

United States Senate

WASHINGTON, DC 20510

November 16, 2015

The Honorable Thad Cochran
Chairman
Committee on Appropriations
United States Senate
Washington, DC 20510

The Honorable Barbara Mikulski
Vice Chair
Committee on Appropriations
United States Senate
Washington, DC 20510

Dear Chairman Cochran and Vice Chair Mikulski:

As we work on funding the federal government for the remainder of fiscal year 2016, we are contacting you in support of the Assistance to Firefighters (FIRE) grant program and the Staffing for Adequate Fire and Emergency Response (SAFER) grant program. Firefighting entities are grappling with increased equipment costs and both of these grants help firehouses nationwide defray these rising expenses. Therefore, we respectfully request that you include at least \$405 million each for both the FIRE and SAFER grant programs.

The SAFER program provides much-needed funding for career and volunteer fire departments across America to hire new firefighters and recruit and retain volunteer firefighters. Two-thirds of all career and volunteer fire departments in our nation, located in both large cities and small towns, lack the sufficient personnel to adequately protect the public, and this program is critical to the thousands of fire stations nationwide that are currently understaffed. When adequately funded, SAFER improves the safety of our firefighters and the communities they serve.

Under the SAFER program, fire departments throughout the country are able to apply for federal grants to hire new firefighters. In addition, grants have been awarded to state and local organizations to recruit and retain volunteer firefighters. As you know, the SAFER program complements the very successful Assistance to Firefighters Grant program, through which the federal government provides funds for training and equipment to fire departments throughout the country. Ensuring that career and volunteer departments have adequate numbers of firefighters will allow departments to fully utilize the training and equipment funds provided through the FIRE Grant program.

Through the committee's past efforts, we clearly demonstrated Congress' strong bipartisan support for the FIRE grant program, as well as its understanding of the contributions this program has made to our firefighters and the communities they serve. This program has positively impacted public safety by providing nearly \$7 billion since 2001 for infrared cameras, personal protective gear, hazmat detection devices, improved breathing apparatuses, and interoperable communications systems. This is the basic equipment our fire departments need to effectively respond to a range of situations. But even that level of funding has failed to keep pace with the more than \$3 billion in applications submitted on average annually. The SAFER and FIRE grant programs have received flat funding for the past four years, and when accounting

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for inflation, the programs have experienced a reduction in real dollars at a time when costs of personnel, apparatus, and training continue to rise.

We ask and expect a lot from our firefighters as they put their lives on the line to protect others. It is imperative that we provide these brave men and women with the resources they need to safely and effectively do their job. We appreciate the challenges you face in decreasing the deficit while also making necessary investments within the Homeland Security Appropriations bill. With that said, we believe the FIRE and SAFER programs are worthwhile programs that deserve our support.

We thank you for your consideration of this request.

Sincerely,



Jon Tester
United States Senator



Charles E. Schumer
United States Senator

United States Senate

April 1, 2015

The Honorable John Hoeven
Chairman
Subcommittee on Homeland Security
131 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Jeanne Shaheen
Ranking Member
Subcommittee on Homeland Security
128 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Hoeven and Ranking Member Shaheen:

As you prepare the Fiscal Year 2016 Homeland Security Appropriations bill, I respectfully request that you consider the following funding items.

- Item: **Federal Emergency Management Agency**
Assistance to Firefighters Grant Program
Staffing for Adequate Fire and Emergency Response Grant Program
Request: \$810 million, evenly divided between the two programs
FY2014 Enacted: \$680 million, evenly divided between the two programs
PB2016: \$670 million, evenly divided between the two programs

The Assistance to Firefighters Grant Program and the Staffing for Adequate Fire and Emergency Response Grant Program address many of the needs of our nation's fire and emergency services by providing funding for crucial fire prevention and safety programs targeted toward high-risk populations.

- Item: **Federal Emergency Management Agency**
U.S. Fire Administration
Request: \$45.6 million
FY2014 Enacted: \$44 million
PB2016: \$41.6 million

The U.S. Fire Administration ensures the fire service is prepared to respond to all hazards by providing training to approximately one million fire and emergency service personnel through the National Fire Academy. It also collects important data and conducts research to reduce the threat of fire and other dangers in local communities.

