

Mr. LIEBERMAN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the motion to recommit.

Mr. LIEBERMAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Connecticut (Mr. DODD), the Senator from South Dakota (Mr. JOHNSON), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. McCONNELL. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK), the Senator from Minnesota (Mr. COLEMAN), the Senator from Mississippi (Mr. LOTT), and the Senator from Arizona (Mr. MCCAIN).

Further, if present and voting, the Senator from Minnesota (Mr. COLEMAN) would have voted "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 26, nays 67, as follows:

[Rollcall Vote No. 283 Leg.]

YEAS—26

Alexander	Crapo	Isakson
Barrasso	DeMint	Kyl
Bunning	Dole	McConnell
Burr	Ensign	Sessions
Chambliss	Enzi	Shelby
Coburn	Graham	Sununu
Corker	Grassley	Thune
Cornyn	Hutchison	Vitter
Craig	Inhofe	

NAYS—67

Akaka	Feinstein	Nelson (FL)
Allard	Gregg	Nelson (NE)
Baucus	Hagel	Pryor
Bayh	Harkin	Reed
Bennett	Hatch	Reid
Biden	Inouye	Roberts
Bingaman	Kennedy	Rockefeller
Bond	Kerry	Salazar
Boxer	Klobuchar	Sanders
Brown	Kohl	Schumer
Byrd	Landrieu	Smith
Cantwell	Lautenberg	Snowe
Cardin	Leahy	Stabenow
Carper	Levin	Specter
Casey	Lieberman	Stevens
Clinton	Lincoln	Tester
Cochran	Lugar	Voinovich
Collins	Martinez	Warner
Conrad	McCaskill	Webb
Domenici	Menendez	Whitehouse
Dorgan	Mikulski	Wyden
Durbin	Murkowski	
Feingold	Murray	

NOT VOTING—7

Brownback	Johnson	Obama
Coleman	Lott	
Dodd	McCain	

The motion was rejected.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mrs. MURRAY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Connecticut (Mr. DODD), the Senator from South Dakota (Mr. JOHNSON), the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. McCONNELL. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK), the Senator from Minnesota (Mr. COLEMAN), the Senator from Mississippi (Mr. LOTT), and the Senator from Arizona (Mr. MCCAIN).

Further, if present and voting, the Senator from Minnesota (Mr. COLEMAN) would have voted "yea."

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 85, nays 8, as follows:

[Rollcall Vote No. 284 Leg.]

YEAS—85

Akaka	Durbin	Murray
Alexander	Ensign	Nelson (FL)
Allard	Feingold	Nelson (NE)
Baucus	Feinstein	Pryor
Bayh	Grassley	Reed
Bennett	Gregg	Reid
Biden	Hagel	Roberts
Bingaman	Harkin	Rockefeller
Bond	Hatch	Salazar
Boxer	Hutchison	Sanders
Brown	Inouye	Schumer
Bunning	Isakson	Sessions
Burr	Kennedy	Shelby
Byrd	Kerry	Smith
Cantwell	Klobuchar	Snowe
Cardin	Kohl	Specter
Carper	Landrieu	Stabenow
Casey	Lautenberg	Stevens
Chambliss	Leahy	Sununu
Clinton	Levin	Tester
Cochran	Lieberman	Thune
Collins	Lincoln	Vitter
Conrad	Lugar	Voinovich
Corker	Martinez	Warner
Cornyn	McCaskill	Webb
Craig	McConnell	Whitehouse
Crapo	Menendez	Wyden
Domenici	Mikulski	
Dorgan	Murkowski	

NAYS—8

Barrasso	Dole	Inhofe
Coburn	Enzi	Kyl
DeMint	Graham	

NOT VOTING—7

Brownback	Johnson	Obama
Coleman	Lott	
Dodd	McCain	

The conference report was agreed to.

