

emergency response agencies have the resources needed to protect our nation's largest city from the most damaging terrorist threat imaginable.

For these reasons, we urge you to appropriate funding to the STC program at a level equal to the FY2008 appropriation—\$30 million for acquisitions and \$10 million for research, development, and operations. We welcome the opportunity to brief members of your staff on the progress of this program either in the New York region or in Washington, DC.

We appreciate your consideration of this request.

Sincerely,

Raymond W. Kelly, Commissioner, Police Department, City of New York;

Nicholas Scoppetta, Commissioner, Fire Department, City of New York;

Harry J. Corbitt, Superintendent, New York State Police.

Colonel Joseph R. Fuentes, Superintendent, New Jersey State Police;

Colonel Thomas Davoren, Deputy Commissioner, Connecticut State Police;

Lawrence W. Mulvey, Commissioner of Police, Nassau County Police Department;

Richard Dormer, Commissioner, Suffolk County Police Department;

William A. Morange, Deputy Executive Director, Metropolitan Transportation Authority;

Denise E. O'Donnell, Deputy Secretary for Public Safety, New York State/Commissioner, NYS Division of Criminal Justice;

Thomas G. Donlon, Director, New York State Office of Homeland Security;

James F. Kralik, Sheriff, Rockland County Sheriff's Office;

Thomas Belfiore, Commissioner-Sheriff, Westchester County Police Department;

Richard L. Cañas, Director, New Jersey Office of Homeland Security and Preparedness;

James M. Thomas, Commissioner, Connecticut Department of Emergency Management and Homeland Security;

Samuel J. Plumeri, Jr., Director of Public Safety/Superintendent of Police, Port Authority of New York and New Jersey;

Steven W. Lawitts, Acting Commissioner, Department of Environmental Protection, City of New York;

Thomas R. Frieden, Commissioner, Department of Health and Mental Hygiene, City of New York;

Joseph F. Bruno, Commissioner, Office of Emergency Management, City of New York and;

Janette Sadik-Khan, Commissioner, New York City Department of Transportation.

□ 1700

Madam Chairlady, the King-Clarke bipartisan amendment restores \$40 million for the Securing the Cities Initiative, a vital homeland security program which prevents terrorist attacks which are based on nuclear or radiological material, primarily in the form of dirty bombs. I should point out that a nearly identical amendment had the support of this House in 2007 by a majority of more than 2-1.

Securing the Cities is a networked ring of radiological detectors on highways, toll plazas, bridges, tunnels and waterways leading into and out of New York City. It is the only Department of Homeland Security program dedicated to protecting cities and surrounding regions against the nuclear threat of dirty bombs.

Madam Chair, this successful program is an operational model which

can be replicated in cities and suburbs throughout the country. The proposed cut in funding for Securing the Cities would seriously undermine further implementation of needed nuclear and radiological detection capability.

The WMD Commission, a bipartisan commission, warned in December of 2008 that nuclear and biological terrorism was not only a serious threat but a likely threat.

The CHAIR. The time of the gentleman has expired.

Mr. KING of New York. I reserve my time.

Mr. PRICE of North Carolina. Madam Chairwoman, I rise in opposition to the amendment.

The CHAIR. The gentleman is recognized for 5 minutes.

Mr. PRICE of North Carolina. I want to first commend my New York colleagues, particularly NITA LOWEY, JOSÉ SERRANO and STEVE ISRAEL, all on the Appropriations Committee, for promoting Securing the Cities and the work that it has made possible in their State. Indeed, their tireless advocacy for New York's regional security has resulted in notable increases in grant allocations to regional governments and first responders.

New York State homeland security grants rose from \$27 million in 2006 to \$112 million in 2009. That is a four-fold increase. And New York's Urban Area Security Initiative grants grew from \$124 million in 2006 to \$145 million in 2009. It remains the largest recipient of urban area funds.

I couldn't agree more that Securing the Cities is a valuable pilot program demonstrating how State and local Governments could develop, with Federal agencies, an architecture to prevent a nuclear or radiological attack on New York. But I must emphasize that Securing the Cities is a 3-year pilot project, and this period is over. DHS requested no 2010 program because it is already positioned to accomplish its goals as a pilot program. So what we have here today is, in effect, an earmark for New York.

The next steps are to conclude the program, assess the results, and identify candidates of future pilots, if any, outside of New York. Funding remains available for New York to continue this program well into 2010. About 84 percent of the 2009 funding and 10 percent of the 2008 funding are presently unobligated. Award decisions for these funds are pending with one quarter left in the fiscal year. DHS knows of no unfunded requirements for this program. Remaining balances will enable New York to transition from a pilot to an ongoing regional operation. And that is what needs to happen.

Adding money to continue a completed pilot is not the answer. New York surely does not want to be dependent on year-to-year appropriations amendments to continue this vital protective function. This needs to move to a sustainment mode, run by New York and its partner communities. It needs

to identify funding sources that can be used for this purpose, including these urban area security grants, of course, the Transit Security grants, and others. The New York area has received about \$1.4 billion through these grants since 2003 and can expect about \$298 million in new funding this year.

The amendment also earmarks \$10 million for new radiation portal monitors. But here again, there is no identified requirement for additional funding. The ability to put this to use in 2010 is highly questionable.

The amendment's offsets, \$5 million from the Office of the Secretary and Executive Management and \$45 million from the Under Secretary For Management, are particularly troubling. We are already well below the request in these areas. We have trimmed salary increases. We rejected new investments in departmental facilities. Cutting more funds will result in a longer road to getting the Department of Homeland Security the American taxpayers deserve.

So I appreciate the intention of this amendment. I certainly appreciate the achievements of the Securing the Cities program. We know that this is a vital program and that these protective functions are important. But for that very reason, we need to get away from an earmark, and get away from a pilot program, and put this on the sustainment mode.

It is in that spirit and for that reason that I ask my colleagues to oppose this amendment.

I reserve the balance of my time.

The CHAIR. The Committee will rise informally.

The Speaker pro tempore (Ms. CLARKE) assumed the chair.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Williams, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2010

The Committee resumed its sitting.

Mr. KING of New York. Madam Chair, I recognize the gentlelady from New York, the cosponsor of the amendment, and a really zealous fighter on this issue, Ms. CLARKE, for 90 seconds.

Ms. CLARKE. Madam Chairman, I would like to thank Ranking Member KING for yielding. I want to urge Members of the House to support the King-Clarke amendment to the fiscal year 2010 Homeland Security Appropriations Act, H.R. 2892. Neither the President's budget request for fiscal year 2010 nor H.R. 2892 includes funding for the Securing the Cities Initiative. This initiative has created the department's Domestic Nuclear Detection Office, which is charged with directing the Nation's capability to detect and report

unauthorized attempts to develop or transport nuclear or radiological materials.

This amendment restores the Federal commitment to this critical antiterrorism initiative and funds it.

Since coming to Congress in 2001, I have worked with my colleagues on homeland security to protect our Nation against dirty bomb threats. In fact, my bill, the Radiological Materials Security Act, would help secure domestic sources of radiological materials that could be used to make a dirty bomb.

We recognize that in the 21st century there are many very technical ways, many technologically advanced ways, in which communities across this Nation can sustain attack. And we are stating through this amendment today that this program has created a protocol that is a model for the Nation.

So I urge my colleagues as we continue to grow in the 21st century and protect our critical cities and infrastructure that we will redirect funds to this particular program and that you will vote this amendment in order.

Mr. PRICE of North Carolina. I will continue to reserve.

Mr. KING of New York. Madam Chair, I yield 90 seconds to the gentleman from California and the ranking member on the committee, Mr. LUNGREN, 90 seconds.

Mr. DANIEL E. LUNGREN of California. I thank the gentleman for yielding.

Madam Chair, some may wonder why someone from California would be here supporting an amendment that appears to be directed towards assisting the other side of the country. It is because of the success of the program to this point. That is, this is not only for the City of New York, but it is for that entire region, and I believe it has shown how it can be replicated in other parts of the country. Also, the greatest concern I have of an attack by terrorists who wish to do us ill would be a nuclear attack of some sort in one of our major metropolitan areas.

The interdiction capabilities of this program could prevent a bomb from entering New York or from leaving the city to head to other parts of the region or Nation. And its lessons, I think, can help other cities around the country where similar initiatives could be implemented. And importantly, and this was used as a point of criticism I believe by the chairman, this amendment would provide \$10 million for the procurement of radiation portal monitors, not just in the New York area, but from around the country. It seems to me that because of the success of this program, because of its opportunity for duplication and replication in other parts of the country, this is a worthy amendment.

I believe that these initiatives are designed to save lives. They are, in fact, not just regional but national in scope and deserve national support.

Radiation detection cannot be taken lightly. We must ensure that the fed-

eral commitment to a dedicated funding stream is there. So I would urge support of this amendment in restoring funding to the Securing Our Cities project, a critical national initiative and one of a kind.

Mr. KING of New York. Madam Chair how much time remains?

The CHAIR. The gentleman has 1 minute remaining.

Mr. KING of New York. Madam Chair, I yield myself the balance of my time.

Madam Chair, this initiative is extremely essential not just for New York but the entire Nation because it is very much expected that the next attack upon a major city will be launched from the suburbs, whether it is New York, Los Angeles, Chicago or wherever.

Now, on the issues raised by the chairman, I have great respect for the chairman. The fact is all of the 2008 funds have been designated. All of them, once all the materials come in, will be paid. Every penny has been designated.

Similarly for 2009, that money has been designated as well. There was a delay, not because of New York City, but because the department took so long in getting out the application. Once they were out, the city applied, and the money has been allocated and has been designated.

When the chairman mentioned the increase in New York funding since 2006, he picked 2006. That was the year that New York was cut by 40 percent. So that is really not a good barometer to be using. The fact is New York is the number one terrorist target in the country. New York remains the number one terrorist target in the country. My district lost well over 100 people on September 11. We dread the thought of another attack, certainly a nuclear attack.

This program works. I urge the adoption of the amendment.

Mr. PRICE of North Carolina. How much time is remaining, Madam Chairman?

The CHAIR. The gentleman has 90 seconds remaining.

Mr. PRICE of North Carolina. Madam Chairwoman, I will close and have no further speakers. But I do want, once again, to commend the gentleman for the spirit in which he offers this amendment and the zeal with which Members whom we all know and respect, like Mr. ISRAEL, Mr. SERRANO and Mrs. LOWEY, protect their cities and have defended this program.

We take a backseat to no one with respect to those efforts. We understand New York's unique needs and how successful this pilot program has been.

As a matter of fact, though, the money for carrying out the remaining aspects of this program is already in the pipeline. And these very arguments for the importance of this program are exactly why we need to take a more long-term approach and get away from a pilot program, get away from yearly

amendments, yearly earmarks, and make this part of our permanent, long-term protective efforts. Of course, we will work with the New York delegation to find the resources that will let them do just that.

So I pledge my cooperation in that endeavor.

I hope the spirit of this opposition is well understood. We do want to work on this matter. We just believe that this amendment is not the right approach. And therefore we do ask for its defeat.

The CHAIR. The question is on the amendment offered by the gentleman from New York (Mr. KING).

The question was taken; and the Chair announced that the noes appeared to have it.

Mr. KING of New York. Madam Chairman, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New York will be postponed.

PART B AMENDMENT NO. 1 OFFERED BY MR. BILIRAKIS

Mr. BILIRAKIS. Madam Chair, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 1 offered by Mr. BILIRAKIS:

Page 2, line 9, after the dollar amount, insert "(reduced by \$1,700,000)".

Page 15, line 20, after the dollar amount, insert "(increased by \$1,700,000)".

Page 17, line 16, after the dollar amount, insert "(increased by \$1,700,000)".

The CHAIR. Pursuant to House Resolution 573, the gentleman from Florida (Mr. BILIRAKIS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Florida.

Mr. BILIRAKIS. Madam Chair, I yield myself as much time as I may consume.

I rise to offer this important amendment which will help increase our Nation's visa screening capabilities overseas to stop the entry into our country of terrorists, criminals, and others who may wish to do us harm.

As a member of the Homeland Security Committee and a ranking member of the Subcommittee on Management, Investigations and Oversight, I have come to understand the importance of being proactive in strengthening our homeland security. At the same time, I have also become concerned about the inadequacies in the screening process and background checks conducted on those seeking temporary admission to our country.

While many visa seekers simply want to come here to study or work and comply with the terms of their visas, some do not. And some, as we tragically saw on 9/11, want to enter our country to wage war against us.

□ 1715

That's why we need to strengthen the process by which temporary visitors

are screened prior to their entry into the United States. Congress recognized this weakness and created the Visa Security Program, which places Immigration and Customs Enforcement personnel overseas at risk locations to more carefully screen and investigate visa applicants.

This important terrorist detection program allows ICE to proactively investigate and review visa applications to identify potential terrorists or criminal suspects before they gain entry into the United States. That is the key.

Unfortunately, the administration did not seek increased funding for this valuable program in its budget request. While I am pleased that the bill we are considering today ensures that a portion of the funding for this program will be reserved to open several new visa security units in high-risk locations, I think we should provide additional resources to accelerate ICE's plan for expanding to other critical locations, which is what my amendment does.

ICE currently operates 14 visa security units overseas. My amendment increases funding for the Visa Security Program by \$1.7 million which will allow ICE to stand up an additional visa security unit. ICE has identified additional locations for new units but has not yet opened its units in these areas, largely due to the resource constraints.

To offset this increase, my amendment would take a corresponding amount from the Office of the Secretary, which under this bill receives \$147 million, a \$24 million increase over fiscal year 2009, including \$3 million for establishing a new intermodal security coordination office that largely will duplicate existing department efforts.

We must be mindful of the way we spend our scarce resources. When it comes to security, we must avoid creating more bureaucracy and ensure that we are allocating funds where the risk is greatest. This amendment will help do that and ensure that the department is operating as effectively and efficiently as possible.

My amendment will provide needed resources to keep terrorists out of the country while still allowing sufficient funding for establishing an office for which the need is questionable.

I urge all of my colleagues to help strengthen our Nation's homeland security by supporting this amendment.

Mr. ROGERS of Kentucky. Will the gentleman yield?

Mr. BILIRAKIS. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. I want to salute the gentleman for a well-thought out and wise amendment. I will support the amendment, and I hope it wins.

Mr. BILIRAKIS. I reserve the balance of my time.

The CHAIR. Without objection, the gentleman from North Carolina is recognized for 5 minutes.

There was no obligation.

Mr. PRICE of North Carolina. Madam Chairman, I rise also to thank the gentleman for this amendment, which would increase the budget for the ICE Visa Security Program by \$1.7 million. This addition would be offset by corresponding reductions to the Office of Secretary and Executive Management, but not a devastating cut.

The committee has fully funded the \$30.2 million request for the Visa Security Program, which is \$3.4 million over the 2009 appropriations level already. This program places ICE agents and investigators overseas in embassies and consulates to assist State Department officials by investigating the criminal and terrorist backgrounds of those who apply for visas to come to the United States.

The committee also expanded the program by more than 45 percent in the 2009 Appropriations Act, and I recognize its ongoing importance for the security of our country. The additional funds proposed in this amendment will allow ICE to continue to accelerate its Visa Security Program deployments in 2010. In other words, it would build in a very positive way on the progress we were making. And with this in mind, I am happy to accept the gentleman's amendment.

I reserve the balance of my time.

Mr. BILIRAKIS. I yield myself the balance of my time to close.

I want to thank the chairman and the ranking member, and I urge my colleagues to help strengthen our Nation's homeland security by supporting this amendment.

I yield back the balance of my time.

Mr. PRICE of North Carolina. Madam Chairman, I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from Florida (Mr. BILIRAKIS).

The question was taken; and the Chair announced that the ayes appeared to have it.

Mr. BILIRAKIS. Madam Chairman, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Florida will be postponed.

The Clerk will read.

The Clerk read as follows:

OFFICE OF THE UNDER SECRETARY FOR MANAGEMENT

For necessary expenses of the Office of the Under Secretary for Management, as authorized by sections 701 through 705 of the Homeland Security Act of 2002 (6 U.S.C. 341 through 345), \$268,690,000, of which not less than \$1,000,000 shall be for logistics training; and of which not to exceed \$3,000 shall be for official reception and representation expenses: *Provided*, That of the total amount made available under this heading, \$6,000,000 shall remain available until expended solely for the alteration and improvement of facilities, tenant improvements, and relocation costs to consolidate Department headquarters operations at the Nebraska Avenue Complex; and \$17,131,000 shall remain available until expended for the Human Resources Information Technology program.

OFFICE OF THE CHIEF FINANCIAL OFFICER

For necessary expenses of the Office of the Chief Financial Officer, as authorized by section 103 of the Homeland Security Act of 2002 (6 U.S.C. 113), \$63,530,000, of which \$11,000,000 shall remain available until expended for financial systems consolidation efforts.

OFFICE OF THE CHIEF INFORMATION OFFICER

For necessary expenses of the Office of the Chief Information Officer, as authorized by section 103 of the Homeland Security Act of 2002 (6 U.S.C. 113), and Department-wide technology investments, \$299,593,000; of which \$86,912,000 shall be available for salaries and expenses; and of which \$212,681,000, to remain available until expended, shall be available for development and acquisition of information technology equipment, software, services, and related activities for the Department of Homeland Security: *Provided*, That none of the funds appropriated shall be used to support or supplement the appropriations provided for the United States Visitor and Immigrant Status Indicator Technology project or the Automated Commercial Environment: *Provided further*, That the Chief Information Officer shall submit to the Committees on Appropriations of the Senate and the House of Representatives, not more than 60 days after the date of enactment of this Act, an expenditure plan for all information technology acquisition projects that: (1) are funded under this heading; or (2) are funded by multiple components of the Department of Homeland Security through reimbursable agreements: *Provided further*, That such expenditure plan shall include each specific project funded, key milestones, all funding sources for each project, details of annual and lifecycle costs, and projected cost savings or cost avoidance to be achieved by the project.

ANALYSIS AND OPERATIONS

For necessary expenses for intelligence analysis and operations coordination activities, as authorized by title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.), \$345,556,000, of which not to exceed \$5,000 shall be for official reception and representation expenses; and of which \$199,677,000 shall remain available until September 30, 2011.

OFFICE OF THE FEDERAL COORDINATOR FOR GULF COAST REBUILDING

For necessary expenses of the Office of the Federal Coordinator for Gulf Coast Rebuilding, \$2,000,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978 (5 U.S.C. App.), \$111,874,000, of which not to exceed \$150,000 may be used for certain confidential operational expenses, including the payment of informants, to be expended at the direction of the Inspector General.

TITLE II—SECURITY, ENFORCEMENT, AND INVESTIGATIONS

U.S. CUSTOMS AND BORDER PROTECTION SALARIES AND EXPENSES

For necessary expenses for enforcement of laws relating to border security, immigration, customs, agricultural inspections and regulatory activities related to plant and animal imports, and transportation of unaccompanied minor aliens; purchase and lease of up to 4,500 (4,000 for replacement only) police-type vehicles; and contracting with individuals for personal services abroad; \$7,576,897,000, of which \$3,226,000 shall be derived from the Harbor Maintenance Trust Fund for administrative expenses related to the collection of the Harbor Maintenance Fee pursuant to section 9505(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C.

9505(c)(3)) and notwithstanding section 1511(e)(1) of the Homeland Security Act of 2002 (6 U.S.C. 551(e)(1)); of which not to exceed \$45,000 shall be for official reception and representation expenses; of which not less than \$309,629,000 shall be for Air and Marine Operations; of which such sums as become available in the Customs User Fee Account, except sums subject to section 13031(f)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)), shall be derived from that account; of which not to exceed \$1,000,000 shall be for awards of compensation to informants, to be accounted for solely under the certificate of the Secretary of Homeland Security; and of which not more than \$800,000 shall be for procurement of portable solar charging rechargeable battery systems, to be awarded under full and open competition: *Provided*, That for fiscal year 2010, the overtime limitation prescribed in section 5(c)(1) of the Act of February 13, 1911 (19 U.S.C. 267(c)(1)) shall be \$35,000; and notwithstanding any other provision of law, none of the funds appropriated by this Act may be available to compensate any employee of U.S. Customs and Border Protection for overtime, from whatever source, in an amount that exceeds such limitation, except in individual cases determined by the Secretary of Homeland Security, or the designee of the Secretary, to be necessary for national security purposes, to prevent excessive costs, or in cases of immigration emergencies.

PART B AMENDMENT NO. 3 OFFERED BY MR. KING OF IOWA

Mr. KING of Iowa. Madam Chairman, I have an amendment at the desk made in order by the rule.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B Amendment No. 3 offered by Mr. KING of Iowa:

Page 5, line 20, after the first dollar amount, insert "(reduced by \$1,000,000) (increased by \$1,000,000)".

The CHAIR. Pursuant to House Resolution 573, the gentleman from Iowa (Mr. KING) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Iowa.

Mr. KING of Iowa. Madam Chair, I yield myself 2 minutes.

This is an amendment that takes a million dollars out and puts a million dollars in, and it comes from time I spent on the border and time I worked with our Border Patrol officers, our law enforcement officers on the border over the last several years. I have been down to the border, traveled along primarily the Arizona border, and had our law enforcement officers point to the pinnacles and say, There are drug lookouts, drug smuggling lookouts and people smuggling lookouts up on top of the promontories. These are the equivalent of military positions.

I have actually personally walked a map around and had them put X's on the map to show me where these lookouts are, and over time, I developed this map that I have handed to the Secretary of Homeland Security. The locations are not disputed. This is a cat-and-mouse game that is going on between our law enforcement personnel all along the border, between ICE, the

Shadow Wolves, and our Border Patrol personnel.

I had a conversation with John Morton, who is the new director of ICE. He recognizes this concern. I am encouraged that this administration has taken notice of the lookouts that control the smuggling routes and tip them off when our law enforcement personnel converge in.

