

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

IMPROVING AMERICA'S SECURITY ACT OF 2007

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 4, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 4) to make the United States more secure by implementing unfinished recommendations of the 9/11 Commission to fight the war on terror more effectively, to improve homeland security, and for other purposes.

Pending:

Reid amendment No. 275, in the nature of a substitute.

Sununu amendment No. 291 (to amendment No. 275), to ensure that the emergency communications and interoperability communications grant program does not exclude Internet Protocol-based interoperable solutions.

Salazar-Lieberman modified amendment No. 290 (to amendment No. 275), to require a quadrennial homeland security review.

DeMint amendment No. 314 (to amendment No. 275), to strike the provision that revises the personnel management practices of the Transportation Security Administration.

Lieberman amendment No. 315 (to amendment No. 275), to provide appeal rights and employee engagement mechanisms for passenger and property screeners.

McCaskill amendment No. 316 (to amendment No. 315), to provide appeal rights and employee engagement mechanisms for passenger and property screeners.

Dorgan-Conrad amendment No. 313 (to amendment No. 275), to require a report to Congress on the hunt for Osama bin Laden, Ayman al-Zawahiri, and the leadership of al Qaida.

Landrieu amendment No. 321 (to amendment No. 275), to require the Secretary of Homeland Security to include levees in the list of critical infrastructure sectors.

Landrieu amendment No. 296 (to amendment No. 275), to permit the cancellation of certain loans under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

Landrieu amendment No. 295 (to amendment No. 275), to provide adequate funding for local governments harmed by Hurricane Katrina of 2005 or Hurricane Rita of 2005.

Allard amendment No. 272 (to amendment No. 275), to prevent the fraudulent use of Social Security account numbers by allowing the sharing of Social Security data among agencies of the United States for identity theft prevention and immigration enforcement purposes.

McConnell (for Sessions) amendment No. 305 (to amendment No. 275), to clarify the voluntary inherent authority of States to assist in the enforcement of the immigration laws of the United States and to require the Secretary of Homeland Security to provide information related to aliens found to have violated certain immigration laws to the National Crime Information Center.

McConnell (for Cornyn) amendment No. 310 (to amendment No. 275), to strengthen the

Federal Government's ability to detain dangerous criminal aliens, including murderers, rapists, and child molesters, until they can be removed from the United States.

McConnell (for Cornyn) amendment No. 311 (to amendment No. 275), to provide for immigration injunction reform.

McConnell (for Cornyn) amendment No. 312 (to amendment No. 275), to prohibit the recruitment of persons to participate in terrorism.

McConnell (for Kyl) amendment No. 317 (to amendment No. 275), to prohibit the rewarding of suicide bombings and allow adequate punishments for terrorist murders, kidnappings, and sexual assaults.

McConnell (for Kyl) amendment No. 318 (to amendment No. 275), to protect classified information.

McConnell (for Kyl) amendment No. 319 (to amendment No. 275), to provide for relief from (a)(3)(B) immigration bars from the Hmong and other groups who do not pose a threat to the United States, to designate the Taliban as a terrorist organization for immigration purposes.

McConnell (for Kyl) amendment No. 320 (to amendment No. 275), to improve the Classified Information Procedures Act.

McConnell (for Grassley) amendment No. 300 (to amendment No. 275), to clarify the revocation of an alien's visa or other documentation is not subject to judicial review.

McConnell (for Grassley) amendment No. 309 (to amendment No. 275), to improve the prohibitions on money laundering.

Thune amendment No. 308 (to amendment No. 275), to expand and improve the Proliferation Security Initiative while protecting the national security interests of the United States.

Cardin amendment No. 326 (to amendment No. 275), to provide for a study of modification of area of jurisdiction of Office of National Capital Region Coordination.

Cardin amendment No. 327 (to amendment No. 275), to reform mutual aid agreements for the National Capital Region.

Cardin amendment No. 328 (to amendment No. 275), to require Amtrak contracts and leases involving the State of Maryland to be governed by the laws of the District of Columbia.

Mr. LIEBERMAN. Mr. President, we return now to S. 4, Improving America's Security Act. This is the legislation that emerged from the Homeland Security Committee in response to the appeals of the members of the 9/11 Commission, and others, to finish the job we began with the previous 9/11 legislation we adopted. We made some progress last week in the first two days of consideration of the bill. We will have a vote sometime tomorrow on the motion to strike the provision of the bill that would give equal rights to transportation security officers at the TSA. We will begin debate sometime this afternoon on alternative proposals to those presented in S. 4 for distributing homeland security grant funds. We have important matters to debate and vote on in the next few days.

I know Senator REID and, I hope, Senator McCONNELL want to finish this bill—that is, to bring it to passage—by the end of this week. I remind colleagues that S. 4 was reported out of the Homeland Security Committee on a strong nonpartisan vote, 16 to 0, with one member abstaining.

I thought, as we return to the consideration of S. 4, I might go back to a

hearing our committee held on January 9 to consider this legislation, particularly to draw from the testimony of three of the witnesses before the committee that day, three women who lost loved ones on September 11, 2001. This is a way, before we get into the details of the bill, to remind ourselves why this legislation is before us and what it is all about. Those three women who testified before our committee on that day, shortly after the 110th session of Congress convened, were Mary Fetchet, Carol Ashley, and Carie Lemack.

These three women, as many Members know because we have come to know them, have worked tirelessly in the last five and a half years to take their grief, their loss, and bring it into the public square, to the Congress, to the place where laws are made, to do everything in their power to ensure that the tragic losses they suffered on that day would not have to be suffered by any other American in the future.

Their work produced the 9/11 Commission itself. It was a tough battle to actually create the 9/11 Commission. People were defensive. They didn't want it to be done by an independent commission. They wondered why it was necessary. But with the help of these women, we won that battle. Then when the Commission reported in 2004, we worked very hard with their help to adopt most of the recommendations of the Commission by the end of that year. This included the creation of the Director of National Intelligence to coordinate all of our intelligence, so we can now connect the dots to stop a terrorist act before it occurs; and the National Counterterrorism Center, which is now up and running and doing the same.

The statements of Mary Fetchet, Carol Ashley, and Carie Lemack at our Committee's hearing explain the importance of the legislation, S. 4, that is now before the Senate, and particularly the responsibility we in Congress have to continue the unfinished work of implementing the recommendations of the 9/11 Commission and of fixing the inadequate implementation of some of those recommendations or other gaps we have discovered since in our homeland security.

I want to talk about these three brave, patriotic women one by one, describe briefly who they are, and then quote from their testimony.

Mary Fetchet lost her son Brad, age 24, in Tower 2 of the World Trade Center on September 11. She is the founding director of the group called Voices of September 11th. At our hearing on January 9, Mary testified as follows:

I have made a personal commitment to advocate for the full implementation of the 9/11 Commission recommendations driven by the "wake-up" call when my son was senselessly murdered by terrorists on 9/11. It is my personal belief that almost six years later our country remains vulnerable, and although some progress has been made, much work remains ahead. We collectively—the administration, Congress, government agencies and interested individuals—have a

moral obligation and responsibility to work together to ensure our government is taking the necessary steps to make our country safer.

“A moral obligation and responsibility,” as we debate the details of this legislation and consider the parliamentary tactics related to it this week on the floor of the Senate, that is, after all, what binds all of us together, certainly across party lines, in this body and around America—“a moral obligation and responsibility.” Those were the words of Mary Fetchet.

Carol Ashley lost her daughter Janice, age 25, in Tower 1 of the World Trade Center on September 11, 2001. Carol has served on the Family Steering Committee for the 9/11 Independent Commission, which worked to help pass the Intelligence Reform and Terrorism Prevention Act of 2004. At our January committee hearing, Carol Ashley also discussed the importance of the legislation the Senate is considering today. I quote again:

Along with other members of the Family Steering Committee, I worked for passage of intelligence reform legislation in 2004 based on the recommendations of the 9/11 Commission. Our goal was to make our nation as secure as possible to reduce the chances that any other American families would lose a loved one to terrorism. Unfortunately, that bill did not fully implement the 9/11 Commission recommendations. Some that were included were not as strong as they should have been. The result is that more than five years after 9/11, there are still gaps in our security.

I continue to quote from Carol Ashley, mother of Janice, age 25, who was killed by the terrorists on 9/11 in the World Trade Center:

Tightening our security and upgrading preparedness is urgent. Although five years have passed with no terrorist attack on our soil, there is no way to know when, where or how the terrorists will strike again. To fulfill its foremost obligation to protect the American people, Congress must ensure through legislation and oversight that comprehensive security safeguards are in place; and if the terrorists succeed in breaching our security, that our federal, state and local agencies are fully trained, equipped and prepared to respond cohesively.

What we do here today is “urgent,” to use Carol’s word. In the last week, there have been reports that al-Qaida and the Taliban are gaining strength in the lawless regions of Afghanistan and Pakistan, establishing training bases once again, planning to attack the United States again. We know we face growing threats from citizens living in countries that are our allies, as we saw last August when British officials disrupted a plot to blow up airliners on their way from the United Kingdom to the United States.

For these reasons and others, our task today is, in Carol Ashley’s word, “urgent.” I hope we can—I am confident we will—overcome whatever divides us and work together to pass this legislation that will fulfill the powerful and relevant mandate of the 9/11 Commission.

Finally, of these three women whose voices we should hear as we go through

this debate this week, Carie Lemack’s mother, Judy Larocque, was a passenger on American Airlines Flight 11 on September 11, 2001, which crashed into the World Trade Center. Like Mary and Carol, Carie has worked tirelessly in support of efforts to improve America’s ability to prevent and respond to acts of terrorism. She is a co-founder of the group known as Families of September 11. At our hearing in January, Carie also discussed the importance of fully implementing the recommendations of the 9/11 Commission report. I now quote from Carie Lemack at our hearing:

The 9/11 Commission made 41 recommendations. Roughly half of these recommendations have already been implemented, thanks in no small part to the efforts of this committee. The fall of 2004 was an extraordinary time. Many of us were inspired by your willingness to spend weeks and months making sure the Commission’s recommendations did not fall on deaf ears. The passage of the 2004 Intelligence Reform and Terrorism Prevention Act was an historic moment, of which we can all be proud.

So much to be proud of, and yet so much more to do. More than five years after 9/11, the terrorist threat has inevitably grown a little more distant. Some experts are now telling us that it isn’t as serious as we had thought. If al Qaeda is such a threat, why haven’t we been attacked again? To answer that question, just ask the people of London, or Madrid, or Bali, or the other places where the terrorists have struck since 9/11.

Then Carie Lemack said to our committee:

The United States has not been attacked again. But we will be.

Thanks to the work of so many dedicated public servants we are safer than we were. But in the words of 9/11 Commission Chairman Thomas Kean, we are still not as safe as we need to be.

