \$648 million port security amendment to the supplemental. Regrettably, the President threatened to veto the supplemental unless what he characterized as low-priority spending was dropped from the bill. In conference, port security funding was stricken from the supplemental. I hope that the Senate will approve this port security amendment again and that this time, it survives in conference.

The amendment is within the allocation available to the subcommittee for fiscal year 2006.

The American people expect more than just a paper-thin security plan for our ports. I thank Chairman GREGG for his support.

I thank my illustrious chairman, Senator GREGG, for his support, and I urge the adoption of my amendment.

EXHIBIT 1

AMERICAN ASSOCIATION
OF PORT AUTHORITIES,
Alexandria, VA, July 10, 2006.

To: All Members of the United States Senate.

From: Kurt Nagle, President and CEO, American Association of Port Authorities.

Subj: Support Port Security Amendment on the Senate Floor.

As a member of the United States Senate, I am writing to urge you to support an amendment to the Department of Homeland Security's (DHS) FY '07 appropriations bill being offered tomorrow by Senator Byrd to increase funding for port security. This amendment represents a critical opportunity to make port security a higher priority for this nation. The American Association of Port Authorities (AAPA) represents the leading public ports in the U.S., handling most of the maritime cargo imported or exported from this country. We strongly endorse this amendment to provide an additional \$635 million to enhance port security by providing: an increase in port security grants, additional port security inspectors at foreign and domestic ports, additional cargo container inspection equipment, and improved maritime security through expedited purchase of Coast Guard planes and boats.

Earlier this year, Congress and this nation focused its attention on the P&O Ports/Dubai Ports World transaction, which resulted in a nationwide debate on port security and calls for more security funding for this critical transportation asset. In response, the Senate and the House began working on legislation to strengthen maritime security. The Senate Greenlane Maritime Security Act (S. 2459—Collins/Murray) and the House SAFE Ports Act (H.R. 4954—Lungren/Harman) both call for significantly more funding for port security. The Senate-based emergency supplemental followed the recommendations in these bills, but much of the port security funding was eliminated due to concerns over the total spending level for the bill.

Senator Byrd's amendment is aimed at once again adopting the funding levels in the House and Senate bills and making port security a high priority for this country. AAPA is especially interested in properly funding the Port Security Grant program. The Byrd amendment would bring the funding level up to \$400 million for the year. This would help pay for the very costly new regulations DHS has proposed following the Dubai Ports controversy to require all maritime workers and facilities to comply with new Transportation Worker Identification Credential or TWIC requirements. DHS estimates that 40 percent of the \$1 billion cost of this regulation will fall on port facilities. By supporting this amendment, Congress will provide federal funds critical to help co-fund this new mandate.

With 99% of our international cargo by volume flowing through ports, we urge you to show the nation that port security is a priority in Congress by voting "yes" on this port security amendment tomorrow.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I rise again to express my appreciation to the Senator from West Virginia. He has brought forward an amendment which addresses critical needs in port security and Coast Guard retooling. He has paid for it. My druthers were to take the 2006 authorization allocation which we had and allow it to lapse and go to deficit reduction. That was my initial plan. But I have been here long enough to know that if you leave that type of money on the table, somebody else will end up spending it.

It is truly a critical need in the area of homeland security that we address the issues which the Senator from West Virginia has put into his package. The Coast Guard is especially important. An example: The Senator from West Virginia noted that he is going to fund the adding of armament to Coast Guard helicopters. Presently there are about 90 Coast Guard helicopters. Four or five are armed. The four or five that are armed have a 100-percent interception rate. In other words, when a smuggler is headed toward our shores, either with people or with contraband, if the helicopter that tracks them has armament on it, there is 100 percent interception rate. Those helicopters which do not have armament do not have anywhere near that interception rate.

There was an interesting article just a day or so ago in the Miami paper, I believe, about how smugglers are coming in and that the Coast Guard fast

boat tried to catch up with the smugglers. They were in a cigarette boat. The cigarette boat turned and was on a course to ram the intercept boats, and the intercept boats called in the armed helicopter and that stopped the confrontation. The smugglers were arrested.

So it is critical that we do this type of upgrading to the Coast Guard. In this bill, we had upgraded 36 helicopters. This will upgrade another 30. We are getting pretty close to the entire Coast Guard fleet or as much as is needed to have that type of armament on it.

In addition, the fast boats are critical, the observation aircraft are critical, and then the whole major thrust toward port security is equally important.

It is a paid-for amendment. It is one that addresses needs that are there, that are obvious. They need to be addressed and were not addressed because of the tight resource situation. But, as usual, the Senator from West Virginia has been creative, and his proposal is not only reasonable but is an improvement of the bill. I am happy to support it.

I know the Senator from North Dakota wants to speak on it.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator from West Virginia.

Mr. BYRD. Mr. President, I ask that my amendment be called up and the clerk state it for the consideration of the Senate.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself, Mr. GREGG, Mr. KOHL, Mrs. CLINTON, Mr. MENENDEZ, Mrs. MURRAY, and Mr. ROCKEFELLER, proposes an amendment numbered 4559.

Mr. BYRD. 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 port security enhancements in fiscal year 2006)

At the appropriate place, insert the following:

TITLE VII—SUPPLEMENTAL APPROPRIATIONS FOR PORT SECURITY ENHANCEMENTS

The following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to enhance port security for the fiscal year ending September 30, 2006, and for other purposes, namely:

CUSTOMS AND BORDER PROTECTION SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", \$251,000,000, to remain available until expended.

UNITED STATES COAST GUARD OPERATING EXPENSES

For an additional amount for "Operating Expenses", \$23,000,000, to remain available until expended: Provided, That funding is available to accelerate foreign port security assessments, conduct domestic port vulnerability assessments, and perform unscheduled security audits of facilities regulated by

chapter 701 of title 46, United States Code, commonly known as the Maritime Transportation Security Act of 2002.

UNITED STATES COAST GUARD
ACQUISITION, CONSTRUCTION, AND
IMPROVEMENTS

For an additional amount for "Acquisition, Construction, and Improvements" for acquisition, construction, renovation, and improvement of vessels, aircraft, and equipment, \$184,000,000 for the Integrated Deep-water Systems program, to remain available until expended: *Provided*, That funding is available to acquire maritime patrol aircraft and parent craft patrol boats, to provide armed helicopter capability, and to sustain the medium endurance cutter fleet.

OFFICE FOR DOMESTIC PREPAREDNESS
STATE AND LOCAL PROGRAMS

For an additional amount for "State and Local Programs", \$190,000,000 to remain available until September 30, 2007: *Provided*, That the entire amount shall be for port security grants pursuant to the purposes of subsection (a) through (h) of section 70107 of title 46, United States Code, which shall be awarded based on risk notwithstanding subsection (a), for eligible costs as defined in paragraphs (2), (3), and (4) of subsection (b).

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I will be very brief. I come from a landlocked State. We don't have a seaport in North Dakota. But I have taken the time to review some of the activities of seaports and learned a bit about seaports and related that to the issue of security in this new age of terrorism.

I come today to support the amendment offered by my colleague from West Virginia. He has been relentless over some long period of time, being very concerned about seaport security. Let me also commend Senator GREGG as well for his work on the underlying legislation and also for his support of the amendment of Senator BYRD.

I recall going to a seaport and being shown containers that come in, I believe between 5.5 and 6 million containers, stacked on ships that arrive at the shores of the United States. Then they are put on wheels and they are trucked around the country. I asked the question, How many of these containers are inspected? The answer at that point was around 3 percent. I believe now it is something just over 5 percent.

They were showing me, at this particular seaport, a container they had opened. It turned out to be a refrigerated container with frozen broccoli from Poland, and it had in it giant bags of frozen broccoli from Poland. I said, "What is in the middle of the container? I see you opened the back end and ripped open some bags, and there is frozen broccoli in this container. Is there anything in the middle of these bags?"

"That we don't know. We haven't unloaded it. We don't unload most of these. We don't inspect most of these."

Then they showed me the technology that exists by which they could inspect, effectively x-raying these containers. So there are ways to enhance greater inspection of these containers at seaports.

Even though my State doesn't have a seaport, we in the Senate debate and provide funding now of about \$10 billion a year for the antiballistic missile system so we can create a catcher's mitt in case some rogue nation or some terrorist group would fire an intercontinental ballistic missile at us that is tipped with a nuclear bomb. The likelihood of that is very unlikely. It is one of the least likely things on the threat meter against our country, that a rogue nation or terrorist group would acquire a nuclear weapon, put it on top of an intercontinental ballistic missile, and have the means to launch it at our country, but we spent about \$10 billion to try to find a way to provide a catcher's mitt and intercept a bullet, with a bullet traveling at 18,000 miles an hour.

A much more likely scenario to threaten this country will be a ship pulling up to the dock of a major American city at 3 miles an hour with a load of containers on board, one of which may contain a weapon of mass destruction. That has been my concern.

I think we have done a lot of work to try to extend the envelope and extend the line of protection, going actually to other countries. That is included, in addition, in this amendment—to have inspectors overseas at the point of departure for some of these container ships and so on. But there is so much more we must do if we really are going to assure ourselves we are not going to allow, coming in at 2 or 3 miles an hour, some large ship carrying containers, one of which—out of some 6 million—one of which could threaten to blow up a major American city. That is the reason for being concerned about port security. It has the purpose of going the extra mile and making the extra investment to make sure that we can feel as if we have done everything possible to provide security at America's seaports.

Let me again thank my colleague from West Virginia. As I said, he has been relentless. He has been on the Senate floor many times. I have tried to come and be supportive when he has offered these amendments because I feel so strongly about it. And let me again compliment Senator GREGG, the chairman of the subcommittee, for his work and also for accepting this amendment.

Mr. BINGAMAN. Mr. President, I speak on behalf of an amendment being offered by Senator BYRD which would enhance funding for border security infrastructure. I am pleased to be a co-sponsor of this important legislation, and I thank the Senator from West Virginia for his hard work on this important bill.

The amendment would provide an additional \$350 million for critical border security needs. The amendment would allocate \$105 million for customs and border protection to purchase new Border Patrol replacement helicopters, fixed wing aircraft, and additional unmanned aerial vehicles. And \$25 million is added to the bill to purchase ap-

proximately 540 additional replacement vehicles for the Border Patrol.

The amendment would also provide an additional \$90 million for tactical infrastructure. This funding can be used to construct vehicle barrier, fencing, and facility upgrades. This funding will be of great assistance to the state of New Mexico, where such upgrades are needed to secure our border. The underlying bill allocates about \$57 million for tactical infrastructure in Arizona and about \$30 million for San Diego. However, the El Paso Sector, which includes the entire State of New Mexico, is only provided about \$7.5 million. The additional \$90 million under this amendment will help ensure that New Mexico receives the resources that it needs.

The amendment would also prove \$30 million for ICE to purchase 800 vehicles, including buses and vans, used to transport undocumented immigrants. And USCIS is allocated \$38 million to enhance fraud detection systems.

These additional resources are greatly needed and I urge my colleagues to support this important measure.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. I thank the Senator from North Dakota. There is some irony in that, although neither the Senator from West Virginia nor the Senator from North Dakota has a port, unless Harpers Ferry is considered a port, they would be putting forward this concept. It is a good concept.

I ask unanimous consent the amendment be agreed to.

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

The amendment (No. 4559) was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4560

Ms. COLLINS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk reads as follows: The Senator from Maine [Ms. COLLINS], for herself and Mr. LIEBERMAN, Mr. LOTT, and Mr. CARPER, proposes an amendment numbered 4560.

Ms. COLLINS. Mr. 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 printed in today's RECORD under Text of amendments.)

Ms. COLLINS. Mr. President, our amendment would strengthen the capability, stature, and effectiveness of the Federal Emergency Management Agency. The language in the amendment is largely drawn from S. 3595, the United States Emergency Management Authority Act, which we introduced in this Chamber 2 weeks ago. We believe this is the appropriate time and the right vehicle for improving our Nation's emergency management system.

The wounds of Hurricane Katrina are still fresh. A new hurricane season is upon us, and the recent news on the law enforcement and military front reminds us that the terrorist threat to America continues. Bitter lessons have been learned from the experience in responding to Hurricane Katrina, but they have not yet been applied. The time for action is now.

The amendment reflects the Senate Committee on Homeland Security's 8-month investigation into the failed preparations for response to Hurricane Katrina.

As the Presiding Officer is well aware, the committee conducted an extensive and exhaustive investigation. We held some 23 hearings at which nearly 90 witnesses testified. We formally interviewed 325 individuals, and we reviewed some 838,000 pages of documents. We distilled all of this into a comprehensive report with many recommendations for improving the response at all levels of government.

Some of these recommendations have to do with how the Federal Government should be organized to effectively respond to future disasters, whether they are manmade or whether they are natural ones such as Katrina. These recommendations have been distilled in part in USEMA legislation that forms the basis for this amendment.

I note that this is the first step in implementing the committee's comprehensive recommendations. We will be introducing a subsequent bill to implement other findings and recommendations. Most significant will be a package of reforms to the Stafford Act, but that is not what we are proposing today. The amendment before us today has four key features. It seeks to restructure, reform, and strengthen the Federal Emergency Management Agency, FEMA, which we would rename as the United States Emergency Management Authority.

The four key features are as follows: First, it would give this new authority statutory protection against administrative actions that could diminish its capabilities and effectiveness, such as department-wide reorganization that could strip essential functions away from the new agency.

Second, it would ensure that the administrator has direct access to the President and serve as his principal adviser on emergency management issues.

Third, it would reunite preparedness functions with response capabilities. After all, preparedness and response are really two sides of the same coin. I believe it was a mistake when the Department decided to strip FEMA of its preparedness functions.

It would reestablish the agency's comprehensive responsibility and restore a full range of work relationships with State and local government, the essential partners in emergency response.

Fourth, the amendment would strengthen the new authority's regional focus.

I know that as a former mayor the Presiding Officer has a special appreciation for just how important it is for the Federal Government to work closely with State and local governments. That is an issue that he has brought up throughout this investigation.

We would create Federal strike teams that have representatives from all the agencies that are involved on the Federal side of the response. They would be located in regional offices to foster cooperation, coordination, and joint training with State and local emergency managers and with first responders.

A crisis, whether it is due to a hurricane, an ice storm, or a terrorist attack is the last time that people should be exchanging business cards. We should make sure the Federal, State, and local governments are training together, planning together, exercising together; that they know one another; that they know the culture, the capabilities, and the essentials.

The overarching objective of the amendment is to strengthen FEMA which, as I pledged, we would propose to rename as the United States Emergency Management Authority. The new name signals a fresh start for FEMA with new authority, including some authority that it has never had before over critical infrastructure, for example. It signifies new capabilities and new responsibilities to all-hazards emergency preparedness and response. And, surely, those of us who investigated for some months the failed response to Hurricane Katrina, as well as anyone who followed the issue peripherally, can have no doubt that FEMA urgently needs to be restructured and reformed to be more effective.

Part of this help entails giving the new people a special legal status within DHS. Our amendment's prohibition against further departmental reorganization of this agency and mission alterations affecting the authority will give USEMA exactly the same kind of protection that has already been extended to the Coast Guard and to the Secret Service.

This is something completely new. We paralleled the kind of protection, the distinct legal status that is given to the Coast Guard and to the Secret Service. I know the Coast Guard was the stellar performer in the response to Katrina. The Coast Guard, by all accounts, did an exceptional job in its preparedness and response, yet as part of the Department of Homeland Security.

I think those who think the answer is to sever FEMA or the new agency from the Department should take a hard look at the Coast Guard's experience. But in looking at the Coast Guard, I think we can also learn that it benefited from having this legal protection, and we would extend that to the newly constituted FEMA.

This protection will help achieve congressional intent that DHS be the focus for comprehensive, all-hazards

Federal preparation and response to disasters.

When the Hart-Rudman Commission on National Security in the 21st Century memorandum recommended just 5 years ago a new approach to homeland security and that America establish a single department to plan, coordinate, and integrate homeland security operations, it called FEMA the necessary core of that new department. To that end, USEMA, like FEMA, needs to be a part of the DHS structure. That analysis has been confirmed by experience.

Admiral Allen of the Coast Guard explained at one of our hearings that having FEMA and the Coast Guard in the same department leads to certain synergies that do not otherwise occur, and that led in particular to a 350-percent increase in joint training exercises. That is the kind of integration that we need more of.

More generally, keeping key capabilities within a single DHS umbrella permits faster communication and response than a more formal and bureaucratic procedure required for interdepartmental requests from a setting within DHS. However, FEMA needs to have far better lines of communication.

