

# **Transcript of House Appropriations Subcommittee on Homeland Security Hearing on the Proposed Fiscal 2012 Appropriations for the Homeland Security Department**

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Hearing Held on March 2, 2011

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ADERHOLT:

First I'd like to welcome everyone to our first scheduled hearing for the year. It's an honor for me to chair this subcommittee and also to welcome some new members to the subcommittee who are still I think making their way in.

I think, Mr. Dent, you're here. Thank you for being here, and welcome to the subcommittee.

Today we welcome Secretary Napolitano to what makes her third appearance before the subcommittee.

Madam Secretary, we thank you for being here and I look forward to hearing your testimony as part of the president's F.Y.'12 budget request for the Department of Homeland Security.

Madam Secretary, as you know, the threats facing our country have never been as persistent and as diverse as they are today. In fact, recently you testified before the Senate that in some ways the threat facing us is at its most heightened state since the 9/11 attacks.

This past year we have seen intensified terrorist activity, including new threats to aviation and several home-grown plots. Furthermore, the cartel-fueled violence in Mexico continues to cast a lengthy shadow over the southwest border and even claimed the life of an ICE agent two weeks ago. And certainly our thoughts and prayers go out to the family of Special Agent Zapata.

In light of such challenges, the importance of the department's work cannot be overemphasized. This is especially true as we approach the 10th anniversary of the 9/11 attacks later this year. That is precisely why H.R. 1, the full-year continuing resolution passed by the House just a week-and-a-half ago fully funds all frontline operation and essential personnel, including border patrol agents, ICE agents, Coast Guard personnel, intelligence officers and other key employees.

In fact, the funds provided in H.R. 1 combined with F.Y. '10 supplemental funds enabled the Department of Homeland Security to actually increase the number of border patrol agents beyond the minimum 20,500 agents to reach the target of 21,370 agents by the end of F.Y. '11.

As we work to enact a responsible F.Y. '11 appropriation for Department of Homeland Security, we are mindful both of our critical national security needs and our government's mounting fiscal crisis. Even in the name of security, we can no longer afford to simply throw money at programs without tangible results.

We must carefully align funding to mission requirements and be able to show the American people how every single dollar is making our nation safer and more secure. This alignment of funding to -- to results will be the mantra of this subcommittee under my chairmanship.

This brings us to the substance of the department's F.Y. '12 budget request, which includes some fairly austere and reasonably balanced proposal. By these virtues -- but these virtues are unfortunately outweighed by the budget's

substantially inadequate justification for the cost of disaster relief, for phony offsets in the form of increased fees that have yet to be enacted, and the undefined reductions to operational budgets.

In your total -- in total, your budget request ignores an estimated \$4.9 billion in known disaster relief cost and relies upon \$650 million in aviation security and custom fee revenues that have yet to materialize, and proposes more than \$615 million in reductions from the department's operational components through so-called "administrative" savings or efficiencies that are not clearly itemized in the department's budget justifications.

Madam Secretary, at a time of record deficits and mounting debt, the first thing we need from the administration and each and every department and agency across the federal government is truth in budgeting.

Having said that, I'm sincerely pleased that your budget pledges to cut cost. It limits administrative overhead, promotes efficiency and it places priority on frontline operations, and these are the priorities of this subcommittee as well. But these promises will be little more than rhetoric if the department does not live up to its fiscal responsibilities and follow through on its legislative proposals.

The Department of Homeland Security cannot operate in a world as it would like to be. Instead, it must follow the law as it is written. This assertion can only apply -- not only applies to the budget realities I've just outlined, but also to areas where this administration has been reluctant to fully engage such as immigration enforcement, real I.D., and biometric (inaudible) solution for U.S. Visit. These are mandates the Department of Homeland Security must plan for, budget for and perform.

While I realize the enormity of this obligation, it is a duty the American people are counting on you to fulfill and there is no room for failure. We find -- we must find a way to balance our limited resources across our competing priorities and numerous vulnerabilities in order to confront every threat with tenacity and with purpose.

Madam Secretary, I know you have a tough, often thankless job. That is precisely why we are relying upon you to explain how this budget moves our nation's security forward and does so in a way that is fiscally responsible and well justified. We do thank you for being here today. Look forward to our discussion and your budget request in greater detail as we move forward.

Before I turn to the secretary for her statement, let me recognize the distinguished ranking member and then the former chairman of the subcommittee, Mr. Rogers, for any remarks that may -- he may have.

Mr. -- Mr. Price?

PRICE:

Thank you, Mr. Chairman. I want to congratulate you on your appointment to lead this subcommittee. You and I have worked together on the Appropriations Committee for years and you served on this subcommittee in the early years. So we welcome you back.

Since this subcommittee was established under Mr. Rogers' leadership, the chairman and ranking member have always striven to do our work professionally and collaboratively and in a very bipartisan fashion. I understand you intend to continue that tradition, and I very much look forward to a strong working relationship.

Madam Secretary, you're no stranger to this subcommittee either, of course. And I've enjoyed our working relationship over these last two years when I was privileged to serve as chairman. We welcome you back to kick off our hearings on Homeland Security's fiscal year 2012 budget and a review of its ongoing activities.

This past year has been one of major challenges, with multiple attempted attacks on our homeland, beginning with the attempted Christmas Day bombing, followed by the Times Square incident and most recently the air cargo threat from Yemen.

You've been confronting continued violence associated with transnational drug cartels along our southwest border, resulting in the deaths of both Customs and Border Protection and Immigration and Customs Enforcement agents, the challenges resulting from the Deepwater Horizon catastrophe, and the constant onslaught of cyber attacks on our government networks and critical infrastructure.

So I thank you for your constant vigilance in facing so many competing challenges head on, especially as the threats to our homeland have diversified and proliferated.

The 2012 discretionary budget for the Department of Homeland Security is \$43.2 billion, about \$400 million above the 2010 enacted level, but 1.4 percent less than the 2011 budget request. Just as we're doing elsewhere in the federal government, you've been asked to do more with fewer resources.

Your budget includes many examples where administrative and overhead costs have been reduced, where programs have been trimmed, stretched out or suspended to achieve cost savings without significantly degrading critical security requirements. By making these reductions, you were able to preserve essential frontline security operations, for which I applaud you.

