

While the Conference made hasty changes to the Insurrection Act, the Guard empowerment bill was kicked over for study to the Commission on the National Guard and Reserve, which was established only a year ago and whose recommendations have no real force of law. I would have never supported the creation of this panel—and I suspect my colleagues would agree with me—if I thought we would have to wait for the panel to finish its work before we passed new laws on the Guard and Reserve.

In fact, we would get nothing done in Congress if we were to wait for every commission, study group, and research panel to finish its work. I have been around here over 30 years, and almost every Senator here knows the National Guard as well as any commission member. We don't need to wait, and we don't need to study the question of enhancing the Guard further. This is a terrible blow against rational defense policy-making and against the fabric of our democracy.

Since hearing word a couple of weeks ago that this outcome was likely, I have wondered how Congress could have gotten to this point. I can only surmise that we arrived at this outcome because we are too unwilling to carry out our article I, section 8 responsibilities to raise and support an Army. We have it in our constitutional power to organize the Department of Defense. The Goldwater-Nicholas Act that established a highly effective wartime command structure and the Nunn-Cohen legislation that established the now-critical Special Operations Command came out of Congress.

If the then-stale leadership of the Pentagon had its way, these two critical bills would never have seen the light of day. Today, however, the Pentagon is just as opposed to the Empowerment legislation, and instead of asserting its power, the Congress is punting—just kicking it down the field and out of play.

Also, it seems the changes to the Insurrection Act have survived the conference because the Pentagon and the White House want it. It is easy to see the attempts of the President and his advisors to avoid the debacle involving the National Guard after Hurricane Katrina, when Governor Blanco of Louisiana would not give control of the National Guard over to President and the Federal chain of command. Governor Blanco rightfully insisted that she be closely consulted and remain largely in control of the military forces operating in the State during that emergency. This infuriated the White House, and now they are looking for some automatic triggers—natural disasters, terrorist attacks, or a disease epidemic—to avoid having to consult with the Governors.

And there you have it—we are getting two horrible policy decisions out of this conference because we are not willing to use our constitutional powers to overcome leadership that ranges

from the poor to the intemperate in the Pentagon and the White House. We cannot recognize the diverse ways that the Guard supports the Country, because the Department of Defense does not like it—simply does not like it.

Because of this rubberstamp Congress, these provisions of this conference report add up to the worst of all worlds. We fail the National Guard, which expects great things from us as much as we expect great things from them. And we fail our Constitution, neglecting the rights of the States, when we make it easier for the President to declare martial law and trample on local and state sovereignty.

The conference report was agreed to. (The conference report is printed in the proceedings of the House in the RECORD of September 29, 2006.)

#### SECURITY AND ACCOUNTABILITY FOR EVERY PORT ACT—CONFERENCE REPORT

The PRESIDING OFFICER. If the majority leader will suspend, under the previous order, the Senate adopts the conference report to accompany H.R. 4954, the port security bill.

Mr. STEVENS. Mr. President, the passage of this port security legislation marks the first time three Senate committees and their House counterparts have merged their collective expertise and crafted a truly comprehensive approach to port security. A bipartisan group of Members from both Chambers of Congress dedicated several months to developing this bill to better secure America. It is a credit to the Senate and the House that each committee involved agreed to pool their resources, put aside jurisdictional issues, and reach consensus on this bill.

This act strengthens security at our land and sea ports, improves our maritime transportation security strategy, and enhances communication between the Department of Homeland Security and transportation security stakeholders. It includes a plan to get our trade activities up and running again in the event of a transportation security incident. And it creates a pilot program which will study the feasibility of scanning each of the containers—100 percent of the containers—entering our ports.

This legislation will enhance the collection and analysis of information about cargo destined for our ports, and this bill aims to increase awareness of the operations at domestic and foreign ports. Once those in industry share important information about cargo in the international supply chain, we must analyze it quickly. This legislation expedites that process and ensures it begins earlier in the supply chain—before containers even reach our shores. This act requires information about cargo be provided and analyzed before the cargo is loaded on a vessel in a foreign port and shipped here.

This bill also expands several initiatives with a proven track record of suc-

cess. There are currently five inter-agency operations centers up and running throughout our country. These centers bring together Federal, State, and local security enforcement officials to ensure communication among them. This act expands this effort to each of the major seaports, and places the Coast Guard in charge of these centers.

This act also builds upon the Department of Homeland Security's, DHS, past cooperation with foreign governments. The container security initiative, CSI, contained within this bill enables the Department, working in partnership with host government customs services, to examine high-risk containerized cargo at foreign seaports before it is loaded on vessels destined for the United States.

The Customs-Trade Partnership Against Terrorism (C-T PAT), a voluntary public-private partnership, is also strengthened in this bill. The Commissioner of Customs and border protection will now be able to certify that a business's supply chain is secure from the point of manufacture to the product's final U.S. destination. Under this legislation, whether cargo crosses our border at Laredo or arrives on a ship from Hong Kong, participating companies' supply chains will undergo a thorough security check. This will add another layer of security to the C-T PAT initiative. Since this is a voluntary system, we have also included provisions which encourage those in industry to go above and beyond the security requirements already in place. These new incentives include expedited clearance of cargo.

Mr. President, while I was disappointed earlier this year by the negative public reaction to foreign investment in our Nation's port terminals, we learned a great deal from hearings held by the Commerce Committee on this matter. As a result of those hearings, this bill requires DHS to conduct background checks on all port personnel. Current law only requires the Transportation Security Administration to perform checks on those workers directly tied to transportation at the port, or involved in its security. From the Commerce Committee hearings, it was evident that a more stringent requirement was needed.

To prevent future attacks, we must secure our ports. This bill is a major step forward in this effort. Senator INOUE is my co-chairman on the Commerce Committee, and I thank him and Senators GRASSLEY, BAUCUS, COLEMAN, COLLINS and LIEBERMAN for their leadership in drafting this bill, as well as the House committee leaders who were involved. I would also like to thank the staff members on each of the committees—they have worked tirelessly on this bill.

Our country's ports have become enormous operations. To fully address security of our ports, it is important that we appreciate the impacts security requirements might have on economic efficiencies in transportation

and trade. We must strive to be a secure state without becoming a security state.