Sometimes they will run a decoy, and this cat-and-mouse game has got to end. No nation can maintain its sovereignty if we are going to allow military positions, lookout positions to exist. So this million dollars is at the encouragement of ICE's people as well. A million dollars will be directed at taking out these lookout sites and removing this as a tool from our drug smugglers and our people smugglers on the border.

I think it is something that is a bipartisan piece of legislation and it ends the cat-and-mouse game. By the way, their request was Congress should have a voice on this when I had that conversation with ICE. And so I encourage support for this amendment.

Mr. ROGERS of Kentucky. Would the gentleman yield?

Mr. KING of Iowa. I would be happy to yield to the ranking member.

Mr. ROGERS of Kentucky. The gentleman has worked hard on this issue and has brought forth some information that is very helpful to us, and I support the amendment he has offered and salute him for offering it.

Mr. KING of Iowa. I thank the gentleman, and I reserve my time.

Mr. PRICE of North Carolina. Madam Chairman, I rise in opposition to the amendment.

The CHAIR. The gentleman from North Carolina is recognized for 5 minutes.

Mr. PRICE of North Carolina. The amendment simply increases and decreases funding for CBP salaries and expenses by \$1 million with no statutory direction.

Now, my colleague would have us understand this amendment would somehow provide funding for a targeted border enforcement effort. I must respectfully disagree. In fact, it will do nothing of the kind.

The procedure used in this amendment is meaningless, having no effect, and establishing no legislative mandate. With no statutory significance, it also will have no impact whatsoever on the conference outcome with the Senate. It neither identifies the activity being defunded nor the one being augmented.

On that basis alone, and to discourage the use of this kind of parliamentary tactic to stretch out the time for general debate, I urge colleagues to defeat this amendment.

I reserve the balance of my time.

Mr. KING of Iowa. I yield myself 1½ minutes.

I would respectfully disagree with the gentleman. As I read my amendment, I think the dialogue I heard was

it increases and then decreases funding. Actually, this amendment decreases and then increases funding. I don't know if that changes the gentleman's analysis of what the amendment actually does. I don't add to this funding. I simply decrease it and then add it back in.

I would have been happy to work with some language that would have perhaps been made in order, but in order for this Congress to have a voice on these lookouts—and this is drug smugglers that hold military positions, the equivalent of military positions that have stones stacked up like sandbags and people in there with semi-automatic weapons and have their supplies brought up to them by patrols that make sure that they have food and water and sometimes other things. They come and go as they see fit. We let them sit on top of these mountains and smuggle into the United States 90 percent of the illegal drugs that are consumed in the United States of America. And accompanying that are all of the violence, the death, the things that are associated with illegal drugs.

This amendment is clearly in order, and how this Congress speaks to this amendment is how ICE and the balance of the law enforcement personnel on the border will react.

I'm asking that we simply join our voices together and ask for enforcement so we don't concede these locations to the people who are smuggling 90 percent of the illegal drugs into America.

Mr. ROGERS of Kentucky. Would the gentleman yield?

Mr. KING of Iowa. I would be very happy to yield.

Mr. ROGERS of Kentucky. Are these lookout posts on U.S. soil?

Mr. KING of Iowa. On U.S. soil.

I reserve the balance of my time.

Mr. PRICE of North Carolina. Madam Chairman, I yield back the balance of my time.

Mr. KING of Iowa. Madam Chair, I yield myself the balance of my time in order to close.

As the ranking member from Kentucky said, this is something that I have done a lot of work on, and I am not the only Member of Congress who has gone to these lookouts. I have gone there and walked across the desert with our Shadow Wolves, for example, and had them point up and say, On that mountain, they have a position and they have state-of-the-art optical equipment, state-of-the-art radio equipment. They are watching every move that our Border Patrol, ICE, Customs and Border Protection, and Shadow Wolves are making on that southern border.

Whenever we deploy manpower, if we set up our ground-base radar that picks up humans, personnel walking across the desert, they know where our locations are. They shift their traffic accordingly. I have watched them run the decoy. I have been part of picking up

230 or 240 pounds of marijuana in one load that probably helped 2,000-some pounds go through another load.

We simply cannot tolerate in the United States of America, at least as much as 70 miles inside the United States—and I will be going down next week to look at some of these locations that are actually north of Tucson on the road to Phoenix. This is the United States of America, our sovereign territory, and playing cat and mouse with people there with semiautomatic weapons, supplies, smuggling drugs through the United States has got to stop. And this Congress should join together and, with this amendment, ask them to do so to stop that activity and defend our soil and put an end to this. It would be a very good help to dramatically reduce the amount of illegal drug smuggling into the United States.

I urge adoption of the amendment.

The CHAIR. The question is on the amendment offered by the gentleman from Iowa (Mr. KING).

The question was taken; and the Chair announced that the noes appeared to have it.

Mr. KING of Iowa. Madam Chairman, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Iowa will be postponed.

The Clerk will read.

The Clerk read as follows:

AUTOMATION MODERNIZATION

For expenses for U.S. Customs and Border Protection automated systems, \$462,445,000, to remain available until expended, of which not less than \$267,960,000 shall be for the development of the Automated Commercial Environment: *Provided*, That of the total amount made available under this heading, \$167,960,000 may not be obligated for the Automated Commercial Environment program until 30 days after the Committees on Appropriations of the Senate and the House of Representatives receive a report on the results to date and plans for the program from the Department of Homeland Security.

BORDER SECURITY FENCING, INFRASTRUCTURE, AND TECHNOLOGY

For expenses for border security fencing, infrastructure, and technology, \$732,000,000, to remain available until expended: *Provided*, That of the total amount made available under this heading, \$150,000,000 shall not be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure, prepared by the Secretary of Homeland Security, reviewed by the Government Accountability Office, and submitted not later than 90 days after the date of the enactment of this Act, for a program to establish and maintain a security barrier along the borders of the United States, of fencing and vehicle barriers where practicable, and of other forms of tactical infrastructure and technology, that includes—

(1) a detailed accounting of the program's implementation to date for all investments, including technology and tactical infrastructure, for funding already expended relative to system capabilities or services, system performance levels, mission benefits and outcomes, milestones, cost targets, program management capabilities, identification of the maximum investment, including life-cycle costs, related to the Secure Border Initiative

program or any successor program, and description of the methodology used to obtain these cost figures;

(2) a description of how specific projects will further the objectives of the Secure Border Initiative, as defined in the Department of Homeland Security Secure Border Plan, and how the expenditure plan allocates funding to the highest priority border security needs;

(3) an explicit plan of action defining how all funds are to be obligated to meet future program commitments, with the planned expenditure of funds linked to the milestone-based delivery of specific capabilities, services, performance levels, mission benefits and outcomes, and program management capabilities;

(4) an identification of staffing, including full-time equivalents, contractors, and detailees, by program office;

(5) a description of how the plan addresses security needs at the Northern border and ports of entry, including infrastructure, technology, design and operations requirements, specific locations where funding would be used, and priorities for Northern border activities;

(6) a report on budget, obligations and expenditures, the activities completed, and the progress made by the program in terms of obtaining operational control of the entire border of the United States;

(7) a listing of all open Government Accountability Office and Office of Inspector General recommendations related to the program and the status of Department of Homeland Security actions to address the recommendations, including milestones to fully address such recommendations;

(8) a certification by the Chief Procurement Officer of the Department including all supporting documents or memoranda, and documentation and a description of the investment review processes used to obtain such certifications, that—

(A) the program has been reviewed and approved in accordance with the investment management process of the Department, and that the process fulfills all capital planning and investment control requirements and reviews established by the Office of Management and Budget, including as provided in Circular A-11, part 7;

(B) the plans for the program comply with the Federal acquisition rules, requirements, guidelines, and practices, and a description of the actions being taken to address areas of non-compliance, the risks associated with such actions, together with any plans for addressing these risks, and the status of the implementation of such actions; and

(C) procedures to prevent conflicts of interest between the prime integrator and major subcontractors are established and that the Secure Border Initiative Program Office has adequate staff and resources to effectively manage the Secure Border Initiative program and all contracts under such program, including the exercise of technical oversight;

(9) a certification by the Chief Information Officer of the Department including all supporting documents or memoranda, and documentation and a description of the investment review processes used to obtain such certifications that—

(A) the system architecture of the program has been determined to be sufficiently aligned with the information systems enterprise architecture of the Department to minimize future rework, including a description of all aspects of the architectures that were or were not assessed in making the alignment determination, the date of the alignment determination, and any known areas of misalignment together with the associated risks and corrective actions to address any such areas;

(B) the program has a risk management process that regularly and proactively identifies, evaluates, mitigates, and monitors risks throughout the system life cycle and communicates high-risk conditions to U.S. Customs and Border Protection and Department of Homeland Security investment decision-makers, as well as a listing of all the program's high risks and the status of efforts to address such risks; and

(C) an independent verification and validation agent is currently under contract for the projects funded under this heading;

(10) a certification by the Chief Human Capital Officer of the Department that the human capital needs of the Secure Border Initiative program are being addressed so as to ensure adequate staff and resources to effectively manage the Secure Border Initiative; and

(11) an analysis by the Secretary for each segment, defined as not more than 15 miles, of fencing or tactical infrastructure, of the selected approach compared to other, alternative means of achieving operational control, including cost, level of operational control, possible unintended effects on communities, and other factors critical to the decisionmaking process:

Provided further, That the Secretary shall report to the Committees on Appropriations of the Senate and the House of Representatives on program progress, and obligations and expenditures for all outstanding task orders as well as specific objectives to be achieved through the award of current and remaining task orders planned for the balance of available appropriations at least 15 days before the award of any task order requiring an obligation of funds in an amount greater than \$25,000,000 and before the award of a task order that would cause cumulative obligations of funds to exceed 50 percent of the total amount appropriated: *Provided further*, That none of the funds made available under this heading may be obligated unless the Department has complied with section 102(b)(1)(C)(i) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note), and the Secretary certifies such to the Committees on Appropriations of the Senate and the House of Representatives: *Provided further*, That none of the funds made available under this heading may be obligated for any project or activity for which the Secretary has exercised waiver authority pursuant to section 102(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note) until 15 days have elapsed from the date of the publication of the decision in the Federal Register.

AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT

For necessary expenses for the operations, maintenance, and procurement of marine vessels, aircraft, unmanned aircraft systems, and other related equipment of the air and marine program, including operational training and mission-related travel, and rental payments for facilities occupied by the air or marine interdiction and demand reduction programs, the operations of which include the following: the interdiction of narcotics and other goods; the provision of support to Federal, State, and local agencies in the enforcement or administration of laws enforced by the Department of Homeland Security; and at the discretion of the Secretary of Homeland Security, the provision of assistance to Federal, State, and local agencies in other law enforcement and emergency humanitarian efforts, \$513,826,000, to remain available until expended: *Provided*, That no aircraft or other related equipment, with the exception of aircraft that are one of a kind and have been identified as excess to U.S.

Customs and Border Protection requirements and aircraft that have been damaged beyond repair, shall be transferred to any other Federal agency, department, or office outside of the Department of Homeland Security during fiscal year 2010 without the prior approval of the Committees on Appropriations of the Senate and the House of Representatives.

FACILITIES MANAGEMENT

For necessary expenses to plan, construct, renovate, equip, and maintain buildings and facilities necessary for the administration and enforcement of the laws relating to customs and immigration, \$682,133,000, of which not to exceed \$150,000 shall be available for payment for rental space in connection with preclearance operations; and of which \$279,870,000 shall remain available until expended; of which not more than \$3,500,000 shall be for acquisition, design, and construction of U.S. Customs and Border Protection Air and Marine facilities at El Paso International Airport, Texas.

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

SALARIES AND EXPENSES

For necessary expenses for enforcement of immigration and customs laws, detention and removals, and investigations; and purchase and lease of up to 3,790 (2,350 for replacement only) police-type vehicles; \$5,311,493,000, of which not to exceed \$7,500,000 shall be available until expended for conducting special operations under section 3131 of the Customs Enforcement Act of 1986 (19 U.S.C. 2081); of which not to exceed \$15,000 shall be for official reception and representation expenses; of which not to exceed \$1,000,000 shall be for awards of compensation to informants, to be accounted for solely under the certificate of the Secretary of Homeland Security; of which not less than \$305,000 shall be for promotion of public awareness of the child pornography tipline and anti-child exploitation activities; of which not less than \$5,400,000 shall be used to facilitate agreements consistent with section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)); and of which not to exceed \$11,216,000 shall be available to fund or reimburse other Federal agencies for the costs associated with the care, maintenance, and repatriation of smuggled aliens unlawfully present in the United States: *Provided*, That none of the funds made available under this heading shall be available to compensate any employee for overtime in an annual amount in excess of \$35,000, except that the Secretary, or the designee of the Secretary, may waive that amount as necessary for national security purposes and in cases of immigration emergencies: *Provided further*, That of the total amount provided, \$15,770,000 shall be for activities in fiscal year 2010 to enforce laws against forced child labor, of which not to exceed \$6,000,000 shall remain available until expended: *Provided further*, That of the total amount available, not less than \$1,500,000,000 shall be available to identify aliens convicted of a crime who may be deportable, and to remove them from the United States once they are judged deportable, of which \$200,000,000 shall remain available until September 30, 2011: *Provided further*, That the Secretary, or the designee of the Secretary, shall report to the Committees on Appropriations of the Senate and the House of Representatives, not later than 30 days after the end of each fiscal quarter, on progress implementing the preceding proviso and the funds obligated during that quarter to make that progress: *Provided further*, That the Secretary shall prioritize the identification and removal of aliens convicted of a crime by the severity of that crime: *Provided*

further, That of the total amount provided, not less than \$2,549,180,000 shall be for detention and removal operations, including transportation of unaccompanied minor aliens: *Provided further*, That of the total amount provided, \$6,800,000 shall remain available until September 30, 2011, for the Visa Security Program: *Provided further*, That none of the funds provided under this heading may be used to continue a delegation of law enforcement authority authorized under section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)) if the Department of Homeland Security Inspector General determines that the terms of the agreement governing the delegation of authority have been violated: *Provided further*, That none of the funds provided under this heading may be used to continue any contract for the provision of detention services if the two most recent overall performance evaluations received by the contracted facility are less than "adequate" or the equivalent median score in any subsequent performance evaluation system: *Provided further*, That nothing under this heading shall prevent U.S. Immigration and Customs Enforcement from exercising those authorities provided under immigration laws (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17))) during priority operations pertaining to aliens convicted of a crime: *Provided further*, That none of the funds provided under this heading may be obligated to co-locate field offices of U.S. Immigration and Customs Enforcement until the Secretary of Homeland Security submits to the Committees on Appropriations of the Senate and the House of Representatives a plan for the nationwide implementation of the Alternatives to Detention Program that identifies: (1) the funds required for nationwide program implementation, (2) the timeframe for achieving nationwide program implementation; and (3) an estimate of the number of individuals who could be enrolled in a nationwide program.

FEDERAL PROTECTIVE SERVICE

The revenues and collections of security fees credited to this account shall be available until expended for necessary expenses related to the protection of Federally-owned and leased buildings and for the operations of the Federal Protective Service: *Provided*, That the Secretary of Homeland Security and the Director of the Office of Management and Budget shall certify in writing to the Committees on Appropriations of the Senate and the House of Representatives no later than December 31, 2009, that the operations of the Federal Protective Service will be fully funded in fiscal year 2010 through revenues and collection of security fees, and shall adjust the fees to ensure fee collections are sufficient to ensure that the Federal Protective Service maintains not fewer than 1,200 full-time equivalent staff and 900 full-time equivalent Police Officers, Inspectors, Area Commanders, and Special Agents who, while working, are directly engaged on a daily basis protecting and enforcing laws at Federal buildings (referred to as "in-service field staff"): *Provided further*, That none of the funds made available in this Act may be used to modify or restructure the bureaucratic organization of the Federal Protective Service as part of U.S. Immigration and Customs Enforcement.

AUTOMATION MODERNIZATION

For expenses of immigration and customs enforcement automated systems, \$105,000,000, to remain available until expended.

CONSTRUCTION

For necessary expenses to plan, construct, renovate, equip, and maintain buildings and facilities necessary for the administration

and enforcement of the laws relating to customs and immigration, \$11,818,000, to remain available until expended: *Provided*, That none of the funds made available in this Act may be used to solicit or consider any request to privatize facilities currently owned by the United States Government and used to detain aliens unlawfully present in the United States until the Committees on Appropriations of the Senate and the House of Representatives receive a plan for carrying out that privatization.

TRANSPORTATION SECURITY ADMINISTRATION AVIATION SECURITY

For necessary expenses of the Transportation Security Administration related to providing civil aviation security services pursuant to the Aviation and Transportation Security Act (Public Law 107-71; 115 Stat. 597; 49 U.S.C. 40101 note), \$5,265,740,000, to remain available until September 30, 2011, of which not to exceed \$10,000 shall be for official reception and representation expenses: *Provided*, That of the total amount made available under this heading, not to exceed \$4,409,776,000 shall be for screening operations, of which \$1,138,106,000 shall be available for explosives detection systems; and not to exceed \$855,964,000 shall be for aviation security direction and enforcement: *Provided further*, That of the amount made available in the preceding proviso for explosives detection systems, \$800,000,000 shall be available for the purchase and installation of these systems: *Provided further*, That of the total amount provided, \$1,250,000 shall be made available for Safe Skies Alliance to develop and enhance research and training capabilities for Transportation Security Officer improvised explosive recognition training: *Provided further*, That security service fees authorized under section 44940 of title 49, United States Code, shall be credited to this appropriation as offsetting collections and shall be available only for aviation security: *Provided further*, That any funds collected and made available from aviation security fees pursuant to section 44940(i) of title 49, United States Code, may, notwithstanding paragraph (4) of such section 44940(i), be expended for the purpose of improving screening at airport screening checkpoints, which may include the purchase and utilization of emerging technology equipment; the refurbishment and replacement of current equipment; the installation of surveillance systems to monitor checkpoint activities; the modification of checkpoint infrastructure to support checkpoint reconfigurations; and the creation of additional checkpoints to screen aviation passengers and airport personnel: *Provided further*, That the sum appropriated under this heading from the general fund shall be reduced on a dollar-for-dollar basis as such offsetting collections are received during fiscal year 2010, so as to result in a final fiscal year appropriation from the general fund estimated at not more than \$3,165,740,000: *Provided further*, That any security service fees collected in excess of the amount made available under this heading shall become available during fiscal year 2011: *Provided further*, That Members of the House of Representatives and Senate, including the leadership; the heads of Federal agencies and commissions, including the Secretary, Under Secretaries, and Assistant Secretaries of Homeland Security; the Attorney General and Assistant Attorneys General and the United States attorneys; and senior members of the Executive Office of the President, including the Director of the Office of Management and Budget; shall not be exempt from Federal passenger and baggage screening.

SURFACE TRANSPORTATION SECURITY

For necessary expenses of the Transportation Security Administration related to

providing surface transportation security activities, \$103,416,000, to remain available until September 30, 2011.

TRANSPORTATION THREAT ASSESSMENT AND CREDENTIALING

For necessary expenses for the development and implementation of screening programs of the Office of Transportation Threat Assessment and Credentialing, \$171,999,000, to remain available until September 30, 2011: *Provided*, That if the Assistant Secretary of Homeland Security (Transportation Security Administration) determines that the Secure Flight program does not need to check airline passenger names against the full terrorist watch list, the Assistant Secretary shall certify to the Committees on Appropriations of the Senate and the House of Representatives that no significant security risks are raised by screening airline passenger names only against a subset of the full terrorist watch list.

TRANSPORTATION SECURITY SUPPORT

For necessary expenses of the Transportation Security Administration related to providing transportation security support and intelligence pursuant to the Aviation and Transportation Security Act (Public Law 107-71; 115 Stat. 597; 49 U.S.C. 40101 note), \$992,980,000, to remain available until September 30, 2011: *Provided*, That not to exceed \$5,000,000 may be obligated for headquarters administration until the Secretary of Homeland Security submits to the Committees on Appropriations of the Senate and the House of Representatives detailed expenditure plans for checkpoint support and explosives detection systems refurbishment, procurement, and installations on an airport-by-airport basis for fiscal year 2010: *Provided further*, That these plans shall be submitted no later than 60 days after the date of enactment of this Act.

FEDERAL AIR MARSHALS

For necessary expenses of the Federal Air Marshals, \$860,111,000.

□ 1730

PART B AMENDMENT NO. 2 OFFERED BY MR. DUNCAN

Mr. DUNCAN. Madam Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 2 offered by Mr. DUNCAN:

Page 24, line 9, strike the dollar amount and insert "\$819,481,000".

The CHAIR. Pursuant to House Resolution 573, the gentleman from Tennessee (Mr. DUNCAN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Tennessee.

Mr. DUNCAN. Madam Chairman, former Congressman Sonny Callahan, a very respected former subcommittee chairman on the Appropriations Committee, told me that we had done all we needed to do on airplane security when we secured the cockpit doors. Whether you agree with him or not, that one very inexpensive action took away the ability to hijack and use airplanes the way they were used on 9/11.

Now we are about to appropriate \$860 million for the Federal Air Marshal Service, and I believe this money could be much better spent in any one of hundreds of other ways. However, my

amendment does not eliminate this agency, even though I do believe it is a needless, useless agency. And my amendment does not even cut its funding. All it does is freeze this agency at its current level of funding, \$819 million.

Air marshals arrest an average of a little over four people each year. Even after my amendment, they would still be getting about \$200 million per arrest. There must not be a softer, easier, more cushy job in the entire Federal Government than just to ride airplanes back and forth, back and forth, back and forth, many of them in first class. I would rather give this money to local law enforcement people who are fighting real crime, the street crime that people want fought.

Families all over this country are having to tighten their belts, and many millions are having to reduce spending. It would seem to me that the least we can do is stop giving big increases to agencies like this that really are doing almost no good at all. Actually, more air marshals have been arrested since 9/11 than there have been arrests by air marshals. This is an agency that has gone from just 33 before 9/11 to over 4,000 today.