Carie said:

On the morning of September 11, 2001, my mother, Judy Larocque, left home to go on a business trip. She woke up early that day, at 5:30 a.m., in order to make her 8 o’clock flight to the West Coast. Oddly enough, even though I am not a morning person, I was up even before her that day, serving as a coxswain for the MIT graduate school crew team. As I glided on the Charles River that morning, I realized I could have called Mom before my 6 a.m. practice, just for a kick, since it was not often we were both up so early. But I didn’t, thinking she might be running late (a trait she passed down to me and my sister) and knowing it would be easier to talk later in the day, once her cross-country flight landed.

I never did get to talk to Mom that morning, though I left many messages on her cell phone. To this day, I still find myself looking at my caller ID whenever the phone rings, waiting for it to say “Mom’s cell,” waiting for the call from her that I never got that gorgeous fall morning.

I often think about what I would tell Mom if she called. I dream about it all the time. She was founder and CEO of a company, so I sometimes think I might tell her about founding the non-profit organization Families of September 11, which represents more than 2,500 individuals who chose to join our group and support the terrorism prevention work we do. I might tell her about the opportunities I have had in the past five years that she could never have predicted, like testifying before this esteemed committee today.

But the most important thing I could possibly tell her is that I love her, and that I am doing everything in my power to make sure what happened to her never happens again. That would come as no surprise to Mom. She brought my sister and me up to fix wrongs and make them rights.

Carie Lemack concluded, before our committee:

Today I am asking you to fix a small number of important wrongs, and make them right. Some of the important recommendations of the 9/11 Commission report have still not been implemented. I raise them not in the spirit of placing blame or making accusations, but rather in the hope that together we can own up to gaps, failures and mistakes in the past, so that we are not condemned to repeat them in the future.

End of a very deeply personal, compelling quote. It moved everybody in the room that day, as it moves me to read those words on the floor here today.

So much more to do, my colleagues. As Carie Lemack said, “so much more to do.” That is why we are here: to work together, and continue to improve upon the critical tasks that we have left undone and unfinished. That is our responsibility to Mary, Carol, Carie, and the tens of thousands of other Americans and citizens of nearly every nation on this globe who lost loved ones on September 11. We must work hard and never grow complacent as we face these challenges, in the same way that the generations who fought in World War II and the Cold War never grew complacent in the face of the threats to their freedom as Americans from fascism and communism.

That is what we are debating today. That is the significance of S. 4, the Improving America’s Security Act of 2007. That is why I thank my colleagues for their attention, for their dedication to getting this right, and for the debates and votes we will conduct in the days ahead, leading, I am confident, by the end of this week, to the passage of this critically important legislation.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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. 335 TO AMENDMENT NO. 275

(Purpose: To improve the allocation of grants through the Department of Homeland Security, and for other purposes)

Mrs. FEINSTEIN. Mr. President, I call up amendment No. 335, please.

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

The legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN] proposes an amendment numbered 335.

Mrs. FEINSTEIN. I thank the Chair. (The amendment is printed in today’s RECORD under “Text of Amendments.”)

Mrs. FEINSTEIN. Mr. President, I rise today to offer an amendment which ensures that critical homeland security resources are allocated predominantly on the basis of risk, threat, and vulnerability. I am pleased to be joined by my colleague from Texas, Senator JOHN CORNYN, as well as Senators LAUTENBERG, HUTCHISON, BOXER, SCHUMER, CLINTON, OBAMA, MENENDEZ, KERRY, COBURN, and CASEY. I understand that Senator COBURN and at least three of the other cosponsors will be coming to the floor, and I certainly welcome them. Our amendment provides an alternative that is consistent with the recommendations of the 9/11 Commission.

Let me refresh the Members' view of the 9/11 Commission. This is the recommendation:

Homeland security assistance should be based strictly—

Strictly is underlined—

on an assessment of risks and vulnerabilities.

And:

Federal homeland security assistance should not remain a program for general revenue sharing.

Now, I know that is difficult for smaller States, but I also know this is a bill that is aimed to comply with the recommendations of this Commission. So I hope it will be given some attention.

The amendment we are offering today would allocate homeland security grant funds based on risk and threat analysis. This covers most grants for interoperable communications, seaport and airport security, as well as the State Homeland Security Grant Program, the Law Enforcement Terrorist Prevention Program, the Urban Area Security Initiative, and the Citizen Corps Program. We accomplish this by reducing the State minimum formula. Currently, each State receives .75 percent of the State terrorism preparedness grant money appropriated to the Department of Homeland Security. Now, what does this mean? This means that nearly 40 percent of the grant funds must be allocated regardless of risk analysis. This amendment will reduce that State minimum to .25 percent; in other words, from .75 to .25. Lowering this minimum ensures that only 12.5 percent of the grant funds are set aside for all States, regardless. Even if they have no threat, they can get that amount of money.

Also, 87.5 percent would be allocated based purely on risk and threat assessment. This would give the Department of Homeland Security the flexibility necessary to put money where it is most needed. This means that more dollars will go to the places that face serious threats and where dollars can do the most good and, as I say, it is consistent with the 9/11 Commission.

So what does that mean in real dollar terms? Last year roughly \$912 million in grant funds were distributed to

homeland security-related planning, equipment, training, and law enforcement support needs related to terrorism prevention. It broke down like this: Only 60 percent of the money, or \$547 million, was allocated based on risk. Forty percent, or \$365 million, went to satisfy the guaranteed minimum for all States—exactly what the 9/11 Commission said we should not do.

If the Feinstein-Cornyn amendment were in place, an additional \$426 million would have been distributed strictly on risk, threat, and vulnerability. That would have brought the total to \$791 million—nearly 90 percent of the funds. I believe this would have been the right thing to do. Instead, the places where the most funding is required are being shortchanged. Let me give my colleagues an example.

Last year the breakdown of funds distributed through the State Homeland Security Grant Program and the Law Enforcement Terrorist Prevention Program meant that some States with relatively low risk were receiving more funds per person than States with higher risk. We have all heard this. Now my State, California's share of this grant funding amounted to \$2.50 per person. Texas, another large State, received \$2.25 per person. Yet Wyoming received \$14.75 per person. California is the most populous State in the Union. We have about 37 million residents. We have the Nation's largest ports, iconic bridges, towering skyscrapers, enormous infrastructure, and the busiest border crossing in the world. Texas, with 23.5 million residents, has great cities, towering skyscrapers, vital industries, and a vast international border. Wyoming—I don't want to pick on Wyoming. Love it. But as a State it is like a national park. Wyoming, with 515,000 residents, is a largely rural State.

As a member of the Intelligence Committee, I pay close attention to the classified intelligence on terrorist threats. Regrettably, for those living in States with higher threat profiles, there is reason for concern. Major cities such as Los Angeles have been an elusive al-Qaida target for years. A public example outlining the severity of this post-9/11 threat was acknowledged by President Bush in his State of the Union Address earlier this year. The President said:

We stopped an al-Qaida plot to fly a hijacked airplane into the tallest building on the West Coast.

This is the tallest building on the west coast. It is the Library Tower Building—it has a new name now—the old Library Tower Building in Los Angeles, the tallest office building west of the Mississippi. It is home to more than 3,000 people during a typical workday.

Al-Qaida and its allies do not attack based on an obscure formula to spend money evenly. They attack by prominence, number of people they can kill, and the psychological value of taking out America's great landmarks. Homeland security money must correlate

with this threat and risk; otherwise, it is quite simply wasted. This is the reality of the world in which we live. We can never predict when or where the next major attack may occur, but we can apply tough-minded discipline to use our finite financial resources effectively.

Allocating our critical resources effectively is built on a three-pronged approach: One, risks of potential terrorist attacks must be accurately assessed; two, the vulnerability of critical infrastructure and potential targets must be measured; and, three, resources must be distributed based on these assessments.

The Department of Homeland Security was created to accomplish these goals. This amendment provides the flexibility and resources for the professionals to do so.

Let me make no secret. I would prefer to allocate 100 percent of homeland security grants based on risk and threat and believe that eliminating mandatory outlays to States is good public policy. It is safe public policy. But I understand the realities of the Senate. So this amendment is a compromise which makes us all safer and benefits in some way all 50 States.

There are some who say that small States would be put at a disadvantage by this amendment. This is simply not true. Thirty-five States—70 percent of the Nation—would actually receive increased grant money for terrorism preparedness under this amendment. States as diverse as Connecticut, South Carolina, and Colorado will benefit. Risk-based funding will bring more Federal dollars to smaller States with high-threat profiles.

Here are 35 States that benefit from risk-based appropriations, and you can see them on the chart. They are in the green: California, Washington, Idaho, Nevada, Arizona, Colorado, North Dakota, Nebraska, Kansas, Oklahoma, Texas, Iowa, Missouri, Louisiana, Wisconsin, Illinois, Michigan, Indiana, Ohio, Kentucky, Alabama, Georgia, Florida, South Carolina, North Carolina, Virginia, West Virginia, Kentucky, Ohio, Pennsylvania, New York, Vermont, Massachusetts, Connecticut, New Jersey, Delaware, and Maryland.

This bill does not impact the primary all-hazards grant programs, such as the emergency management performance grants and the Assistance to Firefighters Program. In fact, under current law, nearly 40 percent of these funds are set aside for small State all-hazards preparedness. This adds up to at least \$7 million per State based upon the authorization for emergency management performance grants in the underlying bill.

There are those who will also make the argument that recipients of homeland security grant funds are not held accountable, as money is often wasted. Our amendment increases the efficiency of Federal dollars by ensuring that these critical funds actually go toward programs and efforts that prevent

acts of terror. It requires entities receiving these funds to undergo periodic audits conducted by the Department, and it mandates that the appropriate performance standards are met.

Finally, the amendment ensures that States quickly distribute Federal dollars to localities where they are needed and not hold them back. Four years ago, the President signed Homeland Security Presidential Directive 8, requiring the Department of Homeland Security to allocate grant money “based on national priorities.” Four years later, despite this Presidential directive, this remains unmet, an elusive target.

The 9/11 Commission report makes clear that there are imbalances. It offers sensible advice. We should take that advice. In our amendment, we have tried to do that. Among the Commission’s observations and conclusions, “Homeland security assistance should be based strictly on assessment of risk and vulnerability and, finally, Congress should not use this money as pork barrel.” I could not agree more. In a free-for-all over money, it is understandable that Representatives will work to protect the interests of their home States or districts. But this issue is too important, they say, for “politics as usual” to prevail.

Well, I think the 9/11 Commission got it right. The national interests must trump geographical interests when it comes to national security. I thank Senators LIEBERMAN and COLLINS for their dedication and leadership. I am encouraged that their approach has been modified. I clearly would like to modify it more. That is what this amendment is all about. They have acknowledged that funds should be allocated more along the lines of risk and threat.

Nevertheless, their proposal to set aside 25 percent of funds for all States, I believe, in the world we live in, with the intelligence that crosses my desk, indicates it is too high an amount.

This amendment offers a reasonable alternative that takes a significant step toward improving our Nation’s homeland security. So I thank my co-sponsors. I see that one is on the floor. I would like to yield, if I may, to the Senator from Texas, Senator KAY BAILEY HUTCHISON.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I appreciate so much the leadership of the Senator from California. We have talked about this many times, ever since 9/11, the Department of Homeland Security being created by Congress and requested by the President. But the fact is, I think the distinguished Senator from California has laid out the case very well. We have certain areas that, with our intelligence and with the activities that have been uncovered, we know are high-risk areas.