I'm pleased to see that you continue to prioritize the identification and deportation of convicted criminals, a program that originated after I challenged the department to prioritize the identification and removal from our country of illegal immigrants who have been convicted of serious crimes. Your budget expands on this priority.

Similarly, I am pleased to see that the budget request includes a significant increase in Coast Guard personnel for marine safety and environmental response following the Deepwater Horizon disaster, as well as funds for 11 maritime safety and security teams, recognizing that this subcommittee disagreed with the 2011 request to decommission four of these teams.

Finally, the budget request includes funding specifically to address a substantial rise in threats from home-grown terrorists, as well as threats from across the globe. This includes funding within the Customs and Border Protection for additional targeting efforts, the Transportation Security Administration for additional aviation and surface security efforts, and intelligence and analysis for initial enhancements to our state and local fusion centers to better manage and coordinate our intelligence-sharing agencies.

So there are many, many items to applaud within this budget request. I also believe there are some challenges that this committee will need to address with your help. And we will need guidance as we come to grips with these issues.

First, the administration continues to underfund the actual needs for disaster relief funding through FEMA. The 2012 request totals \$1.8 billion, which is likely to last only halfway through the fiscal year, requiring a supplemental early next year.

In addition, FEMA has at least \$6 billion in known catastrophic costs that it must reimburse localities for, which are not factored into this budget request. And about half of these costs are expected to come due in 2012. If we know the costs for ongoing recovery activities associated with large disasters, then I believe it makes sense to budget accordingly rather than to assume that Congress can follow behind with an emergency supplemental appropriations bill.

It's much better for the administration to present Congress with a workable plan to meet these disaster relief obligations by budgeting for them. Otherwise you're virtually inviting Congress to make budgetary tradeoffs without

full vetting and guidance from the department, which I'm afraid is exactly what is taking place as we speak as we consider the 2011 continuing resolution for the remainder of the year.

Second, the budget assumes the collection of \$645 million in additional fee revenues for TSA and CBP. These include an additional \$1.50 in the fee charged to airlines per passenger, resulting in \$590 million in additional revenues and an additional \$55 million in new immigration and aviation processing fees for Canada, Mexico and most of the Caribbean islands.

Both of these fee adjustments require Congress to change authorizing statutes. We all know these fee proposals have been languishing with the authorizing committees for years already. So we're going to need your help in determining how we deal with the \$645 million shortfall in your budget if Congress does not change these fees for 2012. Alternatively, we're going to need the administration to work very seriously with the authorizers to get these proposals enacted.

Finally, I have some reservations about your cuts to automation and construction accounts in your budget. And I'd be very surprised if you didn't also have some -- some misgivings. This subcommittee has had to fight repeatedly against irresponsible cuts to the front office -- irresponsible cuts for construction, to new DHS headquarters and related lease consolidation efforts, and to protect your information technology needs.

You and your associates have had to testimony repeatedly about the importance of these requirements. Just last year we had a very impressive hearing on the cost savings associated with DHS offices being co-located at Saint Elizabeth's or in (inaudible) spaces.

We were told, and we were told very convincingly, that deferring these investments will effectively -- will ultimately affect frontline operations and will cost us more money in the long run. I want to make sure we're not being penny-wise and pound-foolish with these cuts, and we'll welcome your explanation in this regard.

As we begin our hearings to more closely examine the budget, it's important to note that no program or account will be off limits to scrutiny. Our obligation is to take a balanced, realistic approach, to weigh risks carefully and to make prudent investments in effective security.

Secretary Napolitano, I have no doubt that you share this point of view and I look forward with working with you again this year.

Thank you, Mr. Chairman.

ADERHOLT:

Thank you, Mr. Price.

At this time I'd like recognize the full committee chairman and former chairman of this subcommittee, Mr. Rogers.

ROGERS:

Thank you, Mr. Chairman, and congratulations to you for assuming that chair. I have a warm spot in my heart for that chair on this subcommittee, and this subcommittee and the department. And it's good to be back on the same platform with my friend David Price. We had a wonderful working relationship and still do. And we welcome all the new members of this subcommittee.

And thank you, Madam Secretary, for being with us today. This marks the eighth anniversary of the department. I'm proud to say that I was there at the beginning and helped, along with others, nurse it along and continue to do so. And I always wish you well and the department.

This is truly a historic time. I don't have to tell you that our nation has found itself at a crossroads. Over the last two years, we've increased discretionary spending by 24 percent -- 84 percent if you include the stimulus monies. We're borrowing 42 cents on every dollar we spend.

And so it's time to get serious, we have to, about reducing spending and putting a dent in the record-setting deficit that we all abhor. In that vein, I certainly applaud your efforts to cut costs and limit administrative overhead.

I do have some serious concerns about the budget request. While the president has essentially leveled-out nonsecurity spending in his '12 request, your request is actually \$300 million lower than in fiscal '11, marking the first time the department has decreased its request from one fiscal year to another.

There's no question that the department plays a vital role in fighting terrorism and keeping our country safe. That's what it's for. And the brave men and women in our law enforcement community ought to be commended for the good work that they do. And I do that right now. And that's why for the past few years I've pushed and pushed for you to place a stronger emphasis on operations in your budgeting. I'm happy to see that you're taking steps in that direction.

However, many of the cost reductions you've noted in your budget request should be further scrutinized. These cost-cutting gimmicks only undermine these great pledges you've made to our men and women in the frontlines.

The budget proposal simply ignores some \$5 billion in known disaster relief costs and offsets other costs with \$650 million fees the Congress has yet to approve all these years. If we're going to be serious about deficit reduction, we've got to stop fudging numbers.

We've got some tough choices and I look forward to hearing from you today about the administration's priorities. As I've said many times, when it comes to the security of the country, we should all -- we should spend all the money we can, but not a penny more. That adage has never been more salient than today when considering the fiscal and security challenges confronting our nation.

In closing, I note that the estimated cost now of the St. Elizabeth's facility has now gone up another \$200 million or so. We were -- I asked last year I think it was for assurances that the cost that was projected at that time would be accurate and final, but it's already gone up another \$200 million. We've got to find a way to discipline that spending.

Good to be with you and see you.

ADERHOLT:

Mr. Dicks?

DICKS:

Thank you, Mr. Chairman.

And I want to welcome Secretary Napolitano and congratulate her on the good work that the department has been doing. I think it's made a lot of improvements. I was on the authorizing committee for three terms. And to put it bluntly, there was a lot of disorganization at Homeland Security and an inability to do good procurement work.