Additionally, I respectfully request that you consider the following bill language.

Customs and Border Protection

Customs and Border Protection Withholding of Collected Interest on Antidumping Duties: Since the late 1990s, producers of honey, garlic, shellfish, and canned mushrooms have been adversely affected by the imports of low-priced (dumped) goods from China. By 2000, the U.S. issued an antidumping (AD) order to impose duties on these imports, yet the practice of Chinese dumping

continued through 2006. Customs and Border Protection (CBP) accepted hundreds of millions in bonds to secure duties on these agricultural commodities until Congress closed the bond loophole in 2006. When CBP eventually assessed AD duties on these imports, the importers had disappeared, and the American insurance companies issuing these bonds (as bond “sureties”) refused to pay under their bonds. CBP has filed lawsuits to recover \$80 million in AD duties owed under the bonds, and in every case, CBP waited to file its suit for six years from its first demand for payment to the surety—the maximum time allowed by the applicable statute of limitations. In its first completed lawsuit last year, CBP was awarded \$6.1 million in unpaid AD duties owed on commodity imports from China, 10 years after its first demand for payment.

CBP has withheld the collected delinquency interest, which has been accruing for years on all of the \$72 million in unpaid AD duties covered by CBP’s remaining lawsuits against the bond sureties. The agency requires additional direction from Congress. The FY2014 DHS Appropriations bill included placeholder language to address this issue, but requires additional instructions from Congress to ensure that clear instructions are provided to the agency.

SEC. ____ (a) Notwithstanding any other provision of law, for payments received under any customs bond the Department of Homeland Security is prohibited from deducting post-liquidation interest accruing under section 505(d) of the Tariff Act of 1930 (19 U.S.C. § 1505(d)) from distributions made pursuant to section 754 of the Tariff Act of 1930 (19 U.S.C. § 1675c), as such section was in effect on February 7, 2006, in accordance with the terms and conditions described in section 7601(b) of the Deficit Reduction Act of 2005 (19 U.S.C. 1675c note).

(b) Not later than 180 days after the enactment of this Act, the Secretary of Homeland Security shall promulgate regulations to effectuate subsection (a) that provide for the immediate distribution of all post-liquidation interest. [The regulations shall also make clear that such distributions made to eligible domestic producers are permanent.]

(c) The Secretary shall establish a temporary holding account and deposit into that account payments described in subsection (a) received [before and up to] OR [on or after] the date of enactment of this Act and prior to the promulgation of regulations in subsection (b), and any other payments described in subsection (a). Funds in the temporary holding account shall be distributed in accordance with regulations provided for in subsection (b).

Additionally, I respectfully request that you consider the following report language.

1. Customs and Border Protection, Border Security and Control Between the POEs

Border Patrol Agent Pay Reform Act Implementation: In 2014, the President signed into law a bill that simplifies the overtime pay practices for U.S. Border Patrol Agents, known as the Border Patrol Agent Pay Reform Act. The law stemmed from the allegation that U.S. Border Patrol managers were abusing the overtime system, known as administratively uncontrollable overtime (AUO), by authorizing unnecessary overtime payments to Border Patrol employees. The law allows the Border Patrol to classify positions within three pay schedule options that helps to rein in potential abuses of AUO, and requires Customs and Border Protection (CBP) to, among other objectives: (1) conduct a comprehensive analysis examining the staffing requirements for CBP, (2) estimate the cost of these requirements, and (3) submit a report of this analysis to the Government Accountability Office (GAO).

The Committee directs Customs and Border Protection to within one year of the enactment of this Act, submit a comprehensive report to the United States Senate Committee on Homeland Security and Governmental Affairs and the Committee on Appropriations regarding the progress of implementation of the provisions within Public Law 113-277, including the classification and numbers of employees within the three pay schedules, U.S. Border Patrol Agents' new pay ranges relative to before the law was enacted, and areas of implementation requiring further regulatory or statutory action.

2. Customs and Border Protection, Office of Air and Marine

Unmanned Aerial Vehicle Loans: From 2011-2014, DHS loaned its Unmanned Aerial Vehicles (UAV) over 700 times to local and state law enforcement, National Guard units and other agencies. There is concern about the types of information being collected, the impact on privacy and civil liberties and whether the information being collected is done so according to Customs and Border Protection's guidance.