It is in the interest of all Americans, of every State, that we allow the Department of Homeland Security, with its intelligence grid, to determine

where the needs are greatest from a risk perspective. That is exactly what the Feinstein amendment does. I am very pleased to be a cosponsor with my colleague from Texas, Senator CORNYN; Senator FEINSTEIN; Senator BOXER. Many States that have the problems that we see are understanding of the need for this amendment.

I will give you one example. Texas is, as Senator FEINSTEIN said, the second largest State in population, the second largest State in area as well. We are second behind Alaska in area and second behind California in population. But more important than that is we have many areas that could be terrorist targets. In particular, I point out the ports, and the Port of Houston especially. Texas has 29 ports. Four of these are among the 10 busiest in the Nation. The Port of Houston is one of the most important ports in the world. It ranks first in the United States in foreign waterborne tonnage, second in total tonnage. It is the sixth largest in the world. It is also home to one of the biggest petrochemical complexes in the world. It is also part of our Nation’s U.S. Strategic Petroleum Reserve, the world’s largest oil stockpile.

Due to the volume of hazardous materials, a terrorist attack in the Port of Houston would be an enormous disaster. An attack in the Port of Houston could disrupt our Nation’s energy supply, delivering a blow to our economy at a time when we cannot afford such a disruption. It has been estimated that as much as 18 percent of our Nation’s refined petroleum products come through the Port of Houston chemical complex.

We saw what happened after Katrina and Rita came ashore in 2005, where America’s energy coast was heavily damaged. Imagine the impact to the economy if 18 percent of our refining capacity was disrupted. It would be a huge economic and financial and, of course, human loss.

The amendment I am cosponsoring with Senator FEINSTEIN would require that Federal homeland security funds be allocated to States according to a risk-based assessment. Of course, that is the way these funds should be allocated. It would cover the major first responder grant program administered by the Homeland Security Department. It is only by doing this that all of our country and the people of our country will be the most safe. It is also consistent with the 9/11 Commission’s recommendations to distribute homeland security assistance based upon threat and vulnerability assessment.

This amendment is aligned with the Department of Homeland Security’s goals for the increased allocation of grant funding based on protecting national priorities. I hope that all of our colleagues will see that protecting our Nation’s highest priority areas will be in the interest of every American, rather than getting into the State-by-State squabbles, when, frankly, the big States usually lose because there are

fewer big State votes in the Senate than small States. So if we go to the parochial interests of people from their States wanting more security grants, it is going to be hard to do the right thing.

I submit to my colleagues that we should be looking at where the terrorists might strike and hurt all of our citizens, and that should be the basis upon which these risk-based grants would be awarded to the States.

I thank my colleague from California for taking this initiative because it is so important for our country that this amendment be passed.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I thank the distinguished Senator from Texas for her support on this. I think we are both alike in that we say whenever there is threat and risk and vulnerability, that is where the money should go. If it is the State of Texas, that is fine with me. If it is the State of California, that is fine. If it is New York, Florida, Connecticut or Maine—wherever the threat and risk is—that is where the money should go. It is clear to me that the big States have felt very aggrieved. Big States with big landmarks, big ports, big oil and petroleum reserves and that kind of thing, feel definitely that they don’t get the money they need to provide the protection they need. To that end, on March 5, I received and Senator CORNYN received a letter signed by Governor Schwarzenegger of California, Governor Spitzer of New York, Governor Crist of Florida, and Governor Perry of Texas.

I ask unanimous consent that this letter be printed in the RECORD.

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

MARCH 5, 2007.

Hon. DIANNE FEINSTEIN,
Hon. JOHN CORNYN,
U.S. Senate,
Washington, DC.

DEAR SENATOR FEINSTEIN AND SENATOR CORNYN: We are writing to thank you for your leadership in working to assure that Department of Homeland Security (DHS) counterterrorism grant programs recognize the homeland security needs of the United States. Any effective strategy to secure our nation must apply risk-based analyses to manage the threat from terrorism. We believe that the Homeland Security FORWARD Funding Act of 2007 will provide much needed changes to these programs by better recognizing the risks and vulnerabilities faced by larger states such as California, New York, Florida, and Texas.

We support the efforts of your bill to build a coordinated and comprehensive system to maximize the use of federal resources and to provide clear lines of authority and communication. Your bill will further the efforts of DHS, cities, counties and state agencies as they continue to work together to detect, deter and respond to terrorism. Specifically, we appreciate the following provisions of the bill:

Follows the 9/11 Commission Report recommendation to better allocate federal resources based on vulnerabilities;

Analyzes risks, threats, vulnerability, and consequences related to potential terrorist attacks; current programs do not give full consideration to our states' urban population centers, numerous critical infrastructure assets, hundreds of miles of coastland, maritime ports, and large international borders;

Reduces the "small state" minimum from 0.75% to 0.25%, providing each state a baseline award while allocating an increased level of funds based on risk; the current base + per capita method allocates a disproportionate share of funds to states with small populations;

Continues the Law Enforcement Terrorism Prevention Program and exempts the program from the base percentage, allocating all funds based on risk;

Maintains the Emergency Management Performance Grant program as a separate program focused on capacity building for all-hazards preparedness, response, recovery and mitigation;

Continues the central role of states, building on existing systems that effectively coordinate planning efforts and ensure accountability;

Allows for limited regional applications from previously-designated UASI cities or other urban areas with at least a population of at least 500,000;

Retains the central role of states as the administrative agent for the grants to ensure regional applications are consistent with statewide plans; and

Recognizes the importance of national standards for evaluating the "essential capabilities" needed by state and local governments to respond to threats.

Your continued support for improving the nation's ability to detect and deter and coordinate responses to terrorist events is appreciated.

Sincerely,

ARNOLD SCHWARZENEGGER.
CHARLIE CRIST.
ELIOT SPITZER.
RICK PERRY.

Mrs. FEINSTEIN. Mr. President, I yield the floor.

Mr. LIEBERMAN. 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.

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.

Mrs. FEINSTEIN. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mrs. FEINSTEIN. 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.

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, I rise in opposition to the amendment offered by my friend from California and my friend from Texas.

Let me first start by telling my colleagues that this is virtually identical to the same proposal the Senate voted on last July during consideration of the Homeland Security appropriations bill. In fact, the Senate has repeatedly voted on this formula issue throughout the past few years. The Senate has also repeatedly rejected the approach put forth by my colleagues from California and Texas. The last time this amendment was voted on, it was defeated by a vote of 36 to 64.

This map says it all. The amendment offered by the Senator from California would cut homeland security grant dollars for 34 States and the District of Columbia. I emphasize that because I think by any reasonable analysis, the District of Columbia is a high-risk area. I am not stressing the District of Columbia just because the Presiding Officer is from Virginia but, rather, because it is an area that has been the subject of a terrorist attack.

What the Feinstein-Cornyn amendment would do is reallocate the funding to turn it over to 16 States that already receive 60 percent of the funding. I think we have a basic philosophical disagreement in discussing how the homeland security money should be allocated. I certainly agree that risk should be a factor, but I also believe—and the testimony before our Homeland Security Committee confirms—that all States need to receive a predictable, reasonable base allocation of homeland security funding. States need that predictable multiyear funding in order to fund complex multiyear projects, such as creating interoperable communications networks or first responder training programs. Risk-based funding, even if it is distributed properly, is important, but it is likely to fluctuate dramatically from year to year.

Furthermore, the minimums in this amendment are simply too low. Under this amendment, each State would only be assured of \$2.28 million under the authorized levels for the Homeland Security Grant Program. That is just about half of the proposed Homeland Security Grant Program minimum in S. 4. I encourage Senators to talk to the first responders in their States—the police officers, the firefighters, the emergency managers—to find out what gaps in homeland security would be left unfilled if they faced such a reduction.

As one can see from this chart, there would be a substantial reduction under all of the homeland security programs. Let's take the interoperability program. We know States have not made nearly the progress that needs to be made in having compatible communications equipment. That was certainly one of the lessons from 9/11, where so many first responders lost their lives because they simply could not talk to one another. When the Homeland Security Committee did its in-depth investigation into the failed response to Hurricane Katrina, we

found exactly the same kinds of interoperability problems. In fact, we found there were parishes within Louisiana where, within the same parish or county, the firefighters could not talk to the police officers, who in turn could not talk to the emergency medical personnel.

The only way to ensure a base level of security and preparedness in each and every State is to require that there be a reasonable minimum amount of homeland security grant funding awarded to each State.

The National Governors Association has said it well. The NGA has written to me that:

To effectively protect our States and territories from potential terrorist events, all sectors of government must be part of an integrated plan to prevent, detect, and respond to and recover from a terrorist act. For the plan to work, it is essential that it be funded through a predictable and sustainable mechanism both during its development and in its implementation.

It is important to note that the law requires States to develop 3-year homeland security plans, and we are requiring any homeland security funding be used to accomplish those plans and to meet minimum levels of preparedness.

I am surprised that many who are offering this amendment, which would give the Department even more latitude than it has now, are the same people who are expressing outrage at the way the Department used its authority last year to allocate the funding. I note that I joined in that outrage. As I told Secretary Chertoff at a hearing before our Homeland Security Committee, I would not have guessed he could have made both the State of Maine and New York City equally unhappy in how he allocated homeland security funds, but he managed to do just that.

The Department is moving away from the methodology it used last year to allocate funding based on risk. New York Senators were very eloquent in describing the risk analysis DHS had used. For example, my colleague, Senator SCHUMER, said:

The way that the Department of Homeland Security has given out high-threat funding defies logic, and it is dangerous.

That was typical of the comments that were made.

I agree with my colleagues, and that is why we were so careful to come up with a different approach and one that includes strong accountability measures to address concerns, that requires the Department of Homeland Security to provide Congress with its risk allocation methodology in advance, and that also provides a predictable, stable level of funding which will allow States to meet their diverse needs.

One of the important parts of the funding formula the Senator from Connecticut and I have labored so hard to put forth is providing assistance to law enforcement to try to detect and prevent attacks from happening in the first place.

I must remind my colleagues that the leader of the attacks on our country on 9/11 started his journey of death

and destruction not from a large urban area but from Portland, ME. Just think if we could have detected that plot and arrested Mohamed Atta in Portland, ME, before he launched his attack.

Risk is not an easy calculation. We saw that last year when the Department brought forth its very flawed methodology that made so many of us unhappy. But, unfortunately, we are seeing that approach used again by the Feinstein-Cornyn amendment because that flawed methodology which the sponsors of this amendment have embraced results in cuts to the District of Columbia—clearly a high-risk jurisdiction—and yet it would reduce funding for the District of Columbia. I think it jeopardizes the funding for 34 States—34 States, many of them border States that have obvious vulnerabilities, many of them coastal States that have obvious vulnerabilities. Then there is Kansas, with the threat of agraterrorism, about which I know the distinguished Senator from Kansas has been very concerned. Think of an attack on our food supply. That is much more likely to occur in a rural area. Think of an attack on a nuclear power-plant in a rural area.