The issue I am concerned about -- I'm not going to get into this in great detail today, but I would like to get -- have somebody come up and give me a briefing on this, is what -- and meet some of your people on cyber security issues.

I have served as chairman and ranking member of the Defense Subcommittee and on the Intelligence Committee. And I believe this cyber security issue is one of the top three issues that face our country. And the -- and the department plays a major part in this on the dot gov part of the equation and working with the private sector.

And it is my understanding, having met with some of the people from -- I think from your department earlier that the department doesn't have all the authorities that it may need in order to deal with the private sector effectively.

So again, I welcome you and -- but I'd like to work this out to arrange with your office to get this briefing and so we can see. And also, if you would just in your statement talk a little bit about the agreement that you and Secretary Gates agreed to. It's supposed to be a landmark memorandum of agreement. So I appreciate it if you could mention or talk about that a little bit.

ADERHOLT:

Thank you, Mr. Dicks.

And again, we welcome the secretary and we'll turn it over to you for your comments.

NAPOLITANO:

Thank you, Chairman Aderholt.

ADERHOLT:

Excuse me. Is the mike...

(CROSSTALK)

NAPOLITANO:

Exactly right. I think we're good now. All right.

Thank you for the opportunity to discuss President Obama's fiscal year 2012 budget for the Department of Homeland Security. And I'd be happy as well to answer questions about the House concurrent resolution for F.Y. '11.

The demands on DHS have never been greater. This is especially true as we remember those at the department who have given their lives in service to our mission of securing America, including most recently Border Patrol Agent Brian Terry and ICE Special Agent Jaime Zapata.

Mexico is leading the criminal investigation into the death of Agent Zapata and we are supporting them through a joint DOJ-DHS task force that the attorney general and I announced two weeks ago. Recently, Mexican authorities have apprehended some of the alleged killers of Agent Zapata and we are conducting a number of operations throughout the United States related to the drug cartels.

I can speak for the entire administration when I say we're not only saddened by the loss of an agent, but we are outraged by this act of violence against an officer of the United States. And make no mistake, justice will be brought to those involved. We owe nothing less to the memory of Agent Zapata and to those who are still on the job in Mexico.

Now, the loss of these brave agents is a stark reminder of the sacrifices made by the men and women of DHS every day. It also strengthens our resolve to continue to do everything in our power to protect against, mitigate and respond to threats and to make our nation more resilient for years to come.

Today's threat picture features adversaries who evolve quickly and are determined to strike us here at home, from the aviation system and global supply chain to service transportation, to critical infrastructure, to our cyber networks.

We are leading the administration's unprecedented effort to strengthen southwest border security, coupled with a smart and effective approach to enforcing immigration laws in the interior of the country. And we continue to prepare for, respond to and recover from disasters of all types.

President Obama's F.Y. 2012 budget for the department allows us to continue to meet these evolving threats and challenges by prioritizing our essential operational requirements, while reflecting an unprecedented commitment to fiscal discipline that maximizes the effectiveness of every security dollar we receive.

Reflecting the current fiscal environment in building the F.Y. 2012 budget, all DHS components identified savings associated with the department's 33 efficiency review initiatives. And we cut administration and overhead, including my own office's budget, by over \$800 million.

Savings were realized through efficiencies in acquisition, asset and real property management, as well as employee vetting and credentialing, hiring and onboarding, and information technology. We cut professional services contracts. We cut travel. We cut nonmission-critical training.

We also delayed construction of FEMA at the new DHS headquarters at St. Elizabeth's and deferred a number of office colocations, as well as building maintenance and enhancements. My written statement includes a comprehensive list of the operational priorities in the budget request. And today I would like to highlight just a few of them for you.

First, preventing terrorism and enhancing security. This was the founding mission of DHS. It remains our top priority today. This budget safeguards transportation modes through a layered detection system, including the deployment of additional transportation security officers, behavioral detection officers, K-9 teams and advanced imaging technology machines at domestic airports, while expanding watch list vetting through the Secure Flight Program and enhancing screening and targeting of international travelers before they board U.S.-bound flights through the Immigration Advisory Program.

This budget also strengthens surface transportation security by supporting 12 new multimodal viper teams, which conduct operations throughout the transportation sector to prevent potential terrorist activity. The request also provides funding for the Securing the Cities Program, to protect our highest-risk cities from a radiological or nuclear attack and makes a significant investment in the National Bio- and Agro-Defense Facility, which will provide enhanced diagnostic capabilities to protect our country from foreign animal and emerging diseases.

The request expands support for the national network of state and local fusion centers to enhance baseline capabilities and provide local law enforcement with the tools to address threats in their communities.

To secure and manage our borders, the request continues the administration's historic border security efforts by supporting 21,370 Border Patrol agents and 21,186 Customs and Border Protection officers, both all-time highs.

The budget includes \$242 million for the continued deployment of proven, effective surveillance technology along the highest-trafficked areas of the southwest border to better meet the operational requirements of our agents on the frontlines.

For the northern border, this budget request supports investments in technology tailored to the maritime and cold weather environment, including proven stand-alone technology to provide immediate operational benefits.

And for our nation's maritime borders, this budget includes funding to continue the essential National Security Cutter Program and makes historic investments to recapitalize the Coast Guard's aging assets, including six fast-response cutters, 40 response boats, as well as a sizable investment in the renovation and restoration of aging shore facilities.

This budget request also continues the department's focus on smart and effective enforcement of our nation's immigration laws, while streamlining and facilitating the legal immigration process. Building on our record over the past two years, the department will continue to prioritize the identification and removal of criminal aliens who pose a threat to public safety and target employers who knowingly and repeatedly break the law.

The request enables ICE to fund 33,400 detention beds, remove over 200,000 criminal aliens, and deploy secure communities to 96 percent of all jurisdictions nationally in F.Y. 2012, while promoting compliance with worksite-related laws through criminal prosecution of egregious employers, four (inaudible) inspections, and continued expansion and enhancement of the E-Verify system.

The request also funds immigrant integration efforts, including programs supporting English language and citizenship education and continues the detention reform efforts currently underway.

To safeguard and secure cyberspace, the budget increases resources to identify and reduce vulnerabilities in our nation's key cyber networks. The request includes significant investment to expedite the deployment of Einstein 3 to prevent and detect intrusions on government computer systems, increase federal network security of large and small agencies, and continue to develop a robust cyber security workforce to protect against and respond to cyber security threats.