Now, what TSA is doing at the airports, what all the other Federal, State and local law enforcement agencies are doing, what private companies are doing on security and all the many other things that are done on this bill on aviation security are more than enough. We need to realize that we cannot make everyone totally safe even if we spent the entire Federal budget on security.

I chaired the Aviation Subcommittee for 6 years and have always been a strong supporter of law enforcement and aviation security, but as one high-ranking former TSA official told me 2 days ago, this air marshal agency is simply "gilding the lily."

The Wall Street Journal said in an editorial a few months after 9/11: "We would like to suggest a new post-September 11 rule for Congress: Any bill with the word 'security' should get double the public scrutiny and maybe four times the normal weight, lest all kinds of bad legislation become law under the phony guise of fighting terrorism." That was from The Wall Street Journal when they noticed that almost every Department agency was requesting additional funds and using the word "security" to justify it, even unnecessary appropriations.

Everyone on both sides of the aisle, Madam Chairman, likes to call themselves fiscally conservative. Well, even if my amendment were to pass, this agency would be getting an almost 60 percent increase since 2003, more than double the rate of inflation since that time.

This amendment is bare bones fiscal conservatism, very minimal fiscal conservatism. And I might add that I have never had a run-in with an air marshal. In fact, I don't even believe that I

know an air marshal, so this is nothing personal. But USA Today a few months ago had an article about this agency and all the troubles and problems they're having, and I can tell you that I think this agency at least should not keep getting huge increases in funding.

Madam Chairman, I reserve the balance of my time.

Mr. PRICE of North Carolina. Madam Chairman, I rise in opposition to the amendment.

The CHAIR. The gentleman is recognized for 5 minutes.

Mr. PRICE of North Carolina. Madam Chairman, I rise in opposition to the amendment with great respect for the gentleman from Tennessee who, after all, has labored in this body for many years in the areas of transportation and transportation security. I take what he believes very, very seriously. And I know that he offers this amendment in all earnestness.

I want to say more in a minute about what our committee has done to make certain some of the elements that he is looking for are indeed addressed; namely, by requiring a long-term assessment of the air marshal staffing needs. This is not something we should go on funding indefinitely without assessment or analysis; and we intend for that to occur. But I do not believe this amendment to simply flat-fund the Federal air marshals is the best approach.

The exact number of Federal air marshals is security-sensitive, but a reduction of \$40.6 million, which the gentleman proposes, would result in a significant number of air marshals being let go, and TSA would have to put in place a hiring freeze for all of fiscal 2010. As a result, we would have fewer high-risk international and domestic flights covered. In fact, flight coverage would be below what it was in 2009.

With this funding reduction, it is possible that air marshals may not be on all flights during some high-consequence events, such as the 2010 Olympics or national special security events. Now, I'm sure that TSA would make every effort not to reduce coverage for such events, but we would need to worry about resources being spread thinly under the gentleman's amendment.

The funding reduction would limit the air marshals' ability to rapidly respond to unanticipated events as they did in the past, such as the U.K. liquid explosives threat, evacuation of U.S. citizens from Lebanon, or in response to hurricanes like Ike and Katrina. In addition, funding restrictions would affect air marshals' ability to support TSA's VIPR teams. These are teams that conduct unannounced, high-visibility exercises in mass transit and passenger rail facilities and are designed to disrupt possible threats determined by reports from our intelligence community. So these air marshals do perform vital functions, and we need to know what we're doing if we cut back personnel levels.

Having said that, I do want to call the attention of colleagues to our report, page 74 to be explicit, where we discuss the long-term prospects for this air marshals program. We go into some detail about these additional security measures that the gentleman outlined which, indeed, may change the picture in the longer term. We don't know. We want DHS to reassess what is the appropriate long-term staffing level for the Federal air marshals in light of its new risk assessment model that better targets staff deployments.

So we have ordered up this study. Until we receive it, we believe it is premature to reduce funding for air marshals without the kind of sound analysis that would demonstrate what threats might be addressed or what might not be addressed if there is a diminished effort by the air marshal program.

So, again, with appreciation for the gentleman's history on this issue, I do respectfully urge a "no" vote on the amendment. But I do pledge to Members that we are going to undertake an assessment of this program for the long-term. And this time next year we will expect to have a much better analysis of what the long-term prospects should be.

With that, Madam Chairman, I reserve the balance of my time.

Mr. DUNCAN. Madam Chairman, I will close by saying that, first of all, I appreciate the kind comments by the chairman of the subcommittee for whom I have the greatest and deepest respect.

I served on the conference committee that created the TSA. I do believe that aviation security is very important, and I do believe that this bill does many good things in that respect. But I also know that the Air Marshal Service has a horrendous record so far. And as I said earlier, when you think of the very few arrests that they've made, it comes out to an average of a little over four a year, or about \$200 million per arrest. I can't think, really, of any Department or agency in the Federal Government that does less good with more money than this agency. And yet, in spite of that, I am not trying to eliminate the agency; I am not trying to cut its funding. All I've done by this amendment is advocate a freeze that would save a little over \$40 million. And if we can't do that, then really we can't do anything that is truly fiscally conservative in this Congress. I think when we recently raised our national debt limit to over \$13 trillion, I think we at least need to start taking a few baby steps like this. So I urge my colleagues to support my amendment.

I yield back the balance of my time.

Mr. PRICE of North Carolina. Madam Chairman, I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from Tennessee (Mr. DUNCAN).

The question was taken; and the Chair announced that the yeas appeared to have it.

Mr. DUNCAN. Madam Chairman, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Tennessee will be postponed.

The Clerk will read.

The Clerk read as follows:

COAST GUARD OPERATING EXPENSES

For necessary expenses for the operation and maintenance of the Coast Guard, not otherwise provided for; purchase or lease of not to exceed 25 passenger motor vehicles, which shall be for replacement only; purchase or lease of small boats for contingent and emergent requirements (at a unit cost of no more than \$700,000) and for repairs and service-life replacements for small boats for such requirements, not to exceed a total of \$26,000,000; minor shore construction projects not exceeding \$1,000,000 in total cost at any location; payments pursuant to section 156 of Public Law 97-377 (42 U.S.C. 402 note; 96 Stat. 1920); and recreation and welfare; \$6,822,026,000, of which \$340,000,000 shall be for defense-related activities; of which \$241,503,000 is designated as being for overseas deployments and other activities pursuant to section 423(a)(1) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010; of which \$24,500,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)); of which not to exceed \$20,000 shall be for official reception and representation expenses; *Provided*, That none of the funds made available by this or any other Act shall be available for administrative expenses in connection with shipping commissioners in the United States; *Provided further*, That none of the funds made available by this Act shall be for expenses incurred for recreational vessels under section 12114 of title 46, United States Code, except to the extent fees are collected from yacht owners and credited to this appropriation; *Provided further*, That the Coast Guard shall comply with the requirements of section 527 of Public Law 108-136 with respect to the Coast Guard Academy.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

For necessary expenses to carry out the environmental compliance and restoration functions of the Coast Guard under chapter 19 of title 14, United States Code, \$13,198,000, to remain available until expended.

RESERVE TRAINING

For necessary expenses of the Coast Guard Reserve, as authorized by law; operations and maintenance of the reserve program; personnel and training costs; and equipment and services; \$133,632,000.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For necessary expenses of acquisition, construction, renovation, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto; and maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law; \$1,347,480,000, of which \$20,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)); of which \$103,000,000 shall be available until September 30, 2014, to acquire, repair, renovate, or improve vessels, small boats, and related equipment; of which \$119,500,000 shall be available until September 30, 2012, for other equipment; of which \$10,000,000 shall be

available until September 30, 2012, for shore facilities and aids to navigation facilities; of which \$100,000,000 shall be available for personnel compensation and benefits and related costs; and of which \$1,014,980,000 shall be available until September 30, 2014, for the Integrated Deepwater Systems program: *Provided*, That of the funds made available for the Integrated Deepwater Systems program, \$269,000,000 is for aircraft and \$591,380,000 is for surface ships; *Provided further*, That the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives, in conjunction with the President's fiscal year 2011 budget, a review of the Revised Deepwater Implementation Plan that identifies any changes to the plan for the fiscal year; an annual performance comparison of Integrated Deepwater Systems program assets to pre-Deepwater legacy assets; a status report of such legacy assets; a detailed explanation of how the costs of such legacy assets are being accounted for within the Integrated Deepwater Systems program; and the earned value management system gold card data for each Integrated Deepwater Systems program asset; *Provided further*, That the Secretary shall submit to the Committees on Appropriations of the Senate and the House of Representatives a comprehensive review of the Revised Deepwater Implementation Plan every 5 years, beginning in fiscal year 2011, that includes a complete projection of the acquisition costs and schedule for the duration of the plan through fiscal year 2027; *Provided further*, That the Secretary shall annually submit to the Committees on Appropriations of the Senate and the House of Representatives, at the time that the President's budget is submitted under section 1105(a) of title 31, United States Code, a future-years capital investment plan for the Coast Guard that identifies for each capital budget line item—

(1) the proposed appropriation included in that budget;

(2) the total estimated cost of completion;

(3) projected funding levels for each fiscal year for the next 5 fiscal years or until project completion, whichever is earlier;

(4) an estimated completion date at the projected funding levels; and

(5) changes, if any, in the total estimated cost of completion or estimated completion date from previous future-years capital investment plans submitted to the Committees on Appropriations of the Senate and the House of Representatives;

Provided further, That the Secretary shall ensure that amounts specified in the future-years capital investment plan are consistent to the maximum extent practicable with proposed appropriations necessary to support the programs, projects, and activities of the Coast Guard in the President's budget as submitted under section 1105(a) of title 31, United States Code, for that fiscal year: *Provided further*, That any inconsistencies between the capital investment plan and proposed appropriations shall be identified and justified; *Provided further*, That subsections (a) and (b) of section 6402 of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110-28) shall apply to fiscal year 2010.

ALTERATION OF BRIDGES

For necessary expenses for alteration or removal of obstructive bridges, as authorized by section 6 of the Truman-Hobbs Act (33 U.S.C. 516), \$10,000,000, to remain available until expended.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

For necessary expenses for applied scientific research, development, test, and evaluation; and for maintenance, rehabilitation,

lease, and operation of facilities and equipment; as authorized by law; \$19,745,000, to remain available until expended, of which \$500,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)): *Provided*, That there may be credited to and used for the purposes of this appropriation funds received from State and local governments, other public authorities, private sources, and foreign countries for expenses incurred for research, development, testing, and evaluation.

RETIRED PAY

For retired pay, including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose, payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, payment for career status bonuses, concurrent receipts and combat-related special compensation under the National Defense Authorization Act, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, \$1,361,245,000, to remain available until expended.

UNITED STATES SECRET SERVICE SALARIES AND EXPENSES

For necessary expenses of the United States Secret Service, including: purchase of not to exceed 652 vehicles for police-type use for replacement only; hire of passenger motor vehicles; purchase of motorcycles made in the United States; hire of aircraft; services of expert witnesses at such rates as may be determined by the Director of the Secret Service; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; payment of per diem or subsistence allowances to employees where a protective assignment during the actual day or days of the visit of a protectee requires an employee to work 16 hours per day or to remain overnight at a post of duty; conduct of and participation in firearms matches; presentation of awards; travel of United States Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act if approval is obtained in advance from the Committees on Appropriations of the Senate and the House of Representatives; research and development; grants to conduct behavioral research in support of protective research and operations; and payment in advance for commercial accommodations as may be necessary to perform protective functions; \$1,457,409,000, of which not to exceed \$25,000 shall be for official reception and representation expenses; of which not to exceed \$100,000 shall be to provide technical assistance and equipment to foreign law enforcement organizations in counterfeit investigations; of which \$2,366,000 shall be for forensic and related support of investigations of missing and exploited children; and of which \$6,000,000 shall be for a grant for activities related to the investigations of missing and exploited children and shall remain available until expended: *Provided*, That up to \$18,000,000 provided for protective travel shall remain available until September 30, 2011: *Provided further*, That up to \$1,000,000 for National Special Security Events shall remain available until expended: *Provided further*, That the United States Secret Service is authorized to obligate funds in anticipation of reimbursements from Federal agencies and entities, as defined in section 105 of title 5, United States Code, receiving training sponsored by the

James J. Rowley Training Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available under this heading at the end of the fiscal year: *Provided further*, That none of the funds made available under this heading shall be available to compensate any employee for overtime in an annual amount in excess of \$35,000, except that the Secretary of Homeland Security, or the designee of the Secretary, may waive that amount as necessary for national security purposes: *Provided further*, That none of the funds made available to the United States Secret Service by this Act or by previous appropriations Acts may be made available for the protection of the head of a Federal agency other than the Secretary of Homeland Security: *Provided further*, That the Director of the United States Secret Service may enter into an agreement to perform such service on a fully reimbursable basis.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For necessary expenses for acquisition, construction, repair, alteration, and improvement of facilities, \$3,975,000, to remain available until expended.

TITLE III—PROTECTION, PREPARED- NESS, RESPONSE, AND RECOVERY

NATIONAL PROTECTION AND PROGRAMS DIRECTORATE

MANAGEMENT AND ADMINISTRATION

For salaries and expenses of the Office of the Under Secretary for the National Protection and Programs Directorate, support for operations, information technology, and the Office of Risk Management and Analysis, \$44,577,000: *Provided*, That not to exceed \$5,000 shall be for official reception and representation expenses.

INFRASTRUCTURE PROTECTION AND INFORMATION SECURITY

For necessary expenses for infrastructure protection and information security programs and activities, as authorized by title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.), \$883,346,000, of which \$744,085,000 shall remain available until September 30, 2011: *Provided*, That of the amount made available under this heading, \$155,000,000 may not be obligated for the National Cyber Security Initiative program and \$25,000,000 may not be obligated for the Next Generation Networks program until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure for that program that describes the strategic context of the program; the specific goals and milestones set for the program; and the funds allocated to achieving each of those goals: *Provided further*, That of the total amount provided, \$1,000,000 is for Philadelphia infrastructure monitoring; \$3,500,000 is for State and local cyber security training; \$3,000,000 is for the Power and Cyber Systems Protection, Analysis, and Testing Program at the Idaho National Laboratory; \$3,500,000 is for the Cyber Security Test Bed and Evaluation Center; \$3,000,000 is for the Multi-State Information Sharing and Analysis Center; \$500,000 is for the Virginia Operational Integration Cyber Center of Excellence; \$100,000 is for the Upstate New York Cyber Initiative; and \$1,000,000 is for interoperable communications, technical assistance and outreach programs.

UNITED STATES VISITOR AND IMMIGRANT STATUS INDICATOR TECHNOLOGY

For necessary expenses for the development of the United States Visitor and Immigrant Status Indicator Technology project, as authorized by section 110 of the Illegal Immigration Reform and Immigrant Responsi-

bility Act of 1996 (8 U.S.C. 1365a), \$351,800,000, to remain available until expended: *Provided*, That of the total amount made available under this heading, \$75,000,000 may not be obligated for the United States Visitor and Immigrant Status Indicator Technology program until the Committees on Appropriations of the Senate and the House of Representatives receive a plan for expenditure prepared by the Secretary of Homeland Security that includes—

(1) a detailed accounting of the program's progress to date relative to system capabilities or services, system performance levels, mission benefits and outcomes, milestones, cost targets, and program management capabilities;

(2) an explicit plan of action defining how all funds are to be obligated to meet future program commitments, with the planned expenditure of funds linked to the milestone-based delivery of specific capabilities, services, performance levels, mission benefits and outcomes, and program management capabilities;

(3) a listing of all open Government Accountability Office and Office of Inspector General recommendations related to the program and the status of Department of Homeland Security actions to address the recommendations, including milestones for fully addressing such recommendations;

(4)(A) a certification by the Chief Procurement Officer of the Department that—

(i) the program has been reviewed and approved in accordance with the investment management process of the Department;

(ii) the process fulfills all capital planning and investment control requirements and reviews established by the Office of Management and Budget, including as provided in Circular A-11, part 7; and

(iii) the plans for the program comply with Federal acquisition rules, requirements, guidelines, and practices; and

(B) a description by the Chief Procurement Officer of the actions being taken to address areas of non-compliance, the risks associated with such areas as well as any plans for addressing such risks, and the status of the implementation of such actions;

(5)(A) a certification by the Chief Information Officer of the Department that—

(i) an independent verification and validation agent is currently under contract for the program;

(ii) the system architecture of the program is sufficiently aligned with the information systems enterprise architecture of the Department to minimize future rework, including a description of all aspects of the architecture that were or were not assessed in making the alignment determination, the date of the alignment determination, and any known areas of misalignment along with the associated risks and corrective actions to address any such areas; and

(iii) the program has a risk management process that regularly identifies, evaluates, mitigates, and monitors risks throughout the system life cycle, and communicates high-risk conditions to agency and Department investment decision makers; and

(B) a listing by the Chief Information Officer of all the program's high risks and the status of efforts to address them;

(6) a certification by the Chief Human Capital Officer of the Department that the human capital needs of the program are being strategically and proactively managed, and that current human capital capabilities are sufficient to execute the plans discussed in the report; and

(7) a detailed accounting of operation and maintenance, contractor services, and program costs associated with the management of identity services.

OFFICE OF HEALTH AFFAIRS

For necessary expenses of the Office of Health Affairs, \$128,400,000, of which \$30,411,000 is for salaries and expenses: *Provided*, That \$97,989,000 shall remain available until September 30, 2011, for biosurveillance, BioWatch, medical readiness planning, chemical response, and other activities, including \$5,000,000 for the North Carolina Collaboratory for Bio-Preparedness, University of North Carolina, Chapel Hill: *Provided further*, That not to exceed \$3,000 shall be for official reception and representation expenses.

FEDERAL EMERGENCY MANAGEMENT AGENCY
MANAGEMENT AND ADMINISTRATION

For necessary expenses for management and administration of the Federal Emergency Management Agency, \$844,500,000, including activities authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Cerro Grande Fire Assistance Act of 2000 (Div. C Title I, 114 Stat. 583), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947 (50 U.S.C. 404, 405), Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.), and the Post-Katrina Emergency Management Reform Act of 2006 (Public Law 109-295; 120 Stat. 1394): *Provided*, That not to exceed \$3,000 shall be for official reception and representation expenses: *Provided further*, That the President's budget submitted under section 1105(a) of title 31, United States Code, shall be detailed by office for the Federal Emergency Management Agency: *Provided further*, That of the total amount made available under this heading, \$32,500,000 shall be for the Urban Search and Rescue Response System, of which not to exceed \$1,600,000 may be made available for administrative costs; and \$6,995,000 shall be for the Office of National Capital Region Coordination.

PART B AMENDMENT NO. 7 OFFERED BY MR. POE
OF TEXAS

Mr. POE of Texas. Madam Speaker, I have an amendment at the desk made in order under the rule.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 7 offered by Mr. POE of Texas:

Page 38, line 19, after the dollar amount, insert "(reduced by \$32,000,000)".

Page 52, line 2, after the dollar amount, insert "(increased by \$32,000,000)".

The CHAIR. Pursuant to House Resolution 573, the gentleman from Texas (Mr. POE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas.

Mr. POE of Texas. Madam Chairman, the amendment I am offering today seeks to add additional funding to the highly successful and widely supported National Predisaster Mitigation Fund. In a time of deficits and rampant government spending, predisaster mitigation is good for the taxpayer.

According to a study first released in 2005, the "National Hazard Mitigation Saves: An Independent Study to Assess the Future Savings from Mitigation Activities," performed by the group

called the Multi-Hazard Mitigation Council, stated that for every \$1 spent on mitigation, \$3 to \$4 is saved. Further, the Congressional Budget Office issued its own report on predisaster mitigation and its cost savings and confirmed the savings derived from this program.

According to these studies, this amendment that I'm offering could save anywhere from \$96 million to \$128 million in future disaster costs. In communities such as I represent along the gulf coast of Texas, predisaster mitigation is essential in weathering future devastating hurricanes which have ravaged my district in recent years in helping to reduce the cost towards recovery. Just since I've been elected, the following hurricanes have hit my southeast district in Texas: Katrina, Rita, Humbert, Gustav, and the latest is Ike.

Every year it seems, Madam Chairman, a new hurricane comes down Hurricane Alley through my congressional district, but also hits other gulf States. The purpose of this program is to implement hazard reduction measures prior to an event. Funds can be used to help retrofit buildings, such as the courthouse that is used as the Center for Emergency Management Services. Those retrofitting buildings can withstand high wind damage. Also it moves properties out of flood plains, and flood-proof buildings, among many other things.

The problem is requests for funding from this program is three times the amount of money that is actually available under current law. This amendment takes \$32 million out of the \$850 million of salaries. The \$32 million figure comes from the amount that's over the President's request. And communities throughout Hurricane Alley and other areas in the country prone to devastation, such as earthquakes and wildfires, are all looking at ways to strengthen their defenses and avoid the often long and painful recovery.

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The predisaster recovery program is a community-based program and emphasizes commitment to local input on what's needed. Over the last decade, the predisaster mitigation program has developed and grown as mitigation itself has become accepted as Federal policy. Adoption and expansion of mitigation as a beneficial approach for government has been bolstered by studies that demonstrated cost reductions following disasters due to earlier mitigation investments.

So I ask support of this amendment and support of communities that would benefit from this amendment before disaster strikes.

I reserve the balance of my time.

Mr. PRICE of North Carolina. Madam Chairman, I rise in opposition to the gentleman's amendment.

The CHAIR. The gentleman is recognized for 5 minutes.

Mr. PRICE of North Carolina. Madam Chairman, the gentleman seeks to add

\$32 million for predisaster mitigation grants by cutting the same amount from FEMA's management and operations programs.

Again, I appreciate the gentleman's support for predisaster mitigation. I come from a State where both predisaster and postdisaster mitigation have been very important and often successful programs. And I believe the funding levels recommended by our committee in recent years have reflected this favorable evaluation.

But the offset the gentleman proposes is just untenable. I have to say that, and I want to spend some time in explaining it because I do respect the motivation that he brings to this effort.