Each of the Senate and House committees involved in this bill has jurisdiction over an area vital to the safety of our ports. Working together, our committees have developed a comprehensive bill which will help shield our Nation from future terrorist attacks. It is my hope our colleagues will support this act and move quickly to pass this bill.

Mr. REID. Mr. President, the days before a long recess are always a hectic time as we scramble to complete our work. This conference took a lot longer than it needed to take, and the events leading up to the filing of this report represented an abuse of the process. The Senate passed this bill 3 weeks ago, but the House waited until yesterday to appoint conferees. The conferees conducted one perfunctory public meeting last night where no bill language was provided, no amendments allowed; and no votes taken in public. In fact, there seemed to be more interest by the majority conferees in determining what additional unrelated bills could be jammed into this conference overnight and not on improving our homeland security.

These types of shenanigans really show a lack of respect for the members of this institution and a disregard for the serious task at hand.

I was encouraged when this bill passed the Senate 3 weeks ago. Senators from both sides of the aisle worked together to pass a transportation security bill for seaports, mass transit, freight rail, and commercial aviation systems and actually extended expiring Customs fees in an attempt to pay for some of the new port security initiatives.

Three weeks later after negotiations with the House, all but the port security initiatives were dropped at the insistence of the House Republicans, despite overwhelming support in the Senate. The new initiatives for the mass transit and freight rail system would have fulfilled an important recommendation of the 9/11 Commission Report, which recommended that the Federal Government address a much broader range of transportation security issues in addition to those undertaken in commercial aviation.

A Democratic amendment adopted in the Senate also would have provided a source of funding to fund some of the new port initiatives in the bill, given the fact that we are not adequately funding current port security programs. This meager attempt to begin to fund these programs was also dropped at the insistence of the House Republicans.

It has now been 5 years since the attack on the World Trade Center and little has been done to make our transportation systems more secure other than the obvious improvements in commercial aviation. There is no urgency by this administration. One gets the

feeling that they believe these transportation security issues are really not a Federal responsibility and instead should be funded by State and local governments or the private sector. Homeland Security Secretary Chertoff scoffed at the idea of spending money to protect Americans who use mass transit, noting that a bomb in a subway car would kill only 30 people. Other Republicans, including Assistant Secretary of Homeland Security Henkey, have said that they think rail and transit security should be a State and local or private responsibility.

Democrats believe Government cannot 'pass the buck' on protecting Americans from the threat of a deadly terrorist attack to the private sector or to our already-squeezed State and local governments.

The U.S. mass transit industry has said it needs \$5.2 billion in capital expenditures from the Federal Government to protect American citizens from deadly terrorist attacks. But, since 2003, the Federal Government has only invested a total of roughly \$400 million in transit and rail security for the entire country, compared to \$20 billion on aviation security during that same period. President Bush's Fiscal Year 2007 budget completely eliminated rail and transit security grants and intercity bus grants, which were funded at paltry amounts in 2006.

This is just another example of misplaced priorities. According to the RAND Corporation, there are about 30 terrorist attacks on trains and rail-related targets per year. Our close allies in Britain, Spain, and India have been the victims of deadly terrorist attacks on rail and transit targets in recent years. Yet Republicans stripped rail security out of this bill so they could add unrelated provisions.

I am proud of the work of the Democratic caucus on this bill and on earlier homeland security measures. It was a Democratically controlled Senate that passed a landmark aviation security bill and a comprehensive port security bill immediately after 9/11—over the objections of the Republican-controlled House and the White House. These bills acknowledged for the first time that securing our maritime trade and our commercial air passenger system were national security responsibilities of the Federal Government and should not be relegated to contractors or the private sector. Similarly, Democrats have led the way in developing and pushing security measures during this Congress related to ports, freight rail, aviation and mass transit, and I am proud of the work the caucus has done on this bill.

The port security provisions in here reflect a lot of hard work and bipartisan effort, so are worthy of our support. But, I don't take a lot of pride in giving the American people half a loaf when it comes to security. I think all in all, this is another time that the Republican majority has let the American people down. And I hope that the

American people are sick of half a loaf and will agree with me on the need for a new direction.

Mr. INOUE. Mr. President, just 2 weeks ago, the Senate considered comprehensive legislation to address the transportation security needs of this country. That bill was not written overnight. It was the culmination of 2 years of bipartisan work within the Commerce Committee, the Banking Committee, the Finance Committee, and the Homeland Security Committee.

While we have had our jurisdictional debates during the past 2 years, this week we somberly observed the fifth anniversary of the attacks of September 11, 2001. We set aside those debates, and as a body, came together and passed a comprehensive bill improving security for all modes of transportation. The Senate passed that bill by a vote of 98 to 0, and we took a huge step toward making our Nation a safer place to live, work, and travel.

I had hoped that today I would be telling my colleagues that the House and Senate conferees had recognized they had the rare opportunity, for the first time in 5 years, to address transportation security in a comprehensive manner. I believed they would act in the same manner as we had here in the Senate just 2 weeks ago and would reach an agreement on the port security bill that truly reflects the best of our institution.

Regrettably, that is not the case. Staff from the Senate and several House Committees sat down the past 2 weeks and went through hundreds of pages of text in what was suppose to be, and in fact, appeared to be a bipartisan, bicameral process. They did a good job, and the port security title reflects their hard work. However, several days ago, House leadership stymied our efforts to provide a real transportation security bill for America.

The House leadership effectively hijacked the work of the Senate and refused to include or even discuss anything but the port security provisions of the Senate's bill.

Despite this refusal, several of my colleagues came to last night's meeting of the conferees prepared to offer and debate amendments to restore the nonport related security provisions that had been included in the Senate-passed bill. As I stated then, while the port security provisions are sound and a big step in the right direction, we must take a comprehensive approach to securing our transportation infrastructure.

I was prepared to work into the evening on efforts to restore the other provisions. My colleagues should be aware that we did not have the text of the conference report when we met for the first, and what has now become apparent, the only meeting. During the round of opening statements on the conference report, the Chairman of the conference was repeatedly asked when we would be able to offer amendments.

In the end, the chairman indicated that we would reconvene in the morning when we had the text of the bill. Because of the chairman's assurances that we would meet again, and out of deference to the chairman's wishes, several of my colleagues agreed to not offer their amendments to restore the Senate provisions on rail and truck security.