The point is, we have a lot of critical infrastructure in this country that is located outside our large urban centers. So we have to avoid embracing a flawed methodology, and we have to recognize that every State has risks and vulnerabilities and every State needs to achieve minimal levels of preparedness, and we clearly are not there yet.

I hope we will, once again, turn down the well-intentioned but misguided amendment offered by the Senators from California and Texas. I believe it would really cause problems for our country as we try to strengthen our homeland security.

I end this segment of my comments by noting a report by the RAND Corporation that was prepared for the National Memorial Institute for the Prevention of Terrorism in Oklahoma City, another place where there was a terrorist attack that would not generally be considered a high-risk area. It says:

Homeland security experts and first responders have cautioned against an over-emphasis on improving the preparedness of large cities to the exclusion of small communities or rural areas, and it recognizes that much of the Nation's infrastructure and potential high-value targets are located in rural areas.

I thank the Chair.

The PRESIDING OFFICER (Mr. DURBIN). The Senator from Kansas.

Mr. ROBERTS. Mr. President, I associate myself with the remarks of the distinguished Senator from Maine, who does such an outstanding job, along with the distinguished chairman of the Homeland Security Committee. I, too, rise in strong opposition to the amendment that is proposed by Senator FEINSTEIN. Senator COLLINS pretty well

summed it up, and my remarks might be somewhat repetitive, and I think they need to be.

I know the Senator from California, no doubt, has the best of intentions. She has been an excellent member of the Intelligence Committee, when I had the privilege of being the chairman of that committee. She is working simply to increase the grant funding—which on the surface of it makes some sense—to high-population areas. I just don't think that reducing funding for the majority of our States and our great Nation, as the distinguished Senator has pointed out with her chart, is a viable way to protect against terrorism.

If we as a country are going to be adequately prepared for another terrorist attack, we must not forget that we are vulnerable on all fronts. The States that would be negatively impacted by this proposal contain some of our Nation's most valuable assets.

If we are going to reduce funds to States such as Kansas, this amendment tosses aside the risk to agriculture, as the Senator has pointed out, agraterrorism, although we don't use that term anymore because it used to scare a lot of people. We just call it "food security," and it is a big-ticket item. Basically, that is the ability of our Nation's intelligence community, 19 different agencies, to protect our Nation's food supply, not to mention the oil and petroleum facilities that provide invaluable energy in this time of need to many Federal buildings and places of national significance that are scattered throughout our great Nation.

So we cannot let ourselves believe if we only protect large cities and high-population States, we will be safe from the devious and the calculating minds of those who wish to do us harm. You only need to look at the Oklahoma City tragedy to understand this. Rather, preparing for what we expect in the densely populated area is a sure-fire way to be shocked and horrified should the unthinkable happen again.

This legislation has been considered before. It was defeated soundly. To add it now as an amendment disregards the hard work many have done to negotiate a funding formula that most benefits our entire economy and our entire country. We cannot afford to compromise the security of an entire Nation for the benefit of a few areas. It is not where the people are, it is where the terrorists will attack and how and when.

Let me say when I was the chairman of the Emerging Threats Subcommittee on the Armed Services Committee, I went to a secret city in Russia—there are approximately 11 of them—and they let us into a few because we had the Nunn-Lugar program that paid the scientists the Russians used to have making various armaments and bioweapons and viruses and all sorts of things. It certainly gives you pause to think about the fact that when Ronald Reagan called the former

Soviet Union the "evil empire," he was correct, if you looked at the stockpile of this weaponry. We were granted access to this research center, which is located outside of Moscow, about 60 miles. It is called Obninsk. We went in and saw what was being manufactured. I can assure you when they opened up the refrigerator doors, we stepped back a little bit.

I will not go into everything in terms of what was being manufactured there, some of which is classified, but we thought under the Nunn-Lugar program the best thing we could do was to provide security. Yet how easy would it be for a terrorist group or somebody within the organized mafia of Russia today to latch on to any part of this stockpile, of which there are a great many, and transfer that to the United States and attack our food supply?

We have had exercises. I have taken part in exercises. There was an exercise in regard to hoof and mouth disease. What happened was we got into a situation where the infestation period was 6 days, and we got past that, and then utter chaos developed. We lost in the process a large number of our livestock herd, all of our export stock, and when people finally figured out their food doesn't come from grocery stores, there was panic in our cities. We basically endangered our food supply not only for 1 year but for several years running.

This is a very real threat. I can tell you as a former chairman of the Intelligence Committee, we worked very hard to get the intelligence community to first assess this and then to assess it in terms of a priority risk and a threat. That is exactly what we have done. This amendment does great harm to that effort and to adequate funding for all States and to assess the threats that certainly face all Americans. I am very hopeful we will oppose this amendment.

Let's repeat what we have done in the past and safeguard all Americans as opposed to the individual, or the individual many, if that is the proper way to put it.

Mr. President, I yield the floor.

Mr. LIEBERMAN. Mr. President, what a pleasure to see you as the occupant of the Chair.

The PRESIDING OFFICER. It is a pleasure to have the Senator address the Senate.

Mr. LIEBERMAN. Mr. President, I first thank the Senator from Kansas for his very compelling statement in which he speaks not so much on behalf of Kansas as based on his experience as the immediate past chair of the Intelligence Committee. He speaks to the threat of agro-terrorism. We ought to start talking about it in that way again because it makes it so real.

Like so many of the vulnerabilities we have in this terrorist age, where we have to worry about things we could not have imagined before, these are things we have to now both imagine and defend against. That is part of the

capacity that will be preserved in the funding formula that is fair and balanced found in the underlying bill, S. 4.

I rise to oppose the Feinstein amendment. Senator FEINSTEIN's amendment is actually one of three that will be introduced to change the funding formula for homeland security and natural disasters security that is in this underlying bill. Senator OBAMA has one which he will introduce tomorrow, Senator FEINSTEIN has introduced this today, both of which would reduce the minimum first aid share. Senator OBAMA's would reduce the guaranteed funding share for 32 of the States in the country as compared to S. 4, the bill under consideration; and Senator FEINSTEIN's would actually reduce the funding, as the chart Senator COLLINS held up indicates, for 34 of the States of our Union. Senator LEAHY of Vermont will introduce an amendment that will increase the minimum per State to .75 percent of the total.

In some sense, with two amendments trying to cut back the minimum per State and one intending to increase it, I hope that it suggests that Senator COLLINS and I and our committee have found a reasonable middle ground that gives most of the money to the States based on risk but recognizes that the risk to homeland security is national and not confined to the larger cities or the most prominent targets, as Senator COLLINS and Senator ROBERTS have made clear. We know, tragically from terrorist acts across the world, that terrorists have struck discotheques, schools in smaller town areas, and obviously metros and subways in other areas.

Our proposal gives out most of the money based both on risk and a minimum per State so they can deal with their own local vulnerabilities. The members of the committee chose, I believe in our good judgment in this case, to establish the Homeland Security Department as an all-hazards protection department, not just protection against the terrorism we fear after 9/11, which we have, as I said earlier, a moral responsibility to protect the American people from. At the same time, because there is overlap, we can enable the States and localities and the Federal Government to protect their citizens against the impact and harm caused by natural disasters.

In that sense, the funding formula in the underlying bill, S. 4, not only embraces and implements the lessons learned from 9/11 but also the lessons learned from Hurricane Katrina. It accurately reflects the world we live in today, a world where we know we have to protect the American people from acts of humans while also being able to respond to acts of nature.

The second point I want to make is that these fights over funding formulas—and this is what we are in now—are well-intentioned, they are spirited, and they are important, but we must not be distracted from the larger point here, if I may say so re-

spectfully, which is that it is not only who gets how much of the pie that is important, but equally important, perhaps ultimately more important, is the question of: How big is the pie? How much money is our country, our Federal Government, prepared to invest in protecting the security of the American people from another terrorist attack or from a natural disaster?

I am very proud that this bill, S. 4, authorizes significant additional funds for homeland security grants and related grants, restoring, in the case of homeland security grants, overall funding to the fiscal year 2004 level of \$3.1 billion for each of the next 3 years. The fact is, shockingly, if we stop to think about it, that the administration has recommended cuts in homeland security grant funding since 2004.

The threat has not gone down. We know, in fact, of publicly reported intelligence that al-Qaida and the Taliban are again amassing in the area of the mountains between Pakistan and Afghanistan, that training camps are being established there again, and that people are coming to train not just to fight in Afghanistan but with the heightened probability that they will plan terrorist attacks against the rest of the world, including American targets. Nonetheless, the funding for these homeland security grants has gone down over the last 3 years.

What is our goal? It is not a lavish or radical one in terms of funding. This bill proposes to take us back to the level at which we were funding one category of grants, homeland security grants, to where it was in fiscal year 2004, \$3.1 billion, and to continue that at that same level for the next 3 years. If we do that, this legislation will send a strong signal that this trend of cutting homeland security funding is over. It will send a message that we are not disarming our first responders, or squeezing them as they attempt to protect us and prevent terrorist attacks.

This increase in funding will also send another message. Just as we support our troops fighting in the war on terrorism throughout the world, we need to adequately support our troops, I would call them, our first responders, our firefighters, our police, and our emergency response personnel. We need to support those who are on the front lines fighting for us, protecting us when disaster strikes right here at home in the United States.

While we go on with this debate on these three amendments that seek to alter the funding formula in the underlying bill, S. 4, I hope we will all keep in mind that this legislation authorizes, and if adequately funded by our colleagues on the Appropriations Committee, a significant expansion in the size of America's homeland security grant funding pie.

I also will talk briefly about the specific programs this legislation will authorize that the three amendments, Senator FEINSTEIN's, Senator OBAMA's, and Senator LEAHY's, would alter, two

cutting and one adding to our allocation to each State in the country. Two of the four funding programs dealt with in this underlying bill are devoted specifically to dealing with the risk of terrorism, to improving the capacity of State and local responders to do exactly that.

Two others are also designed to address all hazards; in some sense to maximize what we get for our investment. When I say "all hazards," I am speaking of natural disasters. As we saw in Katrina, that can cause as much or, in some cases, more damage to our country and our people than a terrorist attack.

Let me go first to risk-based funding for urban areas, one of the four programs. S. 4 authorizes in law the Urban Area Security Initiative, known in the field as UASI, to assist high-risk urban areas in preventing, preparing for, and responding to acts of terrorism. All UASI funds would be given to the urban area based on risk—totally based on risk—from a terrorist attack and the effectiveness of the proposed uses in addressing that risk. There is no minimum funding per state or locality. It is totally up to the Department of Homeland Security's assessment of risk.

The 100 largest metropolitan areas in the United States would be eligible to apply for funding. I am pleased to say here, too, we increased the funding; \$1.279 billion would be authorized for UASI for each of the next three years, which is significantly more than the \$770 million provided this year or the \$800 million proposed in the administration's fiscal year 2008 budget.