We have, today, correspondence from State and local emergency managers who also think this offset is unacceptable. They oppose this amendment because it cuts critical FEMA programs, and, in particular, I have a letter dated today from the International Association of Emergency Managers along these lines.

The Congress has spent the last 4 years since Hurricane Katrina rebuilding FEMA's management and operations capabilities. At the time of Katrina, the agency was understaffed and unable to effectively manage a catastrophic disaster. It's my belief that the increases over the last 2 fiscal years were a major factor in FEMA's return to strength as demonstrated during the response to Hurricane Ike and the Midwest floods.

I am afraid the gentleman's amendment could send us backwards. The gentleman would cut the account that supports the National Hurricane Program, the National Dam Safety Program, national continuity programs, disaster operations and disaster mitigation.

The committee supports predisaster mitigation. That's why we included a \$10 million increase for predisaster mitigation grants above fiscal year 2009.

But the gentleman proposes a further increase, and I believe that should not come at the detriment of FEMA's operational readiness.

Besides, the grant program that the gentleman seeks to increase had \$143 million that was unobligated or not spent at the time this bill was reported. In other words, there is a good deal of money in the pipeline.

So as a supporter of increased mitigation, and as the chairman of a committee that has championed increased mitigation, I believe we have enough funds for now to support ongoing mitigation work, and I think the offset would be detrimental to FEMA's readiness to respond to disasters.

So I respectfully urge a "no" vote on the amendment.

I reserve the balance of my time.

Mr. POE of Texas. I yield myself as much time as I may consume.

I appreciate the chairman's input on my amendment.

As I mentioned earlier, the request for predisaster mitigation funds is three times what is available under current law. And I probably have dealt with FEMA as much as anybody in this House, not by choice, but because of the fact that our district keeps getting hammered by hurricanes, starting with Katrina. And the management system of FEMA has a lot to be desired. That has to be dealt with eventually in another issue.

Hurricane Rita, 2005, people in my congressional district are still living with blue plastic tarps on their roofs because of the inadequate response. That is why this bill is so important, because it allows for predisaster mitigation. It allows the hospitals to get a generator so that when they lose their power, they are able to take care of the patients that are in the emergency room. That is a portion of predisaster mitigation.

And I think it's imperative that we be proactive because it takes FEMA too long to respond to disasters, which drives up the cost of recovery. Some people in my district still say FEMA is the disaster.

We talked earlier on other amendments about the fact that a next terrorist attack may occur in New York City. That may be so. But Mother Nature, as we say in Texas, "has a mad on" for Hurricane Alley because we keep getting hammered every year with hurricanes.

And one way to help is to ratchet up the amount of money available in areas in the Gulf Coast and other parts of the country that have the likelihood of being hit by a major disaster. Where recovery takes a long time, and if we are prepared with just a third of the money that is needed to recover, we can be prepared, and communities can get back together a lot quicker.

So I would respectfully disagree with the chairman and say that we need to adopt this amendment.

I yield back the balance of my time.

Mr. PRICE of North Carolina. Madam Chairman, I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from Texas (Mr. POE).

The question was taken; and the Chair announced that the noes appeared to have it.

Mr. KING of Iowa. Madam Chairman, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Texas will be postponed.

The Clerk will read.

The Clerk read as follows:

STATE AND LOCAL PROGRAMS
(INCLUDING TRANSFER OF FUNDS)

For grants, contracts, cooperative agreements, and other activities, \$2,829,000,000 shall be allocated as follows:

(1) \$950,000,000 shall be for the State Homeland Security Grant Program under section 2004 of the Homeland Security Act of 2002 (6 U.S.C. 605): *Provided*, That of the amount

provided by this paragraph, \$60,000,000 shall be for Operation Stonegarden: *Provided further*, That notwithstanding subsection (c)(4) of such section 2004, for fiscal year 2010, the Commonwealth of Puerto Rico shall make available to local and tribal governments amounts provided to the Commonwealth of Puerto Rico under this paragraph in accordance with subsection (c)(1) of such section 2004.

(2) \$887,000,000 shall be for the Urban Area Security Initiative under section 2003 of the Homeland Security Act of 2002 (6 U.S.C. 604), of which, notwithstanding subsection (c)(1) of such section, \$15,000,000 shall be for grants to organizations (as described under section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such code) determined by the Secretary of Homeland Security to be at high risk of a terrorist attack.

(3) \$40,000,000 shall be for the Metropolitan Medical Response System under section 635 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 723).

(4) \$15,000,000 shall be for the Citizen Corps Program.

(5) \$250,000,000 shall be for Public Transportation Security Assistance and Railroad Security Assistance under sections 1406 and 1513 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (6 U.S.C. 1135 and 1163): *Provided*, That such public transportation security assistance shall be provided directly to public transportation agencies.

(6) \$250,000,000 shall be for Port Security Grants in accordance with 46 U.S.C. 70107, notwithstanding 46 U.S.C. 70107(c).

(7) \$12,000,000 shall be for Over-the-Road Bus Security Assistance under section 1532 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (6 U.S.C. 1182).

(8) \$50,000,000 shall be for Buffer Zone Protection Program Grants.

(9) \$50,000,000 shall be for grants in accordance with section 204 of the REAL ID Act of 2005 (49 U.S.C. 30301 note).

(10) \$50,000,000 shall be for the Interoperable Emergency Communications Grant Program under section 1809 of the Homeland Security Act of 2002 (6 U.S.C. 579).

(11) \$40,000,000 shall remain available until expended for grants for Emergency Operations Centers under section 614 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196c), as detailed in the statement accompanying this Act.

(12) \$235,000,000 shall be for training, exercises, technical assistance, and other programs, of which—

(A) \$132,000,000 shall be for the National Domestic Preparedness Consortium in accordance with section 1204 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (6 U.S.C. 1102), of which \$23,000,000 shall be for the National Energetic Materials Research and Testing Center, New Mexico Institute of Mining and Technology; \$23,000,000 shall be for the National Center for Biomedical Research and Training, Louisiana State University; \$23,000,000 shall be for the National Emergency Response and Rescue Training Center, Texas A&M University; \$23,000,000 shall be for the National Exercise, Test, and Training Center, Nevada Test Site; and \$40,000,000 shall be for the Center for Domestic Preparedness, Alabama; and

(B) \$3,000,000 shall be for the Rural Domestic Preparedness Consortium, Eastern Kentucky University:

Provided, That not to exceed 3 percent of the amounts provided under this heading may be transferred to the Federal Emergency Management Agency "Management and Administration" account for program administration, and an expenditure plan for program

administration shall be provided to the Committees on Appropriations of the Senate and the House of Representatives within 60 days after the date of enactment of this Act: *Provided further*, That for grants under paragraphs (1) through (4), the applications for grants shall be made available to eligible applicants not later than 25 days after the date of enactment of this Act, eligible applicants shall submit applications not later than 90 days after the grant announcement, and the Administrator of the Federal Emergency Management Agency shall act within 90 days after receipt of an application: *Provided further*, That for grants under paragraphs (5) through (7) and (10), the applications for grants shall be made available to eligible applicants not later than 30 days after the date of enactment of this Act, eligible applicants shall submit applications within 45 days after the grant announcement, and the Federal Emergency Management Agency shall act not later than 60 days after receipt of an application: *Provided further*, That for grants under paragraphs (1) and (2), the installation of communications towers is not considered construction of a building or other physical facility: *Provided further*, That grantees shall provide reports on their use of funds, as determined necessary by the Secretary: *Provided further*, That (a) the Center for Domestic Preparedness may provide training to emergency response providers from the Federal Government, foreign governments, or private entities, if the Center for Domestic Preparedness is reimbursed for the cost of such training, and any reimbursement under this subsection shall be credited to the account from which the expenditure being reimbursed was made and shall be available, without fiscal year limitation, for the purposes for which amounts in the account may be expended, (b) the head of the Center for Domestic Preparedness shall ensure that any training provided under (a) does not interfere with the primary mission of the Center to train State and local emergency response providers.

FIREFIGHTER ASSISTANCE GRANTS

For necessary expenses for programs authorized by the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), \$800,000,000, of which \$380,000,000 shall be available to carry out section 33 of that Act (15 U.S.C. 2229) and \$420,000,000 shall be available to carry out section 34 of that Act (15 U.S.C. 2229a), to remain available until September 30, 2011: *Provided*, That not to exceed 5 percent of the amount available under this heading shall be available for program administration, and an expenditure plan for program administration shall be provided to the Committees on Appropriations of the Senate and the House of Representatives within 60 days of the date of enactment of this Act.

EMERGENCY MANAGEMENT PERFORMANCE GRANTS

For necessary expenses for emergency management performance grants, as authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), and Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), \$330,000,000: *Provided*, That total administrative costs shall not exceed 3 percent of the total amount appropriated under this heading.

RADIOLOGICAL EMERGENCY PREPAREDNESS PROGRAM

The aggregate charges assessed during fiscal year 2010, as authorized in title III of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999

(42 U.S.C. 5196e), shall not be less than 100 percent of the amounts anticipated by the Department of Homeland Security necessary for its radiological emergency preparedness program for the next fiscal year: *Provided*, That the methodology for assessment and collection of fees shall be fair and equitable and shall reflect costs of providing such services, including administrative costs of collecting such fees: *Provided further*, That fees received under this heading shall be deposited in this account as offsetting collections and will become available for authorized purposes on October 1, 2010, and remain available until expended.

UNITED STATES FIRE ADMINISTRATION

For necessary expenses of the United States Fire Administration and for other purposes, as authorized by the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.) and the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.), \$45,588,000.

DISASTER RELIEF

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in carrying out the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), \$2,000,000,000, to remain available until expended: *Provided*, That the Federal Emergency Management Agency shall submit an expenditure plan to the Committees on Appropriations of the Senate and the House of Representatives detailing the use of the funds for disaster readiness and support within 60 days after the date of enactment of this Act: *Provided further*, That the Federal Emergency Management Agency shall submit to such Committees a quarterly report detailing obligations against the expenditure plan and a justification for any changes in spending: *Provided further*, That of the total amount provided, \$16,000,000 shall be transferred to the Department of Homeland Security Office of Inspector General for audits and investigations related to disasters, subject to section 503 of this Act: *Provided further*, That up to \$90,080,000 may be transferred to the Federal Emergency Management Agency "Management and Administration" account for management and administration functions: *Provided further*, That the amount provided in the previous proviso shall not be available for transfer to the "Management and Administration" account until the Federal Emergency Management Agency submits an expenditure plan to the Committees on Appropriations of the Senate and the House of Representatives: *Provided further*, That the Administrator of the Federal Emergency Management Agency shall report monthly beginning July 1, 2009, to the Committee on Appropriations of the House of Representatives regarding the number of individuals and households in need of Federal disaster assistance as a result of such severe storms, tornados, flooding, and mudslides (under FEMA-1841-DR) but denied assistance due to failure to meet flood insurance requirements. Such report shall include the reasons and circumstances for each denial per individual and household: *Provided further*, That for any request for reimbursement from a Federal agency to the Department of Homeland Security to cover expenditures under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), or any mission assignment orders issued by the Department for such purposes, the Secretary of Homeland Security shall take appropriate steps to ensure that each agency is periodically reminded of Department policies on—

(1) the detailed information required in supporting documentation for reimbursements; and

(2) the necessity for timeliness of agency billings.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

For activities under section 319 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5162), \$295,000 is for the cost of direct loans: *Provided*, That gross obligations for the principal amount of direct loans shall not exceed \$25,000,000: *Provided further*, That the cost of modifying such loans shall be as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a).

FLOOD MAP MODERNIZATION FUND

For necessary expenses under section 1360 of the National Flood Insurance Act of 1968 (42 U.S.C. 4101), \$220,000,000, and such additional sums as may be provided by State and local governments or other political subdivisions for cost-shared mapping activities under section 1360(f)(2) of such Act (42 U.S.C. 4101(f)(2)), to remain available until expended: *Provided*, That total administrative costs shall not exceed 3 percent of the total amount appropriated under this heading.

NATIONAL FLOOD INSURANCE FUND

For activities under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), and the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.), \$159,469,000, which shall remain available until September 30, 2011, and shall be derived from offsetting collections assessed and collected under section 1308(b)(3) of the National Flood Insurance Act of 1968 (42 U.S.C. 4015(b)(3)), which shall be available as follows: (1) not to exceed \$52,149,000 for salaries and expenses associated with flood mitigation and flood insurance operations; and (2) no less than \$107,320,000 for flood plain management and flood mapping: *Provided*, That any additional fees collected pursuant to section 1308(b)(3) of the National Flood Insurance Act of 1968 (42 U.S.C. 4015(b)(3)) shall be credited as an offsetting collection to this account, to be available for flood plain management and flood mapping: *Provided further*, That if the Administrator of the Federal Emergency Management Agency determines that such amount for salaries and expenses is insufficient, the Administrator of the Federal Emergency Management Agency may use amounts made available under this heading for flood plain management and flood mapping to pay for such salaries and expenses, but only if the Administrator submits to the Committees on Appropriations of the Senate and the House of Representatives notice of the Administrator's intention to use such funds for such purpose 30 days in advance of any such use: *Provided further*, That in fiscal year 2010, no funds shall be available from the National Flood Insurance Fund under section 1310 of that Act (42 U.S.C. 4017) in excess of: (1) \$85,000,000 for operating expenses; (2) \$969,370,000 for commissions and taxes of agents; (3) such sums as are necessary for interest on Treasury borrowings; and (4) \$120,000,000, which shall remain available until expended for flood mitigation actions, of which \$70,000,000 shall be for severe repetitive loss properties under section 1361A of the National Flood Insurance Act of 1968 (42 U.S.C. 4102a), of which \$10,000,000 shall be for repetitive insurance claims properties under section 1323 of the National Flood Insurance Act of 1968 (42 U.S.C. 4030), and of which \$40,000,000 is for flood mitigation assistance under section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c) notwithstanding subparagraphs (B) and (C) of subsection (b)(3) and subsection (f) of section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c) and notwithstanding subsection (a)(7) of section 1310 of the National Flood Insurance Act of 1968 (42 U.S.C. 4017): *Provided further*, That amounts col-

lected under section 102 of the Flood Disaster Protection Act of 1973 and section 1366(i) of the National Flood Insurance Act of 1968 (42 U.S.C. 1366(i)) shall be deposited in the National Flood Insurance Fund to supplement other amounts specified as available for section 1366 of the National Flood Insurance Act of 1968, notwithstanding 42 U.S.C. 4012a(f)(8), 4104c(i), and 4104d(b)(2)-(3): *Provided further*, That total administrative costs shall not exceed 4 percent of the total appropriation.

NATIONAL PREDISASTER MITIGATION FUND

For the predisaster mitigation grant program under section 203 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133), \$100,000,000, to remain available until expended and as detailed in the statement accompanying this Act: *Provided*, That the total administrative costs associated with such grants shall not exceed 3 percent of the total amount made available under this heading.

EMERGENCY FOOD AND SHELTER

To carry out the emergency food and shelter program pursuant to title III of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11331 et seq.), \$200,000,000, to remain available until expended: *Provided*, That total administrative costs shall not exceed 3.5 percent of the total amount made available under this heading.

TITLE IV—RESEARCH AND DEVELOPMENT, TRAINING, AND SERVICES

UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES

For necessary expenses for citizenship and immigration services, \$248,000,000, of which \$100,000,000 shall be for processing applications for asylum or refugee status; and of which \$112,000,000 is for the basic pilot program, as authorized by section 402 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note), to assist United States employers with maintaining a legal workforce: *Provided*, That notwithstanding any other provision of law, funds available to United States Citizenship and Immigration Services may be used to acquire, operate, equip, and dispose of up to five vehicles, for replacement only, for areas where the Administrator of General Services does not provide vehicles for lease: *Provided further*, That the Director of United States Citizenship and Immigration Services may authorize employees who are assigned to those areas to use such vehicles to travel between the employees' residences and places of employment: *Provided further*, That none of the funds made available under this heading may be obligated for processing applications for asylum or refugee status unless the Secretary of Homeland Security has published a final rule updating part 103 of title 8, Code of Federal Regulations, to discontinue the asylum/refugee surcharge: *Provided further*, That none of the funds made available under this heading for may be obligated for development of the "REAL ID hub" until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure for that program that describes the strategic context of the program, the specific goals and milestones set for the program, and the funds allocated for achieving each of these goals and milestones.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Law Enforcement Training Center, including materials and support costs of Federal law enforcement basic training; the purchase of not to exceed 117 vehicles for police-type use and hire of passenger motor vehicles; expenses

for student athletic and related activities; the conduct of and participation in firearms matches and presentation of awards; public awareness and enhancement of community support of law enforcement training; room and board for student interns; a flat monthly reimbursement to employees authorized to use personal mobile phones for official duties; and services as authorized by section 3109 of title 5, United States Code; \$239,356,000, of which up to \$47,751,000 shall remain available until September 30, 2011, for materials and support costs of Federal law enforcement basic training; of which \$300,000 shall remain available until expended for Federal law enforcement agencies participating in training accreditation, to be distributed as determined by the Federal Law Enforcement Training Center for the needs of participating agencies; and of which not to exceed \$12,000 shall be for official reception and representation expenses: *Provided*, That the Center is authorized to obligate funds in anticipation of reimbursements from agencies receiving training sponsored by the Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available at the end of the fiscal year: *Provided further*, That section 1202(a) of Public Law 107-206 (42 U.S.C. 3771 note), as amended by Public Law 110-329 (122 Stat. 3677), is further amended by striking “December 31, 2011” and inserting “December 31, 2012”: *Provided further*, That the Federal Law Enforcement Training Accreditation Board, including representatives from the Federal law enforcement community and non-Federal accreditation experts involved in law enforcement training, shall lead the Federal law enforcement training accreditation process to continue the implementation of measuring and assessing the quality and effectiveness of Federal law enforcement training programs, facilities, and instructors: *Provided further*, That the Director of the Federal Law Enforcement Training Center shall schedule basic or advanced law enforcement training, or both, at all four training facilities under the control of the Federal Law Enforcement Training Center to ensure that such training facilities are operated at the highest capacity throughout the fiscal year.

ACQUISITIONS, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For acquisition of necessary additional real property and facilities, construction, and ongoing maintenance, facility improvements, and related expenses of the Federal Law Enforcement Training Center, \$43,456,000, to remain available until expended: *Provided*, That the Center is authorized to accept reimbursement to this appropriation from Government agencies requesting the construction of special use facilities.

SCIENCE AND TECHNOLOGY

MANAGEMENT AND ADMINISTRATION

For salaries and expenses of the Office of the Under Secretary for Science and Technology and for management and administration of programs and activities, as authorized by title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.), \$142,200,000: *Provided*, That not to exceed \$10,000 shall be for official reception and representation expenses.

RESEARCH, DEVELOPMENT, ACQUISITION, AND OPERATIONS

For necessary expenses for science and technology research, including advanced research projects; development; test and evaluation; acquisition; and operations; as authorized by title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.); \$825,356,000, to remain available until expended: *Provided*, That of the amount pro-

vided, \$12,000,000 shall be for construction expenses of the Pacific Northwest National Laboratory: *Provided further*, That not less than \$10,000,000 shall be available for the National Institute for Hometown Security, Kentucky: *Provided further*, That not less than \$2,000,000 shall be available for the Naval Postgraduate School: *Provided further*, That not less than \$1,000,000 shall be available to continue a homeland security research, development, and manufacturing pilot project: *Provided further*, That \$500,000 shall be available for a demonstration project to develop situational awareness and decision support capabilities through remote sensing technologies: *Provided further*, That \$4,000,000 shall be available for a pilot program to develop a replicable port security system that would improve maritime domain awareness: *Provided further*, That none of the funds available under this heading, in this Act, or in any previously enacted law shall be obligated for construction of a National Bio- and Agro-defense Facility located on the United States mainland until the Secretary of Homeland Security receives a risk assessment prepared by a person who is not an officer or employee of the Department of Homeland Security of whether foot-and-mouth disease work can be done safely on the United States mainland.

DOMESTIC NUCLEAR DETECTION OFFICE

MANAGEMENT AND ADMINISTRATION

For salaries and expenses of the Domestic Nuclear Detection Office as authorized by title XIX of the Homeland Security Act of 2002 (6 U.S.C. 591 et seq.) as amended, for management and administration of programs and activities, \$39,599,000: *Provided*, That not to exceed \$3,000 shall be for official reception and representation expenses.

RESEARCH, DEVELOPMENT, AND OPERATIONS

For necessary expenses for radiological and nuclear research, development, testing, evaluation, and operations, \$326,537,000, to remain available until expended.

TITLE V—GENERAL PROVISIONS

(INCLUDING RESCISSIONS OF FUNDS)

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 502. Subject to the requirements of section 503 of this Act, the unexpended balances of prior appropriations provided for activities in this Act may be transferred to appropriation accounts for such activities established pursuant to this Act, may be merged with funds in the applicable established accounts, and thereafter may be accounted for as one fund for the same time period as originally enacted.

SEC. 503. (a) None of the funds provided by this Act, provided by previous appropriations Acts to the agencies in or transferred to the Department of Homeland Security that remain available for obligation or expenditure in fiscal year 2010, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds that: (1) creates a new program, project, office, or activity; (2) eliminates a program, project, office, or activity; (3) increases funds for any program, project, or activity for which funds have been denied or restricted by the Congress; (4) proposes to use funds directed for a specific activity by either of the Committees on Appropriations of the Senate or the House of Representatives for a different purpose; or (5) contracts out any function or activity for which funding levels were requested for Federal full-time equivalents in the object classification tables contained in the fiscal year

2010 Budget Appendix for the Department of Homeland Security, as modified by the explanatory statement accompanying this Act, unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such reprogramming of funds.