Mr. LIEBERMAN. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SMALL BUSINESS TAX RELIEF ACT OF 2007—MOTION TO PROCEED

Mr. REID. Mr. President, I ask unanimous consent that on Monday, July 30, following a period of morning business, the Senate proceed to calendar No. 58, H.R. 976, and that once the bill is reported, Senator BAUCUS be recognized to offer an amendment, which would be the text of the children's health legislation, also known as SCHIP, reported by the Senate Finance Committee.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. COBURN. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

CLOTURE MOTION

Mr. REID. In view of the objection, I now move to proceed to calendar No. 58, H.R. 976, and I send a cloture motion to the desk.

The ACTING PRESIDENT pro tempore. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 58, H.R. 976, the Small Business Tax Relief Act of 2007.

Harry Reid, Max Baucus, Bernard Sanders, Jeff Bingaman, Ted Kennedy, Maria Cantwell, B.A. Mikulski, Barbara Boxer, Daniel K. Inouye, Christopher Dodd, Patty Murray, Benjamin L. Cardin, Barack Obama, Kent Conrad, Dick Durbin, Ken Salazar, Blanche L. Lincoln, Jack Reed.

Mr. REID. Mr. President, I ask unanimous consent that the mandatory quorum be waived.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. Mr. President, finally, I hope that Monday, after the Republicans have a chance to study this legislation, we can move without a vote to this most important legislation. I had indications from the other side that that may be the case. If that is not the case, we will try to invoke cloture on this matter.

I appreciate everybody's hard work today. I now withdraw the motion.

The ACTING PRESIDENT pro tempore. The motion is withdrawn.

Mr. REID. I thank the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut is recognized.

IMPLEMENTING RECOMMENDATIONS OF THE 9/11 COMMISSION ACT OF 2007

Mr. LIEBERMAN. Mr. President, before I describe some of the most important provisions in this legislation, I want to thank the 9/11 families who have played a critical role throughout this process. They first pushed for the establishment of the 9/11 Commission and then continued their fight, now through three major pieces of legislation, to see that its recommendations became law.

I want to thank the majority leader of the Senate for his leadership in helping to get this legislation through the Congress, and through a long but ultimately very productive conference.

I want to thank Senator COLLINS, Chairman THOMPSON, Senator COLLINS, Congressman KING, and all of my colleagues on the conference committee—and their staffs—on both sides of the aisle, from all of the relevant committees, and in both the House and the Senate for their willingness to work

through some difficult but critical issues to make our country safer.

All of us have not been able to agree on everything in this legislation, but most of us have agreed on most of it and that is why we are able to get this comprehensive legislation to the Congress, and hopefully, very soon, to the President's desk.

While this Nation was born in conflict, it was founded and grew in compromise—the melding of different threads of policy and personality into a national fabric that covers and protects us all.

This legislation was also born of conflict—the attacks by Islamist extremist terrorists against us on 9/11, and our response to these terrorists grows stronger as we come together in legislation like this.

This comprehensive, bipartisan legislation will make our Nation stronger, our cities and towns more secure and our families safer. Let me cite a few of its most important points:

Security enhancement in the legislation:

First, this legislation will help close one of the most obvious, and dangerous vulnerabilities in our Nation's defenses—that is the millions of cargo containers that flow into our country every year without being scanned and which could be the vehicle for bringing dangerous nuclear material into our country.

It requires that within 5 years, 100 percent of maritime cargo be scanned before it is loaded on ships in foreign ports bound for the United States. But it wisely gives the Secretary of Homeland Security the authority to extend this deadline in 2-year increments if certain conditions important to our economy are not met. This has been a contentious issue—but I believe this legislation strikes the right balance between aggressively pushing for better security while ensuring that we maintain a sensible approach.

This legislation also enhances security in nonaviation sectors that have received far too little protection in our own country, even while terrorists have demonstrated a willingness to attack them abroad—most notably in London and in Madrid. It requires that rail and transit systems work with DHS to develop comprehensive risk assessments and security plans, and authorizes more than \$4 billion over 4 years for rail, transit, and bus security grants.