The Committee directs the Department to report on the number of times it loans Unmanned Aerial Vehicles (UAV) to state, local, and tribal law enforcement, as well as the purpose and justification for the entity's use of the UAV to ensure only information related to border surveillance activities is collected.

3. U.S. Immigration and Customs Enforcement

U.S. Immigration and Customs Enforcement Staffing in Bakken Region: Since the oil boom began in the Bakken region in 2007, a surge of criminal activity has outstripped local law enforcement's ability to interdict crime within their communities. From 2008 to 2012, the number of arrests in all crime categories in counties within the Bakken region increased by 80 percent. The nature of crime in the region has also changed rapidly, and now includes organized and transnational drug trafficking, smuggling, and sexual exploitation. The federal agency best equipped to combat such criminal activity is U.S. Customs and Immigration Enforcement (ICE), yet there is currently a limited ICE presence in the region.

The Committee recommends U.S. Immigration and Customs Enforcement (ICE) conduct a study of current staffing levels of ICE agents, officers, and specialists in the Bakken regions of Montana and North Dakota. The study shall include an assessment of ICE interdictions of drug traffickers and their networks, as well as smugglers of drugs and persons, thereafter promulgating recommendations regarding ICE staffing and asset levels in the region.

4. Department of Homeland Security, Office of Policy

REAL ID: The implementation of the two final stages of the REAL ID Act of 2005 is of great concern to the 14 "non-compliant" states and territories, whose residents could be barred from federally regulated commercial aircraft beginning in 2016. Montana and several other states have passed laws rejecting REAL ID, while all states have increased the security protocols of their respective identification cards. Therefore, I propose the following bill language:

None of the funds provided under this or any act shall be used for the implementation of Phases 3b or 4 of REAL ID.

And the following report language:

The Committee prohibits the use of funds under this or any Act be used for the Department of Homeland Security's implementation of Phases 3b or 4 of REAL ID, recognizing that 14 states and territories are not in compliance with the standards dictated by the Title II of the REAL ID Act of 2005.

5. U.S. Immigration and Customs Enforcement

Shadow Wolves Program: The Shadow Wolves program was established by a Congressional mandate in 1974 as a U.S. Immigration and Customs Enforcement (ICE) tactical patrol unit based on the Native American Tohono O'odham Nation in southern Arizona. The unit has an esteemed history and the Shadow Wolves are DHS's only Native American tracking unit. The unit is authorized to have as many as 21 members, but, as of March 2007, consisted of only 15. The Office of National Drug Control Policy released in August 2014 its *2014 National Northern Border Counternarcotics Strategy*, which stated that despite the number and variety of law enforcement agencies that may have authority to provide services in Indian Country, many tribal communities find that the law enforcement resources available to them are inadequate. Because many of these areas remain vulnerable to transnational threats – including the trafficking of drugs, weapons, and persons – they require further law enforcement assets to assist in the interdiction of these criminal activities.

The Committee directs U.S. Immigration and Customs Enforcement to explore the establishment of up to five additional Shadow Wolves units, three of which would be placed along the Northern Border with Canada. Priority to establish such units would be given to Federally-recognized Indian Tribes in closest proximity to the U.S.-Canada Border.

6. Department of Homeland Security, Office of the Secretary and Executive Management

International Mobile Subscriber Identity Catcher Technology Use: Technology known as International Mobile Subscriber Identity Catcher surveillance devices (IMSI-catcher), commonly referred to as "DRTBoxes," "dirtboxes" or "Stingrays," simulate legitimate cell phone towers, thus compelling all proximate cellular telephones to identify themselves. Agencies within DHS use these devices to collect information on thousands of Americans. According to U.S. Immigration and Customs Enforcement, Homeland Security Investigations has deployed this technology 2,193 times between October 1, 2011 and December 31, 2014, whereas the Secret Service has deployed this technology approximately 3,900 times from October 1, 2009 to September 30, 2014. According to DHS, Customs and Border Protection does not currently maintain deployment statistics and does not track any radios that were identified by this technology. Despite the Department's extensive deployment of this technology, DHS states that it does not currently have Department-wide guidance that governs its agencies' use of IMSI-catchers or other similar technology.