The budget also focuses on combating cyber crime and preventing attacks against U.S. critical infrastructure.

To ensure resilience to disaster, the budget request focuses on moving resources out of Washington, D.C. and into the hands of state and local responders who are often best positioned to detect and respond to terrorism, natural disasters and other threats by sustaining federal funding for state and local preparedness grants, providing over \$3.8 billion in F.Y. '12. This funding includes \$670 million for assistance to firefighter grants. And that includes \$420 million to rehire an estimated 2,300 laid-off firefighters and retain veteran first responders.

To lead and support essential national and economic security efforts, this budget expands the Coast Guard's operational capacity by funding 50,682 military and civilian positions and establishes the Coast Guard's first incident management assistance team, which will be deployed rapidly to support incidents of national significance.

The request also continues to support ICE and CBP efforts and investigative efforts to protect U.S. intellectual property rights, as well as the Secret Service's state-of-the-art forensic report to the National Center for Missing and Exploited Children.

Mr. Chairman, this budget is the culmination of a major, first of its kind effort by the department through the quadrennial Homeland Security review, as well as the bottom-up review, to align our resources with a comprehensive strategy to ensure a safe, secure and resilient homeland, while making an unprecedented commitment to fiscal discipline.

Mr. Chairman, Representative Price, members of the committee, I want to thank you for this opportunity to testify. I'd ask that my full statement be included in the record. I'm happy to address your questions, particularly as they relate to the DRF, to the TSA and CBP fees, and to the impact of the F.Y. '11 HCR.

Thank you.

ADERHOLT:

Thank you, Madam Secretary, for your opening comments. And certainly the -- FEMA's disaster relief fund is something I think of concern. FEMA has requested \$1.8 billion in the F.Y. '12 request and the DRF. And there are no funds requested for prior-year catastrophic events.

The bottom line is that F.Y. '11 budget -- your F.Y. '11 budget nor your F.Y. '12 request does not support the disaster relief cost for the rest of the year or next. And we would like to know your plan in regard to that. How do you -- how will you complete the year when you are clearly short of required funding for F.Y. '11 by \$1.6 billion?

NAPOLITANO:

Mr. Chairman, a few I think salient points in response to that. First, one of the things that we have focused on is going backwards in FEMA and returning funds that had previously been obligated but not used to the DRF. And by that process, we returned approximately \$2 billion to the DRF in F.Y. '10. And those efforts continue to be underway.

Secondly, for many, many years under both Republican and Democratic administrations, under different majorities in the Congress, the DRF has been funded by taking a rolling average of noncatastrophic disasters, in this case a five-year rolling average of noncatastrophic, which are disasters that are less than \$500 million, and that goes into the DRF base.

But because of unpredictability and other factors, including for example years after the fact the ability to go back and see what was actually used and to de-obligate funds, the Congress and the administration have relied on supplementals to support the DRF. I think it is the administration's intent to come back when there is an appropriate number and work with the Congress on what a supplemental would look like for the DRF in accord with historic practice.

ADERHOLT:

What is the funding requirement for F.Y. '12 for prior-year catastrophic events?

NAPOLITANO:

For prior catastrophic, hard to say given the de-obligation issues. Approximately I would say between \$2 billion and \$3 billion.

ADERHOLT:

But clearly these costs are not budgeted in F.Y. '12. Is that correct?

NAPOLITANO:

They are not in the baseline budget. That is correct.

ADERHOLT:

Madam Secretary, as we stated earlier, your budget request significantly underfunds DRF for '12 because of that reason. So based on your comments that you foresee that there will be a emergency request over the next several months for F.Y. '12.

NAPOLITANO:

For -- what we anticipate, Mr. Chairman, is that we would proceed as the DRF has been handled historically, which is yes, to finish the fiscal year with supplementals related to catastrophic disasters.

ADERHOLT:

And I think the concern is -- and we've sort of been dancing around it -- but the fact that it is really a truth-in-budgeting issue just because in historic -- if we look back in the past, you know, the historic shows that it has -- the funding for some of these disasters are in the billions of dollars and we know that it will be.

So concerning the fact that we're not bringing that up into the current and the truthing (ph) really just going down to a truth in the budgeting from the beginning I think is what would be a concern to this subcommittee.

NAPOLITANO:

Mr. Chairman, we're happy to work with you on the DRF issue. As I said before, the budget has been written in accord with how it's -- the DRF has always been handled, in part because of the unpredictability of the size of disasters when a budget is submitted. But we are happy to work with you. And as I stated, the intent of the administration would be to seek an appropriate supplemental at the appropriate time.

ADERHOLT:

OK. Let me move on because we -- we -- I do know that we have votes that will be coming up soon. I know you have to be out later in this afternoon for other obligations. So let me move on to the issue of user fees -- aviation, security and customs.

In the F.Y. '12 request, it assumes an increase in the aviation passenger security fees and a change in the COBRA fee for customs processing. Given the difficulty in getting aviation fees -- security fees increases and customs fee changes enacted in the past, I guess the question that I would pose to you, is it realistic to think that your proposals can get implemented this year?

NAPOLITANO:

Well, we will work with the authorizers. And indeed I've been speaking with the authorizers about the need for this. But it seems to me, Mr. Chair, that in this era of fiscal discipline, one of the things that we ought to be looking at is what is the true cost of an enplanement security fee? What is the true cost in customs?

The security fees have not been adjusted for TSA since 2002. And the plain fact of the matter is that we know that aviation remains a key target of our adversaries. We know that we have to provide additional security. We know that a small increase in the security fee enables us to do this and cover all of the security responsibilities we have against all the modes of transportation.

So we will work with this committee. We will work with the authorizers. But the consequence of not having that fee is very serious for the operations of this department. It's effectively another \$600 million out of operations that will come directly out of the frontline.

ADERHOLT:

So if the fees are not implemented in time then -- so how do you foresee filling in that \$600-plus million gap?

NAPOLITANO:

Well, first of all we assumed that they would not be ready by the beginning of the fiscal year. So the number that we use in our budget request is only for the third and the fourth quarters of fiscal year '12, in part because there would need to be a rulemaking associated with the fee.