I know the Presiding Officer was as shocked as I was to hear the former head of FEMA, Michael Brown, talk about circumventing the chain of command within the Department and his failure to order critical commodities, to order the buses, to communicate just how dire the situation was in Louisiana.

We want to make sure that we improve those lines of communication, both within the Department and between the Department and the White House and other agencies. That means giving the administrator more status.

We would upgrade the administrator so he is the equivalent of a Deputy Secretary. That gives him more clout and more stature in dealing, for example, with the Department of Defense and other departments that play important roles in responding to a disaster.

We designate the administrator of USEMA the principal adviser to the President on matters of emergency management. And we adopt a system that for the Pentagon has worked well in outlining the reporting responsibilities. We parallel the relationship between the Chairman of the Joint Chiefs of Staff to the President. So there is both a reporting relationship to the Secretary of Homeland Security, and yet the new administrator would be the principal adviser to the President on emergency management.

In addition—I think this also responds to a key weakness that our intensive investigation revealed—the administrator would be authorized to give recommendations directly to Congress. The administration would have to make sure he informs the Secretary of what he is going to say, but there is a direct link, a direct line of communication.

I know the Presiding Officer recalls that Michael Brown claims he was stifled in reporting to Congress. We don't know for a fact whether that is an accurate statement. But we put in reforms to ensure that the administrator has the ability to communicate his recommendations, his needs, his findings directly to Congress.

Our amendment, as I indicated, specifically rejects the notion that FEMA should be cut off of DHS and made a freestanding agency. The DHS needs FEMA's capability. What would happen if FEMA, a weak FEMA, were cast alone is that DHS would have to recreate many of the capabilities that FEMA has at great cost, at great duplication of effort. What we would end up having is one agency that deals with natural disasters and another agency within DHS that deals solely with disasters resulting from terrorist attacks. That makes no sense whatsoever.

Many of the challenges in the aftermath of a catastrophe, whether it is manmade or natural, are exactly the same—sheltering people, getting them food and water, an evacuation plan.

It also makes no sense from the perspective of State and local governments. We don't want them to just deal with one agency if they are planning for a natural disaster and another agency if they are planning for a terrorist attack since many of the challenges are identical. Just think, if the levees had been blown up by terrorists rather than breached by Hurricane Katrina, many of the challenges would have been exactly the same. There just would have been a stronger law enforcement component.

It is a mistake, in that the Coast Guard's stellar performance proves it is a mistake, to think the location of FEMA is the cause of the problems. Even if that duplication were cost free, a virtual impossibility, the Secretary of the Department estimates it would cost billions of dollars to duplicate the necessary capabilities within DHS if FEMA were separated. Even if that were possibly cost free, it would be destructive. Divided preparation and response systems would force State and local officials to have to engage one to prepare for natural disasters and another for terror attacks.

As one of our committee's expert witnesses, Professor Donald Kettl of the University of Pennsylvania, said: Separating response to terrorism from response to natural disasters, separating preparedness from response, separating FEMA from DHS, would inevitably bring problems.

I agree with the professor. This is consistently what we hear from those who are on the front lines, from those who know what it takes to respond to a catastrophe.

In that regard, I note that there is extraordinarily strong support from first responder groups for the Collins-Lieberman-Lott-Carper amendment. It has been endorsed by the National Troopers Coalition, the Major Cities

Chiefs Association, the Grand Lodge of the Fraternal Order of Police, the National Association of Police Organizations, the National Sheriffs Association, the International Association of Fire Fighters, the International Association of Fire Chiefs, the Congressional Fire Services Institute, Advocates for EMS, the International Brotherhood of Police Officers, the International Association of EMT's and Paramedics.

This is quite a list of those who truly are on the front lines when it comes to responding to a disaster. I am very proud to have their support for our amendment. They recognize we have worked very hard and consulted fully with them to come up with the right approach.

I also note the amendment we are offering has been endorsed by the Homeland Security and Defense Business Council. This is a council that provides advice to the Secretary. It is made up of very distinguished members of the private sector. They, too, have endorsed it.

I ask unanimous consent these letters from first responder groups and from the Homeland Security and Defense Business Council be printed in the RECORD at the conclusion of my statement.

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

(See exhibit 1.)

Ms. COLLINS. Mr. President, I also note planning and response capabilities are already too weak in many States, as evidenced by the recent DHS reviews. We don't want to splinter those efforts further by needlessly multiplying their Federal points of contact. For many reasons, therefore, preserving those close working ties with other agencies within the Department, the new FEMA must stay within DHS.

Allow me to briefly summarize a few more of the provisions of the bill before yielding to my colleague from Connecticut. First, as I mentioned, it establishes a strong position for the administrator of the new USEMA. This administrator would be nominated by the President, confirmed by the Senate, and have the standing of a Deputy Secretary. Day by day, the administrator would report to the DHS Secretary, but the bill explicitly provides that direct line of communication to the President as well as the authority to make recommendations to Congress on which I have already elaborated.

The amendment provides for two directors. There was an issue on which we worked very closely with DHS. The language we have incorporated in the feedback we got from the Department. Both of these individuals—which, again, would be high-level individuals within the Department—would be nominated by the President, confirmed by the Senate, and would provide the administrator and the Department with highly qualified professionals in preparedness and mitigation and in response and recovery.

Our amendment would give the administrator responsibility for managing preparedness grant programs. The Presiding Officer knows, as the former mayor, that if you control some of the money that goes out to State and local governments, if you are helping to allocate that funding, you will have a good relationship with State and local governments. Inevitably, the authority follows the money. This is going to ensure we have far better coordination. This is an important restoration of authority to this agency. It was a mistake, in my view, that authority was taken away from FEMA. That will help ensure better oversight and coordination of preparedness at all levels of government.

I have talked about how important I think these regional structures are for the new agency. It will ensure that Federal officials are familiar with the people, the vulnerabilities, the capabilities, and the resources of the regions they protect, and they won't be introducing themselves to strangers on unfamiliar ground when disaster strikes.

I could not help but be struck during our hearings by the fact that so many individuals from FEMA were sent from region 1e—the region that the Senator from Connecticut and I represent, New England—down to New Orleans. I like to believe we New Englanders can handle anything, but the fact is, the response would be far more effective if we had people who are in the area who worked every day with the emergency management officials in the area, who understood the weaknesses and the strengths of particular States rather than sending someone from the Northeast down to the hurricane region or vice versa in times of an ice storm or some other disaster.

Further recognizing the importance of multilevel governmental coordination, the bill creates a national advisory council on emergency preparedness and response that would be made up of State and local officials, emergency management professionals from the public, private, and NGO sectors to advise the administrator of USEMA. This is important. We know the critical role nonprofits and the Red Cross play. They, too, should be involved in the training, the planning, the exercising. We learned from our investigation that, too, was flawed. This will help ensure the agency's thinking does not proceed in a stovepipe, but is fortified with comments and expertise from a wide range of vitally concerned partners.

Our amendment addresses the glaring and urgent needs highlighted in our investigation of Hurricane Katrina. As I mentioned, I am very pleased we have the support of so many experts. Nothing could speak more eloquently of the need for reform or be more encouraging than to receive the words of support from those who do put their lives on the line every day to protect the American people. We also have the support of the administration for this proposal.

Amending the Homeland Security appropriations bill by adding the provisions of our USEMA bill will go far to ensuring in a timely way that we will have a far more effective structure to protect our fellow citizens' lives and livelihoods from disaster.

I am very pleased this is a bipartisan effort. I recognize the work of the Senator from Connecticut who has led, with me, the investigation of the committee and the drafting of this legislation. We are also grateful for the input of Senator LOTT who knows better than any of us—except his fellow Senators from Mississippi and Louisiana—the devastation of Hurricane Katrina. I am grateful for his input, as well as the input from Senator CARPER who also has worked very hard on this issue.

Finally, I recognize all of the participation of the Presiding Officer, Senator COLEMAN. There was no more loyal committee member who came to virtually every single hearing, participated actively, and contributed greatly to our investigation. I thank him for his work, as well.

EXHIBIT 1

JULY 11, 2006.

Hon. SUSAN COLLINS,
*Chairman, Committee on Homeland Security,
U.S. Senate, Washington, DC.*
Hon. JOSEPH LIEBERMAN,
*Ranking Member, Committee on Homeland Security,
U.S. Senate, Washington, DC.*

DEAR CHAIRMAN COLLINS AND RANKING MEMBER LIEBERMAN: On behalf of the Homeland Security and Defense Business Council (the Council), I am writing to support S. 3595, the U.S. Emergency Management Authority Act. On behalf of the private sector, the Council is pleased to endorse this measure to reinvent, protect, and strengthen FEMA. The new FEMA, reconstituted as the U.S. Emergency Management Authority, would ensure that the nation will be better prepared to address, either, natural or man-made disasters.

The Council is a non-partisan, non-profit 501 C6 organization that comprises the major companies that serve the Department of Homeland Security (DHS). Our focus is to align private sector resources to support the mission of the Department on behalf of the nation's interests. The Council is pleased to see language that elevates the importance of FEMA within DHS and reunites preparedness functions with response capabilities.

The Council supports provisions of S. 3595 that would:

Give the new U.S. Emergency Management Authority statutory protection against actions that could diminish its capabilities and effectiveness;

Ensure that the Administrator of US-EMA has direct access to the President and serves as Principal Emergency Management Advisor, at all times;

Reunite preparedness functions with response capabilities to reestablish the agency's comprehensive responsibilities and restore the full range of working relationships with state and local government; and

Strengthen the Authority's regional focus with federal strike teams for a faster and more coordinated response and to provide better familiarity with the states in which the strike teams will operate.

Thank you for your continued commitment to improving emergency management and response and for engaging the private sector to leverage industry best practices.

Should you have additional questions, please do not hesitate to contact me anytime.

Sincerely,

MICHAEL M. MELDON,
Executive Director.

NATIONAL TROOPERS COALITION,
July 11, 2006.

Hon. SUSAN M. COLLINS,
Chair, Homeland Security and Governmental Affairs Committee, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR COLLINS: On behalf of the 40,000 state troopers and highway patrol men and women represented by the National Troopers Coalition (NTC), we are writing to commend you for your legislative efforts to ensure that law enforcement is directly involved in the continuing efforts to prevent and respond to acts of terrorism.

As an organization, NTC joins with our colleagues in other national law enforcement organizations in support S. 3595, the United States Emergency Management Authority Act of 2006. We are convinced that retaining the Federal Emergency Management Agency within the Department of Homeland Security will provide better coordination among all agencies serving as first responders to both natural disasters and terrorist attacks. Recent history has demonstrated the importance of the law enforcement community responding promptly, along with others, to both terrorism and natural disasters for the safety and well-being of our citizens.

The NTC thanks you for your leadership on this issue and your continued efforts to ensure the public that we will have the authority and resources to meet our public safety responsibilities under any and all circumstances.

Sincerely,

CASEY PERRY.

INTERNATIONAL ASSOCIATION OF
FIRE CHIEFS,
Fairfax, VA, July 13, 2006.

Hon. SUSAN COLLINS,
Chairman, U.S. Senate Committee on Homeland Security and Governmental Affairs, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN COLLINS: On behalf of the nearly 13,000 chief fire and emergency officers of the International Association of Fire Chiefs (IAFC), I would like to endorse your amendment to establish a U.S. Emergency Management Authority (USEMA). We believe that this amendment will resolve many of the problems with the nation's emergency management system by improving the structure and granting greater autonomy to the federal preparedness and response activities within the Department of Homeland Security (DHS).

We believe that your approach is the best way to reform the nation's emergency preparedness and response system, because it keeps these activities within DHS. The IAFC is concerned that the removal of the Federal Emergency Management Agency (FEMA) from DHS will splinter the federal government's emergency preparedness and response efforts, which will force local jurisdictions to cope with competing directives from both an independent FEMA and the other DHS agencies. In addition, it is important that the FEMA stay within DHS and continue developing relationships with the U.S. Coast Guard and the other DHS components to better leverage their collective assets.

We believe that the U.S. Emergency Management Agency established by your amendment would ensure more autonomy for the federal emergency preparedness and response activities. The USEMA Administrator would report directly to the Secretary of Homeland Security and the directors of Preparedness and Response and Recovery divisions would

be Senate-confirmed. Your amendment also would insulate the USEMA from reorganization and diversion of assets, functions, or missions. The IAFC believes that USEMA's independence could be further guaranteed by ensuring that the USEMA Administrator would report directly to the President during a Stafford Act—defined "emergency" or "major disaster" to ensure that all federal assets are available without delay. We greatly appreciate the provisions in this amendment that ensure that the U.S. Fire Administrator remains at a level equivalent to an Assistant Secretary in the department.

We thank you for your continued leadership on behalf of America's fire service. Please feel to contact Ken LaSala, Director of Government Relations, at (703) 273-9815 x347, if we can be of assistance.

Sincerely,

GARRY L. BRIESE, CAE,
Executive Director.

GRAND LODGE
FRATERNAL ORDER OF POLICE®,
Washington, DC, July 10, 2006.

Hon. SUSAN M. COLLINS,
*Chairman, Committee on Homeland Security and Governmental Affairs,
U.S. Senate, Washington, D.C.*
Hon. JOSEPH I. LIEBERMAN,
*Ranking Member, Committee on Homeland Security and Governmental Affairs,
U.S. Senate, Washington, D.C.*

DEAR CHAIRMAN COLLINS AND SENATOR LIEBERMAN, I am writing on behalf of the members of the Fraternal Order of Police to advise you of our strong opposition to any legislation or amendment that would remove the Federal Emergency Management Agency (FEMA) from the U.S. Department of Homeland Security (DHS).

Since the terrorist attacks on the United States in September 2001, our nation has worked diligently to defend itself from future attacks and, in so doing, have also dedicated significant resources to respond to large scale critical incidents, both natural and man-made. Yet the primary mission of the Department of Homeland Security must always be the prevention of future attacks against the United States, and this mission is best entrusted to law enforcement at the local, State, and Federal levels.

However, our nation will face natural disasters which cannot be prevented, and, for these, we must be prepared to respond. Law enforcement is a critical component of this response and law enforcement at every level of government seeks to increase the speed and effectiveness of delivering emergency services to those in need. Clearly, the mass devastation brought to the Gulf Coast by Hurricane Katrina showed that greater coordination and communication is needed to respond to incidents of such magnitude. This goal cannot and will not be achieved if FEMA is removed from DHS. Indeed, the F.O.P. believes that such a move would reduce our nation's overall level of preparedness.

The F.O.P. also strongly supports greater participation of law enforcement in planning emergency response at every level of government. We will continue our review of various legislative proposals addressing the need for emergency management reform at the Federal level. I thank you both in advance for your consideration of the positions we have laid out to date and look forward to working with you to improve our nation's ability to prevent terrorist attacks and prepare for future critical incidents. If I can provide any further information on this issue, please do

not hesitate to contact me or Executive Director Jim Pasco in my Washington office.

Sincerely,

CHUCK CANTERBURY,
National President.

MAJOR CITIES CHIEFS ASSOCIATION,
Columbia, MD, July 6, 2006.

Hon. SUSAN COLLINS,
Chairwoman, Committee on Homeland Security and Governmental Affairs,
U.S. Senate, Washington, DC.

DEAR MADAME CHAIRWOMAN: On behalf of the Major City Chiefs Association, I am writing to commend you on developing legislation that will strengthen the Department of Homeland Security (DHS). S. 3595, the United States Emergency Management Authority Act, is a step in the right direction; making DHS more efficient with limited disruption and reorganization.

Prevention is the best investment in response capability. Like the President, we believe that the best way to respond to a terrorist attack, be it biological, chemical, radiological, nuclear or conventional explosive is to prevent it from happening in the first place. Intelligence, investigation, and preparedness are all law enforcement functions that will help prevent terrorists from striking again.

As you know, we feel strongly that preparedness and prevention are too dissimilar from response and recovery for these functions to operate under the same common chain of command. That is why we welcome the creation of a separate and distinct Office of the Prevention of Terrorism reporting directly to the Secretary. This structure will not permit the dilution of the prevention mission under layers of bureaucracy. We are also pleased that the bill does not break apart the Preparedness Directorate keeping it on equal footing with response and recovery. We strongly support the Preparedness Directorate and its vital role at DHS.

We look forward to working with you and supporting your efforts to ensure that DHS has a clear prevention mission. If we can be of further assistance, please do not hesitate to call on Tom Frazier at 410-433-8909.

Sincerely,

HAROLD HURTT,
President.

NATIONAL ASSOCIATION OF
POLICE ORGANIZATIONS, INC.,
Washington, DC, July 11, 2006.