Late last night, we were told there would be no more meetings of the conferees, denying my colleagues the ability to have their amendments debated and voted upon.

Last night's theater has ramifications for all of us today for three reasons. First, we have allowed a rare opportunity to enact comprehensive legislation that would improve the security of our transportation infrastructure to pass us by.

Our colleagues who opposed the inclusion of the other transportation modes claim that this is a port security bill only. The fact is, other modes of transportation are just as important and worthy of protection. Like the port security provisions, the rail, truck, and transit provisions reflect several years of committee hearings and full Senate action.

To pretend these provisions were written overnight is a disservice to the expert staff that have worked on these issues for years. It is also a disservice to our constituents who depend upon these modes of transportation for their livelihoods.

The American public deserves better from us. We have waited 5 years for this opportunity and have been fortunate that attacks like those in London and Madrid have not occurred here in the United States. We should act now to prevent an attack rather than waiting until a tragedy occurs.

Second, if we are to succeed as a democratic and open institution, our ability to work together and rely on the assurances of our colleagues is critical. My colleagues, particularly Senator LAUTENBERG, who has worked diligently on behalf of his constituents who rely on rail and transit and is an expert in the area of rail safety, deserve to be heard and be able to offer amendments.

To assure him the opportunity but deny him the reality is a disservice to the institution and to the millions of people who rely upon the rail and transit systems each day.

Third, it has come to my attention that the leadership has decided to include in the conference report provisions that are outside the scope of transportation security issues. These are provisions that our friends on the Armed Services conference refused to allow on their bill, and our friends on the Department of Homeland Security appropriations conference refused to allow on their bill.

It does not bode well for the American public that with the stroke of one pen we jettison fully vetted rail, truck, and transit security provisions that

would have provided enhanced security for the American public. Yet with the stroke of another pen, we add provisions that are not related to security nor fully debated by the Senate and House as a whole.

Ultimately, the action of the last few days reflects a lack of leadership and a lack of vision about our responsibilities to the American people. As a result, what we have before this body today does so much less than what is possible and prudent to secure the Nation, as well as ignoring the will of both bodies. More importantly, it neglects the real needs of our transportation security.

We have missed a rare opportunity to make our transportation infrastructure more secure. We have missed a rare opportunity to follow through with the promises we made on the Senate floor just 14 days ago.

Mr. GRASSLEY. Mr. President, I rise in support of the conference report to accompany H.R. 4954, the SAFE Port Act. This legislation achieves some important objectives that I have been working on for some time.

It will strengthen our port security operations and resources within the United States Customs and Border Protection.

It authorizes and approves current programs for securing our Nation's trade, and it provides direction for further strengthening of these programs as technological advances permit.

It requires our Federal agencies to cooperate and better coordinate their contingency planning in the event there is a security breach. In sum, this critical legislation will empower personnel in the Department of Homeland Security to stay one step ahead of the terrorists who seek to wreak economic havoc and physical destruction on our Nation.

At the same time, this legislation strengthens our Nation's economic security by realigning resources to ensure better efficiency in the administration of customs laws within the United States Customs and Border Protection, as well as trade facilitation functions within the agency and elsewhere in the Department of Homeland Security. Unfortunately, this legislation falls short in one critical area. The Senate-passed bill included robust sections on rail and mass transit security. But objections from the House have prevented us from including those provisions in the conference report.

I find this extremely shortsighted. It demonstrates a troubling lack of leadership. I want to make clear that I strongly supported the Senate-passed provisions on rail and mass transit security, and I strongly oppose their omission from this conference report.

But because this legislation contains so many provisions critical to the security of our Nation, I will support the conference report. It is certainly better than the alternative. I hope my colleagues on the House side realize that we have lost an opportunity here. At a

minimum, it would take another several months for us to be in a position to enact rail and mass transit security legislation into law. In the meantime, this important aspect of our Nation's security will not get the rightful attention that it needs.

That being said, this legislation does significantly strengthen our Nation's security. I want to thank my colleagues, particularly the chairmen and ranking members of the Commerce and Homeland Security Committees in the Senate, as well as the chairman of the Permanent Subcommittee on Investigations of the Homeland Security Committee, Senator COLEMAN, for their constructive engagement with me and Senator BAUCUS these past few months. Together we produced a very good bill, much of which is retained in this conference report. I urge its support so that we can get this critical legislation to the President's desk as soon as possible.

Mr. BAUCUS. Mr. President, I have mixed emotions about the SAFE Ports Act we pass today.

On the one hand, I am deeply disappointed that the bill that does not include the essential rail and transit security measures passed by the Senate last month. I strongly disagree with the decision to drop these provisions from the conference report. The rail and transit tragedies we have witnessed in London, Madrid, and Mumbai should be evidence enough that we should not have passed up this chance to shore up our defenses.

On the other hand, I am pleased that our hard work on land and seaport security has come to fruition. Working together, we have produced a bill that strengthens the security of our ports while ensuring the proper flow of trade on which all of our Nation's ports and our Nation's economy depends.

The easiest way to secure our ports would have been to simply pass a bill that mandated fences around our ports and required opening every container coming across our borders. But these measures would bring the flow of port traffic to a grinding halt and cripple our Nation's economy. It is essential that we strike the right balance on port security. I am pleased that this legislation does so.

This bill contains important provisions to screen workers coming through or working at the ports, establishes standards for container security devices, authorizes \$400 million in port security grants annually, and requires a pilot program at three foreign ports to employ integrated container scanning technology on 100 percent of containers bound for the United States.

The bill also directs the Commissioner of Customs to hire 1,000 more armed Customs and Border Protection officers for land and sea ports around the country. I have heard from ports big and small that they are woefully undermanned. In fact, in Montana, the port of Roosville finally received state-of-the-art container scanning equipment, but we didn't get the personnel

to run it, so it sits unused. This bill would ensure that every service port in the country, and the smaller ports in their area, won't be overlooked by Customs and Border Protection headquarters in Washington.

The SAFE Ports Act also authorizes the Commissioner of Customs to nearly double the number of Customs and Border Protection specialists dedicated to validating the supply chains of participants in the Customs-Trade Partnership Against Terrorism program. The quicker this program can process participants, the safer, and more prosperous, our Nation will be.