But we have been to this Congress before. We are here at this Congress again. I think in this fiscal time the authorizers are perhaps more receptive to acknowledging that this should come out of a -- almost a user fee, a security fee arrangement, as opposed to out of the general tax base.

ADERHOLT:

Well, we -- you know, and certainly that's our concern here on the subcommittee, and we've discussed this, is the fact that the reality of these, they may not be implemented in time. And so that would be something that, again, that we would be concerned about and we want to just bring that to your attention.

Let me go on to Mr. Price now and turn the mike over to him.

PRICE:

Thank you, Mr. Chairman.

Madam Secretary, the president has a few hours ago signed a two- week extension of the continuing resolution to keep the government running. After that it's anybody's guess as to what extent the new House leadership is interested in responsibly discharging their duties or whether they'll continue to insist on slashing domestic programs which individually and cumulatively threaten to stall the recovery, while ironically leaving 88 percent of the budget untouched.

Having said that, many are drawing comparisons to the split between the Republican Congress in 1995 and President Clinton on the budget which led to a government shutdown. The Department of Homeland Security, of course, was not around when that happened. In this uncertain budget environment, have you been considering the

implications of a budget impasse and a potential shutdown? What impact would this have or indeed has it already had on DHS?

NAPOLITANO:

Well, I think, Representative Price, managing a large agency by continuing resolution is extraordinarily difficult. We're already halfway through the fiscal year and, you know, you're trying to make plans about how many agents you have to put where, where your equipment could be, will you have it, can you fix this, so forth.

In terms of the two-week extension and the possibility of an impasse and a shutdown, because we were not around in 1995, we have been looking at what would be within the shutdown and what would be exempt. We have made some judgments that are internal with the secretary's office right now.

But as to what would stop, what would be partially stopped and what would need to continue, I think it's fair to say that frontline personnel would continue. But those who support the frontline personnel and enable them to do their jobs most effectively, a number of those types of positions would not be able to be sustained.

The thing I'm also concerned about, I must say, is that a number of our frontline positions are not very well paid. Border Patrol officers, TSOs in our airports, the ones we really rely on to be the last line of defense for entry into the country or protection of an aircraft. And many of our employees therefore live paycheck to paycheck. And even when you work under a shutdown scenario, you don't get paid until Congress catches you up. That's a -- that's a hardship as well.

So we are hopeful. I'm hopeful that this will be worked out and the Congress will reach a resolution on F.Y. '11, but I thought I would share that with you.

PRICE:

Thank you. It does strike one that so much of your -- so many of your personnel are in effect waiting for some kind of disaster to strike, most obviously in FEMA and the area of natural disasters. And there's a kind of depth of capacity that's required that is not immediately engaged in a -- in an emergency maybe, but nonetheless it needs to be on call at very rapid notice. In that kind of situation, it strikes me as especially difficult to discern between essential and less essential personnel or emergency and nonemergency personnel.

NAPOLITANO:

Representative Price, you are exactly right. It's going to be in some of these areas very, very difficult to make those judgments. And again, even for those who are deemed exempt from a shutdown, they will be undergoing financial hardship.

PRICE:

Let me in the limited time I have remaining go back to this question of how we fund for emergencies. There clearly is an ongoing discussion we need to have here. But I -- I don't have a hard time concluding that whatever one thinks about what the initial budget should look like, it's not a very good practice to in the middle of the fiscal year to cannibalize other DHS accounts to pay for unaccounted for costs.

In fact, H.R. 1, the supplemental, reduces DHS funding to levels prior to the 2009 Christmas Day attack to pay for disaster relief. That's not a ideal situation, to put it mildly, and I -- I don't think we ought to replicate it in the future.

So I wonder if you could say -- tell us today, what are the consequences of lowering the boom in this way halfway through the fiscal year by cutting \$1.565 (ph) billion in DHS activities to make up for the disaster relief shortfall?

NAPOLITANO:

Well, the HCR has some very serious impacts for the department. I mean, there's impacts in counterterrorism. You know, we will cut the number of AIT machines we were intending to deploy to protect (inaudible) airports in half. We will cut the number of explosive trace detection machines that we could make available by half. We will cut the number of K-9 teams by almost two-thirds. This will have an impact on aviation, aviation security.

It does -- Mr. Chairman, I think we have a disagreement on this point, but we -- in my reading of it, we'd actually removed 250 ICE agents that are currently paid for would not be paid for under the -- under the HCR. That is a problem and we can talk about why that is, but that's our count. It would reduce FEMA grants by almost \$1 billion. And as you know, that really will affect state and local preparedness.

I could go on, but there are very real operational impacts by the HCR because it does not -- the HCR does not fund the president's requested F.Y. '11 budget.

PRICE:

Well, we -- we, as I say, need to have an ongoing discussion about the normal practice for disaster funding and including it in the budget. I don't perceive any disagreement at all about the dire consequences of lowering the boom in this way halfway through the fiscal year. That's what I wanted to get you to elaborate on, and I'd invite you to elaborate further for the record.

Before my time expires, though, let me just ask the obvious remaining question. Does this mean we'll be expecting a supplemental from you? Would -- would you expect that you'd be submitting a disaster relief -- relief supplemental sometime later this year?

NAPOLITANO:

Representative Price, as I stated earlier, the budget was planned based on the historical practice which is, yes, you fund the base and then you seek a supplemental. So the answer is yes. And we would work with the committee on that.

PRICE:

Thank you, Mr. Chairman.

ADDERHOLT:

Madam Secretary, let me -- you mentioned the ICE agents and I am forced to respond to that because H.R. 1 actually does provide an increase to ICE above the F.Y. '10 based upon technical budget assistance that your staff provided the committee. H.R. 1 sustains all ICE agents, especially those deployed along the southwest border and supports the same 33,400 bed funding in F.Y. '10. In fact, H.R. 1 actually increases the number of CBP, ICE and the Coast Guard above F.Y. '10 and sustains the funding for TSA operational functions and all the intelligence officers across the department. So I did want to point that out.

Now I'd like to recognize the full chairman -- former chairman of this subcommittee, Mr. Rogers, for questions.

ROGERS:

Thank you. Thank you, Mr. Chairman.

Just a note about the proposed fee increase. There you go again. We've been facing this for years. Every year, whoever the secretary was, always comes in with this fee increase knowing the Congress is not going to do it. And we won't do it.