Hon. SUSAN COLLINS,
Committee on Homeland Security and Governmental Affairs,
U.S. Senate, Washington, DC.

Hon. JOSEPH LIEBERMAN,
Committee on Homeland Security and Governmental Affairs,
U.S. Senate, Washington, DC.

DEAR CHAIRWOMAN COLLINS AND RANKING MEMBER LIEBERMAN: On behalf of the National Association of Police Organizations (NAPO) representing more than 238,000 law enforcement officers throughout the United States, I would like to thank you for introducing S. 3595, the "United States Emergency Management Authority Act of 2006," and advise you of our support, particularly in regards to Section 517 of the legislation. If enacted, this bill will establish within the Department of Homeland Security (DHS) an Office for the Prevention of Terrorism.

The "United States Emergency Management Authority Act of 2006" will create an Office that would be responsible for coordinating anti-terrorism policy and operations between DHS and state and local law enforcement. The Director of the Office for the Prevention of Terrorism would have the important task of developing better intel-

ligence sharing methods between DHS and state and local law enforcement agencies. This new Office would also ensure that vital homeland security grants are adequately focused on terrorism.

This legislation recognizes the importance of standardized coordination and communication between the country's local, state, and federal law enforcement in preventing acts of terrorism within the United States. Section 517 of the "United States Emergency Management Authority Act of 2006" will help ensure that state and local law enforcement are properly supported, trained and informed in order to prevent terrorism before it occurs.

NAPO thanks you for your continued support of law enforcement and I look forward to working with you to get this important legislation passed. If you have any questions, please feel free to contact me, or NAPO's Legislative Assistant, Andrea Mournighan, at (202) 842-4420.

Sincerely,

WILLIAM J. JOHNSON,
Executive Director.

ADVOCATES FOR EMS,
July 11, 2006.

Sen. SUSAN COLLINS,
Chair, Senate Homeland Security and Governmental Affairs Committee, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR COLLINS: Advocates for EMS, a not-for-profit organization founded to educate elected and appointed officials and the public on important issues affecting EMS providers, writes in support of S. 3595, the United States Emergency Management Authority Act of 2006. The measure establishes the U.S. Emergency Management Authority (USEMA) and creates a more autonomous agency within DHS, similar to the U.S. Coast Guard. S. 3595 also retains the Federal Emergency Management Agency (FEMA) within the Department of Homeland Security (DHS).

Advocates believes that moving FEMA out of DHS would only continue the instability that FEMA has experienced since its move to DHS. While FEMA responsibilities include natural disasters such as hurricanes, tornadoes and floods; it should also have an integrated response plan for other emerging threats. Removing FEMA from DHS would only add additional hurdles for EMS providers in terms of their ability to work with the federal government in response to a natural or man-made event.

Creating a U.S. Emergency Management Authority (USEMA) and the autonomy provided by the legislation is a step forward in making FEMA efficient and effective in providing emergency medical services responders the leadership and resources they need. In addition, Advocates also supports the establishment of the Chief Medical Officer (CMO) and its responsibilities the legislation provides. The CMO plays a key role in coordinating medical response within DHS and other federal agencies.

Advocates thanks you for your continued leadership on this issue and looks forward to working with you in the future on first responder issues.

Sincerely,

ADVOCATES FOR EMS.

INTERNATIONAL ASSOCIATION
OF FIRE FIGHTERS,
Washington, DC, July 11, 2006.

Hon. SUSAN COLLINS,
Hon. JOE LIEBERMAN,
U.S. Senate, Washington, DC.

DEAR SENATORS COLLINS AND LIEBERMAN: On behalf of the nation's more than 270,000 professional fire fighters and emergency medical personnel, I applaud you for your ef-

forts to reform the nation's emergency preparedness and response system. We strongly support the enactment of legislation to reform FEMA within the Department of Homeland Security and appreciate your continued leadership in moving this effort forward.

Congress must enact comprehensive reforms to ensure that FEMA will be able to provide an effective response to disasters. These reforms, such as reuniting disaster preparedness and response functions within FEMA and utilizing an all-hazards approach to emergency preparedness, can and should be made within the Department of Homeland Security.

We believe that proposals to return FEMA to its status as an independent agency would hinder efforts to reform our nation's emergency response system. Removing FEMA from DHS would create competing agencies, sowing confusion among emergency responders. Furthermore, such an approach would undermine an all-hazards approach, leading to a perception that DHS deals with terrorism, while FEMA is in charge of natural disasters.

When Congress created the Department of Homeland Security, it did so with the understanding that emergency preparedness and response are at the core of our nation's homeland security. Your amendment to the Homeland Security Appropriations Act helps to fulfill this mandate by ensuring that FEMA remain an integral part of the Department of Homeland Security.

Thank you for your leadership on this vital issue. We greatly appreciate your continued support for the nation's front-line emergency responders and look forward to working with you in the coming weeks to improve the way our nation responds to disasters.

Sincerely,

BARRY KASINITZ,
Director, Governmental Relations.

CONGRESSIONAL FIRE
SERVICES INSTITUTE,
Washington, DC, July 10, 2006.

Hon. SUSAN COLLINS, Chair,
Hon. JOE LIEBERMAN, Ranking Member,
Senate Committee on Homeland Security and Governmental Affairs, Washington, DC.

DEAR SENATORS COLLINS AND LIEBERMAN: The response to Hurricane Katrina revealed a number of things regarding our nation's level of readiness for major disasters. On the one hand, it showed the courage and dedication of local first responders—our firefighters, law enforcement, and rescue personnel—who made many sacrifices of their own in order to respond valiantly to the greatest natural disaster in our nation's history. On the other hand, it exposed the limitations of our national response capabilities, exacerbated by failures in leadership at all levels of government.

While there is no doubt fundamental changes need to be made to our national response structure, we are greatly concerned by recent efforts in the Congress to remove FEMA from the Department of Homeland Security. The separation would diminish the resources of both FEMA and DHS, and create a duplication of critical components resulting in a bureaucratic nightmare for first responders and local governments.

In 2002, we were one of nine organizations that signed on to a white paper outlining our position on the creation of the Department of Homeland Security. The first recommendation was that FEMA "be at the core of the Department of Homeland Security." Our organization has not altered its position. FEMA can succeed but it will require strong leadership, proper resources, and better execution of the roles and responsibilities by FEMA and its partners. Your legislation, S. 3595, takes into account our

recommendation. We commend you for addressing this issue and appreciate your support.

Thank you for your leadership on this issue. We certainly look forward to continuing our work with your committee to address the needs and challenges of our nation's first responders.

Sincerely,

WILLIAM M. WEBB,
Executive Director.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank my colleague, Chairman COLLINS, for an excellent introductory statement and to say, once again, how much I am honored and pleased to work with her as the ranking Democrat on our homeland security committee, and how pleased I am to join with her today and with Senators CARPER and LOTT to introduce this amendment to make FEMA into an agency capable of responding swiftly and effectively to the most serious disasters, whether a hurricane the size and scope of Katrina, a natural disaster the likes of which we see more routinely, or a terrorist attack which, of course, our enemies hope will be even more devastating than the attacks of September 11 and for which we must be perpetually on the defensive and prepared.

This amendment would literally reinvent FEMA to give our Federal emergency preparedness and response experts the authority, the capabilities, the resources, and the integration with State and local officials needed to avoid the confused, uncoordinated, and ultimately ineffective response that the Nation and the world witnessed last August when Katrina made landfall. It would strengthen emergency preparedness and response within the Homeland Security Department which this Congress created a short time ago to prevent, prepare for, and ultimately respond to all kinds of disasters.

In doing so, this amendment would create a truly national system of emergency management that will be able to draw on the Nation's vast resources for a cohesive and complete local, State, and Federal response.

Mr. President, the Homeland Security and Governmental Affairs Committee spent 7 months in 2005 and 2006 investigating the botched Government response to that catastrophic hurricane. We found all levels of our Government were ill-equipped to deal with the massive human suffering all along the gulf coast that followed that terrible storm's landfall, suffering that shocked, angered, and embarrassed the American people who expect more support from their Government for fellow Americans in need.

These failings were caused by negligence in some cases, by a lack of resources in other cases, by a lack of capabilities in some cases, but most of all by a lack of leadership and preparation that comes with leadership from the very top to the very bottom.

We cannot legislate leadership, although as Senator COLLINS said, we can

at least require the kind of experience in the people who will lead America's emergency management effort that would make it more likely they would be leaders, and we can legislate changes in Government structures to make them more sensible and better suited to protect people in times of disaster.

The homeland security committee's report had merit because we told the story of what happened and didn't happen, of the clear warnings that such a hurricane would one day strike the gulf coast, and the clear predictions that we were not ready. In telling the story, right through the weekend before landfall and then the days following the disaster itself, I believe the committee, on a truly bipartisan basis, made a contribution. Because sometimes just telling the truth and putting it before those in positions of responsibility is one of the great curatives, one of the great sources of reform. But the committee went beyond just telling the story and offered a number of recommendations about what was needed to improve our preparations, response, and recovery.

Chairman COLLINS and I will soon introduce broader legislation to encompass all of our committee report's recommendations. These include changes to the Stafford Act to address the different kinds of assistance that are needed in response to catastrophic events rather than "ordinary" disasters; provisions to ensure that communications systems can work—and that first responders can talk to each other—even in devastating disasters; requirements for the national planning for disasters and catastrophes that FEMA was never able to fully accomplish; and steps to ensure that USEMA has the kind of robust and capable workforce it needs to succeed. All of these are crucial pieces of the effort to remake our nation's emergency response and recovery capabilities.

But we begin today with the foundation, the most important recommendation we made, which is to rejoin the functions of disaster response with disaster preparedness within a new agency, a reinvented FEMA, which we will call USEMA, the U.S. Emergency Management Authority. It would be at the very core of the Department of Homeland Security, just as FEMA was originally intended to be when we proposed the new department in 2002 based on the recommendations of the Hart-Rudman Commission the previous year.

How could one have a Department of Homeland Security, which is aimed at preparing for and responding to disasters, including terrorist attacks, without the Federal agency that is primarily responsible for emergency management? It makes no sense. Our investigation of what went wrong during Hurricane Katrina made it clear that part of the problem was caused by separate and uncoordinated Federal preparedness and response functions within the Department of Homeland Security.

In the years before Katrina, FEMA, the agency charged with coordinating our Nation's response to terrorist attacks and natural disasters, too often was out of the loop when critical decisions about how to prepare were being made. It had no say in how to spend billions of dollars in preparedness grants. Training exercises were designed and held without serious input by FEMA. Relationships with State and local officials on the front lines were not fully developed and sometimes were nonexistent. So FEMA's ability to respond was crippled because it was not working hand in glove with those making preparations for responding to disaster.

Our amendment, first and foremost, therefore, will ensure that our preparedness efforts are inseparable from the capabilities needed to respond. As Chairman COLLINS has said, preparation and response are two sides of the same coin. And the coin, which is the coin of America's emergency management in times of disaster, is stronger if those two sides are together.

USEMA will provide the resources and it will have the ability and the responsibility to plan and train with State and local emergency management officials, just as it will have the responsibility to coordinate with them at the time of a disaster.

Where FEMA has often struggled to cope with normal hurricanes, the mission of the new Authority will be to partner with State and local governments, other Federal agencies, the private sector, and nongovernmental organizations to build a national system of emergency management that can respond effectively to catastrophic incidents.

Where FEMA has been slow to respond and too often reactive, the new Authority will be charged with developing a Federal response capability that can and will act rapidly and proactively when necessary to deliver assistance essential to saving lives in a disaster.

Where FEMA has not been fully integrated with DHS, the Department of Homeland Security, the new Authority will be charged with coordinating with key agencies in the Department also involved in emergency management, also on the front lines at a time of disaster, such as the Coast Guard.

Our amendment would also give the new Authority special status within the Department—the same status the Coast Guard and the Secret Service now have. With that status, changes to the agency's functions and its assets could only be made by congressional statute, not by executive action. That is a way of protecting the strength we intend to give this new authority.

We would also insist in this legislation that the administrator and other key agency officials have the necessary experience and qualifications for the job. In other words, USEMA will not be plagued by unqualified appointees, as FEMA has been in the past.

Chairman COLLINS and I also envision a new agency with robust regional offices which would focus on coordination of preparedness and response with local and State agencies. Let's take the focus away from Washington and place it where it belongs, where the real work of preparedness is done, on the front lines, in the States and in the municipalities. This will guarantee that Federal officials are familiar with regional and local threats and know their counterparts at the State and local levels. Different parts of the country face different natural disaster prospects. Unfortunately, most every part of the country is vulnerable today to terrorist attack. This regional approach will help ensure that officials are not exchanging business cards on the day the disaster strikes, that the local, State, and Federal officials are not meeting on the day or the day before the disaster or the day after the disaster.

I know some of my colleagues in the Senate believe FEMA should be removed from the Department of Homeland Security and given independent status. But Senator COLLINS and I, after our extensive investigation, have concluded that is not the solution to the problems we saw in response to Hurricane Katrina, but instead would compound the problems. It would be a serious mistake to separate FEMA out of the Department. Even when it was independent, FEMA never developed the capacity to respond to a catastrophe like Hurricane Katrina. So returning it to independent status, as if those were the golden days of yore, is not based on fact, and it will in no way solve the problems we saw in response to Katrina and that we face today. In fact, it will make solutions and, I would say, preparations and responses to disaster far more difficult.

Removing the agency from the Department would only create additional problems, duplications, and disconnectedness. The Department of Homeland Security, containing other emergency response agencies, such as the Coast Guard, and other components, would begin to rebuild the functions of FEMA in the Department, even though it was independent. FEMA—independent, out of the Department—would duplicate activities and functions that are in the Department resulting in a waste of money, bureaucratic inefficiencies and a lack of coordination that would not only put us at risk of repeating the inadequate response we saw to Hurricane Katrina last year but of making it even worse.

To cope with a catastrophe, the Government's chief preparations and response agency must have access to the vast resources of the Department of Homeland Security, and it needs to work seamlessly with other agencies that have critical roles to play during a catastrophe. Those working relationships are going to be much easier and more real if officials know one another and if agencies have a history with

each other and, of course, if everyone ultimately serves the same Secretary of Homeland Security.

The grievous conditions of gulf coast communities in the week after Katrina's landfall embarrassed us before the world and, quite appropriately, angered us because we know that America can do better. But the gulf coast and the force of Katrina are not isolated examples. Other American communities and regions are similarly vulnerable today—whether to a natural disaster or terrorist attack. We also know significant flaws in the Nation's readiness remain. Another response like the one we saw during Katrina is simply not an option.

Our proposal is not about rearranging bureaucratic boxes. We have studied past failings and carefully considered how to improve our performance, the Federal Government performance, the next time. We have been driven by that singular goal. We have not had any thoughts in mind of protecting the status quo or favoring one bureaucratic entity over another. We have tried to come up with a recommendation that will put America's Government in the best position to protect America's people the next time disaster strikes. We are driven by the imperative to save people's lives, like the lives lost during Hurricane Katrina.

The changes embodied in this amendment, I am convinced, promise a strong response, if enacted, the next time disaster strikes. So I ask my colleagues for their support of this amendment.

I thank Senator COLLINS for her leadership and express once again my pleasure at the opportunity to work with her and in this instance to be joined by Senator LOTT and Senator CARPER in a truly bipartisan national-interest homeland security amendment.

Mr. JEFFORDS. Mr. President, I rise today in support of the amendment raised by Senator AKAKA on behalf of Senator CLINTON, and in opposition to the amendment offered by Senator COLLINS.

Mr. President, colleagues, what we are seeing today with the underlying amendment is a refusal to admit that a mistake was made when FEMA was incorporated into the Department of Homeland Security when it was created in 2002 after September 11.

Rather than correct the mistake, extract FEMA from DHS, and restore it to its former state as an independent agency reporting directly to the President, the Collins amendment makes an effort to change the way FEMA operates within the Department. I support Senator CLINTON's second-degree amendment to restore FEMA to an independent, Cabinet-level agency, and I urge my colleagues to do the same.

Over the last 200 years, we have moved from an ad hoc approach to disaster response to a coordinated, orderly approach, authorized by the Stafford Act, over which my Committee, the Environment and Public Works Committee, holds jurisdiction.

On September 11, the Nation was struck by a terrorist attack. The effectiveness of FEMA helped reduce the impact of those events.

In what I believe is an example of extremely poor judgment that failed to take into account FEMA's role in responding to natural disasters, FEMA was moved into the Department of Homeland Security.