The second risk-based funding for states, the other program designed specifically to help state and local officials cope with the risk of terrorism, is the State Homeland Security Grant Program. S. 4 authorizes this program to be funded at \$913 million for each of the next three years to assist state, local and tribal governments in preventing, preparing for, and responding to acts of terrorism. This is a significant increase over the \$550 million that would go to this State Homeland Security Grant Program this year, not to mention the \$250 million cut of the \$300 million of the President's proposed budget in this program for fiscal year 2008. Most important—and I think it is very significant with all that will be said about the formulas—as we calculated under the approach of S. 4, an estimated 95 percent of these so-called SHSGP funds, State Homeland Security Grant Program funds, would be given out based on risk to the state from a terrorist attack, and on effectiveness of the proposed uses in addressing that risk.

While each state would be assured of receiving a minimum of .45 percent of the overall funds of this program, the Department will calculate distributions based on risk first and then only make any adjustments necessary to bring all the states up to the guaranteed minimum.

As we apply the formula of risk allocation that the Department applied this year, we come to the conclusion that 95 percent of these funds would actually be distributed based on risk.

The third program: All-Hazards Emergency Management Funding. This is a reorganized, refocused, and greatly increased program that will have tremendous effect in protecting the American people from all hazards, man-made and natural. S. 4 authorizes what we call the Emergency Management Performance Grants Program, EMPG, to assist states in preparing for and responding to all hazards, including natural disasters, other manmade disasters, and terrorism. The legislation significantly increases the authorization amount for this critically important program from about \$200 million to \$913 million for each of the next three years. That is obviously a significant increase, four and a half times what it is now. Each state would receive a base amount of .75 percent of the overall funds, with the remaining funds distributed in proportion to a state's population, which continues the current allocation practice. This program, as I have said, is an all-hazards program. Every state in the country is vulnerable or subject to be the target of some kind of hazard, whether it is terrorism or a natural disaster that is different depending on which part of the country you are in, which is a hurricane, a tornado—as we have seen occur last week with devastating effect on our fellow Americans, earthquake—of which we have seen too many taking precious lives and destroying property all across our country. I speak of these natural disasters. These are risks that all States face so we think it appropriate to ensure that each State receives .75 percent of the overall funding.

Finally, the fourth program is Dedicated Grants for Communications Interoperability. In our committee, Senator COLLINS and I worked very hard on this, and I must say we are very proud to establish this grant program. It is dedicated to improving communications operability and interoperability at local, regional, state and federal levels. We have been through this on the floor before. We saw both on 9/11 and in Hurricane Katrina, when first responders cannot talk to one another because they have different radio systems or they can't talk at all because the systems have broken down, response to the disaster is greatly compromised and lives are lost. That is exactly what we are aiming to prevent with this.

Incidentally, this is a problem that is not new with 9/11 or with Hurricane Katrina. The truth is, it has gone on unsolved for years, even though we had evidence of it from 1982, when Air Florida crashed in Washington, to the 1995 attack on the Alfred E. Murrah Federal Building in Oklahoma City, to the 1999 shootings at Columbine High School near Little, Colorado. In each of those cases, there were communication

breakdowns, not as well known as those on 9/11, that compromised the response and compromised the safety of our fellow Americans. This is a national problem. It affects all states. That is why we propose that each state would receive a minimum of .75 percent of the total funds. This legislation authorizes a total of \$3.3 billion spread out over five years for this communications interoperability grant program.

I wish to stress here about this and about the Homeland Security Grant Programs, that we are mindful of the few cases—but too often cited by critics—in which local governments have used grant money under these programs in ways that do not, to any of us, seem like they relate. In the case of interoperability communications, we state very clearly in the bill that to qualify for these programs you have to make a proposal that is not just something the local law enforcement chief thinks would be a nice thing to have, it has to be consistent with a state's emergency communications plan in the National Emergency Communications Plan. Otherwise, states are simply not going to receive funding.

The same is true in the Homeland Security Grant Fund Program. One of the bases of the judgments of the use of the funds is clearly stated: "The effectiveness of the proposed use in addressing that risk."

In the few cases where sadly, infuriatingly, Homeland Security grant money has been spent on things that don't seem at all to be related to homeland security, in the language under S. 4, we are going to stop that from happening and guarantee that this money is spent in a way that will increase the American people's sense of security from terrorists and natural disasters.

I believe these four programs together, if enacted and properly funded, will make our country much safer. They will provide the men and women on the front lines here at home with the essential tools they need to protect the American people and save lives. They will make sure that funds targeted for building terrorism-specific capability go out overwhelmingly to those states and urban areas that our intelligence and our common sense tells us are most at risk from terrorist attack. But they will also provide funds that are adequate in the post-9/11, post-Katrina world, to make sure that all states can prepare for and be ready to respond to disasters.

This is going to be an important debate. I look forward to participating in it.

The PRESIDING OFFICER. The Senator from New York.

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

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

AMENDMENT NO. 336 TO AMENDMENT NO. 275

Mr. SCHUMER. Mr. President, I rise to offer two amendments to the 9/11 Commission recommendations bill. After I have an opportunity to address

these amendments, I ask they be set aside so we may proceed with further proceedings on the bill.

I hope we can reach agreement, I say to my friend from Connecticut. I hope we can reach agreement on these amendments, as they are critical to making sure our homeland security dollars are spent wisely in the way that will do the most to protect our Nation.

Nearly 6 years since the tragedy of September 11, Congress finally has the opportunity to implement the recommendations of the 9/11 Commission. The 9/11 Commission has done a tremendous job providing our Nation with the tools to make our Nation safer and now is the time for Congress to act and to get it right.

I thank Senators LIEBERMAN and COLLINS for their hard work and dedication to this bill and thank my colleague from New York, Senator CLINTON, for joining me on these two important amendments.

We are here today to talk about one of the most important pieces of the 9/11 Commission's recommendations, funding the Homeland Security Grant Program, administered under the Department of Homeland Security. Unfortunately, DHS has not always approached the allocation of vital homeland security dollars the way the 9/11 Commission intended. The 9/11 Commission intended that homeland security funds, including the high-threat Urban Area Security Initiative, UASI, and the State Homeland Security Grant Program, SHSGP, be allocated based on risk. In fiscal year 2006, the most high-risk and high-threat cities in the Nation, New York City and Washington DC, two cities which suffered tremendously from the horror of the 9/11 terrorist attacks, received a 40-percent cut in high-threat UASI funding from DHS. Using a peer review process, DHS made funding decisions based on including popcorn factories and petting zoos, while cities such as New York were forced to cut key security initiatives such as staff patrols on the Brooklyn Bridge and NYPD inspection of backpacks within the New York City subway system.

DHS relied on an untested system of peer review in 2006 to allocate high-threat security funding, and it failed miserably. A 40-percent cut in high-threat funds for our highest risk cities is unacceptable and exactly the opposite of what the 9/11 Commission recommended. Despite the firestorm of criticism that the Homeland Security Department faced for its UASI allocation of funding in 2006, DHS decided once again to use the peer review process when allocating high-threat funding in 2007. That makes one doubt the thinking that is going on in DHS, not only on this issue.

So I ask amendment No. 336 be called up.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER], for himself and Mrs. CLINTON, proposes an amendment numbered 336 to amendment No. 275.

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

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

The amendment is as follows:

(Purpose: To prohibit the use of the peer review process in determining the allocation of funds among metropolitan areas applying for grants under the Urban Area Security Initiative)

On page 64, between lines 2 and 3, insert the following:

“(e) PROHIBITION OF PEER REVIEW PROCESS.—The peer review process may not be used in determining the allocation of funds among metropolitan areas applying for grants under this section.

Mr. SCHUMER. This amendment will bar DHS from using the peer review process when making allocations for high-threat UASI funding. Our most targeted cities should not be subject to the arbitrary whims of an untested bureaucratic process that clearly does not have the best interests of our high-risk cities as its No. 1 priority.

DHS was wrong about the effectiveness of the peer review process, and it has also been off the mark on the amount of homeland security funds that can be used to cover personnel and overtime.

This bill makes clear that different cities under very different levels of risk have very different security needs. We should not be punishing cities such as New York that must rely on personnel to make our cities safer.

One example is our bridges because they have been targeted. The Brooklyn Bridge near my home, which I take back and forth all the time, has two police officers at each end 24 hours a day, 7 days a week. That is 20 police officers. If one looks at policeman hours, four times five, five shifts is what it takes to cover 24/7. That kind of funding is essential to the safety of New York, yet it is limited by the process. Our amendment would change that.

AMENDMENT NO. 337 TO AMENDMENT NO. 275

I ask unanimous consent that my amendment be set aside so that I may call up amendment No. 337.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER] proposes amendment numbered 337 to amendment No. 275.

Mr. SCHUMER. 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 the use of funds in any grant under the Homeland Security Grant Program for personnel costs, and for other purposes)

On page 59, between lines 9 and 10, insert the following:

“(f) USE OF GRANT FUNDS FOR PERSONNEL COSTS.—The Secretary may not provide for any limitation on the percentage or amount of any grant awarded under the Homeland Security Grant Program which may be used for personnel costs, including overtime or backfill costs.

On page 86, strike lines 6 through 20.

Mr. SCHUMER. This amendment also addresses a critical shortfall in previous allocations for homeland security funding: the payment of overtime for first responders such as police officers. High-threat cities such as New York can't rely on equipment and technology alone to get the job done. New York City, with its vast population and national landmarks, needs trained, expert personnel guarding its tunnels, bridges, and landmarks to keep New Yorkers and the huge amount of visitors it has every year safe.

Having trained security personnel available at all times to protect our citizens is not an issue unique to New York City. In this difficult budget climate, cities across the country are faced with hard choices when it comes to keeping our citizens safe from terrorists. The Department of Homeland Security should allow our cities and States the ability to fund the activities necessary to protect our citizens.

The potential for terror is not limited to 8-to-5 shifts. We need to give our cities and States the resources they need to do their job. If they should choose to use overtime in funding in their UASI allocation, they should be allowed to do it.

AMENDMENT NO. 335

I also would like to take a moment to talk about Senator FEINSTEIN's amendment that I am cosponsoring along with several of my colleagues. The Feinstein amendment will lower the minimum grant for the State Homeland Security Grant Program to .25, lower than the .45 proposed in the Senate version of the bill. The amendment will also lower the minimum for interoperable communications to .25, down from .75 in the bill. While I appreciate the committee raising the amount of funding for SHSGP funds to \$913 million, well above the amount included in the President's 2008 budget, the formula minimums included in the Senate bill provided less funding for New York.

New York is not alone. Other States, such as California and Texas, will also face cuts in funding unless we lower the minimum in the Senate bill. We can't allow our larger cities and most vulnerable targets to be left relatively unprepared for a major attack relative to other cities because they are not given the Federal resources they deserve.

Some in the Senate will make the argument that States across the country have needs that must be addressed, and we need to be prepared in all communities. While I understand their concern, the Senate has recognized that need by authorizing the emergency management performance grants in the

same amount as the SHSGP grants and by providing EMPG grants with a .75 minimum to address all-hazard needs across the country.