And we don't know yet what you would do to replace that big \$600 million hole. And my information is that your budget request assumes that that fee would be in place for all of '12 to produce \$589,940,000, not the last quarter, but the whole year. That's the justifications that I've seen.

NAPOLITANO:

Mr. Chairman, first of all I think in response to the chairman's last comment, I believe our staffs needs to get together. There clearly is a strong difference of opinion as to what the HCR does on ICE, among other agents.

With respect to the fee, Mr. Chair, it seems to me that in an area of fiscal restraint or fiscal discipline or whatever we want to call it, we all know we have a tough fiscal time. And this is a dire situation. And to continue to come back, as I now have -- the third secretary -- and say we need to have a security fee for enplanements that's commensurate with the cost of providing the security; to say that that is a no-go from the outset to me is -- it means that the general taxpayer has to pick up the cost or the income generated.

Now, the airlines have not experienced any deleterious impact by imposing fees to check baggage or to buy a Coke on an airplane. And it seems to me that at this particular juncture where the federal budget is under stress, that resuscitating this idea as a real idea that makes sense from a policy and a fiscal perspective is the right thing to do.

We will work with the authorizers on that. I've already done that. And we want to work with this committee on it. But right now, we're stuck with a fee that in no way covers the actual cost of the service we are providing.

ROGERS:

Well, I mean it's been proposed every year since I've been chairman of the subcommittee I think.

(CROSSTALK)

ROGERS:

Virtually every year, and we always turn it down. And I don't see any change in that this time.

NAPOLITANO:

Well, this is the first year, Mr. Chairman, and respectfully, that we have been in this kind of a fiscal situation. So if I might respectfully request everything deserves a fresh look and this does as well.

ROGERS:

Well, you know, whatever the Ways and Means Committee or whomever does, we have to find \$600 million. It's a - it's a plain fact. And we can't rely upon this fee being authorized because it never has been and it's been tried year after year.

But I wanted to move on to something else. I've been a proponent on this subcommittee all along of trying to utilize electronics and equipment and mechanization to the maximum to try to help us with the personnel costs of TSA. And you push that, too. But I don't see us making much headway.

I think the employment level at TSA is now at 52,269. I remember when we put a cap on the employment levels at TSA a few years at 45,000, just for screeners. And I don't see much impact, mechanization or using of equipment and machinery is doing us much good in reducing the personnel at TSA.

I know the airports I fly through. I see a lot of personnel not doing anything. And I think that's a universal thing that practically all of us would say -- would agree to.

In H.R. 1, we reintroduced the FTE levels at 46,000 in an attempt to prompt you to more closely examine your requirements. And I know that we're placing some new machines in out there that's going to require probably more personnel, but I don't see us saving personnel on the other side of that equation. What do you say about a cap again of 46,000 in TSA?

NAPOLITANO:

Well, Mr. Chairman, I have some real problems with that for several reasons. One is I don't know where the 46,000 come from -- came from. It could be 47,000, it could be 48,000. But secondly, once this Congress sets a cap, it's like setting our security fee in 2002. Getting that changed no matter the circumstances can be very, very difficult.

And number three, as you -- as you've noted, we are now installing AIT machines. The threat in aviation is different than it was several years ago. It's different in the sense that our adversaries are now clearly using or trying to use and get on to planes material that's nonmetallic in nature -- powders, gels or liquids that can be used as an explosive. And that means we have to move into, and quickly into this next generation of machinery, the AITs. Our budget supports the personnel necessary to put 500 more AITs on airport lines in fiscal year '11.

And then lastly, I think it's important to note that the security lay down in an airport is not all constituted by TSOs who you observe who are there. There are -- there are undercover TSOs. There are behavioral detection TSOs. There are also individuals who operate in K-9 teams in the airport. So there's a whole mixture of things, different layers of things, necessary to secure the air environment.

So my view is -- or my judgment is rather than an arbitrary cap, that we work together to make sure we've got the right mix of technology and personnel every year necessary to meet the threats that we have.

ROGERS:

Well I agree with you on that, but I don't think I've seen enough effort to get technology involved to replace personnel that in oft times during the day at the airport have nothing to do during the non-peak hours.

NAPOLITANO:

Well, if I might, Mr. Chairman, again, one of the consequences of the HCR is it cuts in half our science and technology budget. That is the budget that funds, among other things, the research that we are doing with the national labs to look at the checkpoint of the future. How do we get beyond what we have now and get to something that allows people to keep their shoes on and to carry a large bottle of water on a plane and so forth?

The technology simply doesn't exist right now to do that or to do it safely. That's in the R&D part of the budget and S&T, science and technology, excuse me for using acronyms, but -- and that itself -- that whole budget was cut 50 percent in the concurrent resolution.

ROGERS:

Well, you're asking for an additional 510 transportation security officers, assumedly to be financed by the -- the fee increase. But an increase of 510 additional officers on top of what we have, when I see at the airports that I travel through personnel that could easily handle the new machines without any increase in personnel at that airport. What do you say about that?

NAPOLITANO:

Well, I don't -- I can't speak to what you see at which airports. All I can say is we know now with pretty -- pretty hard certainty what it takes to operate an AIT for the number of hours they need to be operated in an airport environment. And our budget and the personnel we request is based on that actual experience.

ROGERS:

Madam Secretary, thank you.

NAPOLITANO:

Thank you, sir.

DICKS:

I know we are short on time. We have to go vote. Tell us about what you're doing on cyber security and what this agreement you reached with Secretary Gates will accomplish.

NAPOLITANO:

The agreement with Secretary Gates allows us to co-locate personnel. He has some folks in our shop. We have some folks in his. More importantly, Representative Dicks, it enables us to be able to use or have access to the technological resources of the NSA. We have people now located there. We have the proper -- we have a lawyer with them. We have a privacy officer with them because there are different rules that apply in the civilian environment than the military. But -- but the resources of the NSA are -- are key.

DICKS:

That's good.

NAPOLITANO:

That's good.

DICKS:

My time is very short. What about authority? Do you need more authority over the private sector to get them to do the things necessary to protect themselves? I'm talking about utilities, financial institutions, things of that nature that are -- could be vulnerable.

NAPOLITANO:

Yeah, the subject of authorities is something that we would like to discuss with you. The answer is we've been working with different committees as a cyber bill has been prepared looking at clarifying and improving on the authorities we do have, yes, sir.