(b) None of the funds provided by this Act, provided by previous appropriations Acts to the agencies in or transferred to the Department of Homeland Security that remain available for obligation or expenditure in fiscal year 2010, or provided from any accounts in the Treasury of the United States derived by the collection of fees or proceeds available to the agencies funded by this Act, shall be available for obligation or expenditure for programs, projects, or activities through a reprogramming of funds in excess of \$5,000,000 or 10 percent, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by the Congress; or (3) results from any general savings from a reduction in personnel that would result in a change in existing programs, projects, or activities as approved by the Congress, unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such reprogramming of funds.

(c) Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Homeland Security by this Act or provided by previous appropriations Acts may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by such transfers: *Provided*, That any transfer under this section shall be treated as a reprogramming of funds under subsection (b) and shall not be available for obligation unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such transfer.

(d) Notwithstanding subsections (a), (b), and (c) of this section, no funds shall be reprogrammed within or transferred between appropriations after June 30, except in extraordinary circumstances that imminently threaten the safety of human life or the protection of property.

(e) Within 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives a report listing all dollar amounts specified in this Act and accompanying explanatory statement that are identified in the detailed funding table at the end of the explanatory statement accompanying this Act or any other amounts specified in this Act or accompanying explanatory statement: *Provided*, That such dollar amounts specified in this Act and accompanying explanatory statement shall be subject to the conditions and requirements of subsections (a), (b), and (c) of this section.

SEC. 504. The Department of Homeland Security Working Capital Fund, established pursuant to section 403 of Public Law 103-356 (31 U.S.C. 501 note), shall continue operations as a permanent working capital fund for fiscal year 2010: *Provided*, That none of the funds appropriated or otherwise made available to the Department of Homeland Security may be used to make payments to the Working Capital Fund, except for the activities and amounts allowed in the President's fiscal year 2010 budget: *Provided further*, That funds provided to the Working Capital Fund shall be available for obligation until expended to carry out the purposes of the Working Capital Fund: *Provided further*, That all departmental components shall

be charged only for direct usage of each Working Capital Fund service: *Provided further*, That funds provided to the Working Capital Fund shall be used only for purposes consistent with the contributing component: *Provided further*, That such fund shall be paid in advance or reimbursed at rates which will return the full cost of each service: *Provided further*, That the Working Capital Fund shall be subject to the requirements of section 503 of this Act.

SEC. 505. Except as otherwise specifically provided by law, not to exceed 50 percent of unobligated balances remaining available at the end of fiscal year 2010 from appropriations for salaries and expenses for fiscal year 2010 in this Act shall remain available through September 30, 2011, in the account and for the purposes for which the appropriations were provided: *Provided*, That prior to the obligation of such funds, a request shall be submitted to the Committees on Appropriations of the Senate and the House of Representatives for approval in accordance with section 503 of this Act.

SEC. 506. Funds made available by this Act for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2010 until the enactment of an Act authorizing intelligence activities for fiscal year 2010.

SEC. 507. None of the funds made available by this Act may be used to make a grant allocation, grant award, contract award, other transactional agreement, or to issue a letter of intent totaling in excess of \$1,000,000, or to announce publicly the intention to make such an award, including a contract covered by the Federal Acquisition Regulation, unless the Secretary of Homeland Security notifies the Committees on Appropriations of the Senate and the House of Representatives at least 3 full business days in advance of making such an award or issuing such a letter: *Provided*, That if the Secretary of Homeland Security determines that compliance with this section would pose a substantial risk to human life, health, or safety, an award may be made without notification and the Committees on Appropriations of the Senate and the House of Representatives shall be notified not later than 5 full business days after such an award is made or letter issued: *Provided further*, That no notification shall involve funds that are not available for obligation: *Provided further*, That the notification shall include the amount of the award, the fiscal year for which the funds for the award were appropriated, and the account from which the funds are being drawn: *Provided further*, That the Federal Emergency Management Agency shall brief the Committees on Appropriations of the Senate and the House of Representatives 5 full business days in advance of announcing publicly the intention of making an award under the State and Local Programs.

SEC. 508. Notwithstanding any other provision of law, no agency shall purchase, construct, or lease any additional facilities, except within or contiguous to existing locations, to be used for the purpose of conducting Federal law enforcement training without the advance approval of the Committees on Appropriations of the Senate and the House of Representatives, except that the Federal Law Enforcement Training Center is authorized to obtain the temporary use of additional facilities by lease, contract, or other agreement for training which cannot be accommodated in existing Center facilities.

SEC. 509. None of the funds appropriated or otherwise made available by this Act may be used for expenses for any construction, repair, alteration, or acquisition project for

which a prospectus otherwise required under chapter 33 of title 40, United States Code, has not been approved, except that necessary funds may be expended for each project for required expenses for the development of a proposed prospectus.

SEC. 510. Sections 519, 520, 522, 528, 530, and 531 of the Department of Homeland Security Appropriations Act, 2008 (division E of Public Law 110-161; 121 Stat. 2072, 2073, 2074, 2082) shall apply with respect to funds made available in this Act in the same manner as such sections applied to funds made available in that Act.

SEC. 511. None of the funds made available in this Act may be used in contravention of the applicable provisions of the Buy American Act (41 U.S.C. 10a et seq.).

SEC. 512. None of the funds appropriated by this Act may be used to process or approve a competition under Office of Management and Budget Circular A-76 for services provided as of June 1, 2004, by employees (including employees serving on a temporary or term basis) of United States Citizenship and Immigration Services of the Department of Homeland Security who are known as of that date as immigration information officers, contact representatives, or investigative assistants.

SEC. 513. (a) The Secretary of Homeland Security shall research, develop, and procure new technologies to inspect and screen air cargo carried on passenger aircraft by the earliest date possible.

(b) Checked baggage explosive detection equipment and screeners that exist as of the date of the enactment of this Act shall be used to screen air cargo carried on passenger aircraft to the greatest extent practicable at each airport until technologies developed under subsection (a) are available for such purpose.

(c) The Assistant Secretary of Homeland Security (Transportation Security Administration) shall work with air carriers and airports to ensure that the screening of cargo carried on passenger aircraft, as defined in section 44901(g)(5) of title 49, United States Code, increases incrementally each quarter.

(d) Not later than 45 days after the end of each quarter, the Assistant Secretary shall submit to the Committees on Appropriations of the Senate and the House of Representatives a report on air cargo inspection statistics by airport and air carrier detailing the incremental progress being made to meet the requirements of section 44901(g)(2) of title 49, United States Code.

(e) Not later than 180 days after the date of the enactment of this Act, the Assistant Secretary of Homeland Security (Transportation Security Administration) shall submit to the Committees on Appropriations of the Senate and the House of Representatives, a report on how the Transportation Security Administration plans to meet the requirement for screening all air cargo on passenger aircraft by the deadline under section 44901(g) of title 49, United States Code. The report shall identify the elements of the system to screen 100 percent of cargo transported between domestic airports at a level of security commensurate with the level of security for the screening of passenger checked baggage.

SEC. 514. Except as provided in section 44945 of title 49, United States Code, funds appropriated or transferred to the Transportation Security Administration "Aviation Security", "Administration" and "Transportation Security Support" accounts for fiscal years 2004, 2005, 2006, and 2007 that are recovered or deobligated shall be available only for the procurement or installation of explosives detection systems for air cargo, baggage, and checkpoint screening systems, subject to notification: *Provided*, That quarterly

reports shall be submitted to the Committees on Appropriations of the Senate and the House of Representatives on any funds that are recovered or deobligated.

SEC. 515. Any funds appropriated to the Coast Guard "Acquisition, Construction, and Improvements" account for fiscal years 2002, 2003, 2004, 2005, and 2006 for the 110-123 foot patrol boat conversion that are recovered, collected, or otherwise received as the result of negotiation, mediation, or litigation, shall be available until expended for the Fast Response Cutter program.

SEC. 516. Within 45 days after the end of each month, the Chief Financial Officer of the Department of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives a monthly budget and staffing report for that month that includes total obligations, on-board versus funded full-time equivalent staffing levels, and the number of contract employees for each office of the Department.

SEC. 517. Section 532(a) of Public Law 109-295 (120 Stat. 1384) is amended by striking "2009" and inserting "2010".

SEC. 518. The functions of the Federal Law Enforcement Training Center instructor staff shall be classified as inherently governmental for the purpose of the Federal Activities Inventory Reform Act of 1998 (31 U.S.C. 501 note).

SEC. 519. (a) None of the funds provided by this or any other Act may be obligated for the development, testing, deployment, or operation of any portion of a human resources management system authorized by Section 9701(a) of title 5, United States Code, or by regulations prescribed pursuant to such section, for an employee, as that term is defined in section 7103(a)(2) of such title.

(b) The Secretary of Homeland Security shall collaborate with employee representatives in the manner prescribed in section 9701(e) of title 5, United States Code, in the planning, testing, and development of any portion of a human resources management system that is developed, tested, or deployed for persons excluded from the definition of employee as that term is defined in section 7103(a)(2) of such title.

SEC. 520. For fiscal year 2010, none of the funds made available in this or any other Act may be used to enforce section 4025(1) of Public Law 108-458 unless the Assistant Secretary of Homeland Security (Transportation Security Administration) reverses the determination of July 19, 2007, that butane lighters are not a significant threat to civil aviation security.

SEC. 521. Funds made available in this Act may be used to alter operations within the Civil Engineering Program of the Coast Guard nationwide, including civil engineering units, facilities design and construction centers, maintenance and logistics commands, and the Coast Guard Academy, except that none of the funds provided in this Act may be used to reduce operations within any Civil Engineering Unit unless specifically authorized by a statute enacted after the date of the enactment of this Act.

SEC. 522. (a) Except as provided in subsection (b), none of the funds appropriated in this or any other Act to the Office of the Secretary and Executive Management, the Office of the Under Secretary for Management, or the Office of the Chief Financial Officer, may be obligated for a grant or contract funded under such headings by any means other than full and open competition.

(b) Subsection (a) does not apply to obligation of funds for a contract awarded—

(1) by a means that is required by a Federal statute, including obligation for a purchase made under a mandated preferential program, including the AbilityOne Program,

that is authorized under the Javits-Wagner-O'Day Act (41 U.S.C. 46 et seq.);

(2) pursuant to the Small Business Act (15 U.S.C. 631 et seq.);

(3) in an amount less than the simplified acquisition threshold described under section 302A(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252a(a)); or

(4) by another Federal agency using funds provided through an interagency agreement.

(c)(1) Subject to paragraph (2), the Secretary of Homeland Security may waive the application of this section for the award of a contract in the interest of national security or if failure to do so would pose a substantial risk to human health or welfare.

(2) Not later than 5 days after the date on which the Secretary of Homeland Security issues a waiver under this subsection, the Secretary shall submit notification of that waiver to the Committees on Appropriations of the Senate and the House of Representatives, including a description of the applicable contract and an explanation of why the waiver authority was used. The Secretary may not delegate the authority to grant such a waiver.

(d) In addition to the requirements established by subsections (a), (b), and (c) of this section, the Inspector General of the Department of Homeland Security shall review departmental contracts awarded through means other than a full and open competition to assess departmental compliance with applicable laws and regulations: *Provided*, That the Inspector General shall review selected contracts awarded in the previous fiscal year through other than full and open competition: *Provided further*, That in selecting which contracts to review, the Inspector General shall consider the cost and complexity of the goods and services to be provided under the contract, the criticality of the contract to fulfilling Department missions, past performance problems on similar contracts or by the selected vendor, complaints received about the award process or contractor performance, and such other factors as the Inspector General deems relevant: *Provided further*, That the Inspector General shall report the results of the reviews to the Committees on Appropriations of the Senate and the House of Representatives.

SEC. 523. None of the funds provided by this or previous appropriations Acts shall be used to fund any position designated as a Principal Federal Official for any Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) declared disasters or emergencies.

SEC. 524. None of the funds made available in this Act may be used by United States Citizenship and Immigration Services to grant an immigration benefit unless the results of background checks required by law to be completed prior to the granting of the benefit have been received by United States Citizenship and Immigration Services, and the results do not preclude the granting of the benefit.

SEC. 525. None of the funds made available in this Act may be used to destroy or put out to pasture any horse or other equine belonging to the Federal Government that has become unfit for service, unless the trainer or handler is first given the option to take possession of the equine through an adoption program that has safeguards against slaughter and inhumane treatment.

SEC. 526. None of the funds provided in this Act shall be available to carry out section 872 of the Homeland Security Act of 2002 (6 U.S.C. 452).

SEC. 527. None of the funds appropriated by this Act may be used to conduct, or to implement the results of, a competition under Of-

fice of Management and Budget Circular A-76 for activities performed with respect to the Coast Guard National Vessel Documentation Center.

SEC. 528. The Secretary of Homeland Security shall require that all contracts of the Department of Homeland Security that provide award fees link such fees to successful acquisition outcomes (which outcomes shall be specified in terms of cost, schedule, and performance).

SEC. 529. None of the funds made available to the Office of the Secretary and Executive Management under this Act may be expended for any new hires by the Department of Homeland Security that are not verified through the basic pilot program under section 401 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note).

SEC. 530. None of the funds made available in this Act for U.S. Customs and Border Protection may be used to prevent an individual not in the business of importing a prescription drug (within the meaning of section 801(g) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(g)) from importing a prescription drug from Canada that complies with the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.): *Provided*, That this section shall apply only to individuals transporting on their person a personal-use quantity of the prescription drug, not to exceed a 90-day supply: *Provided further*, That the prescription drug may not be—

(1) a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802); or

(2) a biological product, as defined in section 351 of the Public Health Service Act (42 U.S.C. 262).

SEC. 531. None of the funds made available in this Act may be used by the Secretary of Homeland Security or any delegate of the Secretary to issue any rule or regulation which implements the Notice of Proposed Rulemaking related to Petitions for Aliens To Perform Temporary Nonagricultural Services or Labor (H-2B) set out beginning on 70 Fed. Reg. 3984 (January 27, 2005).

SEC. 532. Section 831 of the Homeland Security Act of 2002 (6 U.S.C. 391) is amended—

(1) in subsection (a), by striking “Until September 30, 2009” and inserting “Until September 30, 2010,”; and

(2) in subsection (d)(1), by striking “September 30, 2009,” and inserting “September 30, 2010,”.

SEC. 533. None of the funds made available in this Act may be used for planning, testing, piloting, or developing a national identification card.

SEC. 534. (a) Notwithstanding any other provision of this Act, except as provided in subsection (b), and 30 days after the date that the President determines whether to declare a major disaster because of an event and any appeal is completed, the Administrator shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Homeland Security of the House of Representatives, the Committee on Transportation and Infrastructure of the House of Representatives, the Committees on Appropriations of the Senate and the House of Representatives, and publish on the website of the Federal Emergency Management Agency, a report regarding that decision, which shall summarize damage assessment information used to determine whether to declare a major disaster.

(b) The Administrator may redact from a report under subsection (a) any data that the Administrator determines would compromise national security.

(c) In this section—

(1) the term “Administrator” means the Administrator of the Federal Emergency Management Agency; and

(2) the term “major disaster” has the meaning given that term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).

SEC. 535. Notwithstanding any other provision of law, in the fiscal year 2010 or a subsequent fiscal year, if the Secretary of Homeland Security determine that the National Bio- and Agro-defense Facility should be located at a site other than Plum Island, New York, the Secretary shall liquidate the Plum Island asset by directing the Administrator of General Services to sell, through public sale, all real and related personal property and transportation assets that support Plum Island operations, subject to such terms and conditions as the Secretary determines are necessary to protect government interests and meet program requirements: *Provided*, That the proceeds of such sale shall be deposited as offsetting collections into the Department of Homeland Security Science and Technology “Research, Development, Acquisition, and Operations” account and, subject to appropriation, shall be available until expended, for site acquisition, construction, and costs related to the construction of the National Bio- and Agro-defense Facility, including the costs associated with the sale, including due diligence requirements, necessary environmental remediation at Plum Island, and reimbursement of expenses incurred by the General Services Administration: *Provided further*, That after the completion of construction and environmental remediation, the unexpended balances of funds appropriated for costs referred to in the preceding proviso shall be available for transfer to the appropriate account for design and construction of a consolidated Department of Homeland Security Headquarters project, excluding daily operations and maintenance costs, notwithstanding section 503 of this Act, and the Committees on Appropriations of the Senate and the House of Representatives shall be notified 15 days prior to such transfer.

SEC. 536. Any official who is required by this Act to report or certify to the Committees on Appropriations of the Senate and the House of Representatives may not delegate such authority to perform that act unless specifically authorized herein.

SEC. 537. The Secretary of Homeland Security, in consultation with the Secretary of the Treasury, shall notify the Committees on Appropriations of the Senate and the House of Representatives of any proposed transfers of funds available under subsection (g)(4)(B) of title 31, United States Code (as added by Public Law 102-393) from the Department of the Treasury Forfeiture Fund to any agency within the Department of Homeland Security: *Provided*, That none of the funds identified for such a transfer may be obligated until the Committees on Appropriations of the Senate and the House of Representatives approve the proposed transfers.

SEC. 538. If the Assistant Secretary of Homeland Security (Transportation Security Administration) determines that an airport does not need to participate in the basic pilot program under section 402 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note), the Assistant Secretary shall certify to the Committees on Appropriations of the Senate and the House of Representatives that no security risks will result from such non-participation.

SEC. 539. From the unobligated balances of prior year appropriations made available for “Analysis and Operations”, \$2,203,000 is rescinded.

SEC. 540. The explanatory statement referenced in section 4 of Public Law 110-161 for “National Predisaster Mitigation Fund” under Federal Emergency Management Agency is deemed to be amended—

(1) by striking “Dalton Fire District” and all that follows through “750,000” and inserting the following:

“Franklin Regional Council of Governments, MA	250,000
Town of Lanesborough, MA	175,000
University of Massachusetts, MA	175,000”;

(2) by striking “Santee and”;

(3) by striking “3,000,000” and inserting “1,500,000”;

(4) by inserting after the item relating to Adjutant General’s Office of Emergency Preparedness the following:

“Town of Branchville, SC	1,500,000”;
and	

(5) by striking “Public Works Department of the City of Santa Cruz, CA” and inserting “Monterey County Water Resources Agency, CA”.

SEC. 541. Section 203(m) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133(m)) is amended by striking “September 30, 2009” and inserting “September 30, 2010”.

SEC. 542. From the unobligated balances of prior year appropriations made available for the “Infrastructure Protection and Information Security” account, \$5,963,000 is rescinded.

SEC. 543. From unobligated amounts that are available to the Coast Guard for fiscal year 2008 or 2009 for acquisition, construction, and improvements for shoreside facilities and aids to navigation at Coast Guard Sector Buffalo, the Secretary of Homeland Security shall use such sums as may be necessary to make improvements to the land along the northern portion of Sector Buffalo to enhance public access to the Buffalo Lighthouse and the waterfront.

SEC. 544. For fiscal year 2010 and hereinafter, the Secretary may provide to personnel appointed or assigned to serve abroad, allowances and benefits similar to those provided under chapter 9 of title I of the Foreign Service Act of 1990 (22 U.S.C. 4081 et seq.).

SEC. 545. (a) EXTENSION OF PROGRAMS.—Section 143 of Division A of the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009 (Public Law 110-329; 122 Stat. 3580 et seq.), as amended by section 101 of division J of the Omnibus Appropriations Act, 2009 (Public Law 111-8), is amended by striking “September 30, 2009” and inserting “September 30, 2011”.

(b) PROTECTION OF SOCIAL SECURITY ADMINISTRATION PROGRAMS.—

(1) FUNDING UNDER AGREEMENT.—Effective for fiscal years beginning on or after October 1, 2009, the Commissioner of Social Security and the Secretary of Homeland Security shall enter into and maintain an agreement which shall—

(A) provide funds to the Commissioner for the full costs of the responsibilities of the Commissioner under section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note), including—

(i) acquiring, installing, and maintaining technological equipment and systems necessary for the fulfillment of the responsibilities of the Commissioner under such section 404, but only that portion of such costs that are attributable exclusively to such responsibilities; and

(ii) responding to individuals who contest a tentative nonconfirmation provided by the basic pilot confirmation system established under such section;

(B) subject to the availability of appropriations for such purpose, provide such funds quarterly in advance of the applicable quarter based on estimating methodology agreed to by the Commissioner and the Secretary (except in such instances where the delayed enactment of an annual appropriation may preclude such quarterly payments); and

(C) require an annual accounting and reconciliation of the actual costs incurred and the funds provided under the agreement, which shall be jointly reviewed by the Office of the Inspector General of the Social Security Administration and the Office of Inspector General of the Department of Homeland Security.

(2) CONTINUATION OF EMPLOYMENT VERIFICATION IN ABSENCE OF TIMELY AGREEMENT.—In any case in which the agreement required under paragraph (1) for any fiscal year beginning on or after October 1, 2009, has not been reached as of October 1 of such fiscal year, the most recent agreement between the Commissioner and the Secretary of Homeland Security providing for funding to cover the costs of the responsibilities of the Commissioner under section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) shall be deemed in effect on an interim basis for such fiscal year until such time as an agreement required under paragraph (1) is subsequently reached, except that the terms of such interim agreement shall be modified by the Director of the Office of Management and Budget to adjust for inflation and any increase or decrease in the volume of requests under the basic pilot confirmation system. In any case in which an interim agreement applies for any fiscal year under this paragraph, the Commissioner and the Secretary shall, not later than October 1 of such fiscal year, notify the Committee on Ways and Means of the House of Representatives, the Committees on the Judiciary of the Senate and the House of Representatives, the Committees on Appropriations of the Senate and the House of Representatives, and the Committee on Finance of the Senate of the failure to reach the agreement required under paragraph (1) for such fiscal year. Until such time as the agreement required under paragraph (1) has been reached for such fiscal year, the Commissioner and the Secretary shall, not later than the end of each 90-day period after October 1 of such fiscal year, notify such Committees of the status of negotiations between the Commissioner and the Secretary in order to reach such an agreement.

(c) GAO STUDY OF BASIC PILOT CONFIRMATION SYSTEM.—

(1) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Comptroller General shall conduct a study regarding erroneous tentative nonconfirmations under the basic pilot confirmation system established under section 404(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note).