FEMA has shown itself to be ineffective, in my opinion, largely due to the bureaucracy of the Department of Homeland Security and FEMA's lack of independence. At the time of the creation of DHS, I said:

I cannot understand why, after years of frustration and failure, we would jeopardize the Federal government's effective response to natural disasters by dissolving FEMA into this monolithic Homeland Security Department. I fear that FEMA will no longer be able to adequately respond to hurricanes, fires, floods, and earthquakes, begging the question, who will? (November 20, 2002)

Today, unfortunately, we know the answer—no one.

With Hurricane Katrina, I believe that we witnessed the degradation of our national response system as a result of that change. We all watched the results of that free-fall on live television. As I watched the coverage of that event, I could only think of the unnecessary human suffering that was occurring, in part as a result of the bad decision made by Congress to include FEMA in DHS.

Today we have a chance to correct our mistake.

It is the very structure of the Department that makes it impossible for FEMA to be effective. In a disaster, regardless of cause, decisions need to be made quickly and resources need to be brought to bear immediately. FEMA reporting directly to the President is the only way to make this happen. During Katrina, we saw the result of having our emergency response agency buried in the bureaucracy of DHS—executive decisionmakers were isolated from the realities of the situation, preventing the quick, effective action that we saw after September 11. The only way to correct that problem is to get FEMA out of DHS and into a Cabinet-level status, reporting directly to the President.

I urge my colleagues to support the Clinton amendment and reject the Collins amendment.

I ask unanimous consent that my entire statement from 2002 be printed in the RECORD.

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

FLOOR STATEMENT OF SENATOR JIM JEFFORDS, HOMELAND SECURITY, NOVEMBER 20, 2002.

Mark Twain once said, "Always do right—this will gratify some people and astonish the rest." I rise today to explain why I believe voting against this bill is the right thing to do.

Of the many reasons to vote against the bill, I will focus on three—the bill's treatment of the Federal Emergency Management

Agency, the bill's treatment of the Freedom of Information Act, and the process used to create this new Department.

With the passage of this Homeland Security legislation, we will destroy the Federal Emergency Management Agency, losing year's of progress toward a well-coordinated Federal response to disasters.

As it now exists, FEMA is a lean, flexible agency receiving bipartisan praise as one of the most effective agencies in government. But it hasn't always been that way.

Throughout the 1980s, FEMA's focus on Cold War's nuclear threat left the Agency ill-prepared to respond to natural disasters. The Congressional chorus of critics decried the Agency's misguided focus and reached a crescendo after bungled responses to Hurricane Hugo in 1989 and Hurricane Andrew in 1992.

One of FEMA's leading Congressional critics, then-Representative Tom Ridge said in 1988, "I was convinced that somewhere along the way, the Federal Emergency Management Agency had lost its sense of mission."

Over the last decade, refocusing the agency's mission and priorities on natural disasters has left the agency well-equipped to respond to all types of disasters. FEMA's stellar response to September 11th proved this.

I cannot understand why, after years of frustration and failure, we would jeopardize the Federal government's effective response to natural disasters by dissolving FEMA into this monolithic Homeland Security Department.

I fear that FEMA will no longer be able to adequately respond to hurricanes, fires, floods, and earthquakes, begging the question, who will?

Mr. President, also of great concern to me are the new Freedom of Information Act exemptions contained in the latest substitute.

Unfortunately, the current Homeland Security proposal chokes the public's access to information under the Freedom of Information Act. I ask, are we headed toward an Orwellian society with an all-knowing, secretive big brother reigning over an unknowing public?

The bill defines information so broadly that almost anything disclosed by a company to the Department of Homeland Security could be considered secret and kept from the public.

Although I believe current law contains an adequate national security exemption, in the spirit of compromise, I supported the carefully crafted bi-partisan Senate language contained in both the Lieberman substitute and the Gramm-Miller substitute. The current bill ignores this compromise.

Mr. President, the process by which we received this substitute seems eerily similar to the way the White House sprung its original proposal on the Congress some time ago.

Last week we received a bill that had magically grown from an original 35 pages to an unwieldy 484 pages. There was no compromise in arriving at the current substitute, only a mandate to pass the substitute or be branded as weak on homeland security or worse yet, unpatriotic.

Still more troubling, the current bill places little emphasis on correcting what went wrong prior to September 11th or addressing future threats. Correcting intelligence failures should be our prime concern. Instead this bill recklessly reshuffles the bureaucratic deck.

Furthermore, as my colleague Senator CORZINE stated earlier this week, this bill does not address other vitally important issues such as security at facilities that store or use dangerous chemicals. Without provisions to address yet another gaping hole in our Nation's security, why are we not being more deliberate in our approach?

In closing Mr. President, I feel that it is irresponsible to divert precious limited re-

sources from our fight against terrorism to create a dysfunctional new bureaucracy that will only serve to give the American public a false sense of security.

I will vote against this bill because it does nothing to address the massive intelligence failure that led up to the September 11th attacks. It dismantles the highly effective Federal Emergency Management Agency and creates dangerous new exemptions to the Freedom of Information Act that threaten the fundamental democratic principle of a well-informed citizenry.

Thank you.

I thank the Chair and yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 4555, AS MODIFIED

Mr. GREGG. Mr. President, I send an amendment to the desk on behalf of Senator SALAZAR.

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 Hampshire [Mr. GREGG], for Mr. SALAZAR, proposes an amendment numbered 4555, as modified.

Mr. GREGG. 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 require the Secretary of Homeland Security to prepare a report on activities to ensure that the agriculture quarantine inspection monitoring program of the Animal and Plant Health Inspection Service is operating effectively and to ensure that States are receiving adequate guidance)

At the appropriate place, insert the following:

SEC. ____ . The Secretary of Homeland Security shall submit a report to the Committees on Appropriations of the Senate and the House of Representatives, not later than February 8, 2007.

(1) identifies activities being carried out by the Department of Homeland Security to improve—

(A) the targeting of agricultural inspections;

(B) the ability of United States Customs and Border Protection to adjust to new agricultural threats; and

(C) the in-service training for interception of prohibited plant and animal products and agricultural pests under the agriculture quarantine inspection monitoring program of the Animal and Plant Health Inspection Service; and

(2) describes the manner in which the Secretary of Homeland Security will coordinate with the Secretary of Agriculture and State and local governments in carrying out the activities described in paragraph (1).

Mr. GREGG. I ask unanimous consent that the amendment be agreed to.

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

The amendment (No. 4555), as modified, was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. FEINSTEIN. 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. 4556

Mrs. FEINSTEIN. Mr. President, I ask that amendment No. 4556 be called up.

The PRESIDING OFFICER. Without objection, the pending amendment will be set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN], for herself, Mr. KYL, Mrs. BOXER, Mr. TALENT, Ms. CANTWELL, Mr. SALAZAR, Mrs. HUTCHISON, and Mr. BINGAMAN, proposes an amendment numbered 4556.

Mrs. FEINSTEIN. 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 amend chapter 27 of title 18, United States Code, to prohibit the unauthorized construction, financing, or, with reckless disregard, permitting the construction or use on one's land, of a tunnel or subterranean passageway between the United States and another country and to direct the United States Sentencing Commission to modify the sentencing guidelines to account for such prohibition)

On page 127, between lines 2 and 3, insert the following:

SEC. 540. (a) CONSTRUCTION OF BORDER TUNNEL OR PASSAGE.—Chapter 27 of title 18, United States Code, is amended by adding at the end the following:

"§ 554. Border tunnels and passages

"(a) Any person who knowingly constructs or finances the construction of a tunnel or subterranean passage that crosses the international border between the United States and another country, other than a lawfully authorized tunnel or passage known to the Secretary of Homeland Security and subject to inspection by the Bureau of Immigration and Customs Enforcement, shall be fined under this title and imprisoned for not more than 20 years.

"(b) Any person who knows or recklessly disregards the construction or use of a tunnel or passage described in subsection (a) on land that the person owns or controls shall be fined under this title and imprisoned for not more than 10 years.

"(c) Any person who uses a tunnel or passage described in subsection (a) to unlawfully smuggle an alien, goods (in violation of section 545), controlled substances, weapons of mass destruction (including biological weapons), or a member of a terrorist organization (as defined in section 2339B(g)(6)) shall be subject to a maximum term of imprisonment that is twice the maximum term of imprisonment that would have otherwise been applicable had the unlawful activity not made use of such a tunnel or passage."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 27 of title 18, United States Code, is amended by adding at the end the following:

"Sec. 554. Border tunnels and passages."

(c) CRIMINAL FORFEITURE.—Section 982(a)(6) of title 18, United States Code, is amended by inserting “554,” before “1425.”

(d) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—

(1) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this subsection, the United States Sentencing Commission shall promulgate or amend sentencing guidelines to provide for increased penalties for persons convicted of offenses described in section 554 of title 18, United States Code, as added by subsection (a).

(2) REQUIREMENTS.—In carrying out this subsection, the United States Sentencing Commission shall—

(A) ensure that the sentencing guidelines, policy statements, and official commentary reflect the serious nature of the offenses described in section 554 of title 18, United States Code, and the need for aggressive and appropriate law enforcement action to prevent such offenses;

(B) provide adequate base offense levels for offenses under such section;

(C) account for any aggravating or mitigating circumstances that might justify exceptions, including—

(i) the use of a tunnel or passage described in subsection (a) of such section to facilitate other felonies; and

(ii) the circumstances for which the sentencing guidelines currently provide applicable sentencing enhancements;

(D) ensure reasonable consistency with other relevant directives, other sentencing guidelines, and statutes;

(E) make any necessary and conforming changes to the sentencing guidelines and policy statements; and

(F) ensure that the sentencing guidelines adequately meet the purposes of sentencing set forth in section 3553(a)(2) of title 18, United States Code.

Mrs. FEINSTEIN. Mr. President, this amendment criminalizes the unauthorized construction, financing, or reckless disregard which permits construction of a border tunnel that is a tunnel between American land and another country's land; namely, Canada or Mexico or any subterranean passageway along international borders.

This amendment is cosponsored by Senators KYL, BOXER, TALENT, CANTWELL, SALAZAR, HUTCHISON, and BINGAMAN. This amendment was part of the immigration bill. It was unanimously added to the immigration bill by the Judiciary Committee. I have tried to hotline this amendment. It was cleared on the Democratic side, and it was cleared on the Republican side with the exception of one Senator. I believe it is an important amendment. That is why I am offering it today as an amendment to this bill.

Believe it or not, today the act of constructing, financing, or using a tunnel between borders is not a Federal crime. This amendment changes that. In addition to criminalizing the unauthorized construction, financing, or use of a border tunnel on one's land, this amendment also doubles the criminal penalties for individuals caught using a tunnel to unlawfully smuggle aliens, goods, drugs, weapons of mass destruction, or terrorists. The amendment also allows for assets involved in the offense or any property traceable to the offense to be subject to forfeiture.

Finally, the amendment directs the U.S. Sentencing Commission to promulgate or amend Federal sentencing guidelines to provide for criminal penalties for persons convicted pursuant to the language of the amendment and to take into account the gravity of this crime when considering base offense levels.

One might ask: Why is this important? I will answer that. Since September 11, 43 tunnels and subterranean passageways into the United States have been discovered—26 tunnels along the California-Mexican border, 16 tunnels along the Arizona-Mexican border, and 1 tunnel along the Washington-Canadian border. The risk to national security that is raised by the use of these tunnels is one this body is already aware of. In fact, the Senate Appropriations Committee included report language on this topic, which reads:

Policy on tunnels along the border: The Committee is concerned with the Department's lack of a clear policy regarding which agency is responsible for securing, closing, and ultimately filling tunnels which are discovered crossing under our land borders. It appears decisions regarding the handling of tunnels are made on an ad hoc basis, depending on which agency discovers the tunnel and has the resources to fill it. With nearly four dozen known tunnels along our borders, it is imperative a policy regarding tunnels be developed.

And it goes on. It asks that this policy be developed not later than February 8.

This report language in the appropriations bill is a good first step, but it is just that. The cosponsors of this amendment and I believe that we send a further message that border tunnels are a problem and they must be dealt with. As I mentioned, 43 border tunnels have been discovered in the United States. These tunnels range in complexity from simple gopher holes a few feet long at the border to massive drug-cartel-built megatunnels costing hundreds of thousands of dollars to construct.

I recently visited a border tunnel on the Mexican-San Diego border. Let me tell you what I found. I found a tunnel that was extraordinarily sophisticated. It was six football fields long. It went under other buildings. It went under the border. The American side was a large warehouse, brand new, huge warehouse, half a long square block, kept empty, small rooms inside the warehouse. Inside one room, which I will show you in a minute, was a hatch. Down the hatch was a tunnel, a concrete floor, ventilation, a pump to drain it, and electricity, as we can see. This was the tunnel interior.

This is a picture of the interior. We can see the concrete. At one end of the tunnel was 2,000 pounds of marijuana, and at the other end was 300 pounds of marijuana.

This was the hatch in a room, and it looked very benign. You simply lifted up two floor tiles, and under those floor tiles, you descended about 10 feet and there was this huge apparatus

which clearly had been functioning for a substantial period of time. I found it just amazing.

The building, interestingly enough, was sold about a year ago to an individual who never leased it out. I have always wondered: Why wouldn't you lease out a warehouse? That question still has not been answered to my satisfaction.

I also learned there is no law against it. There is no law that says you have to do due diligence on your property if it is on the border to see that somebody doesn't come along and dig a tunnel such as this and smuggle aliens, smuggle drugs, possibly smuggle terrorists, possibly smuggle weapons. This is a way to do it. Therefore, I believe this amendment belongs in this bill.

My hope, given the importance of criminalizing this action, is that this amendment will be included in the managers' amendment. We will still be delighted if that is the case. I am not sure that is possible. I believe to allow another period of time to go by with no law that says it is illegal to build a border tunnel unless you are authorized to do so, and has some sanctions to it, is really long overdue. It would be terrible if we found out one day that a group of 15 or 16 terrorists came in from Mexico or came in from Canada to the State of Washington through a border tunnel and we had done nothing about it.

This amendment also says that the owner of property along the border must be reasonably aware, must do their due diligence to see that their property is maintained and a border tunnel is prevented.

I am hopeful this amendment will be accepted and, if not, I will certainly ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I think the Senator's amendment is a good amendment and I would like to accept it. There is an objection on our side to our accepting it at this time with which the Senator is familiar. I am hopeful we can resolve that objection.

Rather than going to the yeas and nays, let's see if we can resolve the objection.

Mrs. FEINSTEIN. Would the Senator like me to hold on the yeas and nays?

Mr. GREGG. Mr. President, I would appreciate it if the Senator from California would. I certainly assure the Senator that at some point, if we have to vote on it, we will vote on it. Right now there appears to be an objection going forward.

Mrs. FEINSTEIN. Mr. President, I thank Senator GREGG. I know Senator KYL is going to come to the floor and speak on the amendment as well. I do not see him at this time.

Mr. GREGG. The Senator has made an excellent point. It doesn't surprise me there is no criminality or law involved that restricts the ability to dig a tunnel from one country to another. It is pretty obvious that something

should be done in this area. So I think the Senator has touched on a very important point. hopefully we will work it out, and we will work it out before this bill is off the floor.

Mrs. FEINSTEIN. I thank the Senator for those comments.

Mr. President, I yield the floor and ask that the amendment be set aside.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. 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. LOTT. Mr. President, parliamentary inquiry: What is the pending amendment?

The PRESIDING OFFICER. The amendment by Senator FEINSTEIN, No. 4556.

Mr. LOTT. Mr. President, I ask unanimous consent that the amendment be set aside and we return to debate on amendment No. 4560 by Senator COLLINS.

The PRESIDING OFFICER. Is the Senator asking that it be the pending question or just to debate it?

Mr. LOTT. I am asking that the pending amendment be set aside to return to debate on amendment No. 4560.

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

AMENDMENT NO. 4560

Mr. LOTT. Mr. President, I come to the floor to join in the support of amendment No. 4560 to the Department of Homeland Security appropriations bill. I thank Senator COLLINS for her leadership in this area and for her willingness to work on a solution that I think will be good for the Federal Emergency Management Administration, as it is now known, in the Department of Homeland Security, and result in a better effort by the successor to FEMA in the future.

Let me begin by saying that I appreciate the support of my colleagues in the Senate as we have gone through the aftermath of Katrina and we have come to the floor three or four times asking for help in a variety of areas to help us with the recovery, to get funds for the different Federal agencies, to get funds even to the Federal Emergency Management Administration to help us recover. A lot of progress has been made. I want to acknowledge that.