This bill also contains a provision I wrote to direct U.S. Customs and Border to begin targeting methamphetamine and its associated precursor chemicals crossing our borders at ports or through the international mail, and share its findings with various border and drug enforcement agencies.

I also saw a need to ensure the Customs and Border Protection Northern Border Airwing Branch based in Great Falls, Montana, will have support facilities needed to cover the 500-mile long border with Canada. Customs and Border Protection officials have proposed to expand the branch by adding facilities in Kalispell, Havre and Glasgow. A provision I authored in this bill gives them the ability to move forward with that plan. Including this provision was important to me, to ensure that Montana's border enforcement personnel have the backup they need to get the job done.

All of these provisions I have mentioned are key to enhancing physical security at our ports and along our borders. But it was important that we do more than that.

When Congress passed the Homeland Security Act of 2002, we strictly prohibited any diminution in the trade functions or personnel committed to trade functions at the Department of Homeland Security. Yet for 3 years, the Department has not complied with the law. Trade resources have decreased by as much as 15 percent within both Customs and Border Protection and Immigration and Customs Enforcement. I fought hard to ensure that this bill requires the Commissioner of Customs to restore a proper focus on the traditional trade mission of his agency.

So this act further ensures the Commissioner's commitment to Customs' trade mission by creating an Office of International Trade, headed by an Assistant Commissioner, who will be responsible for coordinating policy for all personnel dedicated to the agency's trade functions. The Commissioner will also now be assisted in trade policy oversight and operations by an International Trade Committee, comprised of the Assistant Commissioners of International Trade, Finance, Field Operations, International Affairs, and the Director of Trade Relations. Finally, we have also included a mandate for all U.S. agencies involved in the clearance of imports or exports to use a single-

portal data collection system to streamline the clearance process. I look forward to seeing how all of these measures will improve the overall trade mission of U.S. Customs and Border Protection.

While far from being the comprehensive transportation security legislation I had hoped the House would support, the bill before us is a positive step forward. I believe we have struck a good balance between security and trade. I thank my friend Senator GRASSLEY, the Chairman of the Senate Finance Committee, for working with me so closely on this, as in so many things. And I want to thank my colleagues for working so hard with Senator GRASSLEY and I to find the appropriate balance in this bill. It was a long, difficult journey, but we arrived there together in the end.

Thanks and congratulations to Chairman STEVENS and Ranking Member INOUE of the Commerce Committee, Chairman COLLINS and Ranking Member LIEBERMAN of the Homeland Security and Government Affairs Committee, Chairman SHELBY and Ranking Member SARBANES of the Banking Committee, and of course, my good friends, Senator MURRAY and Senator COLEMAN.

I also would like to recognize all of the hard-working staff who made the port security legislation before us today possible.

On my Finance Committee staff, I credit the tenacity and hard work of Anya Landau French, International Trade Adviser. Anya dedicated long hours to the Customs Reauthorization and Trade Facilitation Act of 2006, which served as the basis for many of the provisions in this Act. Brian Pomper, Chief International Trade Counsel; Bill Dauster, Chief Counsel and Deputy Democratic Staff Director; and Russ Sullivan, Staff Director, were all indispensable to this effort.

I would be remiss if I did not also recognize the tireless efforts of Senator GRASSLEY's talented, hardworking Finance Committee staff, who worked so closely and so well with my own staff. Tiffany McCullen Atwell and Stephen Schaefer put in long hours, and Kolan Davis, Staff Director, provided excellent guidance.

I also want to thank the many other dedicated staff of the Commerce Committee and the Homeland Security and Government Affairs Committee, in particular, Dabney Hegg, Sam Whitehorn, Stephen Gardner, Gael Sullivan, Channon Hanna, Lisa Sutherland, Ken Nahigian, David Wonnemberg, Mark Delich, Jason Yanussi, Michael Alexander, Rob Strayer, Mark Winter, and Ray Shepard. This bill is a result of teamwork and commitment at its best.

May the work we have all done keep us safe and strong.

Mr. SARBANES. Mr. President, the conference report on H.R. 4954 takes important steps toward improving security at our Nation's seaports. It provides much needed funding to upgrade

security at our ports, which are considered to be among our most vulnerable assets. Today, less than 6 percent of the 11 million containers that come through our seaports are inspected. While we have made significant investments in upgrading airport security, the administration's budgets continue to shortchange the funding necessary to ensure that the containerized cargo that comes into our country is safe. This legislation takes an important step toward addressing that shortfall.

While the need for action in the area of port security is clearly evident, we must not forget the other parts of our Nation's multimodal transportation network, at which the need is equally great. The legislation passed by the Senate included provisions aimed at addressing threats to public transit, rail, and intercity buses, among others. The Senate took a responsible, comprehensive approach toward securing our Nation's infrastructure. However, the conference report before us does not include those titles. While I support the effort to improve security at our ports, I cannot justify ignoring the needs of these other modes of transportation and continuing to leave Americans at risk.

Moreover, the process by which the decision was made to jettison these critical provisions was sorely lacking in transparency and accountability. The conference committee held only a single public meeting, and conferees were not permitted to offer any amendments to the conference report. When the conference committee met, for the first and only time in a public venue, I observed that this conference presented us with a unique opportunity to address the pressing security needs of our transit systems and to protect the millions of Americans who ride transit every day. I expressed my view that failure to take advantage of this opportunity would be tragic. Unfortunately, this conference report adopts the House position on transit and rail security—which is that our Nation's transit and rail riders will have to wait for another day to see a meaningful Federal commitment to their safety.

I want to focus my remaining remarks on public transportation, which is within the jurisdiction of the Committee on Banking, Housing, and Urban Affairs, on which I am the ranking member. The transit provisions in the Senate bill were based on legislation that passed the Senate unanimously in the 108th Congress, and passed again this Congress in the context of this legislation, again unanimously. The Senate bill would have provided grants to our Nation's transit systems to help protect the millions of riders who use subway trains, commuter rail, and buses every single day.

If there is any question as to whether transit is at risk, one need only look at recent events. This summer, seven coordinated bomb blasts devastated commuter rail trains in Mumbai, India, leaving over 200 people dead and 700 injured. Last year, the London subway

system was the target of a tragic attack that left 52 people dead, and in 2004, almost 200 people were killed when bombs exploded on commuter rail trains in Madrid.