(2) MATTERS TO BE STUDIED.—In the study required under paragraph (1), the Comptroller General shall determine and analyze—

(A) the causes of erroneous tentative nonconfirmations under the basic pilot confirmation system;

(B) the processes by which such erroneous tentative nonconfirmations are remedied; and

(C) the effect of such erroneous tentative nonconfirmations on individuals, employers, and Federal agencies.

(3) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall submit the results of the study required under paragraph (1) to

the Committee on Ways and Means of the House of Representatives, the Committees on the Judiciary of the Senate and the House of Representatives, the Committee on Finance of the Senate, and the Committees on Appropriations of the Senate and the House of Representatives.

(d) GAO STUDY OF EFFECTS OF BASIC PILOT PROGRAM ON SMALL ENTITIES.—

(1) IN GENERAL.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall submit to the Committees on the Judiciary of the Senate and the House of Representatives and the Committees on Appropriations of the Senate and the House of Representatives a report containing the Comptroller General’s analysis of the effects of the basic pilot program described in section 404(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) on small entities (as defined in section 601 of title 5, United States Code). The report shall detail—

(A) the costs of compliance with such program on small entities;

(B) a description and an estimate of the number of small entities enrolled and participating in such program or an explanation of why no such estimate is available;

(C) the projected reporting, recordkeeping, and other compliance requirements of such program on small entities;

(D) factors that impact small entities’ enrollment and participation in such program, including access to appropriate technology, geography, entity size, and class of entity; and

(E) the steps, if any, the Secretary of Homeland Security has taken to minimize the economic impact of participating in such program on small entities.

(2) DIRECT AND INDIRECT EFFECTS.—The report shall cover, and treat separately, direct effects (such as wages, time, and fees spent on compliance) and indirect effects (such as the effect on cash flow, sales, and competitiveness).

(3) SPECIFIC CONTENTS.—The report shall provide specific and separate details with respect to—

(A) small businesses (as defined in section 601 of title 5, United States Code) with fewer than 50 employees; and

(B) small entities operating in States that have mandated use of the basic pilot program.

SEC. 546. (a) IN GENERAL.—Strike subparagraphs (A) through (C) that appear within section 426(b) of division J of the Consolidated Appropriations Act, 2005 (Public Law 108-447) and insert the following:

“(A) SECRETARY OF STATE.—One-third of the amounts deposited into the Fraud Prevention and Detection Account shall remain available to the Secretary of State until expended for programs and activities—

“(i) to increase the number of consular and diplomatic security personnel assigned primarily to the function of preventing and detecting fraud by applicants for visas described in subparagraph (H)(i), (H)(ii), or (L) of section 101(a)(15);

“(ii) otherwise to prevent and detect visa fraud, including fraud by applicants for visas described in subparagraph (H)(i), (H)(ii), or (L) of section 101(a)(15), as well as the purchase, lease, construction, and staffing of facilities for the processing of these classes of visa, in consultation with the Secretary of Homeland Security as appropriate; and

“(iii) upon request by the Secretary of Homeland Security, to assist such Secretary in carrying out the fraud prevention and detection programs and activities described in subparagraph (B).

“(B) SECRETARY OF HOMELAND SECURITY.—One-third of the amounts deposited into the

Fraud Prevention and Detection Account shall remain available to the Secretary of Homeland Security until expended for programs and activities to prevent and detect immigration benefit fraud, including fraud with respect to petitions filed under paragraph (1) or (2)(A) of section 214(c) to grant an alien nonimmigrant status described in subparagraph (H) or (L) of section 101(a)(15).

“(C) SECRETARY OF LABOR.—One-third of the amounts deposited into the Fraud Prevention and Detection Account shall remain available to the Secretary of Labor until expended for wage and hour enforcement programs and activities otherwise authorized to be conducted by the Secretary of Labor that focus on industries likely to employ nonimmigrants, including enforcement programs and activities described in section 212(n) and enforcement programs and activities related to section 214(c)(14)(A)(i).”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

CLARIFICATION OF FEE AUTHORITY

SEC. 547. (a) IN GENERAL.—In addition to collection of registration fees described in section 244(c)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1254a(c)(1)(B)), fees for fingerprinting services, biometric services, and other necessary services may be collected when administering the program described in section 244 of such Act.

(b) CONSTRUCTION.—Subsection (a) shall be construed to apply for fiscal year 1998 and each fiscal year thereafter.

SEC. 548. Section 550(b) of the Department of Homeland Security Appropriations Act, 2007 (Public Law 109-295; 6 U.S.C. 121 note) is amended by striking “three years after the date of enactment of this Act” and inserting “October 4, 2010”.

SEC. 549. For Fiscal Year 2010 and thereafter, the Secretary of Homeland Security may collect fees from any non-Federal participant in a conference, seminar, exhibition, symposium, or similar meeting conducted by the Department of Homeland Security in advance of the conference, either directly or by entering into a contract, and those fees shall be credited to the appropriation or account from which the costs of the conference, seminar, exhibition, symposium, or similar meeting are paid and shall be available to pay the costs of the Department of Homeland Security with respect to the conference or to reimburse the Department for costs incurred with respect to the conference. In the event the total amount of fees collected with respect to a conference exceeds the actual costs of the Department of Homeland Security with respect to the conference, the amount of such excess shall be deposited into the Treasury as miscellaneous receipts.

SEC. 550. From unobligated balances for fiscal year 2009 made available for the Federal Emergency Management Agency “Trucking Industry Security Grants” account, \$5,572,000 is rescinded.

SEC. 551. None of the funds made available in this Act may be obligated for full-scale procurement of Advanced Spectroscopic Portal monitors until the Secretary of Homeland Security submits to the Committees on Appropriations of the Senate and the House of Representatives a report certifying that a significant increase in operational effectiveness will be achieved: *Provided*, That the Secretary shall submit separate and distinct certifications prior to the procurement of Advanced Spectroscopic Portal monitors for primary and secondary deployment that address the unique requirements for operational effectiveness of each type of deployment: *Provided further*, That the Secretary shall consult with the National Academy of Sciences before making such certifications:

Provided further, That none of the funds provided in this Act may be obligated for high-risk concurrent development and production of mutually dependent software and hardware.

SEC. 552. (a) As part of a plan regarding the proposed disposition of any individual who is detained, as of April 30, 2009, at Naval Station, Guantanamo Bay, Cuba, the Secretary of Homeland Security shall conduct a threat assessment for each such individual who is proposed to be transferred to the continental United States, Alaska, Hawaii, the District of Columbia, or the United States Territories that—

(1) determines the risk that the individual might instigate an act of terrorism within the continental United States, Alaska, Hawaii, the District of Columbia, or the United States Territories if the individual were so transferred; and

(2) determines the risk that the individual might advocate, coerce, or incite violent extremism, ideologically motivated criminal activity, or acts of terrorism, among inmate populations at incarceration facilities within the continental United States, Alaska, Hawaii, the District of Columbia, or the United States Territories if the individual were transferred to such a facility.

(b) Section 44903(j)(2)(C) of title 49, United States Code, is amended by adding at the end the following new clause:

“(v) INCLUSION OF DETAINEES ON NO FLY LIST.—The Assistant Secretary, in coordination with the Terrorist Screening Center, shall include on the No Fly List any individual who was a detainee held at the Naval Station, Guantanamo Bay, Cuba, unless the President certifies in writing to Congress that the detainee poses no threat to the United States, its citizens, or its allies. For purposes of this clause, the term ‘detainee’ means an individual in the custody or under the physical control of the United States as a result of armed conflict.”

(c) None of the funds made available in this Act may be used to provide any immigration benefit (including a visa, admission into the United States, parole into the United States, or classification as a refugee or applicant for asylum) to any individual who is detained, as of April 20, 2009, at Naval Station, Guantanamo Bay, Cuba.

(d) Nothing in subsections (b) and (c) shall be construed to prohibit a detainee held at Guantanamo Bay from being brought to the United States for prosecution.

□ 1800

PART B AMENDMENT NO. 4 OFFERED BY MR. KING OF IOWA

Mr. KING of Iowa. Madam Chair, I have an amendment at the desk made in order by the rule.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 4 offered by Mr. KING of Iowa:

At the end of the bill, before the short title, insert the following:

SEC. _____. None of the funds made available in this Act may be used to employ workers described in section 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(3)).

The CHAIR. Pursuant to House Resolution 573, the gentleman from Iowa (Mr. KING) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Iowa.

Mr. KING of Iowa. I yield myself 2 minutes.

My amendment prohibits the Department of Homeland Security funds in this bill from being used to hire illegal immigrants. The Immigration and Nationality Act is very clear. Section 274(a) makes it a crime to knowingly hire or employ an illegal immigrant. There are no exceptions.

Despite the law, over 8 million illegal immigrants currently have jobs in the United States, and some of those are no doubt employed by and with DHS funds under Federal contracts.

Unemployment today is at over 15 percent for lower-skilled American workers. Congress should do anything possible to end the hiring of illegal immigrants and save those jobs for American workers, Madam Chair.

A 2006 audit report by the Office of Inspector General indicates that the U.S. Government was the Nation's most egregious employer of illegal aliens. Seventeen of the top 100 offending employers were Federal, State, or local government entities. This report also found that, of the sample, 44 percent of the government workers were unauthorized workers, and 3 percent of government workers had no immigration status whatsoever.

These numbers are alarming. The IG report raises a national security issue. The report states, “Noncitizens who work without DHS authorization could affect homeland security because they may obtain employment in sensitive areas.”

The report goes on to say that the People's Republic of China ranked fourth and Iran ranked sixth among the top 10 countries of birth for employees that were audited in this report.

With the unemployment rate at 9.4 percent, we have got to stop the hiring of illegals, and the Federal Government has to lead the charge.

I reserve the balance of my time.

Mr. PRICE of North Carolina. I ask unanimous consent to claim the time in opposition.

The CHAIR. Without objection, the gentleman from North Carolina is recognized for 5 minutes.

There was no objection.

Mr. PRICE of North Carolina. I would reserve the balance of my time.

Mr. KING of Iowa. Madam Chair, I'd yield such time as he may consume to the ranking member, the gentleman from Kentucky (Mr. ROGERS).

Mr. ROGERS of Kentucky. I thank the gentleman for yielding and I thank him for this amendment, and I support it fully. The administration's new policy on worksite enforcement, from my point of view, amounts to de facto amnesty.

The raid that was made in Seattle after this administration took office, where the 24 or so illegal aliens who got their job by false papers were seized and arrested and then turned loose and, on top of that, given a work permit, that's the new policy of this administration. So that an illegal alien knows that if he or she is working in a

place that's raided, they can get a permit to go back to work, which makes them legal.

So, as far as I'm concerned, the new policy of the administration is de facto amnesty, and the gentleman's amendment reaches a part of that issue, and I salute him for it. But I hope and trust that the administration will come to their senses and give us a rational immigration policy that requires work-site enforcement at a time when American citizens of the country are out of work, that will enforce the illegal alien laws on the books.

And I thank the gentleman for yielding.

Mr. KING of Iowa. Reclaiming my time, and thanking the ranking member from Kentucky, I would just add that we as employers on this Hill are now required to use E-Verify with our employees. This isn't too high a standard to ask of the balance of the Federal Government, particularly within this appropriation.

I reserve the balance of my time.

Mr. PRICE of North Carolina. Madam Chairman, I yield such time as she may consume to the chairwoman of the Immigration Subcommittee of the Judiciary Committee, the gentlewoman from California (Ms. ZOE LOFGREN).

Ms. ZOE LOFGREN of California. Thank you, Mr. PRICE.

In looking at this amendment, I think it's important for Members to know that they can either vote for it or against it. It doesn't really matter because it's a restatement of existing law.

I would direct the attention of Members to section 274A(h)(3) of the Immigration and Nationality Act, 8 U.S. Code 1324a(h)(3), which says, and I read it, in part, authorized alien means with respect to the employment of an alien at a particular time the alien is not at that time either lawfully admitted for permanent residence or authorized to be so employed by this act or by the Attorney General.

As I say, this provision is not necessary. Current law also requires all employers to verify the employment authorization of employees here in the Federal Government, and there already are criminal and civil penalties for hiring unauthorized immigrants. Again, that is current law.

Current law also permits employers to electronically verify the employment eligibility of employees pursuant to section 401 and 402 of Public Law 104-208, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. That is the E-Verify program that Members are aware of.

Current law requires the legislative and executive branches of the Federal Government to use E-Verify to verify the employment eligibility of their employees pursuant to section 402(e)(1) of Public Law 104-208; again, the Illegal Immigration Reform and Immigration Responsibility Act of 1996.

So, I provide this information to Members not as an advocate for or

against the amendment, simply to note that this is a restatement of existing law.

Mr. PRICE of North Carolina. I thank our colleague for those clarifying remarks and yield back the balance of my time.

Mr. KING of Iowa. Madam Chair, may I inquire as to how much time remains?

The CHAIR. The gentleman has 90 seconds remaining.

Mr. KING of Iowa. Thank you, Madam Chair. I yield myself the balance of my time.

I would just reiterate that the Federal Government is among the most egregious violators of hiring illegal workers, and that's been brought out in this IG report that I spoke to in my opening remarks.

Seventeen of the top 100 violating entities were government entities, with 44 percent of the government workers that were part of this study were unauthorized. It didn't mean they were all illegal; it meant they were not verified.

And so I recall back in 1986 when the amnesty bill was passed, the last big amnesty bill was passed, I remember the fear that the INS would come into my office, and I made sure that I dotted all the I's, crossed all the T's, verified the identification, and kept the I-9 file on record. And they're still on record someplace in my archives. I think that is the kind of due diligence that the Federal Government—all government ought to support.

This is an amendment that one might argue that it doesn't directly change policy. I would agree with the gentlelady, the Chair of the Immigration Subcommittee, on that, but it reinforces and it reiterates a policy. There are no exceptions to violation of that section of the code.

This is an amendment also that passed on this particular appropriations bill in 2007. It's something that has had broad support across this country, and it really should not be controversial. It should be something that we should all join together with, and hopefully we will be able to move along and get to the point where the right, left, and middle hand knows what the others are doing.

I urge adoption of the amendment.

□ 1815

I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from Iowa (Mr. KING).

The question was taken; and the Chair announced that the noes appeared to have it.

Mr. KING of Iowa. Madam Chair, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Iowa will be postponed.

PART B AMENDMENT NO. 6 OFFERED BY MR. NEUGEBAUER

Mr. NEUGEBAUER. Madam Chairman, I have an amendment at the desk made in order by the rule.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B Amendment No. 6 offered by Mr. NEUGEBAUER:

At the end of the bill (before the short title) add the following new section:

SEC. _____. The amounts otherwise provided in this Act for the following accounts are hereby reduced by the following amounts:

- (1) "Office of the Under Secretary for Management", \$200,000,000.
- (2) "Office of Inspector General", \$5,000,000.
- (3) "U.S. Customs and Border Protection Salaries and Expenses", \$160,000,000.
- (4) "U.S. Customs and Border Protection Border Security Fencing, Infrastructure, and Technology", \$100,000,000.
- (5) "U.S. Customs and Border Protection Facilities Management", \$420,000,000.
- (6) "U.S. Immigration and Customs Enforcement Automation Modernization", \$20,000,000.
- (7) "Transportation Security Administration Aviation Security", \$1,000,000,000.
- (8) "Coast Guard Acquisition, Construction, and Improvements", \$98,000,000.
- (9) "Federal Emergency Management Agency State and Local Programs", \$300,000,000.
- (10) "Federal Emergency Management Agency Firefighter Assistance Grants", \$210,000,000.
- (11) and "Federal Emergency Management Agency Emergency Food and Shelter", \$100,000,000.

The CHAIR. Pursuant to House Resolution 573, the gentleman from Texas (Mr. NEUGEBAUER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas.

Mr. NEUGEBAUER. Madam Chairman, I yield myself 3 minutes.

These are unprecedented times in our country. We have people that are out of work. We have people that are losing their homes. Businesses are closing. And a lot of people wonder, how did that happen? When some people look for the cause of that, they say that unbridled spending and borrowing by individuals, by companies and even by government brought us to this point in our country where our economy is in a deep slump. Many of those families are having to make a lot of changes in their lives, making sacrifices.

Unfortunately, the Federal Government is not doing the same thing. At a time when across this country American families are tightening their belts, stopping the unlimited spending and borrowing, the Federal Government continues to do just that. In fact, Madam Chairman, this year we're on track to have a \$2 trillion deficit. Now just for those folks that don't know what \$1 trillion is, if you had to count to 1 trillion, it would take you 17,000 years. So if you are going to count to 2 trillion, it is going to take you 34,000 years.

So what does my amendment do? What this does is it just says, this stimulus money that we put into Homeland Security, some \$2.7 billion on top of the \$43 billion that we had already approved for FY09 and we're now talking about approving \$43 billion for

2010, basically it says, you know what, we're going to have to tighten our belts. So it takes that stimulus money out.

Now you say, Well, why would you do that? Well, what we've already heard from a number of people, including administration officials, is, Hey, we may not be spending this correctly. We may not have gotten it right. Well, let me tell you, when people back home are having to tighten their belts and when they are looking at some of the largest deficits in the history of this country, they want Congress to get this right. What this does, it preserves the many programs that are already important and that many people have spoken on behalf of; but it doesn't let them continue to spend this \$2.7 billion that, quite honestly, we didn't have to begin with. It's one thing to spend additional money when you have it; but when you don't have it, it's another issue.

The people back home are faced with that very same issue. I got a letter from one of my constituents in Abilene, Texas, the other day. It said, Congressman, you know what, we got caught up in the credit card and borrowing; and it said, We've stopped that. We've quit charging a lot of things we used to charge. We have not taken the vacations we were taking. We've dropped a lot of items. We were doing it, and now we're saving.

The question she asked, Congressman, why isn't the Federal Government doing the same thing? Do they not understand that we cannot continue to run these deficits at these levels, continue to spend money that we do not have? Madam Chairman, we have to stop this. We cannot leave a legacy for future generations where they have no future. It is projected in just a few years that we will be paying interest to the tune of \$1 billion a day—\$1 billion a day in interest. And that interest doesn't do anything for our country. It pays back countries like China and Japan for the money that they have provided to support our borrowing and spending habit. It's time that we stop that. This is a common-sense approach. It keeps the funding at a constant level, but it takes away this \$2.7 billion that we didn't have in the first place.

I reserve the balance of my time.

Mr. PRICE of North Carolina. Madam Chairman, I rise in opposition to the gentleman's amendment.

The CHAIR. The gentleman is recognized for 5 minutes.

Mr. PRICE of North Carolina. Madam Chairman, it's clear what the gentleman's amendment does. It reduces funding levels in various accounts in this bill by the amounts appropriated in the Recovery Act. Just as a few examples, he cuts \$200 million from the Under Secretary for Management because there was \$200 million in the Recovery Act for the new DHS headquarters at St. Elizabeth's. But there's no money in this bill for the new DHS headquarters. He's just cutting man-

agement and oversight for the Department by more than 75 percent.

He cuts \$5 million from the Inspector General because there was \$5 million specifically included to help monitor Recovery Act expenditures. But there's no money in this bill specifically for Recovery Act oversight. It simply comes out of the Inspector General's Office and the critical work that he does.

He cuts \$420 million from the CBP budget for facilities management because there was \$420 million included in the Recovery Act to replace and renovate land ports of entry into the U.S.. But there's no money in this bill for such construction. So it's really just an indiscriminate and enormous cut to the general upkeep of Border Patrol and Customs facilities.

The gentleman cuts \$210 million from the Firefighter Assistance Grants program because there was \$210 million included in the Recovery Act for fire station construction. But there's not a penny in this bill for fire station construction. This amendment would reduce grant funding for firefighter equipment by over 50 percent, at a time when local firefighter budgets are already on the chopping block.

The effect of this amendment is very different from the effect of simply rescinding Recovery Act funds. Rather than erasing the effect of stimulus moneys provided through this title in the current year, it guts the ability of the agency to function in the coming year. It would nearly eliminate the budgets for hiring personnel, managing equipment purchases, departmental security, and DHS facilities. If this amendment passes, the Kansas City Royals—not exactly the biggest spending team in baseball—would spend more on player payroll than the third-largest department in the Federal Government would have to manage its affairs. CBP couldn't pay rent for their existing facilities. Modernization of airport screening for explosives and advancements permitting passengers to safely carry larger containers of liquids onto planes would grind to a halt. I think that's probably enough to illustrate just how destructive this amendment would be and how indiscriminate it would be.

I urge my colleagues to oppose this devastating amendment.

I reserve the balance of my time.

Mr. NEUGEBAUER. The chairman brings up the point that we are gutting this bill. In fact, we are not gutting this bill. We're just trying to give the American taxpayers some of their money back, \$2.7 billion. And unfortunately it was \$2.7 billion that we didn't have. If he has some other areas that would be better served by cutting those programs, I would love to have that discussion with him. But the bottom line is, I was on an airplane coming back to Washington. I had two people come up and say, Congressman, y'all have got to stop this spending. We can't afford it.

And you know who even gets that more than anybody? I have a 10-year-old grandson Nathan, and I gave Nathan a gift card not too long ago. He and I went to the store, and he went around the store and gathered up a lot of things that he thought would be something that he would like to have. And when he got to the counter, he realized that had he more items in his basket than he had money on his gift card. So he didn't turn to his granddaddy and say, Granddaddy, can you spot me a little extra? He took those items that he couldn't afford back to the shelf where they belonged. That's what the American people want us to do. They want us to do what my 10-year-old grandson Nathan did, and that is to understand that we have a finite amount of money. We cannot break this country. And if we keep spending like this, we are going to break this country.

When we passed this \$782 billion stimulus package, we then came back and we started bailing out automobile companies. We had an omnibus bill, \$400 billion. We passed a \$3.7 trillion budget. People in America, Madam Chairman, are saying, What in the world are y'all doing? The young family back in Abilene, Texas—they get it. Nathan Neugebauer, my 10-year-old grandson, he gets it. I'm wondering when the United States Congress is going to get it.