In 3 years or 5 years, we are going to look back and say that the aid we received from the Federal Government was absolutely indispensable and allowed us to get through this very difficult process.

In the immediate aftermath of the hurricane, there were wonderful stories that could be told about the actions of the Coast Guard specifically, let me point out, and by other military installations, faith-based groups, volunteer

groups, charitable organizations, by corporate America that sent aid, supplies, money, people. The utilities worked laboriously to get power back on and telephones operative. It was a monumental undertaking.

For those who want to be critical of the recovery effort—and I am one of those—you have to first acknowledge that this was a devastating disaster of Biblical proportions, more than any of us could have comprehended, more than any of us who lived in the line of fire from Hurricane Katrina understood even in the immediate aftermath, including me.

I was there in the immediate aftermath. We lost our house. We are like everybody else along the coastline of Mississippi and Louisiana. It is a very difficult experience. But our people have been resilient, they have been determined, and we are making progress.

We did get through the preparations for the hurricane, saving lives immediately after, getting basics to people who needed them—just basic water and ice. We have gotten almost all of the debris removed, except in some of the swamp and water canals and channels that still has to be removed. We are seeing rebuilding start. Just yesterday, the Department of Housing and Urban Development released \$3 billion for the home grants through CDBG so that people who lost their home, had no insurance, and had a mortgage and probably lost their job and their car, their truck, or their dog will have some way to get up to \$150,000 to get their homes repaired or rebuilt. So we have made a lot of progress.

I think it is time that we look even more to the future: How are we going to get through the rebuilding period? We are working with elevations, heights that FEMA is requiring; we are dealing with small business loans, all that goes on with the rebuilding effort.

But I am worried about the next disaster. There were some very disappointing results at FEMA. And I want to hasten to say that FEMA, which became a dirty, four-letter word, has a lot of good people in it and has done a lot of really good things, but it could have been and it should have been better. And what troubles me so much, as a Congressman and Senator and even before that as a staff member—I have dealt with the recovery effort after five hurricanes, two major tornadoes, two major ice storms, and a flood. I have dealt with disasters. I have dealt with the emergency arm of the Federal Government, going back to 1969 after Hurricane Camille, when the disaster effort and recovery was carried out by the Office of Emergency Preparedness, OEP. Its offices are right across the street from the Old Executive Office Building, run by a general, a retired Army general, and reportable only to the President of the United States.

They did a marvelous job after Hurricane Camille. The chain of command was short. In those days, the Corps of

Engineers brought in the heavy equipment, the trucks, the bulldozers, the front-end loaders, the Bobcats. They cleaned up the debris. Now you have to go through Treasury, a check goes to FEMA, FEMA goes to the Corps, the Corps of Engineers goes to the contractor—out of State probably—and the contractor goes to subcontractors, to sub-subcontractors and, meanwhile, a lot of money is frittered away as everybody takes their bite, on down the line.

Of course, one of the most difficult things was getting the trailers, the temporary housing to people in the area. The logistics of getting trailers is not a big problem, but getting them to the people turned out to be a huge problem. The insanity of how it was managed was inexplicable. I won't go through how difficult it was.

We are still dealing with that. We still have some people who are living in tents because FEMA said: We won't deliver you a trailer if you are in a flood zone. If that is all the property you have—you could bring a trailer into a flood zone, and if you had to, you could hitch it up and pull it out. But people are still living in very difficult circumstances.

I believe we made a mistake when we were creating this huge, new, mammoth Department of Homeland Security where we put all of these different entities, agencies, and bureaus into that agency that wound up having 150,000 or more people in it.

I remember when we were discussing creating this Department of Homeland Security in an office right down the hall. Senator STEVENS and Senator COLLINS and some of us raised questions about how the Coast Guard was going to be handled, and we wound up carving out a special arrangement for the Coast Guard. I won't get into the details of it at this moment. But I raised questions about FEMA, too: Are we sure we want to put our emergency management organization into this big, mammoth department and maybe become overrun by homeland security and terrorism? And the answer was: Oh, absolutely. They need to coordinate manmade disasters, natural disasters, disaster preparation, disaster recovery; it needs to be seamless and they all need to be operating under the same authority.

Well, I relented. I think it was a mistake. I think the emergency management organization has a unique responsibility in preparation for disasters. Yes, they can be manmade as well as natural disasters, but also in the recovery. But I think the chain of command was out of control. The number of officials who were meeting in a room, they would fill up the room and identify all the problems: Oh, we have a flood main broken here. We have schools where the wall is falling in. We have debris in the road. They would get through with the meeting, everybody would leave, and somebody would say: Did anybody get any assignments? Did they agree to do anything? No.

The people that did do something, though, were in the Coast Guard. They helped move people out before the hurricane, rescued people during and after the hurricane, and generally did a magnificent job. Do you know why? Because they had this carved-out, unique position, even though they were in the Department of Homeland Security. They didn't have to go through the Secretary of the Department of Homeland Security to do what was necessary.

Another example was the Seabees at Gulfport, MS. When they went to these meetings with all of these muckety-mucks, all of these different agency heads, to hear the problems and do nothing about it, the Seabees would make lists of things they could do and they went out and did it. They went out and stopped the leaky water main. They went and removed the debris so you could get into a neighborhood. They went to the school and they took action to tear down or repair or fix a wall so it would at least be safe for their children. You know what. They just did it.

By the way, they could have gotten in trouble because if FEMA hadn't agreed to reimbursement, they would have had to eat the cost of what they did, and some captain in the Seabees could have been in real jeopardy. But, thank goodness, they worked through it. They got reimbursed and did well.

So I think that is part of the problem. I asked the Seabees: Why were you able to do that?

They said: Well, the chain of command was so long and laborious, we decided we would find the things we could do and we would just go out and do it.

FEMA, I think, meanwhile, had been sort of pushed back into the back 40 part of Homeland Security. They had been underfunded, undermanned, and had not been really getting the involvement and the attention they needed. Plus, I was shocked one time when I heard the Secretary of Homeland Security complaining that the head of FEMA was going around him directly to the President. Yes, he should have. You shouldn't have the emergency management and recovery people having to check with the Assistant Secretary, the Deputy Secretary, the Secretary, the Chief of Staff, the OMB, to get to the President. This is an emergency. It is a disaster, for heaven's sake. So I don't think it worked well.

I don't blame a lot of the good men and women at FEMA; I blame us. We did it. We created a system that didn't work.

So I introduced legislation to move FEMA, like its predecessors, back into a role as an independent agency with specific authorities for natural disasters, reporting only to the President. I was joined in sponsoring that legislation by the Senator from New York, Mrs. CLINTON, who knows something about how the predecessor to FEMA worked under its Administrator at the

time, James Lee Witt, who also had a little experience with disasters, although the ones he dealt with on 9/11, as the Senator from New York knows, were manmade. Others joined in co-sponsoring that legislation.

I still believe that is the best way to go. I think it should be independent.

In the House, you have two separate approaches. You have the independent approach and you have the approach that would keep it locked in Homeland Security. But it seemed to me that there was a third way. There is always a third way, if you will just look for it. I think that is one of the things we have lost in this institution. We get locked into the Republican position, the Democratic position, or some other division, and then we won't talk to each other.

So Senator COLLINS, to her credit, on her own initiative, said: Can I come talk to you about the proposal that Senator LIEBERMAN and I have, which was to keep it in the Department of Homeland Security, with some changes, and some recommendations I thought would have been positive but still was not the solution I thought we needed. But she came and took the time to explain it to me. It had some attractive features to it. She gave it more authority.

But then I thought about it for a while and I went back to her and I said: Let's find this third way. I think maybe the thing to do is to carve FEMA out into a position like the Coast Guard but within the Department of Homeland Security but with an independent authority, the ability to report directly to the President of the United States. Yes, they could be involved in coordinating and in the preparation for disasters of all kinds, but set them up basically independent within the Department of Homeland Security.

I think it will work. An example is the Coast Guard. So much of the language that we have in this amendment came from the Coast Guard language. I know Senator COLLINS has taken the time to explain the details of what is proposed here, and I am painting a broader picture of what is involved. But we were able to come to an agreement. Her staff was cooperative. My staff, which has had a lot of experience with this sort of thing, worked with them, and we came to an agreement. By the way, I then went to Senator CLINTON and said: I think we can get something done if we do this, rather than just having a big fight. Do you want a big fight or do you want a result? The new hurricane season is upon us.

Now, the media made it sound like on June 8, or whatever the date was that hurricane season begins, we would get hit immediately. Well, those of us who are hurricane pros know that hurricanes generally don't hit in June and July, but they will come in August and September, and this time it may not be Mississippi or Florida; it may be

Maine. But it will come somewhere. I don't want to be sitting around here complaining about what it was like because FEMA did not have the authority they needed, didn't have the money, didn't have the power they needed 6 months or a year from now. So we needed to get something done.

Senator CLINTON understood what I was trying to do. It is part of the way I think we need to do things around here. It is part of being honorable with each other. She had been a cosponsor. I thought I should explain what I was working on doing. So we came to the agreement that has been produced with this amendment. I think it makes good sense. I think the House will find some wisdom in it, and the most important thing is we will get something done.

It is so difficult to move something through the Senate anymore. Do you think we could really move a whole new, freestanding bill through the Homeland Security and Government Affairs Committee, get it to the floor of the Senate, all kinds of amendments—and let me tell you, I would be one of the ones waiting here with lots of amendments. I have lots of other things stuck in my craw about the hurricanes that I am worried about for the future—or could we go with an amendment, which seems appropriate to me, to the Department of Homeland Security appropriations bill, get it to the House, get their input, and get a result. Even then, it won't be perfect, but I believe it will be better. This is something we should do.

I will be coming back, until the last day I serve in this institution—when ever that may be—to talk to my colleagues about lessons we learned and things we can do that will hopefully help our people be more secure; that will help people who will be hit with other kinds of disasters such as tornadoes, earthquakes, crickets, or whatever, but we will do it better because of what we learned from Hurricane Katrina.

So I am delighted to be here to support this amendment. In a perfect world I might do it differently, or I might still insist that it can be a separate entity. The amendment even proposes that it be renamed the Emergency Management Administration, I believe—EMA. It is something we can say, and it is not a four-letter word. I think while that is not going to cure a single problem, it is part of creating a new atmosphere and a different mindset, hopefully.

I think the Administrator of FEMA that we have in place now, Mr. Paulson, is a good man. I think he is going to move toward trying to get professional disaster-experienced people in FEMA throughout this country, and I certainly hope he will.

So I urge my colleagues to support this amendment and then support this appropriations bill. I yield the floor.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, I thank the Senator from Mississippi for his

comments, for his support, and for his enormous contribution to the amendment that is before us today. He, more than any other Member of this body, has personal experience with the devastation that Hurricane Katrina caused, and he has been, along with Senator COCHRAN and the two Louisiana Senators, a fierce advocate for reforming the system to make sure that never again does government at all levels so fundamentally fail in its obligation to our citizens.

I very much appreciated the opportunity to work with Senator LOTT to strengthen the language in our bill to make sure that the exact same safeguards and protections that the Coast Guard enjoys would now apply to the new FEMA organization: USEMA. I think that was an excellent suggestion. We used the same language, and we will protect the new agency from being reorganized by the Secretary, from having its mission altered, from having it split up or dispersed or its budget cut through administrative fiat. Those kinds of changes should come to Congress, and we have put those protections in place.

As Senator LOTT recommended, we have upgraded the status of the whole agency. The head of the new agency will be the equivalent of a Deputy Secretary and will have the clout and the stature that is needed to deal with other agencies. We have done enormous reforms. This version of an emergency management agency will have authorities that the current FEMA has never had. In addition, we restored the preparedness and the grant-making functions, and I think we have come up with a very good product.

So I want to thank my colleague and friend from Mississippi for his considerable contributions to this amendment, and I am very grateful that he was willing to sit down and find—as he put it—a third way and, indeed, I believe, a far better solution. So I thank him for his support.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. GREGG. Mr. President, we are working toward getting an agreement. For the edification of Members, if we can work that out, we will have two votes in approximately an hour, but that is not necessarily going to happen.

Mr. AKAKA. Mr. President, I ask unanimous consent to speak for 20 minutes.

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

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

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

AMENDMENT NO. 4563

Mr. AKAKA. Mr. President, I call up amendment 4563 on behalf of Senator CLINTON, myself, and others.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. AKAKA], for himself and Mrs. CLINTON, Mr. LEAHY, Mr. JEFFORDS, Mrs. BOXER, Mr. LAUTENBERG, and Ms. MIKULSKI, proposes an amendment numbered 4563.

Mr. AKAKA. Mr. 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 printed in the RECORD under "Text of Amendments.")

Mr. AKAKA. Mr. President, I rise today to propose an amendment for myself and my good friend from New York to restore the Federal Emergency Management Agency—FEMA—to its proper place as an independent agency.

Before I speak on our amendment, I would like to thank the chairman and ranking member of the Homeland Security and Governmental Affairs Committee for their hard work on this issue. We disagree on this one point, but I appreciate all they have done over the past year to ensure that the failures of Hurricane Katrina are never repeated.

As my colleagues on the Homeland Security and Governmental Affairs Committee know, the placement of FEMA in the Department of Homeland Security—DHS—is a subject that has troubled me since the concept of the Department was first debated in 2002. As a senior member of this committee, I can tell you that the structure of Federal agencies matters. Combining too many disparate functions some of which have nothing to do with homeland security into one agency can be unworkable, which is a primary reason why I voted against the creation of DHS.

Some say reinstating FEMA's independence now is brash and premature. Respectfully, I could not disagree more. To me, it was premature to place FEMA within DHS, a huge, terrorism-focused agency, where FEMA's traditional mission of responding to disasters would be neglected. The FEMA of yesterday has been downgraded, dismantled, and demoralized which I believe contributed to the muddled response to Hurricane Katrina.

DHS failed as a department during Hurricane Katrina and failed to give FEMA the opportunity to succeed. During the Committee's Katrina hearings, we heard numerous examples of information and initiative getting lost in DHS during the Hurricane Katrina response. Witnesses described sending information updates and requests out to the Department, never knowing where those messages went or if requested action had been taken. DHS was a black hole where information and accountability were lost.

Since FEMA was folded into the Department, FEMA has been deprived of funding and resources. FEMA has been forced to transfer significant resources to other parts of the Department. In 2003 and 2004, \$169 million of FEMA's funding was transferred to DHS, in part because of lost programs, but also because of a so-called management tax to help pay for shared services within the Department.

Congress and the American public never knew about these funding shortfalls because FEMA was buried within DHS. Former FEMA Director Michael Brown testified that instead of taking FEMA's budget proposal to the President, he was required to clear the budget through another Undersecretary at DHS, then the Secretary, and then the President.

With a loss of funding and programs, came a loss of staff. FEMA's staff has been reduced by 500 positions since 2003. And within the existing positions at FEMA, there has been a 15 to 20 percent vacancy rate over the past few years.

FEMA needs to be an independent, Cabinet-level agency to avoid having its budget and staff siphoned off for other activities within the Department. Restoring the FEMA Director to the President's Cabinet will better serve America. Restoring FEMA's place at the table will ensure transparency and accountability while allowing the Director to present funding needs directly to the President. In 1996, recognizing the importance of emergency response, President Clinton elevated the FEMA Director position to the Cabinet level. Former FEMA Director James Lee Witt said being a member of the President's Cabinet allowed him to task other Federal agencies more effectively during disasters and provided an established and direct line of communication to the President.

There are those who argue that FEMA needs to remain in DHS so that the Department's other personnel and assets can be accessed more readily. This is a hollow argument because under the Stafford Act, FEMA has the authority to utilize resources across the Federal Government during a disaster. The Stafford Act allows FEMA to task Health and Human Services, the Department of Transportation, the Department of Defense, and many other Federal agencies during disasters. Should all those entities be incorporated into DHS as well? There is no reason the same mission assignment procedure cannot be applied to DHS assets as well.

Separating FEMA from DHS not only will improve FEMA's ability to manage preparedness and response, but it also will allow DHS to focus on its mission to prevent a terrorist attack. DHS cannot be all things to all people.

The dedicated public servants of FEMA agree. The American Federation of Government Employees—AFGE—which represents 1,200 FEMA employees, strongly endorses an independent

FEMA. AFGE's June 13, 2006, letter to Congress states:

(T)he merger of FEMA into DHS may have sounded good in theory, but in reality it has proven to be impractical and counter-productive. When Hurricane Katrina struck the U.S., the DHS structure simply imposed an extra layer of bureaucracy on top of FEMA, and wound up impeding, not assisting, the response.