In addition to EMPG grants, the Senate has also provided a minimum amount of funding for interoperability communications grants, something the city of New York has spent millions on since 9/11 so the rest of the country might implement this valuable technology.

Now is the time for the Senate to do the right thing. While I applaud the overall work of Senators LIEBERMAN and COLLINS on this important bill, one area we have strayed is in the area of grant funding. I know they come from smaller States. Obviously, they are defending their States. But if we are allocating money on the basis of need, on the basis of where the greatest threat of terrorism is, the funding formula here does not really do the job.

The 9/11 Commission, for instance, neither from a smaller State or bigger State perspective and looking at things objectively, recommends that funding be allocated on risk alone. The minimums allocated in this bill do not do that. One need look only as far as the tragedy of 9/11 to answer the question of why funding for the most targeted cities is the most important.

I urge my colleagues to support the Feinstein amendment. We have the opportunity to fix the past mistakes at DHS and ensure that the appropriate amount of funding is distributed in a way that will benefit all and ensure that highest risk areas are adequately protected. Now is that time.

I look forward to working with the committee on these important amendments to the way the bill addresses the grant program. I know the committee shares my commitment to ensuring our first responders and all critical homeland security needs have the funding needed to protect our citizens. The committee has done important work to authorize for the first time funding for the grant programs. I look forward to working with Senators LIEBERMAN and COLLINS on this issue.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Pennsylvania is recognized.

Mr. CASEY. Mr. President, I rise in support of the Feinstein-Cornyn amendment. I am proud to serve as a cosponsor. As my colleagues know, we have spent the past week debating legislation to once and for all fully implement the recommendations of the bipartisan 9/11 Commission delivered in July 2004. This bill before us, along with its counterpart already passed in the House, would largely do just that by making it more difficult for terrorists to gain access into our country by enhancing information sharing in our intelligence community and homeland security apparatus so that we can truly connect the dots in future plots against our Nation, and by providing genuine

incentives to the private sector to do their part in order to strengthen their preparedness to prevent and respond to acts of terrorism.

The bill would also provide much needed funding to enhance the security of our rail and transit systems, including Amtrak's northeast corridor, a rail system that carries tens of thousands of passengers every day along the east coast, including my home State of Pennsylvania, and which remains unacceptably vulnerable to terrorist attack.

However, we must be honest. The bill does not fully implement every recommendation of the 9/11 Commission. Chapter 12 in the Commission's final report addresses the difficult challenge of allocating limited funds across the Nation to address an array of homeland security vulnerabilities and gaps. The report recognizes that we as a nation cannot protect every vulnerable port, every vulnerable icon, and every vulnerable spot where Americans congregate every day. A universal approach would turn our Nation into an armed fortress, too restrictive of the liberties we cherish and love as Americans. That would be a victory for the terrorists.

Let me quote directly from the bipartisan Commission report which lays out in plain and clear language why it is so important that we allocate homeland security dollars on the basis of risk:

Homeland security assistance should be based strictly on an assessment of risks and vulnerabilities. Now, in 2004, Washington, D.C., and New York are certainly at the top of any such list. We understand the contention that every state and city needs to have some minimum infrastructure for emergency response. But federal homeland security assistance should not remain a program for general revenue sharing. It should supplement state and local resources based on the risks and vulnerabilities that merit additional support. Congress should not use this money as a pork barrel.

So says the 9/11 Commission Report. The Commission calls for a strict prioritization of national needs based upon a strict risk-based assessment. Those potential targets that are most attractive to terrorist groups, that contain the most deep-seated vulnerabilities to an attack, and that, if successfully attacked, would produce the most drastic consequences in terms of lives lost, people injured, and economic damage should be given priority in terms of allocating our limited homeland security dollars.

This definition of risk, which successfully incorporates the three variables of threat, vulnerability, and consequence, has been recommended by countless academic experts and is now incorporated into the Department of Homeland Security's framework for assessing how to rank various targets in our Nation in terms of their likelihood for a future attack. Unfortunately, the Congress has not kept pace with the recommendation of the 9/11 Commission, and the bill before us this week still does not get it right, even though

it purports to fully implement the recommendations of the 9/11 Commission.

This bill, while superb in almost every other respect, would still retain the misguided approach first established by the PATRIOT Act that would mandate that each State receive a minimum of .75 percent of overall funding for most of the homeland security grant programs, including the State Homeland Security Grant Program, the Law Enforcement Terrorist Prevention Program, and the Citizen Corps Program. In other words, 38 percent of the funding dollars for our major homeland security grant initiatives is allocated on an arbitrary basis, wholly unrelated to risk. Thirty-eight percent of these funding dollars is distributed in such a fashion that every State receives the exact same share, with equal dollars flowing to large States such as Pennsylvania and New York, as well as much smaller States.

This makes no sense. Every State is not equally at risk from the threat of terrorism and is thus eligible for equal dollar amounts. I recognize that the remaining 62 percent of funds under these homeland security grants are now based on risk, but it is wrong and harmful to deny almost half of all funds to those areas that are at greatest risk.

That is why I am so pleased to co-sponsor the Feinstein amendment which would reduce those per-State minimums from .75 percent of overall grant funding to .25 percent. In other words, instead of 62 percent of funding allocated on the basis of risk, 87 percent of all grant funds would be allocated on a risk basis.

Is that a perfect solution? No, it is not. In a perfect world, 100 percent of funds in every homeland security program would be allocated on the basis of risk, and State-by-State minimums would become a historic relic. But I understand political realities, and I recognize this amendment by itself will face a real challenge in achieving passage. The Feinstein-Cornyn amendment, by replicating a provision in the 9/11 bill that passed the House in January, nevertheless would significantly improve the quality of our homeland security funding by requiring a greater share of it be allocated on the basis of risk.

This issue is often unfairly characterized as a large State versus small State battle. Those States with large populations would supposedly automatically benefit under any funding formula that is based to a greater degree on risk while small States would lose or so the argument goes. That would be true only if we use population levels as a proxy for risk, which this amendment does not do.

Instead, the Feinstein amendment defines risk as a function of threat, vulnerability, and consequence. So a small State with several targets that are uniquely at risk due to a combination of these three variables would profit from this amendment just as a

State as large as New York or New Jersey or Pennsylvania.

This amendment, to the greatest extent possible, takes individual States out of the formula. It focuses on where and what our Nation's targets of terrorism are and where the greatest risks lie and focuses our homeland security dollars on those targets. Those who hail from small States should not reflexively oppose this amendment. The fact remains, their States can benefit—small States can benefit—from greater funding under this new formula.

Will there be losers under this new formula? Sure. Of course. Those States with a minimum level of potential targets at great risk would receive potentially less funding. But I am confident the people of those States will recognize the enormity of the stakes involved: how to best protect our Nation in a long struggle against terrorism. I have faith the American people will put aside parochial concerns in favor of those strategies that protect all of us.

I hail from a State that sits at the higher end of the range of vulnerability to attacks of terrorism. Under the Urban Areas Security Initiative, or UASI, two urban regions in Pennsylvania have been consistently designated as high risk in this program since its inception in fiscal year 2003: Philadelphia and Pittsburgh.

Philadelphia is home to such historic sites as Independence Hall and the Liberty Bell. It is also a major hub for Amtrak's Northeast corridor, a vital transportation artery that links Washington to Boston and points further beyond. We have seen what the terrorists have done in Madrid and London and other places. If they seek to export their tactics to our Nation, the Northeast corridor, including Philadelphia's 30th Street Station, would be a prime target.

Also, the city of Pittsburgh includes world-class universities, major sports stadiums, and other icons of national significance.

There is a reason why both cities have been included in the 15 most at-risk urban regions in the United States and are eligible for grants under the UASI program. The UASI program is the only homeland security program that operates fully—fully—on the basis of risk. For that reason, it is the most effective program, as it allocates dollars without regard to State by State minimums or political guidelines.

Future terrorist acts endanger the people of Pennsylvania, and I will continue to stand up for them to assure our homeland security programs are appropriately focused on the threats where they are. I understand no State or its representative Members want to lose out on additional Federal dollars. But I would once again quote from the 9/11 Commission report which has served as the inspiration behind our entire debate on this important bill. In concluding that risk-based funding is the only way for our Nation to apportion homeland security dollars, the Commission declared that:

In a free-for-all over money, it is understandable that representatives will work to protect the interests of their home states or districts. But this issue is too important for politics as usual to prevail.

“Too important for politics as usual to prevail.” After the horrors of 9/11, we cannot ignore the significance of that call to duty.

I strongly urge my colleagues to vote in support of the Feinstein-Cornyn amendment so we can ensure our precious homeland security resources are allocated in a fair and efficient manner.

I yield the floor.

The PRESIDING OFFICER (Ms. KLOBUCHAR). The junior Senator from New Jersey.

Mr. MENENDEZ. Madam President, I rise in strong support of the Feinstein-Cornyn amendment. I am proud to be a cosponsor of this effort. This amendment would enact one of the key recommendations of the 9/11 Commission that has gone ignored time and time again by the Congress, and that is ensuring homeland security funding is based on risk.

We have heard a lot during the course of the debate on this bill. Often we have had references to the 9/11 Commission when it was propitious, when it served to support the argument someone was making at a given time. Then, at other times, it has been forgotten. I have been one of those who believes we should have all of the 9/11 recommendations implemented. So I do not pick and choose.

I am certainly tonight wanting to make sure we recognize as a body what the Commission said. It was not ambivalent. The Commission was not ambivalent about its recommendation. The Commission said, in its report, very clearly:

Homeland security assistance should be based strictly on an assessment of risks and vulnerabilities.

“ . . . strictly on an assessment of risks and vulnerabilities.” “Strictly”—not mostly, not partially, but based strictly on the risks our States and communities face. Yet, 2½ years after the release of the 9/11 Commission report, homeland security funding continues to be based on a formula that allocates nearly 40 percent of funding with no regard—no regard—to risk or vulnerability.

What else did the Commission say:

We understand the contention that every State and city needs to have some minimum infrastructure for emergency response. But Federal homeland security assistance should not remain a program for general revenue sharing. It should supplement State and local resources based on the risks or vulnerabilities that merit additional support.

Congress should not use this money as pork barrel.

It is past time to correct these flawed formulas.

I know many believe that, in fact, everyone should have some of these monies. Actually, this amendment does that. This amendment recognizes that

It does not encompass the full essence of the Commission’s report. It recognizes that. So, ultimately, I would say to our friends, notwithstanding that, there are times when we have legislation on this floor that benefits some States greater than others, but we look at it as we are from one country. There are times in which there is a lot more money for flood protection, and those of us who do not receive that type of money say: We understand that. That is the nature of the challenges of those fellow States in our Nation. In the agriculture bill there will be a lot of money going to other States that certainly will not be coming to States such as New Jersey, but we understand that. We are one nation.

Today, I hope the Members of the Senate will come to understand in this issue, as well, we are one nation and the greatest risks—the greatest risks—flow to those who have the greatest challenges. If we had unlimited money, I would be the first to say we could use it all as part of revenue sharing to make sure the allocation for each State would be such that they could decide to use it to meet their homeland security objectives. But we do not. If there is one part of all of the largess of the Federal Government that I think has to be based on the question of necessity, has to be based on the question of risk, it clearly is in homeland security funding.