I yield back the balance of my time.

Mr. PRICE of North Carolina. Madam Chairman, I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from Texas (Mr. NEUGEBAUER).

The question was taken; and the Chair announced that the noes appeared to have it.

Mr. NEUGEBAUER. Madam Chairman, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Texas will be postponed.

PART C AMENDMENT NO. 7 OFFERED BY MR. FLAKE

Mr. FLAKE. I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part C Amendment No. 7 offered by Mr. FLAKE:

At the end of the bill (before the short title), insert the following:

SEC. ____ None of the funds provided in this Act under the heading "Federal Emergency Management Agency—National Predisaster Mitigation Fund" shall be available for a grant to the City of Emeryville, California.

The CHAIR. Pursuant to House Resolution 573, the gentleman from Arizona (Mr. FLAKE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Arizona.

Mr. FLAKE. Madam Chairman, this amendment would remove \$600,000 from

the city of Emeryville, California, and return the money to FEMA's Pre-Disaster Mitigation account. The Pre-Disaster Mitigation account used to be awarded solely on the basis of merit. When we established the Department of Homeland Security, we were told time and time again, Don't worry. We're not going to earmark any funding in this legislation, or this bill will not be earmarked. We were told that for a couple of years. Now guess what—it was earmarked a couple of years ago. Now more, now more, now even more. Now there are well over 100 earmarks in the bill.

Of course the State of California is no stranger to floods. In fact, according to FEMA, since the year 2000, parts of California have been declared a major disaster due to flooding five times. But there are many other areas of the country that also suffer from flooding. Louisiana, we all know, is a State that often gets pounded with hurricanes and has also had five major disaster declarations due to flooding in the past 10 years alone. Yet Louisiana doesn't receive a single earmark in this year's Pre-Disaster Mitigation fund. How can this be? The answer is easy. When you abide by a process that rewards some Members over others, you wind up with a spoils system. And I would submit that's what we have with the Pre-Disaster Mitigation fund is a classic spoils system. Unless we can determine that mother nature somehow finds those districts represented by appropriators and sends more floods, more earthquakes, more natural disasters somehow to those districts or to the districts of powerful people on powerful committees, then we have a spoils system. That is an example here.

When we look at this year's Pre-Disaster Mitigation earmarks, we see of the \$150 million appropriated for the grant program, altogether in this year's bill, more than \$24 million is earmarked. There are a total of 58 pre-disaster earmarks. Nearly 30 percent of them go to members of the Appropriations Committee. When you consider the dollar value of these 58 earmarks, the picture becomes even bleaker. Nearly 40 percent of the funds earmarked for Pre-Disaster Mitigation are going to districts represented by members on the Appropriations Committee.

Again, unless Mother Nature knows which districts are represented by appropriators, we've got a problem here. Appropriators make up just 13 percent of this legislative body. So 13 percent of the House will take home 40 percent of Pre-Disaster Mitigation spoils. Homeland Security earmarks, as a whole, favor Members who serve in a position of power, either as an appropriator, in leadership, as a chairman or a ranking minority member of the committee. If that's not a spoils system, I don't know what is. We ought to let this Pre-Disaster Mitigation program work as it should.

A while ago the Department of Homeland Security asked if this ac-

count could be distributed with a risk-based formula, but the committee said no. They wanted to keep the same competitive grant formula, a competitive grant formula that really isn't competitive at all because a quarter of it is already earmarked; and within a few years, it will probably all be earmarked. And guess what—it will largely go to the districts represented by appropriators or those in powerful committee positions.

I urge the adoption of the amendment.

I reserve the balance of my time.

Mr. PRICE of North Carolina. Madam Chairman, I rise in opposition to the amendment.

The CHAIR. The gentleman is recognized for 5 minutes.

Mr. PRICE of North Carolina. Madam Chairman, if this amendment were to be adopted, the locality that is targeted, namely, the city of Emeryville, would not receive funding, nor would the locality even be able to compete for a Pre-Disaster Mitigation grant through FEMA because the amendment would strike any Pre-Disaster Mitigation funding for that locality for the fiscal year 2010.

Now, Madam Chairwoman, FEMA has reviewed every mitigation project in this bill. Each project was deemed eligible based on the requirements in the Stafford Act and will be used to protect lives and reduce property damages in some of the most hazard-prone areas of the country. There should be no question that this request underwent rigorous scrutiny and meets the test of being aligned with and supporting the missions of DHS.

□ 1830

So I urge colleagues to defeat this amendment.

Mr. ROGERS of Kentucky. Will the gentleman yield?

Mr. PRICE of North Carolina. I would yield, yes.

Mr. ROGERS of Kentucky. I want to join the gentleman in saying that we have scrubbed these congressionally directed spending in this bill unlike anything before. They are clean, and they are needed in the areas where they have been congressionally directed. So I join the gentleman in opposing this amendment.

Mr. PRICE of North Carolina. I thank the gentleman.

Madam Chairman, I am happy now to yield to our colleague from California (Ms. LEE).

Ms. LEE of California. Let me thank both gentlemen for their support and for understanding the necessity really for this congressionally directed spending, Federal funding, better known as an earmark to some.

Let me just say that I do rise in opposition to the amendment offered by the gentleman from Arizona and in support of the request for funding that was made by the city of Emeryville in my district for funding through FEMA's Pre-disaster Mitigation Program.

Let me just start by saying that I respect the gentleman from Arizona (Mr. FLAKE). We have worked together in the past on many issues related to lifting the embargo on Cuba and normalizing relations with that country and on many, many issues. But I believe he is wrong about the funding I requested in the Homeland Security Appropriations for the city of Emeryville's Community Emergency Safety Facilities Project.

The city of Emeryville is in my district. It has a dense population of nearly 10,000 residents and a 1.2 square-mile region. Although much smaller in size than the neighboring city of San Francisco, this small city has become a leader in interagency cooperation and for the new economy innovation. On behalf of the city of Emeryville—now, this was the only request that I made—I requested \$600,000 to help finance the seismic retrofitting of the city's principal, and this is the only, emergency community gathering and housing facility in the event of a natural disaster. It's the Emery Unified High School gymnasium. The city has requested these funds to finance 15 percent of the initial cost for phase one of the project for "seismic planning and development," which in total would cost about \$4 million. The balance of the funding will come from redevelopment funds directly from the city of Emeryville and also an anticipated local bond between \$40 million and \$75 million that will also direct some funds to the project.

The remainder of the necessary capital, which is expected to finish this project, will come from State, local, and Federal sources, including school facilities funding, competitive State bond programs, and Federal development or infrastructure grants.

Several years ago an evaluation of the Emery Secondary School gymnasium was conducted based on FEMA's criteria for structurally sound facilities and came to the following conclusion: without seismic strengthening of the buildings, they could experience high levels of localized structural and nonstructural damage in a moderate or large earthquake sufficient to pose unacceptable high levels of risk to the life safety of the buildings' occupants.

The Hayward Fault, which runs through Emeryville and the two neighboring cities of Berkeley and Oakland, is considered one of the most dangerous earthquake faults in the world. Scientists agree that the Hayward Fault could soon experience a large earthquake with an impact on many densely populated cities throughout the bay area. The Hayward Fault has ruptured about every 140 years for its previous five large earthquakes, and this past October marked the 140th anniversary of the 1868 earthquake, which was approximated to be a magnitude of about 7.

The recent earthquake disasters around the world highlight the need for

the highest level of structural safety in our schools and emergency facilities.

This is the only request and I'm just asking that we support this, Madam Chairman. I would certainly support any disaster mitigation efforts for Mr. FLAKE's district should a disaster hit his district. I would also support funding to alleviate that.

Mr. FLAKE. Madam Chair, let me just say again here's a chart. This is FEMA predisaster earmarks secured by appropriators, leadership, committee Chairs, and ranking members. If we look here at fiscal year 2009 and 2010, again 49 and 51 percent respectively, the money is going to powerful appropriators or committee Chairs or ranking minority members that represent just 25 percent of the body.

Again, I will yield anybody time who can stand and say with a straight face that Mother Nature targets districts represented by appropriators or committee Chairs or ranking minority members. I don't think that's the way it is.

I have great respect for the gentlewoman from California. We have worked together on a number of issues. And this is not just an issue that anybody has with this particular earmark, but it is with many in this piece of legislation. We need to ensure that FEMA looks and does this on a risk-based way where they look at risk and award accordingly. When Members of Congress do an earmark, it simply becomes a spoils system; and, unfortunately, I think that's what we are seeing here.

So I would urge support for the amendment.

Madam Chair, I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from Arizona (Mr. FLAKE).

The question was taken; and the Chair announced that the noes appeared to have it.

Mr. FLAKE. Madam Chairman, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Arizona will be postponed.

PART C AMENDMENT NO. 5 OFFERED BY MR. FLAKE

Mr. FLAKE. Madam Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

PARLIAMENTARY INQUIRY

Mr. CULBERSON. Madam Chair, parliamentary inquiry.

The CHAIR. The gentleman will state his parliamentary inquiry.

Mr. CULBERSON. Madam Chair, could we ask the Clerk to please read the text of the amendment so we can be sure which amendment is before the House.

The CHAIR. Without objection, the Clerk will report the amendment.

There was no objection.

The Clerk read as follows:

Part C amendment No. 5 offered by Mr. FLAKE:

At the end of the bill (before the short title), insert the following:

SEC. _____. None of the funds provided in this Act under the heading "Federal Emergency Management Agency—National Predisaster Mitigation Fund" shall be available for a grant to the Harris County Flood Control District, Texas.

The CHAIR. Pursuant to House Resolution 573, the gentleman from Arizona (Mr. FLAKE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Arizona.

Mr. FLAKE. Madam Chair, this amendment would remove an earmark of \$1 million for the Harris County Flood Control District and would return money to FEMA's Predisaster Mitigation Fund. This is a similar amendment to the one that I just offered. These are earmarks to the Predisaster Mitigation Fund, as I mentioned before.

It used to be that when organizations at the local level wanted to apply for this funding, they submitted a proposal to FEMA. FEMA has a 70-page guidance document for people applying for these grants. Unfortunately, when people apply now, 25 percent of the money that was in this grant program is gone because it's earmarked. It's been taken away, taken off the top. Where it really wasn't before. And as I mentioned before, when you have one-quarter of this funding taken, we find that 40 percent of the value goes to just 25 percent of the Members or actually 40 percent of the value goes to just 13 percent of the Members in this body, those districts represented by appropriators.

And, again, I will gladly yield time to anybody who can stand and say that Mother Nature targets districts by appropriators or other powerful Members more than Mother Nature does other districts. It simply doesn't happen.

But, again, FEMA has asked if they could establish a more risk-based program where they could evaluate risk and allocate funding accordingly. That's how it should be done. But we in Congress have said no, because why? We like the system how it is because it's easy to earmark and it makes it more likely that Members, particularly of the Appropriations Committee, can get earmarks for their district. And that's what we have here.

In this particular case, this flood control district, before we started earmarking this account, applied for a grant under the Predisaster Mitigation Program and got a grant. So competitively they established that they had need for it. That's how it should be. But then the next year I don't know if it was going to get the grant or just didn't want to apply, but money was earmarked and then the next year earmarked again. Now this year there's another earmark for that same flood control district.

I think it's time to let FEMA decide under a risk-based formula where this funding should go. We all know the process here. It's why we have a commission to close military bases because

we simply can't discipline ourselves as Members to say that base in my district may need to be closed, and then we move to protect other people's bases if they'll protect ours. The process of logrolling takes effect. That's why it's best to establish criteria and let the agency do the work. If we don't like how they do it, we exercise oversight and force them to change the program and to do it equitably. But to do it this way just means that a spoils system occurs, and that's what we have here.

Madam Chair, I reserve the balance of my time.

Mr. CULBERSON. Madam Chairman, I rise to claim the time in opposition to the amendment.

The CHAIR. The gentleman is recognized for 5 minutes.

Mr. CULBERSON. Madam Chairman, the gentleman from Arizona's amendment purports to be fiscally conservative.

I have, as a Member of Congress over the years, established one of the best fiscal conservative ratings in Congress. I voted against \$2.6 trillion of spending under President Bush, \$1.3 trillion so far under this President. I've consistently been ranked as one of the most fiscally conservative Members of Congress. And we, each of us, are elected by our districts to use our good judgment, to use discretion and, in my case, fiscally conservative standards in those spending requests that we push forward, those that we set aside. I've worked aggressively with my ranking member and members of this committee to try to save money in this bill and others.

But the city of Houston, Harris County, has suffered in just the most recent hurricane, Hurricane Ike, which just hit the gulf coast. It hit Houston the hardest, \$2.1 billion worth of damage to southeast Texas that the Federal Government has reimbursed. The city of Houston alone, Harris County, home damage: \$8.5 billion worth of damage to homes in Harris County.

Now, I asked for very little as a Member of Congress to try to help the people of Houston. One area where we need help is in flood control. One area where we clearly need help is in mitigation to prevent additional damage.

In fact, because of the work I've done as a member of the Appropriations Committee and in the very few areas I asked for help on are national security, border security, medical and scientific research, and in flood control. And in flood control, the homes along Braes Bayou, for example, didn't flood. The Texas Medical Center, Mr. FLAKE, did not flood as a result of this hurricane because of work that I was able to do with the help of my colleagues on the Appropriations Committee, the Harris County delegation working together.

Mr. FLAKE's amendment would strike all Federal funding for all of Harris County flood control. His amendment not only would save no money. To all my fellow fiscal conservatives out there watching, that would be one thing.

Your amendment saves no money, and you would eliminate all Federal flood control money for all Harris County, which just got hammered by the biggest hurricane to hit southeast Texas in my lifetime.

□ 1845

Now let me yield briefly to my ranking member, Mr. ROGERS, and I would be proud to yield to my chairman, Mr. PRICE.

Mr. ROGERS of Kentucky. I join the gentleman in opposing the amendment.

I think the gentleman would be derelict in his duties to the Congress and to the people of his district and the country if he didn't make these efforts to help the people that he represents. That is not a unique thing to try to help the people that you represent in the U.S. Congress. And I salute the gentleman.

Mr. CULBERSON. In a fiscally conservative way I may add. And I'm proud to yield to my chairman, Mr. PRICE, from North Carolina.

Thank you, Mr. ROGERS.

Mr. PRICE of North Carolina. I commend the gentleman for looking out for his people, looking out for his home area and crafting an amendment that is responsive to some very real perils. And I will just say, once again, these proposals have been vetted by FEMA. There is no question they underwent rigorous scrutiny. This is consistent with the Stafford Act and will protect lives and reduce property damages in this locality. So I commend him for his advocacy.

Mr. CULBERSON. Thank you, Mr. Chairman.

I would also say that each one of us, as Members of Congress, how I for myself have said from the moment I was appointed to the Appropriations Committee, I have published every request that I submit for designated spending on my Web site. I was the first Member of Congress to send a Twitter message from the Oval Office, the first one to send a Twitter message from the floor of Congress. I love technology. My hero, Thomas Jefferson, always said to try all abuses at the bar of public opinion. And I believe very strongly in transparency and openness. I published every appropriations request I have ever made on my Web site since 2003. I was the first Member of Congress to do so. I published every appropriation, designated funding request, that I received on my Web site since 2003. I believe I was the first Member of Congress to do so, because I don't ask for much. I will not make a funding request for a private individual or a private company. I limit them to national security, border security, local units of government, State Government, or the Texas Medical Center, God bless them, the great work they are doing at M.D. Anderson Hospital, medical or scientific research, the Nation's space program or flood control. The Houston ship channel will silt up in 6 months unless we on the Appropriations Com-

mittee direct the Army Corps of Engineers to dredge it. They would not have built a railroad bridge connecting Galveston Island to the Texas mainland unless the Homeland Security Committee, and I want to thank Mr. ROGERS and Chairman PRICE again, for connecting the Galveston Island to the mainland. That is not even in my district, nor is the Houston ship channel.

These are fiscally conservative, prudent requests, Mr. FLAKE. You in Arizona, I have to tell you, are just not familiar with Harris County. I don't think you will find any Member of Congress with higher fiscally conservative standards than I have. And I think the request is entirely appropriate. It is absolutely necessary for an area that got hammered by the hurricane.

And I urge defeat of the Member's amendment because it won't even save money.

The CHAIR. The time of the gentleman has expired.

ANNOUNCEMENT BY THE CHAIR

The CHAIR. Members are reminded to address their remarks to the Chair.

Mr. FLAKE. May I ask the time remaining.

The CHAIR. The gentleman has 2 minutes remaining.

Mr. FLAKE. I will be glad to yield to the gentleman 30 more seconds if you want to go on. You are making my case.

ANNOUNCEMENT BY THE CHAIR

The CHAIR. Members are reminded to address their remarks to the Chair.

Mr. CULBERSON. Thank you, Madam Chairman, Kitt Peak—I'm not sure what part Arizona Mr. FLAKE has, but every piece of legislation passed by Congress directs the Congress—JEFF, which part of Arizona do you have? Excuse me.

Mr. FLAKE. The East Valley.

Mr. CULBERSON. Due south. I'm an amateur astronomer, a passionate fan of Kitt Peak Observatory. Let's say Congress passes a piece of legislation to designate funding for Kitt Peak Observatory. Every bill Congress passes designates funding. All of us have an obligation—

Mr. FLAKE. Reclaiming my time.

Mr. CULBERSON. We have to be fiscally conservative, Mr. FLAKE, on every bill, not just appropriations.

Mr. FLAKE. I'm a slow learner.

Let me remind the gentleman that this district, Harris County, received \$1 million when they applied for the funding before the earmarks started, 2 years ago, last year, I'm sorry, 3 years ago—2 years ago got a \$1 million earmark, last year got another \$1 million earmark, this year asking for a third \$1 million earmark. And we just had another member of the Texas delegation stand just moments ago and offer an amendment to move money to the predisaster mitigation account because he couldn't get the funding for his district in Texas because 25 percent of the funding, by the time people in his district even applied for the funding, is gone. It is earmarked, cut off the top.

And I already explained the spoils system that is here, and still nobody has taken me up on my offer. I will yield time to anybody who can tell me that Mother Nature targets districts represented by appropriators.

It simply doesn't happen.

Mr. CULBERSON. I will happily take the challenge. I'm ready.

Mr. FLAKE. No thanks. I know better. But I believe my time is out.

I urge adoption of the amendment. We simply have to be more fiscally responsible. And we have to have a system at FEMA that is based on risk and merit rather than spoils. This is a system based on spoils right now. That is why the adoption of the amendment should be done.

I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from Arizona (Mr. FLAKE).

The question was taken; and the Chair announced that the ayes appeared to have it.

Mr. FLAKE. Madam Chair, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Arizona will be postponed.

PART C AMENDMENT NO. 2 OFFERED BY MR. FLAKE

Mr. FLAKE. I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part C amendment No. 2 Offered by Mr. FLAKE:

At the end of the bill (before the short title), insert the following:

SEC. ____ None of the funds provided in this Act under the heading "Science and Technology—Research, Development, Acquisition, and Operations" shall be available for the National Institute for Hometown Security, Kentucky, and the amount otherwise provided under such heading is hereby reduced by \$10,000,000.

The CHAIR. Pursuant to House Resolution 573, the gentleman from Arizona (Mr. FLAKE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Arizona.

Mr. FLAKE. Madam Chair, this amendment would remove \$10 million in funding for the National Institute for Homeland Security based in Somerset, Kentucky, and reduce the overall cost of the bill by a commensurate amount.

This is not the first time I have brought this earmark to the floor. This earmark is always noticeable if for nothing else the cost. Compared to most earmarks in the bill, this is one of the largest earmarks we have in the Homeland Security bill year after year. This year the earmark alone would cost taxpayers \$10 million, and if approved, this would actually be the lowest dollar amount the institute has received since its creation in 2004. According to the Web site, the National Institute for Homeland Security is an

independent, nonprofit corporation designed to allow universities in Kentucky to “more effectively compete for research funds and projects aimed at improving homeland security.”

It goes on to say that the institute’s end goal is to match up local universities with projects, then commercialize the resulting product.

Madam Chairman, we all know that Congress has a problem with spending overall. We have a \$7.87 billion stimulus package. We had a massive omnibus appropriations bill, we have had numerous bailouts of private companies. Now we are facing nearly \$2 trillion in deficits just this year. When I came to this body just 8 years ago, our total budget was around \$2 trillion. Now we will have a deficit by the same amount. Yet here we are; we are funding a nonprofit organization, which again, according to its own Web site, apparently would not exist without the assistance of Congress. And it seems that the purpose of this center is to attract other earmarks. It is an institute that seems to beget other earmarks.

I simply don’t think that we can continue to do this. Since it was created, the institute has received \$74 million in taxpayer funding: \$12 million in 2005; \$20 million in both 2006 and 2007; \$11 million in both 2008 and 2009. When will this end? When will we say enough is enough? We have funded this institute enough, and it will have to compete on its own for other grants.

I reserve the balance of my time.

Mr. ROGERS of Kentucky. Madam Chair, I rise to claim opposition to the amendment.

The CHAIR. The gentleman is recognized for 5 minutes.

Mr. ROGERS of Kentucky. Madam Chairman, the Consortium of Kentucky Colleges and Universities was asked by the Department of Homeland Security if they would take on research projects that the department needed answers on, and the consortium said, yes, we will. They said, we can’t compete probably singly working by ourselves with the MITs or the Cal Techs or the Harvards or maybe Phoenix University or the University of Arizona. But collectively, as a group, we can.

And so the department gives the project to the consortium, and the best pieces of the consortium then collect together to work on that project. The University of Kentucky may be teamed up with Western Kentucky University, the University of Louisville or perhaps an out-of-state university, and they work on and solve the project that the department has need for.