Former FEMA Director Witt also believes FEMA does not belong in DHS. In a recent editorial, he stated:

Though most agree FEMA must be mended, we don't have the luxury of gambling with another experimental restructuring of the department. And why gamble when a simple reversion to its pre-2001 incarnation would fix the problem? . . . As it stands under today's DHS structure, annual hazards such as hurricanes, floods, and tornados are allowed a 25 percent focus, even though they have a 100 percent probability of occurring at some point. An independent FEMA would again give all disasters 100 percent of its attention.

I agree with Mr. Witt. Fortunately, since DHS was created, there has not been another terrorist attack in the U.S. although there have been over 100 Presidentially-declared natural disasters. I support ensuring the U.S. is prepared for a terrorist attack, but we should not forget that natural disasters are guaranteed to occur every single year.

Mr. President, we have tried the superagency approach, and now it is time to get back to basics. I ask my colleagues to think about what is practical when they cast their vote on our amendment. Our constituents should feel confident that FEMA and its resources will be there in their time of need.

I urge support for our amendment. I yield back my remaining time.

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

Mrs. CLINTON. Mr. President, I thank my colleague, the Senator from Hawaii, who has been a strong voice on behalf of our Nation's security and joins with me in putting before the Senate one of the most important issues we face: How will we manage our emergency preparedness and response?

I have the greatest respect and regard for my colleagues, Senator COLLINS and Senator LIEBERMAN. They have done an extraordinary job in leading a committee that has had so much responsibility over the last months for the well-being and the homeland security of our Nation. I respectfully disagree with the solution they are putting forth, but I know it comes after not only many hearings but incredible thought and extraordinary attention to the details about how best to rescue the situation in which we find ourselves.

We had a functioning, effective Federal Emergency Management Agency 5½ years ago. By all accounts, on all sides of the political spectrum, we had a crown jewel, an agency where performance was highly regarded not only in our own country but literally around

the world. Unfortunately, that agency became a victim of the governing philosophy of the current administration.

We have seen, in stark terms, the failures of the existing Federal Emergency Management Agency, so-called FEMA. We saw it in the disastrous failures in the days and weeks, continuing until this day, along our gulf coast when people lost everything—their homes, their neighborhoods, their churches, even their loved ones. Our Nation lost something precious as well: we lost faith in our Federal Government and in the response capabilities of the organization that until 5½ years ago we could count on.

When we created the Department of Homeland Security after September 11, I warned, along with others, that moving FEMA into that large bureaucracy was a mistake. I said that on the basis of what I thought was the mission of the Department of Homeland Security, which was, first and foremost, to deal with the potential for terrorism and to deter and prevent terrorist attacks like the horrific attacks of September 11.

The decision was made to move FEMA into the Department of Homeland Security, and my worst fears came true. It became a stepchild. It became a holding pen for political cronies. It was no longer viewed as the crown jewel of the Federal Government but as a stepchild that did not really deserve the attention and the resources of this administration. Our worst fears about what would happen to FEMA in the Department of Homeland Security came true when we saw the images on television coming out of New Orleans and up and down the gulf coast.

I applaud Senator COLLINS and Senator LIEBERMAN for the extraordinarily thorough investigation they did. We got even more sickening detail of e-mails from FEMA officials at the time the disaster struck, what their concerns were—which were hardly focused on saving the people who were suffering. We have seen thousands of people displaced. We see 10,000 mobile homes sitting empty at the Hope, AR, Municipal Airport, and on and on. We have a GAO report that says there may have been up to \$1 billion—yes, that is billion with a “b”—\$1 billion in Federal assistance that has been misspent.

It is not only the facts about Katrina that bring me to urge we restore FEMA to an independent status, give it back Cabinet-level access, make it independent of the behemoth that the bureaucracy of the Department of Homeland Security has become, but it is also my worry about the future.

Hurricane Katrina was a foreseen disaster. We watched it on the Weather Channel. We saw it coming across the gulf. It was not a sneak attack by suicide bombers in airplanes, it was a huge storm. I worry, as incompetent as FEMA has become, how would they handle the unforeseen?

It is tragic to me that we have come to this position, and I think the new leadership at FEMA is laboring might-

ily to try to turn the situation around. But I worry it will be impossible, if FEMA stays within the Department of Homeland Security. If it stays within the Department and is renamed and reconfigured, I do not think that eliminates the primary problem, which is that it is stuck in a department with a focus and mission that cannot help but be to try to prevent and deter terrorist attacks. Believe me, I am all for that. We are about to come up on the fifth anniversary year of the attacks of 9/11.

Although I really respect what Senators COLLINS and LIEBERMAN are trying to do, I think they are trying to fit a square peg into a round hole. They are stuck with the Department of Homeland Security, and so they are trying to figure out a way to shoehorn it in, to detour around the dysfunctional organization and leadership that the Department has. And I do not think that will work.

The amendment Senator AKAKA and I and others have offered would do three things: first, reinstitute FEMA as an independent Cabinet-level agency; second, require the Director and Deputy Director to have the appropriate emergency service qualifications; and third, require the FEMA Director to report directly to the President of the United States.

During Katrina, who was in charge? Was it our President? Was it the Secretary of the Department of Homeland Security? Was it the FEMA Director? I do not know who it was. And one of the problems is that no one was. If we just sort of move the deck chairs on the Titanic, I do not think that solves the problem.

FEMA's response capabilities have been degraded since Katrina even, because people are not there. They are not able to have the same sense of morale and commitment. When you look at all the reports that have been done—one from the White House, one from the Senate, one from the House, as well as the various reports from the Government Accountability Office—you can see all of the things that went wrong. Unfortunately, these reports have not been coordinated, and it is very difficult to figure out how we are going to get ourselves back on the right track with a functioning world-class FEMA, and I just do not believe the answer is for it to operate as a subagency within the Department.

Now, I know there are those who are rightly concerned that if we take FEMA back to an independent status, then we will have duplicative efforts, we will not have coordination. I think the amendment tries to specifically say this does not detract in any way from the Department of Homeland Security's mission to secure the homeland. But I believe having it back in an independent status, with full accountability to the President, statutory authority under the Stafford Act to carry out all of the necessary mitigation, response, and recovery actions, is the way to go. If under our amendment we

make FEMA report directly to the President, then the FEMA Director will have more authority under Stafford Act designation than if he is a sub-Cabinet official within DHS.

My bottom line is we should get FEMA back to a functioning, effective agency again, and there is a difference of opinion about how best to do that. Obviously, we are back in hurricane season. We do not want to do anything, either within a reorganization or an independent status, that would further disable FEMA from responding. But if we reempower FEMA, restore its independence, and staff it with qualified people, we will be back on the right track.

We have a regional structure for FEMA, and it is not clear from the proposal from the committee how that will work, who appoints those regional directors, who has to be in charge. I do not want people exchanging business cards at the site of a disaster, which is what has been happening. I believe we have to build on the strong track record FEMA had during the 1990s.

I know the committee has said this would be comparable to the Coast Guard, but I think that is a slightly different role and mission. The Coast Guard is a military, multimissioned maritime service. It is one of our Nation's five armed services. Its mission is to "protect the public, the environment, and U.S. economic interests—in the nation's ports and waterways, along the coast, on international waters, or in any maritime region as required to support national security."

They did a superb job with respect to Katrina and Rita. But FEMA has a different role. It is supposed to be managing dollars of considerable numbers in advance of catastrophic events, coordinating Federal agencies, carrying out the President's statutory authority for emergency response. It is supposed to be the go-to entity for full management.

I believe we have a better chance of getting back the FEMA we should have, that the people should be able to count on, that can work with State and local governments, that can help to mitigate disasters, by returning it to independence.

So, Mr. President, I ask our colleagues to support the amendment to restore FEMA to an effective, independent, Cabinet-level agency once again and send a message to the country that FEMA is back—it is back, it is ready for business, and people can have trust in it once again.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, in deciding how to vote on this issue, I would encourage our colleagues to consult the experts, the first responder organizations that overwhelmingly support the Collins-Lieberman-Lott-Carper approach and do not support the amendment that has been proposed by my colleagues from New York and Hawaii.

For example, the International Association of Fire Fighters, which represents 270,000 professional firefighters and emergency medical personnel, has endorsed the Collins-Lieberman-Lott-Carper amendment and says this about the alternative approach we have just heard described:

We believe that proposals to return FEMA to its status as an independent agency would hinder efforts to reform our nation's emergency response system. Removing FEMA from DHS would create competing agencies, sowing confusion among emergency responders. Furthermore, such an approach would undermine an all-hazards approach, leading to the perception that DHS deals with terrorism while FEMA is in charge of natural disasters.

That is what the International Association of Fire Fighters says.

Other groups, such as the Major Cities Chiefs Association, say something very similar; the National Troopers Coalition, the National Association of Police Organizations, Advocates for EMS—the list goes on and on and on. The fact is, those who put their lives on the line, who are on the front lines of emergency response, say it would be a colossal mistake to take FEMA out of DHS, to sever that connection.

Does the Senator from New Hampshire wish for me to yield the floor?

Mr. GREGG. If the Senator would yield so we could enter into a unanimous consent agreement. I believe we have reached an agreement where we can proceed to lock in the vote on the Senator's amendment and the amendment offered by Senator AKAKA and Senator CLINTON.

Mr. President, the request is as follows: I ask unanimous consent that at the conclusion of the Senator's remarks, Senator LAUTENBERG be recognized for 15 minutes, and that at the conclusion of his remarks, we would go to a vote on Senator COLLINS' amendment, with no second degrees being in order—and there would be 2 minutes equally divided prior to that vote—and that at the conclusion of the vote on Senator COLLINS' amendment, we would go to a vote on the amendment offered by Senator AKAKA and Senator CLINTON, with 2 minutes equally divided prior to that vote—

Mrs. MURRAY. With no second degrees.

Mr. GREGG. With no second degrees and no points of order against either amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. GREGG. That would mean—how long will the Senator probably be speaking?

Ms. COLLINS. Fifteen minutes.

Mr. GREGG. So that would mean the votes would begin at around 6:15, one would presume.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, those who are on the front lines—our police associations, our firefighters associations, the emergency medical per-

sonnel organizations—have all endorsed the approach we have suggested. This approach would strengthen FEMA but leave it within the Department of Homeland Security so we can establish a comprehensive all-hazards approach to emergency management.

We do not want to take FEMA out of the Department in the way particularly that Senator CLINTON's and Senator AKAKA's amendment would entail. I refer my colleagues to page 7 of their amendment, section 612, "Transfer Of Functions." This provision says the functions FEMA has as of the date of enactment should be transferred to the new agency. Well, let me tell you what that means. That means that preparedness would still be separate from response despite the fact that the experts agree that one of the reasons for FEMA's weak performance was the separation of preparedness from response—two sides of the same coin that should be together in one agency. Yet the Clinton-Akaka amendment keeps preparedness within the Department of Homeland Security and only has the response functions going to the new independent agency that they would propose.

Our bill consolidates the grant-making for preparedness—that is billions of dollars of preparedness grants—would put in the new FEMA. Infrastructure protection, the national communications system, the chief medical officer, the cybersecurity office all would be in this new agency which we call the U.S. Emergency Management Authority. So we are not simply leaving FEMA within the Department of Homeland Security; we are strengthening, reforming, and upgrading FEMA so it can be effective.

I must say, I am at a loss why the proponents of the alternative approach want to take a FEMA that everyone deems is inadequate and has poorly performed, take this shell of an agency that has been stripped of many of its essential functions and cast it adrift by making it an independent agency. That approach makes absolutely no sense at all.

If the problem were FEMA's location, then why did the Coast Guard do such a stellar job in performing in response to Hurricane Katrina? By all accounts, the Coast Guard's preparedness and its response were superb. It pre-positioned its assets, it responded quickly, and it rescued some 35,000 people.

If the problem, in fact, were the location of the agency, then how did the Coast Guard manage to do such a good job? It is part of the Department of Homeland Security. Obviously, that is not the issue.

What we have done in our proposal is give the new emergency management agency the same kinds of protections that the Coast Guard has within DHS. No longer could the agency's mission be altered or its assets stripped away or could it be reorganized. You would have to come to Congress to do that. The issue is how can we best create a

strong emergency management agency. That is the question that our proposal answers. It stresses giving FEMA back the authorities that were stripped away. It emphasizes giving it new authority so that it can be a strong, all-hazards agency. It elevates the stature of the appointees. It requires them to have relevant experience for those positions. It gives it the tools to do the job effectively. It protects it from reorganization. It makes the head of the new agency the principal adviser to the President on emergency management, but it allows it to have all the advantages of being part of the Department of Homeland Security, the advantage of a close relationship with the Coast Guard, a close relationship with the law enforcement agencies that are within DHS.

Taking the weakened version of FEMA and casting it adrift and thinking that somehow that is going to solve the problem flies in the face of the 23 hearings that we held to get to this solution, the 838,000 pages of evidence, the 325 people we interviewed, and the expertise of the first responder community. It would be a terrible mistake.

The Hart-Rudman commission 5 years ago said FEMA is the essential core of DHS, and they are right. If FEMA were pulled out of DHS, DHS would be forced to create a very similar, costly, duplicative agency in order to handle a response to terrorist attacks. It makes no sense to have one agency that deals with natural disasters and another agency within DHS that deals with the response to terrorist attacks. If the levees in New Orleans had been bombed rather than breached, the same challenges of evacuation, sheltering, and caring for individuals would have been present. It makes no sense and will be extremely costly—to the tune of billions of dollars, according to Secretary Chertoff—for us to have to recreate within DHS essential capabilities that DHS will need if FEMA is taken out of the Department.

I am reminded during this debate of a saying by H.L. Mencken that for every problem there is a solution that is neat, plausible, and wrong. Taking FEMA out of the Department of Homeland Security is wrong. At first blush it may look like the easy solution. But after looking at this issue for more than 8 months, it is not the solution. I hope our colleagues will listen to the true experts, our first responders and their organizations warning that this would be a disaster, that it would force them and State and local emergency managers to have to deal with two agencies, two sets of regulations, depending on whether or not this was the result of a terrorist attack or a natural disaster. That is contrary to the all-hazards approach that the experts have encouraged us to take.

The Homeland Security Council, a very prestigious group of private sector businesses and experts, conducted its own 6-month review of what went

wrong with the preparedness and response to Hurricane Katrina. It, too, concluded that DHS preparedness assets and FEMA need to be more closely aligned, not split apart into two separate agencies.

I am going to reserve the remainder of my time. It is my understanding Senator LAUTENBERG will be speaking on this issue.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Ms. COLLINS. Mr. President, since Senator LAUTENBERG has not arrived, I am going to continue to expound on why the Collins-Lieberman-Lott-Carper amendment should be agreed to and the Clinton-Akaka amendment should be rejected.

As I look at this issue, I realize that people look back at FEMA with rose-colored glasses. There is this myth of the golden age of FEMA. Indeed, FEMA in the past has had some talented leaders which proves my point that this really is about leadership more than anything. Clearly, Michael Brown was an abysmal failure as FEMA's leader. There is unanimity on that as well. But the fact is, when FEMA was an independent agency, it also experienced severe problems dealing with major disasters.

If you look at the GAO and other reports, and, indeed, the hearing records before the committee I now chair back after Hurricane Andrew in 1992, you could take out the word "Andrew" and substitute "Katrina," and you would get exactly the same indictment. In the hearing after Hurricane Andrew, my colleague, Senator AKAKA, noted the difficulties that FEMA has had with response to catastrophic disasters. It is those catastrophic disasters, the fact is, that FEMA has never been able to handle, both when it was independent and when it was in DHS.

Our committee's bipartisan recommendation seeks to correct that problem by creating an agency with the capabilities for the first time to manage catastrophic disasters.

The Government Accountability Office found that FEMA's response to Hurricane Andrew in 1992 "raised serious doubts about whether FEMA is capable of responding to catastrophic disasters." This is when FEMA was an independent agency. In particular, the GAO said that "the Federal strategy for response lacked provisions to assess damage, the needs of victims, to provide food, shelter, and other essential services when the needs of victims outstrip State and local resources."

You could apply exactly the same words to what happened after Katrina. What we need is to build an agency that does have the capacity to respond

to not just small- and medium-sized disasters but to true catastrophes. That is what our bill would do. We would have a stronger agency, better led, better organized, with new authorities and powers that FEMA has never had. We would give it the resources to be effective.