DICKS:

How does the private sector do on their own? Are they -- are they taking this threat seriously? I understand that \$1 trillion has been lost in intellectual property worldwide because of cyber attacks. That's a big deal.

NAPOLITANO:

That's -- it's a big, big deal. And I would say that we have good connectivity with some sectors of the private sector and not so good with some others. It varies. But some of the key ones, for example, financial institutions, the connectivity is very good.

DICKS:

Thank you.

ADERHOLT:

Let me -- thank you, Madam Secretary. We have got a vote on, as you probably know by now. I know you have to leave at five o'clock today. You have to be out...

NAPOLITANO:

4:45, excuse me, sir, for a five o'clock.

(CROSSTALK)

ADERHOLT:

OK. Is five OK?

(CROSSTALK)

NAPOLITANO:

I thought I was pretty clear on that one.

ADERHOLT:

OK. What we -- let me just -- what we're going to do is we're going to -- when we vote, quickly come back. I know some other members want to ask a few questions.

NAPOLITANO:

I'll try to keep my answers shorter.

ADERHOLT:

So -- and -- but I'll encourage everyone to hustle on back right after the vote.

NAPOLITANO:

Thank you.

ADERHOLT:

Thank you.

(RECESS)

ADERHOLT:

Ms. Lowey, you are recognized.

LOWEY:

Thank you very much.

And it's also a pleasure to be with you today. We thank you for your service and your leadership.

Let me start by saying I appreciate that the F.Y. '12 request proposes increased funding for the urban area security initiative, the UASI program. However, a \$34 million increase in UASI funding strikes me as insufficient if we are, in fact, at our most heightened state since 9/11, as you recently said, and when the program is authorized at \$1.3 billion for F.Y. '12.

Given the grave threats we face, why is the administration's request nearly \$400 million below the authorized level for this program? Maybe I'll ask the rest of the questions. That's the first.

Along those lines, UASI funding has continually been diluted by increasing the number of recipients. What started as a program for seven urban areas now serves 64. Every area of the country deserves funds, I want to make that very clear, but not from the high-risk program.

I attached an amendment to the C.R. to limit UASI funding to the top 25 highest risk regions, restoring the program to its original intent. So, will you commit once and for all to stop using the UASI program as a form of DHS pork barrel spending and limit recipients to only high-risk, high-density urban areas for which it was dedicated?

NAPOLITANO:

Well, Representative, first of all, the president's F.Y. '12 budget for grants maintains the overall grant level, about \$3.8 billion. It also requests that we be allowed to consolidate grants so that grants can be used by localities for various purposes, as opposed to -- and I think we have now 17 different grant programs that were -- have been established over time. We think that can be compressed to everybody's advantage.

With respect to the UASI or the tiering of high-risk locales, we have a methodology we use to evaluate risk. As I mentioned at a hearing earlier -- another hearing earlier this morning, there are risks that you can identify in all areas of the country.

And so one of the things that happens is that, through formula requirements of the Congress, all areas of the country get at least some base level for preparedness, for response and the like. We will continue to work to refine that. We will continue to work with the Congress to make sure the money is going where it will have the most beneficial effect.

And then lastly, one of the things I would mention is that the president has requested funding this year for the Securing the Cities program, which is a program to fund sensors for radiological or nuclear devices. It is being piloted in New York, particularly around the -- devising sensors for the tunnels and the bridges there. And we hope if that -- if the president's F.Y. '12 budget is funded, we would be able to add one more pilot location at a major U.S. city as well.

LOWEY:

Well, let me just say, I have been to that location, and I hope to bring the chair to New York and perhaps the airports just to see the money in action. And I'm very impressed with what Commissioner Kelly is doing with that money. And I'm glad that there were wise decisions made so that would be in the budget.

But I do hope you will look at the UASI funding again, because I want to make it very clear. I'm not thrilled about being number one as a New Yorker and living in a high-threat area. But to divide the money -- that money that's for high-threat areas, where areas should be getting other funds. Fine, everyone needs funding. But if this started with seven and now it's 64, I think 25 might be a reasonable number for this program. And others can apply for other programs. So I would appreciate your consideration.

NAPOLITANO:

Thank you.

LOWEY:

Thank you.

ADERHOLT:

Mr. Dent?

DENT:

Thanks, Mr. Chairman.

Good to see you, Madam Secretary.

Just a couple of things on chemical plant security -- chemical facility security, rather. We passed legislation in 2009 on CFATS with some adjustments, including implementation of the inherently safer technology issue. I have introduced legislation again in this Congress to extend the CFATS for about five years, up to 2015. Do you support a long-term extension of these CFATS regs?

NAPOLITANO:

Yes.

DENT:

OK, good. And if IST was federally mandated, does the department have the professionals in place to set -- to implement the IST requirement on regulated chemical facilities?

NAPOLITANO:

Let me check back on that, because I don't want to give you an inaccurate answer. My understanding is that we would be able -- as in all things CFATS related, we would staff up appropriately.

DENT:

OK, and -- because I just want to make sure the department has a grasp on the financial consequences of this IST mandate. It's very, very expensive and you're going to need a lot of people. And there are potential job losses tied to that issue in the private sector.

On passenger screening -- I'm going quickly because I've only got a minute -- the budget proposal requests an additional 200 units for installation. As you know, I've been very supportive of the AIT and other passenger screening initiatives. And the big issue is what are we doing to educate the public better about AIT and other passenger enhancements?

We went through that situation back in -- around Thanksgiving when there was a lot of public discontent with some of the practices. What are you doing to help educate the public, as well as members of Congress, because we're going to face amendments on AIT, I suspect, as we deal with this Homeland Security appropriations bill in 2012.

NAPOLITANO:

Well, first of all, experience is the best educator. More and more passengers now have gone through the AITs. They recognize that it's actually -- it's fast, it's thorough, it is the next wave of technology. It makes airports safer and air travel safer.

And if you say to passengers, "Do you want to fly on a plane where people have been through the AIT or not through the AIT," they're going to pick the AIT. But we're also doing in-airport education. We're also making a lot of information available through the TSA.

ADDERHOLT:

Mr. Olver?

OLVER.:

Thank you, Mr. Chairman.

Are you operating under a special time limit at the moment?

ADDERHOLT:

Three minutes.

OLVER:

Three minutes? OK, well, that's going to constrain me greatly. Just one other question on AIT. How many different kinds of programs -- how many different models are you working with? How many different models are under testing?