To set the record straight, the institute receives specified research task orders from the science and technology directorate at DHS. The task orders are then farmed out to the consortium of colleges and universities throughout the State of Kentucky and other public and private entities across the country for their input on that particular problem.

This process taps into and unleashes the intellectual firepower of our best

and brightest people to address new and emerging threats to the homeland.

These are competitive grants. Make no mistake. These are competitive grants. All decisions on funding are made by the Department of Homeland Security. So far, 22 projects are underway with dozens of colleges and universities participating. These are low-cost solutions with a minimal footprint and maximum results.

A couple of examples. University of Kentucky researchers have developed a system to maintain the security of raw milk as it is transported from the dairy farm to the processing plant to combat a problem that we found in China where many dozens of young people were sickened by milk that had been tainted. This issue is critical in securing our food supply. That system is now available across America and is being used.

University of Louisville researchers are developing a system that samples air particles in large enclosed spaces such as shopping malls and sports venues to detect the presence of explosive materials. We know from the London and Madrid mass-transit bombings that terrorists seek enclosed and populated places. Western Kentucky University teamed up with the University of Louisville, and they have designed devices to detect leaks in rail transport tanker cars. A chlorine or ammonium nitrate spill in any neighborhood could be disastrous. Research funds have been awarded to reduce the explosive potential of ammonium nitrate and fuel oil by coating the material with coal combustion byproducts. These two chemicals, when mixed, form a common explosive material for terrorists and were the deadly combination used in the tragic Oklahoma City bombing.

MITOC, Man-Portable Interoperable Tactical Operation Center, provides communication services to disaster sites to make interoperable communications where it did not exist in these public venues. MITOC has been deployed to areas around the country to help them solve the interoperable need for communications in the disaster scene when no other communication systems were working, including Texas during Hurricane Ike and recently in Kentucky during the massive ice storm throughout the entire State.

So these are research projects that are producing results that the department needs and asks this consortium to do, and is engaging the intellectual firepower of these universities and colleges in Kentucky and their counterparts throughout the country. It is one of the best things the department has ever done. And I’m happy to say it is in my home State of Kentucky.

Mr. PRICE of North Carolina. If the gentleman will yield, I want to commend him for his advocacy of these outstanding programs and join him in opposition to this ill-conceived amendment.

Mr. ROGERS of Kentucky. I thank the gentleman.

I reserve.

Mr. FLAKE. May I inquire of the time remaining?

The CHAIR. The gentleman has 3 minutes remaining.

Mr. FLAKE. Let me just say first there have been a few statements first that imply that the Department of Homeland Security or FEMA in the case of the last two amendments somehow endorsed these amendments or endorsed these projects. According to OMB, the administration responses about earmark requests “should not be construed as an evaluation or recommendation of specific earmark requests based on merit or value.” So we can say that, hey, the agency wants this. But the official position of the administration is, We are taking no position. And of course, they really can’t because these earmark dollars are sometimes taken from the account that they would otherwise use to give grants based on merit or based on risk.

Again, this chart is even starker when we look at the overall bill that we are considering today. Homeland security earmark dollars secured by appropriators, leadership, committee chairs, and ranking members. FY 09, 45 percent—45 percent—of the total in earmark dollars in the bill went to this group. This group represents just 25 percent of the body.

□ 1900

Mr. CULBERSON. Would the gentleman yield?

Mr. FLAKE. I yield to the gentleman.

Mr. CULBERSON. Did you do an analysis by geography? For example, those of us on the Texas gulf coast that get hammered by hurricanes need help with flood mitigation. Did you analyze it geographically and see what percentage goes to the coastal areas of the United States or the floodplains of the Mississippi River?

Mr. FLAKE. I thank the gentleman. I think we all know that the alignment of appropriators and Members in powerful positions does not align with the gulf coast or any other geographic position.

Getting back to the chart, 45 percent last year went to those in powerful positions; 45 percent to 25 percent. This year it is even starker: 71 percent of all earmark dollars in this bill are going to 25 percent of this body. That is a spoil system. I don’t know how else you can claim otherwise, unless as I said, and I will yield simply for the purpose if somebody can stand up and say that Mother Nature targets this group more than others, then this is a spoil system. When we have here an earmark that has been over and over and over awarded, \$74 million in taxpayer funding, \$12 million in 2005, \$20 million in both 2006 and 2007.

Mr. CULBERSON. Would the gentleman yield?

Mr. FLAKE. I will yield to the gentleman only if he will answer the question yes or no: Does Mother Nature target districts represented by appropriators?

Mr. CULBERSON. Mother Nature targets all districts equally, Mr. FLAKE. But when it comes to floods and hurricanes, they target the gulf coast. When it comes to floods from the big rivers, they target the Mississippi River Valley.

The CHAIR. The question is on the amendment offered by the gentleman from Arizona (Mr. FLAKE).

The question was taken; and the Chair announced that the noes appeared to have it.

Mr. FLAKE. Madam Chairman, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Arizona will be postponed.

PART C AMENDMENT NO. 1 OFFERED BY MR.
FLAKE

Mr. FLAKE. I have an amendment at the desk, amendment No. 1.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part C amendment No. 1 offered by Mr. FLAKE:

At the end of the bill (before the short title), insert the following:

SEC. _____. None of the funds provided in this Act under the heading "United States Customs and Border Protection—Salaries and Expenses" shall be available for award to Global Solar, Arizona, for the portable solar charging rechargeable battery systems, and the amount otherwise provided under such heading is hereby reduced by \$800,000.

The CHAIR. Pursuant to House Resolution 573, the gentleman from Arizona (Mr. FLAKE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Arizona.

Mr. FLAKE. Madam Chairman, I hesitate to challenge this earmark. It was secured by my colleague from Arizona, Mr. PASTOR, for whom I have great admiration and we have a great friendship, but this amendment would remove \$800,000 for the portable solar charging rechargeable battery system, and it would lower the bill by a commensurate amount.

According to the earmark table itself, the recipient of this earmark is Global Solar, who, according to the Web site, is a "privately held company that was incorporated in 1996 that has evolved into a major producer of solar cells."

The certification letter filed by the earmark's sponsor says the money will be used "for the acquisition of man-packable, solar-charging, rechargeable battery systems for use by the U.S. Border Patrol."

My concern is not with the technology nor with the needs of the Border Patrol, nor with this company in particular. My concern lies with why a specific for-profit entity was designated to receive this earmark funding.

The President recently referred to earmarks for for-profit entities as the "single most corrupting element of this practice."

The PMA scandal that has plagued the House of Representatives for months has largely centered on campaign contributions and earmarks for for-profit entities. We simply cannot move ahead as if nothing is happening outside of this body, or even within this body. We have our own Ethics Committee, and the Justice Department is investigating the relationship between campaign contributions and earmarks, and that is largely the case when you have earmarks that go to for-profit companies, earmarks that are little more than sole-source contracts or no-bid contracts.

This is the only one gratefully in this legislation that I have been able to find, an earmark that goes to a for-profit entity, and I would submit, Madam Chair, that we simply shouldn't be earmarking funds for private companies in this legislation.

I urge adoption of the amendment.

I reserve the balance of my time.

Mr. PRICE of North Carolina. Madam Chairman, I rise in opposition to the amendment.

The CHAIR. The gentleman from North Carolina is recognized for 5 minutes.

Mr. PRICE of North Carolina. I want to very quickly turn to Mr. PASTOR, the author of this provision, but I want to assure Members that this provision, like other directed spending, has been vetted down at the Department of Homeland Security. It has been certified to be consistent with the agency's mission; otherwise, it simply isn't eligible.

Now, on this item in particular, I would invite the attention of Members to the actual language of the bill, page 6. This earmark is for \$800,000 for procurement of portable solar-charging, rechargeable battery systems to be awarded under full and open competition.

That language is pretty plain; isn't it?

This item is required by law to be subject to a competitive procurement process. And, indeed, any item now in appropriations bills involving for-profit entities are subject to the same requirement. We all need to understand that and read the plain language of the bill.

I yield to the gentleman from Kentucky (Mr. ROGERS).

Mr. ROGERS of Kentucky. I join the chairman in opposing the amendment. As he says, all of these congressionally directed spending earmarks have been vetted by the Department. They have been scrubbed by our subcommittee unlike anything before, and I join in opposition.

Mr. PRICE of North Carolina. I thank the gentleman, and I yield now to my colleague, Mr. PASTOR, to expand on this provision and the reasons that the proposed amendment should be rejected.

Mr. PASTOR of Arizona. First of all, I want to state for the record that I have never met personally with the

company listed as the recipient for this earmark. It has spurred my interest, the technology and the use of technology, that I brought this request to the subcommittee. And while this is a for-profit company which is listed as a recipient, under the new rules instituted in this Congress this year, this company or any company will have to compete for the contract, and I know of at least three U.S. companies with products suitable for such competition and a great number of foreign companies that could compete.

This request has been vetted by the Department of Homeland Security and the Border Patrol. The Border Patrol's special response teams and technical teams have stated requirements for this technology which allows them to recharge their power-intensive equipment while deployed in the field on extended missions. These teams man-pack over 100 pounds of equipment into the field on their missions, so every pound saved is significant.

This technology, which is basically photovoltaic film, lightweight, portable, allows them to leave behind at the camp previously used car battery-type systems in favor of this lightweight, portable, photovoltaic film. And this allows the person using it to be able to extend the mission for a longer period of time and to be able to recharge their battery so that they can use their communication system, can use sensors, and will allow the Border Patrol to be more effective in its law enforcement efforts. This type of technology is currently used by the military, especially the Marine Corps.

So the intent for this earmark is not to reward a company because they met with me or because they contributed, which they did not, but to bring forth to the attention of the Border Patrol that this equipment is available for competition for the companies that qualify according to their purchase order so that we can make the Border Patrol, as they extend into the desert, to be more effective and be able to continue the law enforcement. That is the only reason for this earmark, and I oppose the amendment.

Mr. FLAKE. Madam Chair, we have that language saying that this earmark would be awarded under full and open competition. But if you meet with the Department of Defense, as I have, and you ask them, Currently, do you compete out? Do you subject to competition the earmarks that you see? They will say, Yes; yes, unless we don't, basically.

So I asked them—if we look at the 2008 Defense bill, for example, I asked the Department of Defense to actually look and do a random sampling of the earmarks that came that they say are subject to competition to see how many of them actually went to the earmark recipient listed. With uncanny precision, the answer came back all of them that they sampled did go to the earmark recipient listed. If these are to be competed out, why do we have to mention the company at all?

I don't know if it is in order to ask for a unanimous consent to simply remove the name of the company. If these are going to be competed out anyway and if there are at least three companies that have this technology, would it not be in order to say—

Mr. PASTOR of Arizona. Would the gentleman yield?

Mr. FLAKE. Yes, I would yield.

Mr. PASTOR of Arizona. I would have no objection if you removed the name.

Mr. FLAKE. Would it be in order to modify the amendment under a unanimous consent?

The CHAIR. The gentleman may ask unanimous consent to modify his amendment.

Mr. FLAKE. I would ask unanimous consent to modify the amendment to strike the name of the company listed in order that this may be subject to full and open competition.

The CHAIR. Is there objection to the request of the gentleman from Arizona?

Mr. PASTOR of Arizona. I object. At the urging of your colleagues, they asked me to object, so I will object.

The CHAIR. Objection is heard.

Mr. FLAKE. I understand.

As I mentioned before, I have the utmost respect for my colleague from Arizona. He is a straight shooter, and I know that if it were up to him, he would do this. And I think that some things go on their own without sometimes us realizing what we are doing.

But in this case, the language stands that this earmark is to go to a specific company despite other language that may be in the legislation to say this is to be competed out. We know, based on experience, that the Department of Defense or the Department of Homeland Security, in this case, the agency, looks to see what the committee wanted and they will award it based on that, and so it really isn't full and open competition. We shouldn't be listing the company here.

So I would have to urge adoption of the amendment to strike this earmark unless we can remove the company listed.

Mr. PRICE of North Carolina. Would the gentleman yield?

Mr. FLAKE. Yes.

Mr. PRICE of North Carolina. The gentleman is aware the company is not listed in the bill. The only place the company is listed is in the report, which is a matter of disclosure, and it is not amendable. It can't be modified here on the floor. The bill, as I read earlier, the plain language of the bill says this will be competed.

The CHAIR. The gentleman's time has expired. The amendment will not be altered because objection has been heard.

The question is on the amendment offered by the gentleman from Arizona (Mr. FLAKE).

The question was taken; and the Chair announced that the yeas appeared to have it.

Mr. FLAKE. Madam Chairman, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Arizona will be postponed.

□ 1915

PART D AMENDMENT NO. 1 OFFERED BY MR. FLAKE

Mr. FLAKE. Madam Speaker, I have an amendment at the desk as designee of Mr. CAMPBELL.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part D amendment No. 1 offered by Mr. FLAKE:

At the end of the bill (before the short title), insert the following:

SEC. _____. None of the funds provided in this Act under the heading "National Protection and Programs Directorate—Infrastructure Protection and Information Security" shall be available to SEARCH of Sacramento, California, for interoperable communications, technical assistance and outreach programs, and the amount otherwise provided under such heading is hereby reduced by \$1,000,000.

The CHAIR. Pursuant to House Resolution 573, the gentleman from Arizona (Mr. FLAKE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Arizona.

Mr. FLAKE. I feel obligated, since I ran out of time, to explain why simply because the language isn't in the bill itself or the name of the company that that still means that the earmark will likely go to the company listed.

In the past few years, the previous President said that he would instruct the agencies not to fund any earmarks that weren't in the bill text. And so as a way to get around it and make sure that those earmarks were funded, the Appropriations Committee actually inserted language saying that language in the report would carry the force of law. And so that's what we've been operating under for the past couple of years to make sure that those earmarks that are simply in a table or in a report still get funded.

In this case, we have language that will be in the table, the table that accompanies the bill in the report. The table in the report lists the company, Global Solar, that is to receive the earmark. And there is a certification that the Member filed saying this earmark is to go to this company at this address. And so, notwithstanding the fact that the language isn't in the bill itself, we still have an issue where the earmark will likely go to the intended recipient.

This amendment would remove \$1 million for funding for the National Institute for Communications Interoperability, a nonprofit organization and a subsidiary of SEARCH, the National Consortium for Justice Information and Statistics. In recent testimony before the House Appropriations Committee, the executive director of

SEARCH described the organization as a "State criminal justice support program with a mission to promote the effective use of information and identification technology by criminal justice agencies nationwide."

This entity just received a \$500,000 earmark in the omnibus bill that Congress approved just a few short months ago. According to the sponsor's office, this particular earmark would support the launch of a nationwide institute to train emergency responders to better command and control emergency resources. The proposed pilot project would provide training, certification and outreach programs to State, regional and local coordinators in the first responder community.

Now, this sounds strikingly familiar to a program within the Department of Homeland Security, one that they already administer. The Department of Homeland Security SAFECOM program has developed the Statewide Communications Interoperability Planning Methodology, a comprehensive 10-phase process created to assist States in the creation of their statewide emergency communication plan.

Now, why should Federal funds be earmarked for a private organization that seems to duplicate an effort already undertaken by the agency for which we are appropriating now? If the Department of Homeland Security requires services that only SEARCH could provide, the administration could request funds for it.

So, Madam Chairman, I don't think that we need to earmark funds here. There is a program within the Department of Homeland Security already that does what this private organization—which has just received an earmark in a bill we did a few months ago—is seeking to do.

With that, I reserve the balance of my time.

Mr. PRICE of North Carolina. Madam Chairman, I rise in opposition to this amendment.

The CHAIR. The gentleman is recognized for 5 minutes.

Mr. PRICE of North Carolina. As with earlier items that we have discussed this evening, there is simply no question that this request underwent rigorous scrutiny, meets the test of being aligned with supporting the missions of the Department of Homeland Security, and I urge my colleagues to defeat the amendment.

I am happy to yield at this point to my colleague, Mr. ROTHMAN, to expand on the reasons that this amendment is ill advised.

Mr. ROGERS of Kentucky. Would the Chair yield?

Mr. ROTHMAN of New Jersey. I yield to the ranking member.

The CHAIR. The gentleman from North Carolina controls the time.

Mr. PRICE of North Carolina. I am happy to yield to the ranking member.

Mr. ROGERS of Kentucky. I simply want to join my chairman in opposition to the amendment for the reasons that he said.

Mr. PRICE of North Carolina. I thank the gentleman.

Now I yield to Mr. ROTHMAN.

Mr. ROTHMAN of New Jersey. I thank the chairman.

First, I would like to thank Chairman PRICE and Ranking Member ROGERS and my fellow subcommittee members for their leadership on this entire Homeland Security legislation and for their support for this project. As you know, the Department of Homeland Security reviewed this project and had no objection to it. This is a good bill and a good project.

Mr. FLAKE's amendment would remove funding for this project that would otherwise help local, State, and Federal emergency response agencies better communicate and coordinate in the aftermath of a terrorist attack or natural disaster.

My district is across the river from what were the Twin Towers in New York City, and we know firsthand the difficulties that arose in that terrible tragedy because of the inoperability, the lack of communication technologies working together amongst police, fire, and other emergency services.

There was a landmark publication, "Why Can't We Talk," which was produced in the wake of 9/11 by a national task force of 18 associations representing public safety and elected officials. It noted five key reasons why first responders struggle to communicate sometimes with their own agencies.

This \$1 million project would support specific initiatives established in the National Emergency Communications Plan delivered to Congress in July 2008 by the U.S. Department of Homeland Security's Office of Emergency Communications. Working in partnership with that office, the National Institute for Communications Interoperability would address the most critical issue facing the first responder community today, their ability to command and control emergency resources in response to terrorist attacks, natural disasters and crimes through inter-agency communication.

This project will not only help to make our Nation safer by demonstrating how various regional emergency responses can better coordinate, but it will help to ensure that local, State and Federal tax dollars that have already been allocated in previous Homeland Security measures and in previous budgets throughout the United States are used more wisely. The primary goal of this project is to ensure the best possible use of taxpayer money by public safety officers and first responder organizations.

Federal, State, and local governments have invested a substantial amount of capital, as they should have, on first responder equipment, emergency plans, and safety personnel. It makes sense for Congress to support a project that will help to coordinate these efforts and maximize the return on these essential investments.

I urge the defeat of this amendment. Madam Chairman, I yield back the balance of my time.

Mr. FLAKE. May I inquire as to the time remaining.

The CHAIR. The gentleman from Arizona has 2 minutes remaining.

Mr. FLAKE. I would urge adoption of the amendment. As I mentioned, when you look at the bill itself, you see again the spoils system that's occurring here: 71 percent of the dollar value of earmarks in this legislation go to just 25 percent of this body; 71 percent goes to 25 percent. That's not an equal distribution.

As we know, Mother Nature does not target those districts represented by appropriators or powerful Members, yet we have a system that awards earmarks based on those criteria.

Mr. ROTHMAN of New Jersey. May I ask the gentleman to yield for a short question?

Mr. FLAKE. Yes.

Mr. ROTHMAN of New Jersey. Is the gentleman aware that there will be five areas across this country that will be supported by this program as determined by this organization which has been established by 50 States and the territories?

Mr. FLAKE. That's right. And I'm also aware that the Department of Homeland Security has a similar program that does similar things, yet we are earmarking over and above on top of that.

I simply think that if we don't like the way the Department of Homeland Security is allocating resources, we need to change that or we need to give them guidance; we need to oversee what they do. For example, in my district a couple of years ago, the Department of Homeland Security spent money to synchronize street lights in a small town in my district. That wasn't an appropriate use of funds. But instead of spending time rooting out that kind of waste, we're saying we don't like the way you did that, so we're going to do some of our own. And so it is a duplicative program. And in the end, we end up spending more money and more money; and that's why the budget increases for this agency every year.

We simply cannot continue to do this when we have a \$2 trillion budget deficit this year alone. At some point we've got to say we've got to save taxpayer money, spend it wisely, and do it in a way that actually addresses risk, not seniority.

Mr. ROTHMAN of New Jersey. Will the gentleman yield for one more question?

The CHAIR. The time of the gentleman has expired.

The gentleman from North Carolina has 1 minute remaining.

Mr. PRICE of North Carolina. I am happy to yield to my friend from New Jersey (Mr. ROTHMAN).

Mr. ROTHMAN of New Jersey. I thank the gentleman.

My friend from Arizona does not, Madam Chairman, dispute the validity

and the importance of coordinating emergency communication throughout the United States, nor does my friend from Arizona dispute that this project represents five pilot projects across the country. So I find it difficult to believe that there would be any objection to this very valuable program that has already met with success and that is deserving of additional new outreach to the first responders emergency personnel across the country.

Ms. MATSUI. Madam Chair, SEARCH, the National Consortium for Justice Information and Statistics, is headquartered in my district in Sacramento, CA. I know this organization, and I support the earmark that will allow SEARCH to continue to perform its important work across the country supporting the homeland security efforts of state and local entities.

Over the past 40 years, this fine organization has accomplished a great deal to promote information sharing solutions among first responders. As a non-profit organization of the states with a membership body of gubernatorial appointees, SEARCH has served local, state, tribal, and federal information sharing and communications interoperability initiatives nationwide and continues to benefit the whole country.

SEARCH is uniquely qualified to develop and implement the program funded by this earmark. That is why I rise in support of the SEARCH National Institute for Communications Interoperability to promote interoperability in communications among first responders.

I urge Members to vote "no" on this amendment and support funding to SEARCH for the National Institute for Communications Interoperability.

The CHAIR. The question is on the amendment offered by the gentleman from Arizona (Mr. FLAKE).

The question was taken; and the Chair announced that the noes appeared to have it.

Mr. FLAKE. Madam Chairman, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Arizona will be postponed.

Mr. PRICE of North Carolina. Madam Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SERRANO) having assumed the chair, Ms. DEGETTE, Chair of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2892) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2010, and for other purposes, had come to no resolution thereon.

PROVIDING FOR CONSIDERATION OF H.R. 2647, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2010

Ms. PINGREE of Maine. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 572 and ask for its immediate consideration.