In the United States this past May, the Department of Homeland Security issued a specific warning to transit systems to remain alert against possible terrorist attacks. The warning said that four people had been arrested over several months in separate incidents involving videotaping of European subway stations and trains or similar activity, which, the Department went on to say, provides "indications of continued terrorist interest in mass transit systems as targets."

The threat to transit is clear. In response, both the Federal Transit Administration and the Department of Homeland Security have worked with transit systems to identify steps that can be taken to help prevent and mitigate attacks. In fact, the greatest challenge to securing our Nation's transit systems is not a lack of knowledge of what to do, but rather lack of resources with which to do it. In the words of the Government Accountability Office: "Obtaining sufficient funding is the most significant challenge in making transit systems as safe and secure as possible."

Despite the record of attacks against transit overseas and the identified vulnerabilities here at home, the Federal Government's response to the needs of America's transit systems—which provide 32 million trips every weekday—has thus far been inadequate. In an editorial published shortly after the London subway bombings, the *Baltimore Sun* stated that, "Since September 11, 2001, the Federal Government has spent \$18 billion on aviation security. Transit systems, which carry 16 times more passengers daily, have received about \$250 million. That is a ridiculous imbalance."

To begin to address this issue, I worked closely with Chairman SHELBY and with Senator REED of Rhode Island, who have been leaders on this issue, on the Public Transportation Terrorism Prevention Act, which was incorporated into the Senate version of H.R. 4954. The Senate bill authorized \$3.5 billion over 3 years in security grants for our Nation's public transportation systems. That money would have been available for projects designed to resist and deter terrorist attacks, including surveillance technologies; tunnel protection; chemical, biological, radiological, and explosive detection systems; perimeter protection; employee training; and other security improvements.

Let me give one example of a critical need right here with respect to Washington's Metro. Their greatest security need is a backup operations control center. This need was identified by the Federal Transit Administration in its initial security assessment and then identified again by the Department of Homeland Security in its subsequent

security assessment. This critical need remains unaddressed because it has been unfunded. The Senate bill would have authorized the funding to make this and other urgently needed security upgrades at transit systems around the country.

We know that transit systems are potential targets for terrorist attacks. We know the vital role these systems play in our Nation's economic and security infrastructure. We can wait no longer to address the critical security needs of America's transit systems. The Senate has passed transit security legislation unanimously in each of the last two Congresses. By adopting the House of Representatives' do-nothing position on transit in this conference report, we have lost a unique opportunity to help protect the millions of Americans who use transit every day.

Mr. LIEBERMAN. Mr. President, the Security and Accountability for Every Port, or SAFE Port, Act marks a significant advancement for the security of our ports, authorizing \$400 million for critical port security grant programs and enabling all ports—not merely a select few—to become eligible to apply for that funding. These improvements are desperately needed to help close one of our most dangerous security vulnerabilities.

But when the Senate approved our version of this bill, it was a broader, comprehensive transportation security bill. It was not limited to the security of our ports but extended to several other modes of transportation—namely, rail, transit, trucking, and pipelines. It authorized over \$4.5 billion for the security of mass transit systems, freight railroads, and passenger rail.

Unfortunately, the Republican leadership, acting alone and without participation from the appointed Democratic conferees, stripped those provisions from the bill we are voting on tonight. I am deeply disappointed that conferees were never given an opportunity to frankly discuss and amend the conference report, even when Member after Member asked for that opportunity.

This unilateral, partisan process also resulted in the eleventh hour insertion of a bill that purportedly outlaws Internet gambling but which may have unintended consequences. This issue clearly deserves more deliberation, and it is unfortunate that such a measure has been added to a critical bill designed to protect the Nation's ports, legislation which this Congress must pass. I hope that the Senate will return to this issue and give it the attention it deserves, in the future.

On the issue which is what this bill is about, securing our homeland, we had a golden opportunity to present the President with legislation to enhance the security of our rail and transit systems. Fourteen million people ride the rails every day in America, and Connecticut is no different, where 110,000 people use the New Haven MTA line each day. Improving security for rail

and transit is an enormous concern and it should have been addressed tonight, rather than in a future Congress.

It is unfortunate that the bill no longer contains most of the well-advised Senate provisions which would have strengthened our open and highly vulnerable rail and transit systems. While the rail and transit provisions authorized a large sum of money, it is but a fraction of what the experts say is needed to address rail and transit vulnerabilities—vulnerabilities which have been exploited time and again by terrorists in London, Madrid, and Mumbai. I regret that the money was stripped out of the bill and that I was prevented from even trying to reinstate it by offering an amendment in a conference that was never formally completed.

Nevertheless, I am proud to be an original cosponsor of the port security legislation at the heart of this conference report and to have worked with my colleagues in the Senate and House to craft the port security provisions we will be voting on shortly.

Let me thank Senators COLLINS, MURRAY, COLEMAN, STEVENS, and INOUE for their hard work not only in bringing a comprehensive, bipartisan port security bill before the Senate but also for expertly guiding it toward a 98 to 0 vote, and now through conference. I would also like to tip my hat to Senators GRASSLEY and BAUCUS of the Finance Committee for their hard work as well.

Mr. President, 95 percent of our international trade flows through our ports. Prior to 9/11, the main goal was to move these goods through our ports efficiently. Since 9/11, we have come to realize we need to bring security into that equation but without harming our economy which depends on international trade.

It is a tricky—but imperative—balancing act.

The 9/11 Commission reported that "major vulnerabilities still exist in cargo [security]" and that, since aviation security has been significantly improved since 9/11, "terrorists may turn their attention to other modes. Opportunities to do harm are as great, or greater, in maritime and surface transportation."

Just last month, RAND's Center for Terrorism Risk Management Policy published a report titled: "Considering the Effects of a Catastrophic Terrorist Attack" that considered the effects of a nuclear weapon smuggled in a shipping container sent to the Port of Long Beach and detonated on a pier.

The potential short- and long-term effects truly are devastating. The report estimated that up to 60,000 people might die instantly from the blast or radiation poisoning, with 150,000 more exposed to hazardous levels of radiation.