NAPOLITANO:

In terms of the hardware or software, or both?

OLVER:

Well, maybe I don't know what an AIT is. I was -- I'm referring, and I thought Mr. Dent was referring to full-body scanners.

NAPOLITANO:

Yes, and there are basically two types of hardware. But we are also now piloting a new type of software which gives you, basically, a stick figure outline of an individual as opposed to an image, and identifies where, if there is an anomaly, that anomaly is, for pat-down purposes.

OLVER:

I was going to say, it seems to me there's technology that's being developed that is quite noninvasive from a privacy point of view. So you seem to be headed toward that in any case. OK.

My impression is, from where I go in and out of my airport, is that there is a lot of turnover. People are always changing. Are you having -- is the agency seeing a fair amount of turnover or are people pretty stable in their jobs? Is the change just adding more?

NAPOLITANO:

At the TSA?

OLVER:

Yes.

NAPOLITANO:

There is some turnover. I would say in part it's because of the size and the work -- just the type of workforce there is. It's a very high-stress job. I've worked a line for a while myself, and it is hard work and it is zero-error work, which adds to the stress. In other words, if you are the TSO who permits something to get on a plane, the consequences could be dire.

So we work with our TSOs. We are developing a career path for them that makes it a long-term career as opposed to not. And we're doing a number of other things to make the workplace conditions better for them.

OLVER:

OK. I want to turn to something in relation to immigration. I have quite a few responses in our -- in my office that look for immigration assistance. And every once in a while, I sit down with great care and talk with -- about -- with the people that seem to me to have an egregious error or problem.

And I wanted to just mention one that happened quite recently of a family that had come in under some sort of a waived situation just before 9/11. I'm not sure whether the waived arrangement is still being used. But the family, which was a father, mother, man and wife, and two children, 13 and seven or eight -- something like that -- this is now 20 years ago. They stayed. They overstayed.

And the daughter, the older person, ended up, by the time she was 19 or 20, she had graduated from college in -- this is Massachusetts -- and gotten a degree and married. At which point she was able to adjust for her parents, for her parents, who also had been under the radar screen for all that period of time.

And her younger brother she couldn't adjust for -- she cannot adjust for. Now he was seven or eight when he came in, probably 15 years ago, I guess, I guess I exaggerated slightly. And he's about to be deported back to some place in South America. I know where it is, but I'm not going to mention exactly where it was. And he speaks English as well as we do. He had scholarships allowed for college and so forth. Is there any hope for people like that?

ADERHOLT:

The gentleman's time has expired. We -- the secretary has to leave at five o'clock and we have one more question.

So, Mr. Carter?

NAPOLITANO:

We'll just -- we'll get back to you on that situation, Representative. We'll have -- I'll have somebody come visit with you.

OLVER:

I would appreciate it.

NAPOLITANO:

Thank you.

ADERHOLT:

Thank you.

CARTER:

Madam Secretary, thank you for coming -- waiting here for us. I really appreciate that.

You were the first governor, I believe, to attempt to use our new law that allows you to request the National Guard to be deployed in your state. And I believe as a result of that request, under Section 209 of Title 32, the response from then-Secretary Rumsfeld was that he didn't think it was their duty to enforce the borders. It was the duty of the Homeland Security Department. And you experienced that, I believe.

And my governor in my state is saying that he needs troops on our border for safety and security of the citizens of the state of Texas. And I believe he does. Do you believe we should approve a governor's request to use the National Guard on the border under the current time limits -- of Title 32 -- 309 (sic)? And do you think that we should authorize the Department of Homeland Security to pay for that National Guard deployment if necessary by the governors?

NAPOLITANO:

First of all, the president has put 1,200-plus National Guard on the border and they are providing very useful counter-drug assistance to the border patrol. You have also, in this Congress, approved upping the personnel in the border patrol. And that's the ideal situation, where you have enough federal civilian resources there.

But there can be a role for the National Guard. That's why we have some of them down there now. And I think that's going to be something that's a continuing discussion between us and the Department of Defense and these committees as to how many, and where, and how it should be paid for.

CARTER:

And the part of that discussion, right now, is that the Department of Defense says they won't pay for it. And so then my question is, under a circumstance which you and I may not be able to imagine, although our governor believes he needs it right now, should we be thinking about authorizing the payment of those Guardsmen by our department?

NAPOLITANO:

I certainly think that's something that, as we move forward, that will need to be discussed between the legislative and executive branches, yes sir.

CARTER:

Thank you.

ADERHOLT:

Mr. Price?

PRICE:

Thank you, Mr. Chairman.

Madam Secretary, I again apologize for our leaving you bereft today for an hour, but we appreciate your patience. We have to close out now.

I will be submitting some questions to the record. Some of them commend you for progress you've made, for example, on the 100 percent screening requirement for cargo in the hold of passenger planes. You've actually accelerated the timetable for meeting that requirement, and recent incidents show just how important that is.

In other areas, for example, the future of the CSI, the container security initiative in overseas ports, I'm going to want to seek some clarification as to exactly what the implications of your budget are for the future of that and other programs.

But we'll have to do that for the record and now just thank you for your good work, for your presence here today, and again express the -- how much we're looking forward to another round of working with you.

NAPOLITANO:

Thank you, sir.

ADERHOLT:

Madam Secretary, let me again echo what Ranking Member Price said. The votes are out of our control, as you know. So we're at the mercy of the speaker and when they call it. But I do thank you for being here today.

And we are about to begin working with the Senate to pass a full- year C.R. Without additional information, we have no option but to fully fund the DRF. Part of the reason we took the cuts in H.R. 1 was due to the lack of budget amendment or a supplemental.

But Madam Secretary, what I would ask you to do is to commit to working with my staff on developing a plan that will fund the DRF through the end of the year and fund the DRF in fiscal year 2012.

NAPOLITANO:

Yes, sir and I really appreciate your forbearance with my schedule, too. I think we all have been juggling like crazy this afternoon. So I know I put off one thing and so forth. So I really appreciate the consideration you and your staff have shown.

And the -- obviously and absolutely, we will work with you and with staff on the DRF and some of these other issues that have been raised this afternoon.

ADERHOLT:

Sure. Well, thank you very much. We look forward to working with you, and again thank you for your attendance this afternoon.

NAPOLITANO:

Thank you, Mr. Chairman.

ADERHOLT:

The meeting is adjourned.