Another important part of our amendment that, again, the Clinton-Akaka amendment completely lacks is the creation of regional strike teams that would be located in regions of the country and have representatives of all the Federal agencies that are involved in responding to a disaster. These strike teams would plan, train, and exercise with their State and local counterparts and with private sector groups that are involved in responding to a disaster such as the Red Cross and the Salvation Army. That is the kind of approach we need to be effective. We should have people in the region who already know the local officials, the vulnerabilities, the weaknesses, the strengths, the capabilities of the State and local systems, and can make sure that there are effective plans in place. We don't have that now.

When Katrina struck, people were sent from region 1 in New England down to New Orleans and Mississippi to help out. They didn't know the people. They didn't know the geography. They didn't know the culture. They didn't have that much experience in dealing with hurricanes. That doesn't make any sense at all. We should have regionally based teams that can work with their partners at the State and local level and in the private sector. I am talking about working not just with the nonprofits such as the Red Cross and Salvation Army but also with the private sector, such as the local utility companies. That is an important partner as well. Instead, what we found with Katrina were problems in credentialing utility workers and other private sector workers so they couldn't, in some cases, gain access to the disaster area.

We have given a lot of thought to how to do this right. This wasn't cobbled together overnight. It avoids the simplistic solution, which is no solution at all, of just saying: Let's take this weak, dysfunctional agency, this discredited agency, cut it loose from DHS, and somehow all will be well.

All will not be well. In fact, it would be a disaster to have FEMA, with its very limited current authorities, cast off as a separate agency.

Thad Allen said it well when he pointed out that since FEMA and the Coast Guard have been part of the same Department, there has been a 350-percent increase in joint training. That is what we want. We don't want a bureaucratic structure. We want people to plan, train, and exercise together. If they are in different agencies, that is not going to happen. FEMA is not going to have the advantage of working closely with those relevant agencies within the Department.

Another problem of the Clinton-Akaka amendment is that it would leave the preparedness functions in the Department of Homeland Security. I suspect I know why they did that. They did that because they realize the Department of Homeland Security has to have those preparedness functions. It needs to be able to prepare to respond to a terrorist attack. So they kept that function there.

But how does it make sense for FEMA to be only a response agency? That is what led us to the failed response to Katrina. Preparedness had been stripped off from FEMA. So this makes no sense at all.

Another criticism has been that FEMA lacks right now the authority to award preparedness grants. Yet the Clinton-Akaka amendment keeps that problem. It would keep the preparedness grants that go to State and local governments in the Department of Homeland Security, and yet would have this agency, FEMA, which is supposed to be working with State and local governments, with no authority over the funding for preparedness. That doesn't make any sense either.

I hope this body will recognize that the Homeland Security Committee has done a great deal of work. I hope they will listen to these first responder groups who say: Keep FEMA within DHS, but make it work. That is exactly what our amendment would do.

I see that the Senator from Connecticut has come to the floor. I would like to yield to him, if that is acceptable with the manager of the bill.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, as I understand the time agreement, the Senator from Maine had no limitation on her time, but at the conclusion of her remarks, the Senator from New Jersey was to be recognized for 15 minutes. If her remarks are completed, the time will begin to run against the Senator from New Jersey. It will take a new unanimous consent request, I suspect, to yield to the Senator from Connecticut.

How much time does the Senator from Connecticut wish?

Mr. LIEBERMAN. I would just say amen to everything Senator COLLINS has said, but I will speak for 5 minutes.

Mr. GREGG. If there is no objection, I ask unanimous consent that the Senator from Connecticut be recognized for 5 minutes, then the Senator from New Jersey be recognized for 15 minutes, and then the vote occur 20 minutes from now.

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

The Senator from Connecticut is recognized.

Mr. LIEBERMAN. Mr. President, I come to the floor to quite literally say amen to everything Senator COLLINS has said on behalf of our amendment and in respectful opposition to the amendment that Senator CLINTON has proposed.

We had a disaster, a catastrophe last year in Hurricane Katrina that was natural, and then we had a manmade disaster which was the shockingly inadequate response of the Federal, State, and local governments to that catastrophe that was called Katrina. So our committee spent months investigating, told the story, and considered what we could do to make sure nothing like the Federal Government's inadequate, incompetent reaction and response ever occurred again.

We considered the responsibility that some have raised of taking FEMA, or a replacement agency such as we are proposing, out of the Department and making it independent again. But it made no sense to us. If you have a Department of Homeland Security, which is supposed to be our major Department to prepare for and respond to disasters, natural and manmade, then why would we want to take the emergency management agency, which is all about responding to disasters, natural and terrorist, out of that Department? It would be, as I said at one of our hearings, like taking the U.S. Army out of the Department of Defense because you were not happy with the management of the U.S. Army, so you take it out. Or you had memories that there used to be a Chief of the Army who was good in a different time way back when it was independent, and you make it independent. It makes no sense. It is inefficient. I am afraid it would compromise the ability of our Government to prepare for and respond to another disaster.

In some ways, this is a comparison between James Lee Witt and Michael Brown. I will be real specific about it. I am happy to say in public that James Lee Witt did a great job, and Michael Brown did not, particularly in Katrina. That shouldn't lead us to think that going back to the time when FEMA was independent and James Lee Witt was the Director would solve all of our problems.

FEMA, under James Lee Witt, as good as he was—and he was very good—never faced a catastrophe such as Katrina. We heard testimony to this effect from people in the Department, from inspectors general, from outside authorities that FEMA never, no matter how good James Lee Witt was, could have independently given an adequate response to a catastrophe such as Hurricane Katrina or, God forbid, a catastrophe such as a significant terrorist attack. That is why we kept FEMA, our new USEMA, in the Department of Homeland Security.

We have strengthened it considerably. Senator LOTT, who was an initial cosponsor of the amendment to take FEMA out of the Department of Homeland Security, is now with us on keeping it in the Department because we made some significant changes. We gave the U.S. Emergency Management Agency that we would create, USEMA, the special legal status that only the Coast Guard and Secret Service have

within the Department of Homeland Security. That means it cannot be changed except by statute. No executive action can change its status.

We also made clear that during a time of crisis, though the head of the U.S. Emergency Management Authority normally reports to the Secretary of Homeland Security, that person reports directly to the President of the United States.

I happen to have joined with Senator SPECTER, my friend and colleague from Pennsylvania, in introducing the original legislation to create the Department of Homeland Security. We did it a month or two after 9/11 because we felt we had entered a new age. We had been attacked here at home, innocent citizens were killed by terrorists, and we needed a whole new structure to prepare to defend the American people against similar attacks in the future—our enemies are still obviously out there—and to respond to those attacks.

We built our proposal on the work of an independent commission headed by our former colleagues Warren Rudman and Gary Hart. They said loudly and clearly that FEMA must be the heart of this new Department if it is to adequately protect the American people from disaster or terrorism.

It would be a profound mistake to take it out. That is why I urge my colleagues to support the amendment that Senator COLLINS and I are offering with Senator CARPER and Senator LOTT, and to oppose the amendment of Senator CLINTON.

I thank the Chair, and I yield the floor.

Mr. President, I saw Senator LAUTENBERG come into the Chamber. I do not see him now, so I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

The Senator from New Jersey is recognized for 13 minutes 25 seconds.

Mr. LAUTENBERG. Mr. President, I listened with interest to the Senator from Maine, the chairperson of the committee on which we both serve. I am trying to figure out why a name change might be part of the plan to try to make FEMA a more efficient agency. I think we are chasing our tail around the tree because I don't see how we can do it under the present structure.

I want to start at the beginning. I don't plan to take all the time that is available. I would like to go back a little bit.

When we look at the structure of DHS, the Department of Homeland Security, we see the complications that exist even today with its general functioning: Are the screeners doing an effective job? Do we have too many?

They were once publicly owned groups across the country, and they were doing a poor job. Then we brought them into the Government and their performance improved substantially. Now there is talk about whether we ought to put them back into private hands.

I think about the task of Secretary Chertoff—and Secretary Chertoff is someone I know very well and for whom I have a great deal of respect—when we look at the assignment—22 Departments, 180,000 people, budgets that are insufficient to start with, and then the squabbling, the arm wrestling that has to take place within the Department to try and get FEMA enough money. It just doesn't make sense to have this Department of Government surrounded by the rest of the structure that is so complicated within DHS.

There was a time when FEMA was called upon to act as a result of natural disasters, and they did it very well. James Lee Witt was the head of FEMA. In 1993, we had what was the equivalent of a 100-year flood in Mississippi, and FEMA acted professionally and efficiently and got the job done. Then we had the Northridge earthquake which was one of the worst disasters we have seen. Once again, FEMA stood up to the task and did it efficiently and responded very promptly to get that done.

I, for one, believe, as does the Senator from New York, Mrs. CLINTON, that FEMA ought to be removed, ought to be independent, and to give it a chance to fight for its own budget, to make its own case, to be able to have direct contact with the President's office.

When we think about it, we worry an awful lot about a terrorist attack on our soil, and we should, and we should fight to protect our citizens from the consequences of that kind of an event. But, also, when we look at what happened with natural disasters and the significant—just look at Katrina and see what has happened there. There is a whole sector in our country that has yet to recover.

We are going to be at the first anniversary of Katrina in less than 2 months, and there are still people living in unacceptable conditions, still the restoration has not taken place—the theft, the waste, the fraud that has taken place there, and we look and we say: What has happened here? Why isn't it better? It isn't better because the structure doesn't permit it to get better with any degree of ease. In my view, FEMA has to be a separate department, as it once was, to be able to function as it once did under a different kind of leadership.

Who can forget the consequences of the first strike of the storm when the President of the United States was busy in California. He didn't visit the scene until a couple of days had passed, and he did that from 30,000 feet in the air and called it a devastating sight and gave congratulations to Mr. Brown: Brownie, heck of a job.

Did the President not know what he was saying or did he make a mistake? The fact is, there was so much confusion with the communications links that it was almost impossible to decipher what was going to happen, who was responsible, who was out to dinner when they were crying for help in the various communities, until someone reached over the top, went past the organizational structure, and got to the President's office. Then things began to happen. And they didn't happen very efficiently, nor did they happen thoroughly.

I think if we separated FEMA from the Department of Homeland Security, it would give our new director—who holds high hope, I think, for all of us; he is a competent person. He has experience before he came to FEMA. He has a very positive background for this kind of job. He is new on the job, and I think it would give him a much stronger hand in the annual battle over the agency's budget and appropriations. Obviously, then, it would free FEMA of several layers of bureaucracy at DHS and make it easier for the agency to do its job.

We talk so often around here about the bureaucracy and how tough it is to work your way through it. But here we have this critical agency, the agency that has more direct responsibility for our national security within our boundaries, on our land, than any other agency, and we keep it as a part of a total mechanical structure that says: OK, make sure you get A, B, C, and D. I think that is the wrong approach to having FEMA do the job we want it to do.

It is obvious that FEMA was weak and ineffective and showed a great deal of incompetence. What we want to do is streamline the agency as much as we can, and this is an opportunity to do just that. We are not going to rely on picking friends—cronies, if I can use the term, political campaign workers—to do this job and expect to have it succeed. That is not the way you take a position like this and have it be able to do its job, the job of jumping in there in the middle of a natural disaster of people searching for relatives, searching for a way out. What do you do to replace a reasonable living condition for them? It is a very tough job.

I think FEMA's subservient position inside DHS has contributed to low morale and the loss of qualified professional staff, and it is difficult attracting experienced personnel back to the agency. The agency has lost so much of its former excellent reputation that people are not anxious to go to an agency like that.

So I think the way we have to do it is the way Senator CLINTON and I and others are supportive of, which is the separation of FEMA from the Department. Separate FEMA. Let it stand on its own two feet. Let it strive for its own budget. Let it hire its personnel under its own structure and give it the responsibilities that it deserves and the resources that it needs.

So I hope at this point that people will vote against the amendment Senator COLLINS has presented and support the Clinton amendment that calls for FEMA to be separated from DHS, stand alone, and let it make its case.

With that, I yield the floor.
The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, I urge my colleagues to support the approach offered by the Senator from Connecticut, Mr. LIEBERMAN, and Senator LOTT, Senator CARPER, and myself, and reject the approach offered by Senator CLINTON and Senator AKAKA.

Senator CLINTON said earlier that we are rearranging the deck chairs on the Titanic but, in fact, that is what her amendment does. It takes the weak FEMA that we have now and moves it outside of the Department with no new personnel, no new function, no new authorities, no new funding, no infrastructure protection responsibilities, no new communications assets, no new medical assets, no new cyber-security assets.

That is exactly contrary to the approach that we have taken. We have built a new FEMA within the Department with strong authorities—authorities that FEMA has never had—to allow it to respond effectively to a disaster, regardless of its size. We create a new regional structure that will improve the management and the relationship with State and local governments. That is why the first responder groups are all supporting the Collins-Lieberman amendment, and I hope my colleagues will, too.

The PRESIDING OFFICER. Who yields time in opposition?

Mr. GREGG. Mr. President, I yield back the time in opposition, and I ask for the yeas and nays on the Collins amendment.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second. The question is on agreeing to the amendment.

The clerk will call the roll.
The assistant legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Nevada (Mr. ENSIGN) and the Senator from Pennsylvania (Mr. SANTORUM).

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

The result was announced—yeas 87, nays 11, as follows:

[Rollcall Vote No. 192 Leg.]

YEAS—87

Alexander	Byrd	Crapo
Allard	Cantwell	Dayton
Allen	Carper	DeMint
Baucus	Chafee	DeWine
Bayh	Chambliss	Dodd
Bennett	Coburn	Dole
Biden	Cochran	Domenici
Bingaman	Coleman	Dorgan
Bond	Collins	Durbin
Brownback	Conrad	Enzi
Burns	Cornyn	Feingold
Burr	Craig	Feinstein

Frist	Lincoln	Salazar
Graham	Lott	Sarbanes
Grassley	Lugar	Sessions
Gregg	Martinez	Shelby
Hagel	McCain	Smith
Harkin	McConnell	Snowe
Hatch	Menendez	Specter
Hutchison	Mikulski	Stabenow
Inouye	Murkowski	Stevens
Isakson	Murray	Sununu
Johnson	Nelson (FL)	Talent
Kennedy	Nelson (NE)	Thomas
Kohl	Obama	Thune
Kyl	Reed	Vitter
Landrieu	Reid	Voinovich
Levin	Roberts	Warner
Lieberman	Rockefeller	Wyden

NAYS—11

Akaka	Inhofe	Leahy
Boxer	Jeffords	Pryor
Bunning	Kerry	Schumer
Clinton	Lautenberg	

NOT VOTING—2

Ensign	Santorum
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The amendment (No. 4560) was agreed to.

AMENDMENT NO. 4563

The PRESIDING OFFICER. There is 2 minutes equally divided on the Clinton amendment.

The Senator from New York.

Mrs. CLINTON. Mr. President, the recently passed amendment did try to improve upon the status quo, and I commend Senators COLLINS and LIEBERMAN for attempting to do so. But the answer is we need to restore the independence of FEMA. We need to give back to it Cabinet-level status with a direct line to the President. My amendment will allow us to do that. I urge you to vote for this amendment even if you voted for the last amendment because it improves the status quo vote which gets us back to the kind of independent FEMA that can actually respond to disasters and mitigate and help us prepare for them.

Thank you, Mr. President.

The PRESIDING OFFICER. Who yields time in opposition?

Ms. COLLINS. Mr. President, the Clinton-Akaka amendment does nothing to strengthen FEMA. It takes a weak FEMA and casts it adrift as an independent agency. It is not the answer. My colleagues, you have just voted for the right reform. I urge opposition to the Clinton amendment, as do all the first responder groups.

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

Mrs. CLINTON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Nevada (Mr. ENSIGN) and the Senator from Pennsylvania (Mr. SANTORUM).

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

The result was announced—yeas 32, nays 66, as follows:

[Rollcall Vote No. 193 Leg.]

YEAS—32

Akaka	Inhofe	Mikulski
Baucus	Inouye	Nelson (FL)
Boxer	Jeffords	Obama
Clinton	Kennedy	Pryor
Conrad	Kerry	Reed
Dayton	Kohl	Reid
Dodd	Landrieu	Rockefeller
Dorgan	Lautenberg	Sarbanes
Durbin	Leahy	Schumer
Feingold	Lincoln	Stabenow
Feinstein	Menendez	

NAYS—66

Alexander	Craig	Martinez
Allard	Crapo	McCain
Allen	DeMint	McConnell
Bayh	DeWine	Murkowski
Bennett	Dole	Murray
Biden	Domenici	Nelson (NE)
Bingaman	Enzi	Roberts
Bond	Frist	Salazar
Brownback	Graham	Sessions
Bunning	Grassley	Shelby
Burns	Gregg	Smith
Burr	Hagel	Snowe
Byrd	Harkin	Specter
Cantwell	Hatch	Stevens
Carper	Hutchison	Sununu
Chafee	Isakson	Talent
Chambless	Johnson	Thomas
Coburn	Kyl	Thune
Cochran	Levin	Vitter
Coleman	Lieberman	Voinovich
Collins	Lott	Warner
Cornyn	Lugar	Wyden

NOT VOTING—2

Ensign	Santorum
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The amendment (No. 4563) was rejected.