The blast and the fires could completely destroy both the Port of Long Beach and the Port of Los Angeles and every ship in the port. As many as 6

million people might have to be evacuated from the Los Angeles area and another 2 to 3 million from the surrounding area might have to relocate due to the fallout. Short-term costs could exceed \$1 trillion.

Besides the damage to the United States, such an attack would cause economic ripple effects across the globe.

The dangerous little secret of port security—and why we need this bill—is that we still have very little idea about the contents of thousands of containers that are shipped into and across the heart of this Nation every day. Just 5 or 6 percent of those containers are physically inspected.

While Senator COLLINS and I began working on port security legislation in late 2004, the truth is port security received a major shot of adrenaline after the Dubai Ports World controversy earlier this year.

Looking back on it, perhaps we should be thankful for that uproar, since it raised the collective consciousness of the American people and Members of Congress to the vulnerabilities that we face at our ports.

Following that skirmish, the Homeland Security and Governmental Affairs Committee marked up the GreenLane bill, and later, Senator COLLINS and I started working with the Senate Commerce and Finance Committees, as well as our House colleagues to craft the comprehensive legislation we are voting on today.

The SAFE Port Act builds on the GreenLane foundation by providing both direction and much needed resources to port security. The bill moves us closer toward the goal of inspecting all of the containers entering the United States through our ports. The legislation requires DHS to establish a pilot program to inspect 100 percent of all containers bound for the United States from three foreign ports within 1 year and then report to Congress on how DHS can expand that system. We should move toward 100 percent inspection as fast as we can, understanding that we are at cross purposes if commerce slows to a halt. This legislation will provide us critical information about how soon we can achieve this goal.

This bill authorizes port security grant, training, and exercise programs, with a \$400-million grant program for which all ports can apply. And it requires DHS to deploy both radiation detection and imaging equipment to improve our ability to find dangerous goods and people being smuggled into the United States.

DHS says it will deploy radiation portal monitors at all of our largest seaports by the end of 2007. But this solution is only half of the equation. To provide real port security, radiation detection equipment must be paired with imaging equipment capable of seeing through dense materials that might shield radiation. This legislation requires DHS to develop a strategy for

deploying both types of equipment, as does the three-port pilot program for screening 100 percent of containers.

Lastly, since most experts agree that the next terrorist attack is a matter of when, not if, this bill requires DHS to develop a plan to deal with the effects of a maritime security incident, including protocols for resuming trade and identifying specific responsibilities for different agencies. I cannot stress the importance of this provision enough. The private sector and our global partners must have confidence that we can mitigate an economic disruption with the least amount of harm to our trading partners and foil terrorism's chief goal, which is to instill chaos.

Mr. President, again let me stress that the absence of funding for rail and transit security is a major omission that leaves wide open an entire transportation sector that we know from history is an appealing target for terrorists.

Nevertheless, when it comes to our ports, the SAFE Port Act will move us one giant step closer to better security by building a robust security regime domestically and abroad and by providing the resources necessary to protect the American people and our global economy.

Mr. REED. Mr. President, tonight the Senate is voting on the port security conference report. While the conference report contains important provisions to secure our Nation's ports, I am disappointed that the House of Representatives refused to accept the Senate bill's transit and rail security provisions. This is particularly troubling in light of the inclusion in the conference report of extraneous matter not debated by the full Senate and not related to our nation's security.

While our Nation acted quickly after 9/11 to secure our airports and airplanes, major vulnerabilities remain in maritime and surface transportation. As the 9/11 Commission concluded "opportunities to do harm are as great, or greater, in maritime and surface transportation" as in commercial aviation. Unfortunately, this conference report will leave our surface transportation system vulnerable.

Transit agencies around the country have identified in excess of \$6 billion in transit security needs—\$5.2 billion in security-related capital investment and \$800 million to support personnel and related operation security measures to ensure transit security and readiness.

The Senate-passed port security bill contained a provision I coauthored with Banking Committee Chairman SHELBY, Ranking Member SARBANES, and Senator ALLARD that authorized a needs-based grant program within the Department of Homeland Security to identify and address the vulnerabilities of our Nation's transit systems. The Senate bill provided \$3.5 billion over the next 3 years to transit agencies for projects designed to resist and deter

terrorist attacks, including surveillance technologies, tunnel protection, chemical, biological, radiological, and explosive detection systems, perimeter protection, training, the establishment of redundant critical operations control systems, and other security improvements.

Transit is the most common, and most vulnerable, target of terrorists worldwide, whether it is Madrid, London, Moscow, Tokyo, Israel, or Mumbai. According to a Brookings Institution study, 42 percent of all terrorist attacks between 1991 and 2001 were directed at mass transit systems.

Transit is vital to providing mobility for millions of Americans and offers tremendous economic benefits to our Nation. In the United States, people use public transportation over 32 million each weekday compared to two million passengers who fly daily. Paradoxically, it is the very openness of the system that makes it vulnerable to terrorism. When one considers this and the fact that roughly \$9 per passenger is invested in aviation security, but less than one cent is invested in the security of each transit passenger, the need for an authorized transit security program is clear.

Transit agencies and the women and men who operate them have been doing a tremendous job to increase security in a post 9/11 world, but there is only so much they can do with the very limited resources at their disposal. Our Nation's 6,000 transit agencies face a difficult balancing act as they attempt to tighten security and continue to move people from home to work, school, shopping, or other locations efficiently and affordably. This conference report should have provided for these workers and transit riders' safety and it did not.

With energy prices taking a larger chunk out of consumers' pocketbooks, public transit offers a solution to our national energy crisis and dependence on foreign oil. But, more Americans will not use transit unless they feel safe. When it comes to protecting our homeland against a terrorist attack, we can and must do more to fortify our ports, our transit systems, and our rail system. Our priorities must be to ensure that we are doing all we can to protect our most important asset our—citizens. Unfortunately, this conference report falls short by failing to include rail and transit security, and once again the Republican-led Congress has missed an important opportunity.

Mr. JOHNSON. Mr. President, I have serious concerns about extraneous provision that was included in the port security conference report. The internet gaming prohibition which was included in the conference report at the eleventh hour has been opposed by banks, convenience stores, American Indian tribes, religious groups, and a Government agency—the National Indian Gaming Commission.