The Committee directs Department of Homeland Security agencies, in collaboration with the Department's Office for Civil Rights and Civil Liberties and the Privacy Office to, within 180 days after the enactment of this act, establish and administer guidance governing the agency's use of International Mobile Subscriber Identity Catcher surveillance devices and other similar technology. The guidance for use of such technology shall include (1) the type of warrant required prior to deployment of IMSI-catchers or similar technology, (2) what allegations or information is specifically included in the warrant application, and (3) the duration of storage of

information collected that is unrelated to the data gathered for purposes of interdiction by IMSI-catchers or similar technology by the Department.

7. **Federal Emergency Management Agency, Protection and National Preparedness Directorate**
National Preparedness Grant Program Effects on Rural Communities: The FY2016 budget request proposes to consolidate all of FEMA's preparedness grants – with the exception of firefighter assistance and emergency management performance grants – into a new, comprehensive National Preparedness Grant Program. Rural communities may be affected negatively by this proposal as they are often at a disadvantage when applying for grants. Such grants in rural communities are a critical means of funding for these communities, providing them with resources, education, and training for first responders and law enforcement.

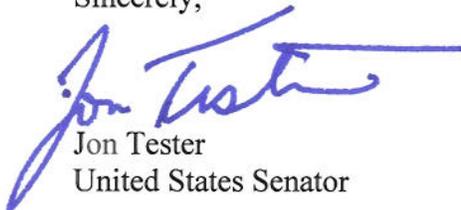
The Committee directs that any consolidation of the Federal Emergency Management Agency's grant program be examined for its possible effects on small and rural community applicants before any consolidation occurs. FEMA shall report on these possible effects to the Committee within six months of enactment of this Act.

8. **Federal Emergency Management Agency, State Homeland Security Grants Program**
State Homeland Security Grants Program Guidance to State Administrative Agencies: The Grant Programs Directorate (GPD) of the Federal Emergency Management Agency (FEMA) manages the Homeland Security Grant Program (HSGP), including the State Homeland Security Program, the Urban Areas Security Initiative, and Operation Stonegarden. HSGP is the primary source of DHS's preparedness grant funding and is awarded to each state or territory's State Administrative Agency (SAA). The GPD also maintains a tool that allows FEMA's grantees to describe their use of preparedness grant funds, and has indicated that grantees have used grant funding to fund projects involving the keywords "stingrays," "IMSI-catcher," "DRTBoxes," and "dirtboxes." While FEMA shares Congress' expectation that federal grant dollars should not be used to engage in activities or conduct that operates contrary to the Fourth Amendment, or any federal, state, or local law, the purchase of IMSI-catchers or similarly invasive technology by state grantees requires guidance governing its purchase and use.

The Committee directs the Department of Homeland Security, in coordination with the Federal Emergency Management Agency to promulgate guidance to State Administrative Agencies regarding the purchase and use of IMSI-catchers or similar technology prior to such technology being purchased by a grantee.

Thank you very much for your consideration of these requests. Please feel free to contact me or Stuart Varvel of my staff (8-6276 or stuart_varvel@tester.senate.gov) if you or your staff has any questions about my requests.

Sincerely,


Jon Tester
United States Senator

United States Senate

WASHINGTON, DC 20510

April 1, 2015

The Honorable Thad Cochran
Chairman
Committee on Appropriations
United States Senate
Washington, DC 20510

The Honorable Barbara Mikulski
Vice Chair
Committee on Appropriations
United States Senate
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The Honorable Jeanne Shaheen
Ranking Member
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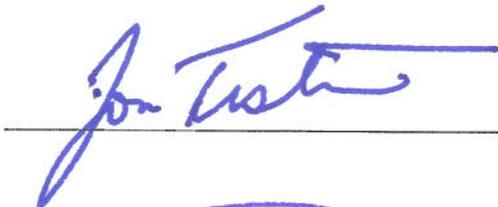
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We thank you for your consideration of this request.

Sincerely,













Robert M. Meroney

Shirley Brown

Jeffrey A. Markey

Bob Sanders

Gay C. Peters

Cheri Casper

Charles Sch

Amy Klodner

Bob B.

Edward J. Markey

Frank

Kirsten Gillibrand

Margie K. Aiello

M. F. B.