Mr. GREGG. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, parliamentary inquiry: Is the Feinstein amendment the pending business?

The PRESIDING OFFICER. The Feinstein amendment is the pending question.

AMENDMENT NO. 4577 TO AMENDMENT NO. 4556

Mr. CORNYN. Mr. President, I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. CORNYN] proposes an amendment numbered 4577 to amendment No. 4556.

Mr. CORNYN. Mr. 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 provide for immigration injunction reform)

At the end of the amendment, add the following:

SEC. 541. IMMIGRATION INJUNCTION REFORM.

(a) SHORT TITLE.—This section may be cited as the "Fairness in Immigration Litigation Act of 2006".

(b) APPROPRIATE REMEDIES FOR IMMIGRATION LEGISLATION.—

(1) REQUIREMENTS FOR AN ORDER GRANTING PROSPECTIVE RELIEF AGAINST THE GOVERNMENT.—

(A) IN GENERAL.—If a court determines that prospective relief should be ordered

against the Government in any civil action pertaining to the administration or enforcement of the immigration laws of the United States, the court shall—

(i) limit the relief to the minimum necessary to correct the violation of law;

(ii) adopt the least intrusive means to correct the violation of law;

(iii) minimize, to the greatest extent practicable, the adverse impact on national security, border security, immigration administration and enforcement, and public safety, and

(iv) provide for the expiration of the relief on a specific date, which is not later than the earliest date necessary for the Government to remedy the violation.

(B) WRITTEN EXPLANATION.—The requirements described in subparagraph (A) shall be discussed and explained in writing in the order granting prospective relief and must be sufficiently detailed to allow review by another court.

(C) EXPIRATION OF PRELIMINARY INJUNCTIVE RELIEF.—Preliminary injunctive relief shall automatically expire on the date that is 90 days after the date on which such relief is entered, unless the court—

(i) makes the findings required under subparagraph (A) for the entry of permanent prospective relief; and

(ii) makes the order final before expiration of such 90-day period.

(D) REQUIREMENTS FOR ORDER DENYING MOTION.—This paragraph shall apply to any order denying the Government's motion to vacate, modify, dissolve or otherwise terminate an order granting prospective relief in any civil action pertaining to the administration or enforcement of the immigration laws of the United States.

(2) PROCEDURE FOR MOTION AFFECTING ORDER GRANTING PROSPECTIVE RELIEF AGAINST THE GOVERNMENT.—

(A) IN GENERAL.—A court shall promptly rule on the Government's motion to vacate, modify, dissolve or otherwise terminate an order granting prospective relief in any civil action pertaining to the administration or enforcement of the immigration laws of the United States.

(B) AUTOMATIC STAYS.—

(i) IN GENERAL.—The Government's motion to vacate, modify, dissolve, or otherwise terminate an order granting prospective relief made in any civil action pertaining to the administration or enforcement of the immigration laws of the United States shall automatically, and without further order of the court, stay the order granting prospective relief on the date that is 15 days after the date on which such motion is filed unless the court previously has granted or denied the Government's motion.

(ii) DURATION OF AUTOMATIC STAY.—An automatic stay under clause (i) shall continue until the court enters an order granting or denying the Government's motion.

(iii) POSTPONEMENT.—The court, for good cause, may postpone an automatic stay under clause (i) for not longer than 15 days.

(iv) ORDERS BLOCKING AUTOMATIC STAYS.—Any order staying, suspending, delaying, or otherwise barring the effective date of the automatic stay described in clause (i), other than an order to postpone the effective date of the automatic stay for not longer than 15 days under clause (iii), shall be—

(I) treated as an order refusing to vacate, modify, dissolve or otherwise terminate an injunction; and

(II) immediately appealable under section 1292(a)(1) of title 28, United States Code.

(3) SETTLEMENTS.—

(A) CONSENT DECREES.—In any civil action pertaining to the administration or enforcement of the immigration laws of the United States, the court may not enter, approve, or

continue a consent decree that does not comply with paragraph (1).

(B) PRIVATE SETTLEMENT AGREEMENTS.—Nothing in this subsection shall preclude parties from entering into a private settlement agreement that does not comply with paragraph (1) if the terms of that agreement are not subject to court enforcement other than reinstatement of the civil proceedings that the agreement settled.

(4) EXPEDITED PROCEEDINGS.—It shall be the duty of every court to advance on the docket and to expedite the disposition of any civil action or motion considered under this subsection.

(5) DEFINITIONS.—In this subsection:

(A) CONSENT DECREE.—The term “consent decree”—

(i) means any relief entered by the court that is based in whole or in part on the consent or acquiescence of the parties; and

(ii) does not include private settlements.

(B) GOOD CAUSE.—The term “good cause” does not include discovery or congestion of the court’s calendar.

(C) GOVERNMENT.—The term “Government” means the United States, any Federal department or agency, or any Federal agent or official acting within the scope of official duties.

(D) PERMANENT RELIEF.—The term “permanent relief” means relief issued in connection with a final decision of a court.

(E) PRIVATE SETTLEMENT AGREEMENT.—The term “private settlement agreement” means an agreement entered into among the parties that is not subject to judicial enforcement other than the reinstatement of the civil action that the agreement settled.

(F) PROSPECTIVE RELIEF.—The term “prospective relief” means temporary, preliminary, or permanent relief other than compensatory monetary damages.

(C) EFFECTIVE DATE.—

(1) IN GENERAL.—This section shall apply with respect to all orders granting prospective relief in any civil action pertaining to the administration or enforcement of the immigration laws of the United States, whether such relief was ordered before, on, or after the date of the enactment of this Act.

(2) PENDING MOTIONS.—Every motion to vacate, modify, dissolve or otherwise terminate an order granting prospective relief in any such action, which motion is pending on the date of the enactment of this Act, shall be treated as if it had been filed on such date of enactment.

(3) AUTOMATIC STAY FOR PENDING MOTIONS.—

(A) IN GENERAL.—An automatic stay with respect to the prospective relief that is the subject of a motion described in paragraph (2) shall take effect without further order of the court on the date which is 10 days after the date of the enactment of this Act if the motion—

(i) was pending for 45 days as of the date of the enactment of this Act; and

(ii) is still pending on the date which is 30 days after such date of enactment.

(B) DURATION OF AUTOMATIC STAY.—An automatic stay that takes effect under subparagraph (A) shall continue until the court enters an order granting or denying the Government’s motion under subsection (b)(2). There shall be no further postponement of the automatic stay with respect to any such pending motion under subsection (b)(2)(B). Any order, staying, suspending, delaying or otherwise barring the effective date of this automatic stay with respect to pending motions described in paragraph (2) shall be an order blocking an automatic stay subject to immediate appeal under subsection (b)(2)(B)(iv).

Mr. CORNYN. Mr. President, this amendment is designed to end a dec-

ades-old, obsolete Federal court injunction designed to impede the Department of Homeland Security’s use of expedited removal and enforcement of our immigration laws.

In 1988, a Federal court in Los Angeles issued a permanent, nationwide injunction that requires immigration authorities to afford detained Salvadorans a host of substantive and proposal rights—rights afforded to literally no other immigrant group.

Largely as a result of this 1988 Orantes injunction, Salvadorans have now become the single largest component of what is known as OTMs or “other than Mexican” immigrants.

Both the border tunnel amendment that Senator FEINSTEIN has offered and my immigration injunction second-degree amendment deal with illegal immigration and are designed to deal with criminal activity. They go together well because they both close border vulnerabilities that are being exploited by gangs and smugglers.

The injunction amendment passed as an amendment in committee, and there has been little opposition. It is currently in the compromise bill endorsed by a majority of Senate Democrats.

The amendment requires courts to narrowly tailor injunctive relief orders against the Government in immigration cases and to take into account national security, border security, public safety, and immigration enforcement concerns.

Decades-old, obsolete Federal court injunctions continue to impede the Department of Homeland Security’s efforts to enforce our immigration laws.

For example, if you look at June of 2005 through February of 2006, you can see why this specific injunction, which impedes the use of expedited removal when it comes to immigrants from El Salvador, is such a problem and why this amendment is necessary.

For example, in June of 2005 there were some 4,181 Brazilians subject to apprehension. At the same time, there were roughly the same number of El Salvadorans: 4,011. But because of the improvements in expedited removal and immigration law enforcement insofar as it relates to Brazilians—not subject to the Orantes injunction that impedes the use of this important procedure—we saw the number of Brazilians drop from 4,181 in June of 2005 to 72 in February of 2006.

During the same time period, because of the impediment created by the Orantes injunction, which prohibited the use of expedited removal when it came to Salvadorans who illegally immigrated into the United States, we saw, in June of 2005, 4,011 Salvadorans; and in February of 2006, that number has virtually not changed at all, to 3,906.

So, clearly, the impediment created by this Orantes injunction, that would be overturned and remedied by this amendment, creates an impediment for the Department of Homeland Security when it comes to enforcing our immigration laws.

This amendment, it is important to note, would not eliminate injunctive relief but would require that any injunction granted be narrowly tailored and to not unnecessarily impede on enforcement of our immigration laws.

Specifically, it would provide that injunctions must be narrowly tailored to precisely address the actual harm identified. It would require that injunctions do not extend forever and must end on a date certain. It provides that an injunction is suspended unless a court acts within 30 days of the date when the Government moves to vacate an injunction. And for any injunction in which the Government has already filed a motion to vacate—and which remains pending 10 days after enactment of this bill—that injunction is automatically stayed on that 10th day.

Mr. President, I conclude by saying, in my conversations with the Secretary of the Department of Homeland Security, he regards this amendment as important to providing the Department of Homeland Security the tools it needs in order to enforce our immigration laws and to make sure the use of expedited removal, which is so important in terms of the deterrence that it provides, be uniform across populations that would be affected.

So, as he told me, if this amendment passes, he would be able to end catch-and-release, which is a de facto policy of this Government, within a matter of months.

I would think this is an issue we can all support, and I ask my colleagues to support this amendment.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GREGG. 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. 4579

Mr. GREGG. Mr. President, I send an amendment to the desk and ask it be reported.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside, and the clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG], for himself and Mr. BYRD, proposes an amendment numbered 4579.

Mr. GREGG. Mr. 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:

On page 118, strike line 7 through page 119, line 2 and insert in lieu thereof the following:

SEC. 524. Using funds made available in this Act:

(a) Within 60 days of enactment of this Act, the Secretary of the Department of

Homeland Security shall revise DHS MD [Management Directive] 11056 to provide for the following:

(1) that when a lawful request is made to publicly release a document containing information designated as SSI, the document shall be reviewed in a timely manner to determine whether any information contained in the document meets the criteria for continued SSI protection under applicable law and regulation and shall further provide that all portions that no longer require SSI designation be released, subject to applicable law, including sections 552 and 552a of title 5, United States Code;

(2) that sensitive security information that is four years old shall be subject to release upon request unless:

(A) the Secretary or his designee makes a written determination that identifies a rational basis why the information must remain SSI;

(B) the information is covered by a current sensitive security information application guide approved by the Secretary or his designee in writing; or

(C) such information is otherwise exempt from disclosure under applicable law.

Any determination made by the Secretary under clause (a)(2)(A) shall be provided to the party making a request to release such information and to the Committees on Appropriations of the Senate and House of Representatives as part of the annual reporting requirement pursuant to section 537 of the Department of Homeland Security Appropriations Act, 2006 (Pub. L. 109-90; 119 Stat. 2088);

(3) common and extensive examples of the individual categories of SSI information cited under 49 CFR 1520(b) (1) through (16) in order to minimize and standardize judgment by covered persons in the application of SSI marking; and

(b) Not later than 120 days after the date of enactment of this Act, the Secretary of Homeland Security shall report to the Committees on Appropriations of the Senate and the House of Representatives on the progress that the Department has made in implementing the remaining requirements of section 537 of the Department of Homeland Security Appropriations Act, 2006 (Pub. L. 109-90; 119 Stat. 2088), including information on the current procedures regarding access to sensitive security information (SSI) by civil litigants and the security risks and benefits of any proposed changes to these procedures.

Mr. GREGG. Mr. President, I ask unanimous consent that the amendment be agreed to.

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

The amendment (No. 4579) was agreed to.

MORNING BUSINESS

Mr. GREGG. Mr. President, I ask unanimous consent that there now be a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

BUDGET SCOREKEEPING REPORT

Mr. GREGG. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of S. Con. Res. 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the 2006 budget through June 30, 2006. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 2006 concurrent resolution on the budget, H. Con. Res. 95. Pursuant to section 402 of that resolution, provisions designated as emergency requirements are exempt from enforcement of the budget resolution. As a result, the attached report excludes these amounts.

The estimates show that current level spending is under the budget resolution by \$11.873 billion in budget authority and by \$4.060 billion in outlays in 2006. Current level for revenues is \$6.589 billion above the budget resolution in 2006.

Since my last report dated May 19, 2006, Congress has cleared and the President has signed the following acts which have changed budget authority, outlays, or revenues: the Native Amer-

ican Technical Corrections Act of 2006, Public Law 109-221; the Heroes Earned Retirement Opportunities Act Public Law 109-227; the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Relief, 2006, Public Law 109-234; and the Mine Improvement and New Emergency Response Act of 2006 Public Law 109-236.

I ask unanimous consent that the accompanying letter and material be printed in the RECORD.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 10, 2006.

Hon. JUDD GREGG,
Chairman Committee on the Budget,
U.S. Senate Washington, DC.

DEAR MR. CHAIRMAN: The enclosed tables show the effects of Congressional action on the 2006 budget and are current through June 30, 2006. This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended.

The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions for fiscal year 2006 that underlie H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006. Pursuant to section 402 of that resolution, provisions designated as emergency requirements are exempt from enforcement of the budget resolution. As a result, the enclosed current level report excludes these amounts (see footnote 2 on Table 2).

Since my last letter dated May 18, 2006, the Congress has cleared and the President has signed the following acts which have changed budget authority, outlays, or revenues: the Native American Corrections Act of 2006 (Public Law 109-221); the Heroes Earned Retirement Opportunities Act (Public Law 109-227); the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Relief, 2006 (Public Law 109-234); and the Mine Improvement and New Emergency Response Act of 2006 Public Law 109-236).

Sincerely,

DONALD B. MARRON,
Acting Director.

TABLE 1.—SENATE CURRENT-LEVEL REPORT FOR SPENDING AND REVENUES FOR FISCAL YEAR 2006, AS OF JUNE 30, 2006

(In billions of dollars)

	Budget Resolution ¹	Current Level ²	Current level over/under (—) resolution
On-Budget:			
Budget Authority	2,094.4	2,082.5	-11.9
Outlays	2,099.0	2,094.9	-4.1
Revenues	1,589.9	1,596.5	6.6
Off-Budget:			
Social Security Outlays ³	416.0	416.0	0
Social Security Revenues	604.8	604.8	*

Note: * = Less than \$50 million.

¹ H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006, assumed \$50.0 billion in budget authority and \$62.4 billion in outlays in fiscal year 2006 from emergency supplemental appropriations. Such emergency amounts are exempt from the enforcement of the budget resolution. Since current-level totals exclude the emergency requirements enacted in the previous session and the emergency requirements in Public Law 109-176, Public Law 109-208, and Public Law 109-234 (see footnote 2 on Table 2), the budget authority and outlay totals specified in the budget resolution have also been reduced (by the amounts assumed for emergency supplemental appropriations) for purposes of comparison.

² Current level is the estimated effect on revenue and spending of all legislation that the Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations, even if the appropriations have not been made.

³ Excludes administrative expenses of the Social Security Administration, which are also off-budget, but are appropriated annually.

Source: Congressional Budget Office.

TABLE 2.—SUPPORTING DETAIL FOR THE SENATE CURRENT-LEVEL REPORT FOR ON-BUDGET SPENDING AND REVENUES OF FISCAL YEAR 2006, AS OF JUNE 30, 2006

(In millions of dollars)

	Budget authority	Outlays	Revenues
Enacted in Previous Sessions:			
Revenues	n.a.	n.a.	1,607,180
Permanents and other spending legislation ¹	1,296,134	1,248,957	n.a.