There are several troublesome attributes to this legislation, but perhaps

none more so than how it became included in the port security conference report. This legislation was never approved by the Senate Banking Committee nor debated by the full Senate. Many unresolved concerns exist about this legislation regarding the impact it will have on the banking and gambling industry, an effect that could be in the billions of dollars.

I strongly support firm regulation and oversight of the gambling industry, but this legislation is unequal in its treatment of gambling activities creating specific carve outs for horse racing while not providing similar treatment for other gambling entities. As expressed in the opposition letter of the National Indian Gaming Commission, the Federal agency charged with oversight of Indian Gaming, this legislation could have unintended consequences that will have negative and far reaching effects on the Indian Gaming industry. Moreover, this legislation charges banks with a responsibility for regulating the wire transfers that could potentially place an undue burden on the small independent banks that serve countless South Dakotans and others on main streets across the country.

At the very least, the effects of this legislation needed to be studied and analyzed by the full Senate before final passage. While I now have no choice but to vote for Defense legislation at a time when our Nation is at war, I deeply resent the Republican leadership shopping this unrelated matter into a must pass bill. The inclusion of the Internet Gambling provision in a must pass bill at the last minute is irresponsible legislation.

Mr. COLEMAN. Mr. President, I support the SAFE Port Act. Simply put—this historic legislation will make us safer.

The result of inaction will be disastrous. The stakes are just too high. In a recent estimate, a 10-to-20 kiloton nuclear weapon detonated in a major seaport would kill 50,000 to one million people and would result in direct property damage of \$50 to \$500 billion, losses due to trade disruption of \$100 billion to \$200 billion, and indirect costs of \$300 billion to \$1.2 trillion.

FBI Director Robert Mueller, ominously assessed the terrorist threat at the annual Global Intelligence Briefing by stating he is very concerned “with the growing body of sensitive reporting that continues to show al-Qa’ida’s clear intention to obtain and ultimately use some form of chemical, biological, radiological, nuclear or high-energy explosives in its attacks against America.”

Many terrorism experts believe that maritime container shipping may serve as an ideal platform to deliver these weapons to the United States. In fact, we recently saw that containers may also serve as ideal platforms to transport potential terrorists into the United States. This was demonstrated on January 15 and again on April 2 of

this year when upwards of 30 Chinese immigrants were found emerging from containers arriving at the Port of Los Angeles. The Subcommittee’s concern is that smuggled immigrants could include members of terrorist organizations—and/or—that the container could have contained a weapon of mass destruction.

As the 9/11 Commission put it so succinctly, “opportunities to do harm are as great, or greater, in maritime or surface transportation.” Since 90 percent of global trade moves in maritime containers, we can not allow these containers to be utilized to transport weapons of mass destruction. The consequences of such an event would be devastating to our way of life and our economy.

Instead, we must secure our supply chain before we pay the high price of an attack, and seek the appropriate balance between two often competing priorities: security and speed. This balancing act resulted in the creation of two prominent homeland security programs—the Container Security Initiative, or CSI, and the Customs-Trade Partnership Against Terrorism, or C-TPAT. CSI effectively pushed our borders out by placing CBP offices in foreign ports to inspect containers before they reach our shores. C-TPAT exemplified a true public-private partnership, in which the private sector took a leading role in securing its supply chain. These programs alone are laudable—but due to the sheer magnitude of the challenge of securing the global supply chain—we must continue to improve upon these promising initiatives.

With that in mind, as Chairman of the Permanent Subcommittee on Investigations, I have directed the Subcommittee’s 3-year effort to bolster America’s port security and supply chain security. We have identified numerous weaknesses in our programs that secure the global supply chain. A brief overview of these problems illustrates the challenges confronting these efforts:

In CSI, the Subcommittee found that only a de minimus number of such high-risk containers are actually inspected. In fact, the vast majority of high-risk containers are simply not inspected overseas. To make matters worse, the U.S. Government has not established minimum standards for these inspections.

The Subcommittee initially found that an overwhelming proportion of C-TPAT companies enjoy the benefits before DHS conducts a thorough on-site inspection, called a validation. As of July 2006 this proportion has improved considerably to where 49 percent of the participating companies have been subjected to a validation. But this still leaves 51 percent of companies that have not been subjected to any legitimate, on-site review to ensure that their security practices pass muster.

The Subcommittee found that DHS uses a flawed system to identify high-risk shipping containers entering U.S.

ports. According to CBP officials, the Automated Targeting System or ATS is largely dependent on “one of the least reliable or useful types of information for targeting purposes,” including cargo manifest data and bills of lading. Moreover, the Subcommittee found that this targeting system has never been tested or validated, and may not discern actual, realistic risks.

Currently, only 70 percent of cargo containers entering U.S. ports are screened for nuclear or radiological materials. One part of the problem is that the deployment of radiation detection equipment is woefully behind schedule. As of August 29, 2006, the Department of Homeland Security has deployed only 43 percent of the necessary radiation monitors at priority seaports.

These are just a handful of the significant problems discovered by the Subcommittee. In short, America’s supply chain security remains vulnerable. Our enemies could compromise the global supply chain to smuggle a Weapon of Mass Destruction, WMD, or even terrorists, into this country. This legislation tackles these concerns—and many other weaknesses—in a coherent and comprehensive manner.

The SAFE Port Act addresses the problem of inadequate nuclear and radiological screening, by requiring the Secretary of DHS to develop a strategy for deployment of radiation capabilities and mandating that, by December 2007, all containers entering the United States through the busiest 22 seaports shall be examined for radiation; requires DHS to develop, implement, and update a strategic plan improve the security of the international cargo supply chain. In particular the plan will identify and address gaps, provide improvements and goals, and establish protocols for the resumption of trade after a critical incident; requires DHS to identify and request reliable and essential information about containers moving through the international supply chain; requires DHS to promulgate a rule to establish minimum standards and procedures for securing containers in transit to the U.S.; provides Congressional authorization for the CSI program, empowering cap to identify, examine or search maritime containers before U.S.-bound cargo is loaded in a foreign port as well as establish standards for the use of scanning and radiation detection equipment at CSI ports; and authorizes C-TPAT and establishes certain minimum security and other requirements that applicants must meet to be eligible for C-TPAT benefits.

Even if we pass this legislation, our job is not completed. We still need to look to the future and develop even more effective and advanced programs and technology. Effectively scanning containers with both an x-ray and a radiation scan is the only definitive answer to the perplexing and most important question of “what’s in the box?”