Now, I believe, as do many of my colleagues who support this amendment, we should follow the recommendation of the 9/11 Commission in its entirety and base 100 percent of the homeland security funding on risk. But this amendment recognizes the need to compromise. We recognize every State should be prepared for and be able to respond to terrorism. Under this amendment, each State would receive a base amount. The difference is, we ensure the vast majority of the funds will be based on risk. In fact, under this amendment, 99 percent of all of the funds would be allocated based on risk.

Senators LIEBERMAN and COLLINS clearly recognize we should be basing funding more on risk. In this bill they have clearly worked to reduce the base amount for States, moving us toward a more risk-based approach. I sincerely appreciate their efforts to make more funding allocated on risk, and I certainly commend them for taking a very important step forward in the right direction. But that formula is still a detriment to States facing the most risk.

Under the bill’s language, money would be diverted from States with the highest risk to States that do not even have enough risk to receive the minimum base amount. What does that mean? It means after the calculation is done, there will be some States with a risk equation that will not rise to the level of receiving even the minimum base amount. Yet, under the bill, even though their risk calculation is not as great, they will receive the minimum

base amount. This would cause States such as New Jersey to lose a full 6 percent of the funding they should receive based on risk. That means under the formula in this bill, New Jersey could lose three-quarters of a million dollars because that money would be redistributed to States with relatively low risk.

Like many other States represented by the supporters of this amendment, New Jersey has a wide range of targets. More than a dozen sites in the State are on the FBI’s National Critical Infrastructure List. The 2-mile stretch between Port Newark, Port Elizabeth and Newark International Airport has been deemed the “most dangerous two miles in the United States when it comes to terrorism.” The port of New York and New Jersey, which largely resides in New Jersey, is the largest container port on the east coast, the third largest in the country.

Not only does our State face significant threats because of its critical infrastructure, but some of the most densely populated communities are in close proximity to these targets. In South Kearny, for instance, 12 million people live in close proximity to a chlorine chemical plant. Close to 19 million people live in the New Jersey-New York metro area who could be affected by an attack on such a plant. The loss of life due to an attack at one of New Jersey’s most vulnerable targets would not only devastate New Jersey but the region and the Nation.

We have to be realistic about where the greatest threats lie. Our Nation has many targets. No one would argue we should not aim to protect each of them. But we cannot pretend every community in the country faces the same risks and the same threats of terrorist attack. The fact is, terrorists want to strike where they can inflict the greatest damage. That is why our major urban areas are consistently at the top of the threat list.

We cannot afford to shortchange our most at-risk targets because of revenue sharing. Each State should receive its fair share based on its risks—no more, no less. That is what this amendment is all about. Ultimately, I see our colleagues, who are the prime sponsors of this amendment, put out a statement that 70 percent of the States receive additional funding under this risk-based approach—70 percent of the States. So we, in fact, move closer and closer to the right policy determination that the 9/11 Commission called for, unequivocally, and, at the same time, by doing the right thing, 70 percent of the States get more money.

The 9/11 Commission has repeatedly called on Congress to implement this key provision, and it has urged Congress not to make homeland security funds into pork barrel. The 9/11 families pleaded with this body to end the senseless formulas that leave our most at-risk targets vulnerable. Countless homeland security experts have called to end the minimum amounts to States and move to a true risk-based system.

I hope my colleagues this one time will put aside their adherence to a formula that is not in the security interests of our nation as a whole—as a whole—and will now allocate funding in a way that will protect not just my State or other States similarly situated but will truly work to protect the Nation as a whole.

When we had those attacks on that fateful day on September 11, yes, most of the lives lost were from New York and New Jersey, as well as other States, but the consequences to the Nation were much greater—much greater.

So I hope again, where the greatest threats lie, where the greatest risks lie, where we have seen time after time where the terrorists have chosen to try to focus their attacks, we understand this is one element of our domestic policy where we cannot afford simply to have revenue sharing. I have taken agricultural votes on behalf of our friends, understanding that a lot of that money is not coming to New Jersey. I have done the same thing with flood protection and done it on so many other issues because we are one Nation. This is one in which we are under one Nation as well, and it is one in which risk has to drive our funding. I hope that when 70 percent of other States receive additional support under this amendment, we will find a majority vote on its behalf and move us pretty close to what the 9/11 Commission called for.

Madam President, I yield the floor.

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

Mr. LAUTENBERG. Madam President, I first wish to say that my colleague delivered a message that was clear and specific. It was a very valuable reminder of what we are discussing today, including his commentary about the fact that we are as a nation looking at the problem we see in front of us now.

On September 11, 2001, 700 of our fellow New Jerseyans never came home. One of my daughter's closest friends with whom she worked on Wall Street perished, and her husband searched for more than 2 weeks. After the obvious was apparent—that she was gone—refusing to believe it, he went from hospital to hospital, wherever one was within any reasonable distance, hoping against hope that maybe his wife would be alive and the mother of his three children would be there to encourage them on in their lives.

The stories about all kinds of friends and all kinds of neighbors are endless. In the area we are talking about in New Jersey that was directly hit, who didn't know someone or who didn't know someone who knew someone—even though we are a densely populated State, still, in all, the names touched so many lives and so many people. We saw the smoke rise and debris fall on that fateful day. It was just across the river from us and from where I live and I think close to where my colleague lives. When one looks at the skyline of

New York now, there is an empty space where these proud buildings stood. I was a commissioner for the Port Authority of New York and New Jersey and thusly had offices in the Trade Center building. I remember seeing people come to work in the morning, over 50,000 people in just a few buildings—more than the population of many cities in our country. It was devastating.

We shouldn't forget that attack brought aviation to a standstill, that it had an effect felt way beyond New York and New Jersey and highlighted the fact that you can't just take areas, important areas around the country, and say: Well, that is kind of a local situation. It is not true. It is not true. As Senator MENENDEZ pointed out, when it comes to other needs of other States, it has to be understood that when they are in peril, they are entitled to get as much help from the Federal Government as they can.

So why are we protesting at this time? This discussion has taken place over the last couple of years. Now we are seeing another attempt to reduce the maximum amount of funding available to those places which are most at risk.

I support most of the legislation before us now. I am concerned with the one part of this bill that does not follow the 9/11 Commission recommendations, the one that is being reviewed right now. Recommendation 25 of the 9/11 Commission Report said that homeland security grants should be distributed based solely on risk. This bill doesn't go sufficiently far enough to a full risk-based approach. Secretary Chertoff, whom we have seen here at many hearings, confirmed that. We looked at what he said. He said we should look not at the question of political jurisdiction but at where the consequences would be catastrophic, where the vulnerabilities would be, where the threats are. Clear statements. Despite that, this legislation directs the Department of Homeland Security to give a minimum amount of money to every State regardless of the risks or threats it faces.

When I served on the Homeland Security Committee—and I commend the former chairman and the current chairman for a lot of the work that was done there—we had a disagreement, and I tried in a committee hearing to move the committee at least to endorse the fact that these funds should be distributed solely on a risk basis. I was the only one who voted aye for it out of I think 16 people in attendance.

So at some point, I don't know why the call doesn't go out that says: Look, do this on a sensible basis. Do this on an as-needed basis. Give the opportunity to the places most at risk to protect themselves. It is more than good policy; it just makes common sense. Our military doesn't move troops evenly around the globe. You place your resources strategically. Why should homeland security be different?

If you want to protect the most people in our country from risk, why not do that? We do that constantly in all kinds of projects, whether they be flood projects or otherwise in places that are prone to natural disasters. It makes sense that we spend more on homeland security in America's at-risk areas.

Senator FEINSTEIN and Senator CORNYN and I and others have an amendment to give at-risk States the money they need to protect their residents and their communities and sensitive places where an attack could severely damage the national viability.

We have seen something recently that highlights the situation in New Jersey where chlorine is manufactured and stored in large quantities, and we learned from the change in the tactics now in Iraq that chlorine is being used as a brandnew weapon there. The use of chlorine was devastating. It killed a few people but made many more deathly ill, requiring hospitalization and severe treatment to try to protect their lives.

We are talking about the most dangerous 2 miles in the country as certified by the FBI. Why not take advantage of the fact that we would be protecting not only the well-being of people in the surrounding area, but we would protect the functioning of our society. So we ought to move closer to the 9/11 Commission's recommendation that homeland security be distributed on risk and threat and cut the minimum amount of money that will be distributed to each State.

Secondly, it will result in more homeland security for 35 States that are more at risk. We are not just talking about New Jersey and New York; they are most prominent because we felt it and we have lost friends and neighbors as a result of that attack. But that was not the first time. It was the second time the World Trade Center was attacked. How many times must it happen before somebody who is leaning on one side or the other says: You know what, we don't want those people to be harmed further or that area to be damaged further. And the invitation is certainly there to do just that.

We must consider the large States such as Ohio. If something happens in some of the Western States, the way the winds blow in our country, they will deliver toxic emissions all the way across the country—Georgia, for instance, and Nevada, Maryland, and Massachusetts. The array is impressive because it deals primarily with the largest population centers in the country and the money that could be brought to protect these centers should not just be dealt out on a traditional pork-like basis. We still haven't reached 100 percent risk-based funding. This amendment, however, is an improvement over current law, an improvement over the bill before us today.

I would like to be able to report to the 9/11 Commission that we as a Senate did more than simply debate the

AMENDMENT NO. 316

Commission's findings. We ought to be able to tell them we voted to give more resources to the people, cities, and States that need more protection. They worked very hard to hammer out the Commission report, and I believe it is fair to say that the Feinstein-Cornyn-Lautenberg amendment will do just that. I encourage my colleagues to support it.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Maine is recognized.

AMENDMENT NO. 342 TO AMENDMENT NO. 275

Ms. COLLINS. Madam President, I ask unanimous consent that the pending amendment be set aside, and I send an amendment to the desk.

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

The clerk will report.

The bill clerk read as follows:

The Senator from Maine [Ms. COLLINS], for herself, Mr. STEVENS, Mr. VOINOVICH, and Mr. WARNER, proposes an amendment numbered 342 to amendment No. 275.

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

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

The amendment is as follows:

AMENDMENT NO. 342

(Purpose: To provide certain employment rights and an employee engagement mechanism for passenger and property screeners, and for other purposes)

Strike section 803 (relating to Transportation Security Administration personnel management) and insert the following:

SEC. 803. EMPLOYEE RIGHTS AND ENGAGEMENT MECHANISM FOR PASSENGER AND PROPERTY SCREENERS.