However, in fiscal year 2005, only 0.38 percent of containers were screened

with a nonintrusive imaging device and only 2.8 percent of containers were screened for radiation prior to entering the United States. DHS' efforts have improved somewhat from last year's paltry numbers, but we have more work to do. To date, DHS still uses a risk-based approach that targets only high-risk containers. While this approach is fundamentally sound, the system used to target high-risk containers has yet to be validated or proven to accurately identify high-risk containers. Moreover, the validity of the intelligence used to enhance this system's targeting ability is increasingly in question. Thus, we need to both enhance our targeting capability and use technology to enhance our ability to increase inspections—without impeding the flow of commerce.

While the United States currently inspects approximately 5 percent of all maritime containers, the partial pilot test in the Port of Hong Kong demonstrates the potential to scan 100 percent of all shipping containers. Each container in the Hong Kong port flows through an integrated system featuring an imaging machine, a radiation scan, and a system to identify the container. Coupling these technologies together allows for the most complete scan of a container currently available. The Hong Kong concept or similar technology holds great promise and could lead to a dramatic improvement in the efficacy of our supply chain security.

I am pleased to say that this legislation develops a pilot program in three foreign seaports, each with unique features and varying levels of trade volume to test integrated scanning systems using non-intrusive inspected radiation detection equipment. It requires full-scale pilot implementation within 1 year after enactment and an evaluation report would be required to be submitted to Congress 120 days after full implementation of the pilot. If the pilot programs prove successful, then full-scale implementation would follow.

The bottom line is this: we are safer now than we were yesterday, but we are not safe enough. The question then becomes: how do we get there? In the words of the hockey legend Wayne Gretzky, "A good hockey player plays where the puck is. A great hockey player plays where the puck is going to be." In other words, we cannot safeguard a post 9/11 America by using pre-9/11 methods. If we think that the terrorists are not plotting their next move, we are mistaken. We must find where the gaps are in our Nation's homeland security and close them before an attack happens. That is the only way to guarantee our security.

I agree with what Secretary Chertoff articulated at our full Committee DHS budget hearing, "the worst thing would be this: to have a program for reliable cargo that was insufficiently robust so that people could sneak in and use it as a Trojan Horse. That would be the

worst of all worlds." By reforming and strengthening C-TPAT, CSI, ATS, by expediting the, deployment of sophisticated radiation portal monitors and testing the ability to scan 100 percent of cargo before it enters the United States, the SAFE Port Act closes gaps in our homeland security and makes us safer.

The conference report was agreed to. (The conference report is printed in the proceedings of the House in the RECORD of September 29, 2006).

#### DEPARTMENT OF DEFENSE AUTHORIZATION BILL

Mr. FRIST. Mr. President, I do want to add my congratulations to the managers, Senators WARNER and LEVIN. They have done a tremendous job on the Defense authorization bill, a very important bill. We had several pauses over the course of today that we were able to work through, and not at all with the substance of the bill, but with related issues. But I congratulate both of them for their hard work, for their dedication, and for their patriotism, all of which is reflected in that Defense authorization conference report that we just passed.

#### UNANIMOUS CONSENT REQUEST— S. 3709

Mr. FRIST. Mr. President, I do want to turn to another very important issue. It is an issue the Democratic leader and I have been discussing and moving towards. It is on the India nuclear arrangement. I will propound a unanimous consent request and comment after that.

Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 3709, the U.S.-India nuclear bill. I ask consent that the managers' amendment at the desk be agreed to, the bill, as amended, be read a third time and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

The Democratic leader.

Mr. REID. Mr. President, reserving the right to object, I support this legislation. I have for many months. This was reported out of the committee sometime in July. And from that time to today, we have given the majority a proposal for a limited number of amendments. When we get back after the election—I have spoken to the majority leader—certainly there is a commitment from us that we would complete this bill very expeditiously. This has been rejected.

As I have indicated, this bill has been on the calendar since July, and it has not been scheduled. We could have acted on this a long time ago. It was held up initially because of an arms control measure that was placed in the bill by Senator LUGAR. And a number of people on the majority side, the Republican side, held this up. It took a

lot of time. It was not brought forward. And that is unfortunate.

So I will object to this consent request. I look forward to working with the majority leader in November to complete this act. It is very important. I acknowledge that. I hope, certainly, we can do that during the lame-duck session. It is one of my priorities.

The PRESIDING OFFICER. Objection is heard.

The majority leader is recognized.

Mr. FRIST. Mr. President, I know my distinguished Democratic colleague agrees with me about the need to enact this United States-India Peaceful Atomic Energy Cooperation Act.

Therefore, once again, I am disappointed that this Senate is prevented from passing this important legislation by their objection.

All Republican Members of the Senate are prepared, this evening, to pass the managers' amendment to the legislation without any debate or amendment. But it is clear the Democrats will not allow us to do so.

The reason so many of my colleagues on the other side of the aisle are not prepared to pass the legislation is that in some cases they oppose it and wish to defeat it, and in other cases, a lot of amendments. In my opinion and the opinion of other Republican Members of the Chamber, there really is no need to further amend the managers' amendment. It was carefully worked out between Chairman LUGAR and Ranking Member BIDEN of the Committee on Foreign Relations. They have done an outstanding job working on that bill and refining that bill that was reported by their committee. It is a tribute to their fine work, to their dedication, to their hard work that all concerns with that legislation, at least on our side of the aisle, have been fully addressed.

The reason I have continued to push for it is because it means that now that we have this recess, we will not be able to get back to it until November. And this means we just lose valuable time in working out differences between S. 3709 and the corresponding bill that has already been approved by the House of Representatives for several weeks now. So that is the reason I have tried to work out a reasonable way of addressing this and have not been successful to date.

So with that, Mr. President, I hope we will be able to do this just as soon as possible. If there is no progress made on the other side between now and November in narrowing down the large number of amendments on the other side, we would have to take the measure up under cloture. That is not the way I would want to proceed. When I look at the large number of amendments on the other side, though, it looks like we would have no alternative. I assure our colleagues that I consider this legislation very high priority, and absolutely I am determined to bring it back to the floor at the earliest date possible—I hope soon after we return.