(a) APPEAL RIGHTS; ENGAGEMENT MECHANISM FOR WORKPLACE ISSUES; PAY FOR PERFORMANCE; UNION MEMBERSHIP.—

(1) IN GENERAL.—Section 111(d) of the Aviation and Transportation Security Act (49 U.S.C. 44935 note) is amended—

(A) by striking “Notwithstanding” and inserting the following:

“(1) IN GENERAL.—Except as provided in section 883 of the Homeland Security Act of 2002 (6 U.S.C. 463) and paragraphs (2) through (5), notwithstanding”; and

(B) by adding at the end the following:

“(2) RIGHT TO APPEAL ADVERSE ACTION.—An individual employed or appointed to carry out the screening functions of the Administrator under section 44901 of title 49, United States Code, may submit an appeal of an adverse action covered by section 7512 of title 5, United States Code, and finalized after the date of the enactment of Improving America’s Security Act of 2007, to the Merit Systems Protection Board and may seek judicial review of any resulting orders or decisions of the Merit Systems Protection Board.

“(3) EMPLOYEE ENGAGEMENT MECHANISM FOR ADDRESSING WORKPLACE ISSUES.—At every airport at which the Transportation Security Administration screens passengers and property under section 44901 of title 49, United States Code, the Administrator shall provide a collaborative, integrated employee engagement mechanism to address workplace issues.

“(4) PAY FOR PERFORMANCE.—The Administrator shall establish a system to ensure that an individual described in paragraph (2) is compensated at a level that reflects the performance of such individual rather than the seniority of such individual.

“(5) CONSTRUCTION.—Nothing in this section shall be construed to prohibit an individual described in paragraph (2) from joining a labor organization.”

(2) CONFORMING AMENDMENTS.—Section 111(d)(1) of such Act, as redesignated by paragraph (1)(A), is amended—

(A) by striking “Under Secretary of Transportation for Security” and inserting “Administrator of the Transportation Security Administration”; and

(B) by striking “Under Secretary” each place it appears and inserting “Administrator”.

(b) WHISTLEBLOWER PROTECTIONS.—Section 883 of the Homeland Security Act of 2002 (6 U.S.C. 463) is amended, in the matter preceding paragraph (1), by inserting “, or section 111(d) of the Aviation and Transportation Security Act (49 U.S.C. 44935 note),” after “this Act”.

(c) REPORTS.—Not later than 1 year after the date of the enactment of this Act, the Administrator of the Transportation Security Administration and the Comptroller General of the United States shall each submit an independent report to Congress that contains an assessment of employment matters at the Transportation Security Administration, including the implementation of this section.

Ms. COLLINS. Madam President, because I know the Senator from South Carolina is waiting to speak, I will not go into any detail about this amendment, but I did want to file it so that my colleagues have a chance to look it over, overnight.

This amendment is an attempt to reach a middle ground on the issue of rights for TSA employees. It provides that TSA employees may join a union; may have a pay-for-performance system; will have the right to appeal to the Merit Systems Protection Board any adverse employment actions, such as demotions or firings, so they would have the same rights in that regard as other Federal employees; and it would give them explicit protections under the Whistleblowers Protection Act. It also calls for a review in 1 year’s time of the personnel system to see if further changes are needed, and it asks GAG to evaluate the system.

This amendment is cosponsored by Senator STEVENS, Senator VOINOVICH, and Senator WARNER at this point.

Again, this is an attempt to find a middle ground on the TSA issue. The TSA employees do a terrific job working very hard to protect us. I believe the current law does not afford them the kind of workplace protections they deserve. Yet we want to preserve the flexibility of the TSA to be able to move people, to deploy them, to respond to imminent threats, new intelligence, or any sort of emergency situation. I believe this amendment would achieve that goal.

I will be talking about the amendment in more depth tomorrow.

Madam President, I yield the floor, and I ask that the Senator from South Carolina be recognized.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from South Carolina is recognized.

Mr. DEMINT. Madam President, I know Senator COLLINS wants to put security first in this bill, and I am looking forward to seeing her compromise amendment, but I am standing today to speak on the ongoing efforts by my Democratic colleagues to force the Transportation Security Administration—these are the folks who guard our airports today—to collectively bargain with labor unions on the decisions they make.

The Senator from Missouri, Senator McCASKILL, is offering an amendment that I consider very dangerous. I wish to make sure my colleagues understand all that is at stake.

First, this debate is about one thing and one thing only: whether Congress believes that our airport security agency—what we refer to as TSA—should have to negotiate with unions before it can carry out decisions that will save American lives. That is what this debate is about. The McCaskill amendment will change current law to force our airport security agency to negotiate with unions. The DeMint amendment will protect current law, which makes security TSA’s top priority.

The security implications of this policy are becoming clear, and that is why there is an effort by my Democratic colleagues to cloud the issue. Rather than admitting that collective bargaining is a labor union initiative, not a 9/11 Commission recommendation, my Democratic colleagues are now trying to paint it as proworker and prosecutorial. This is extremely disappointing because the truth is that the McCaskill amendment is prounion and it weakens security.

When you boil it down, the McCaskill amendment will force airport security workers or the airport security agency, TSA, to bargain with labor unions before they make security decisions. Let me say that again. The Transportation Security Agency will have to bargain with labor unions before they make security decisions.

This is an earmark for big labor that comes at the expense of homeland security. I wish to go through the arguments offered by the other side and make sure everybody understands why they are misguided.

First, my colleagues say their collective bargaining amendment will prevent TSA screeners from going on strike and bargaining for higher pay. But the truth is that screeners could not strike anyway because the law prohibits Federal employees from striking. In addition, prohibiting bargaining for pay is also meaningless, since the Department of Homeland Security pay system does not allow bargaining now. So on this point, the other side is simply trying to cloud the issue and mask their union earmark with meaningless rhetoric.

Second, my colleagues say their collective bargaining amendment will create new workforce protections for security screeners. But the truth is, these

benefits already exist. Workers already have whistleblower protection through a memorandum of understanding with the Office of Special Counsel. Workers already have protection against discrimination through the alternative resolution of conflict program. Workers already have due process protections against disciplinary actions that are more efficient than the protections offered to other Federal employees.

Madam President, again, we are talking about the collective bargaining amendment. I was pointing out the protections that current TSA workers have. They have whistleblower protection, protection against discrimination, and they already have due process protections against disciplinary action that is more efficient than the protections offered by Federal workers.

Security screeners already have the right to appeal adverse actions to TSA's Disciplinary Review Board, which provides due process equivalent to that available to other Federal employees.

Workers already enjoy access to the Rehabilitation Act, except where Congress has specified that security job functions require certain aptitudes and physical abilities.

So all of these proworker provisions are redundant and meaningless in any amendment to current law. They are only being offered to mask the true goal of the amendment, which is to force TSA to bargain with unions on their security decisions.

The other side also likes to say there are high attrition rates at TSA and that collective bargaining would stabilize the workforce. I am afraid this is also false. Before 9/11, when airport security was under collective bargaining, attrition rates were as high as 400 percent at some airports. Now the voluntary attrition rate for full-time employees is down to 12.6 percent, and it is falling. This is not only significantly lower than pre-9/11 levels, but it is also lower than the attrition rates for the private sector as a whole and lower than the Federal Government as a whole. So my colleagues must understand that these are good jobs, attrition is low and falling, and attrition is not a valid reason to create collective bargaining.

It is also important that my colleagues understand how the collective bargaining amendment will weaken our homeland security, which is the priority of the 9/11 Commission bill.

First, the amendment creates a security trigger that will allow TSA to turn collective bargain on and off. This acknowledges that collective bargaining weakens security. I wish to repeat so my colleagues understand my Democratic colleagues agree that collective bargaining reduces security, and they feel obligated to offer a way to bypass it.

But this so-called trigger for emergencies only makes the problem of collective bargaining worse. The language defining emergencies and newly imme-

nant threats is so vague it will take an army of lawyers to determine whether each circumstance meets the definition. This will hurt our security and force TSA to be reactive and slow in its efforts to prevent future attacks.

If my colleagues need proof that there will be wide disagreement as to when the security trigger can be used, they only need to hear the comments made by the sponsor of this amendment. When I asked if the current ongoing global war on terror would be considered an emergency under the amendment, the Senator from Missouri said it would not. If TSA cannot use the war on terror as a reason to protect Americans from al-Qaida and other terrorists on a daily basis, under what circumstance can it use this flexibility?

This underscores the issue that lies at the heart of this debate. On one side, there are those who believe we should always be on alert and that we must treat every person and every bag going through our airports as a potential threat. On the other side, there are those who believe we are not under constant threat and we can simply turn on and off our ability to prevent future attacks. That is the real disagreement because we all seem to agree collective bargaining weakens security.

In addition to allowing our security to be switched on and off by unions, the McCaskill amendment creates all the same problems as full-blown collective bargaining.

First, it still forces TSA to sign huge collective bargaining contracts, such as Customs and Border Patrol have now, and it could mean hundreds of separate contracts at airports across the country. Instead of streamlining security, it will create complex guidelines that make it harder to share and shift resources between airports as threats emerge.

Second, it still forces TSA to set up a huge new bureaucracy for collective bargaining, putting new layers of red-tape ahead of security and redirecting resources away from security and toward labor management. This new bureaucracy will cost TSA at least \$160 million over the next year, forcing it to take 3,500 screeners off security checkpoints and doubling the wait time for passengers.

Third, it still forces TSA to terminate its pay-for-performance system that currently rewards screeners for their proficiency rather than their seniority. This will only reduce TSA's ability to maintain a qualified workforce.

Fourth, it still forces TSA to share sensitive security information with unions, compromising air travel security. The amendment claims to protect "properly classified" information, but it doesn't address other types of sensitive information, such as the emergency plans for our airports.

This brings me back to my original point. This debate is about collective bargaining and whether it makes us more or less secure. All the talk about

worker benefits and workplace protections and security triggers is meant to cloud the issue and prevent Senators from being accountable for their votes. This collective bargaining proposal has nothing to do with preventing another 9/11. In fact, it could increase the chance of another such attack, and my colleagues should consider that before they vote.

There are only two reasons to vote for the McCaskill amendment: either political payback or out of political fear. I hope my colleagues will not act on either. Democrats should not pay back unions at the expense of our security, and we should not be afraid to stand up against union bosses so we can keep America safe.

I urge my colleagues to oppose the McCaskill amendment.

It will not only weaken our security, it will also kill this bill. The President will veto it and the Senate will sustain his veto. So that leaves the other side of the aisle with a clear choice. They can either have a political showdown with the President over an earmark for labor unions or they can take this provision out of the bill and make some progress on our security agenda.

The DeMint amendment protects American security. The McCaskill amendment protects unions.

I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. REID. I ask unanimous consent that the Senate proceed to executive session to consider the nomination of Carl Joseph Artman to be Assistant Secretary of the Interior; that there be 10 minutes for debate, equally divided between the chairman and ranking member of the Indian Affairs Committee; that at the conclusion of that time, the Senate vote on confirmation of the nomination; that the motion to reconsider be laid upon the table; that the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

EXECUTIVE SESSION

NOMINATION OF CARL JOSEPH ARTMAN TO BE ASSISTANT SECRETARY OF THE INTERIOR

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The assistant legislative clerk read the nomination of Carl Joseph Artman, of Colorado, to be Assistant Secretary of the Interior.

The PRESIDING OFFICER. Who yields time?

The Senator from North Dakota is recognized.