Keeping in mind that the 9/11 hijackers and Richard Reed, the shoe bomber, boarded commercial aircraft and traveled here legally, this legislation will make it harder for terrorists to enter our country, by adding much needed security enhancements to the Visa Waiver Program. These include a new electronic travel authorization system so that travelers from visa waiver countries can be checked against terrorist watch lists and improved reporting of lost and stolen passports.

This legislation also increases resources and staffing for the Human

Smuggling and Trafficking Center and requires DHS to create a terrorist travel program to develop strategies and ensure coordination among relevant agencies involved with combating terrorist travel.

This legislation will also better secure our aviation system overall. It authorizes important funding increases for critical aviation security programs, like checkpoint screening, baggage screening and cargo screening on passenger aircraft. And it requires screening of all cargo carried onto passenger airlines within three years—again, closing another glaring vulnerability in our defenses that terrorists could exploit.

One of the critical failures of 9/11 was, of course, the failure to share vital information—and improving information sharing was a key recommendation of the 9/11 Commission.

While we have previously taken important steps to improve the unity of effort across intelligence agencies by creating the Director of National Intelligence and the National Counter Terrorism Center, this legislation moves the ball even further by strengthening the Information Sharing Environment, ISE, which was also established in the Intelligence Reform and Terrorism Prevention Act of 2004. It does so by extending the term of the ISE program manager and authorizing him or her to issue government-wide standards for information sharing, as appropriate, and rewarding government employees for sharing information.

And it will improve the sharing of information between the Federal Government and its State and local counterparts by codifying the new Interagency Threat Assessment Coordination Group, creating standards for State and local fusion centers, and ensuring that they receive Federal support and personnel. These measures will help ensure that intelligence to fight terrorism and keep Americans safe is shared more effectively among all levels of government.

In addition to strengthening Federal, State and local governments, as part of the compromise that brought this bill to the floor, this legislation will also provide legal protections to individuals who report suspicious activities. People acting in good faith to avert what they believe may be terrorist activity should not be punished for their vigilance.

Every citizen must observe his or her surroundings and be alert to suspicious activity without the fear of being sued for their life savings. That is why this bill grants immunity from lawsuits to those who in good faith report behavior that they reasonably suspect is related to possible terrorist activity. We want to encourage—not discourage—citizens, like the video store employee in New Jersey, who stepped forward and alerted authorities to evidence which helped unravel a planned attack on Fort Dix.

This legislation will also improve the very controversial process for distrib-

uting homeland security grants, and just as importantly, it authorizes \$2.2 billion in fiscal year 2008, increasing to \$3.6 billion by 2012—\$13.78 billion over the next 5 years—so that we can reverse the downward trend in funding for these programs that help State and local first preventers and responders do their jobs.

It authorizes for the first time the State Homeland Security Grant Program and Urban Area Security Initiative, UASI, to provide funds to States and high-risk urban areas to prevent, prepare, respond and recover from acts of terrorism. And it does so in a way that, while providing the vast majority of resources on the basis of risk, ensures that we build up the capabilities of all the states, knowing that terrorist plots can develop in any part of the country.

This legislation wisely authorizes emergency management performance grants and provides additional resources for this program—to assist States in preparing for all-hazards to ensure that every State has the basic capability to prepare for and respond to both man-made and natural disasters.

Following the communications disasters of both 9/11 and Hurricane Katrina, this legislation also creates a dedicated emergency communications interoperability grant program to improve emergency communications systems at the local, State, and Federal levels. This is clearly one of the highest priorities for our Nation's first responders—because it is necessary to save their lives so that they can save the lives of others—and by dedicating a program to interoperable communications we will enhance our Nation's ability to achieve it.

The 9/11 Commission rightly noted that while we must protect our homeland, we must do so in a way that also protects the freedom and civil liberties it was founded upon.

This legislation does so by strengthening the Privacy and Civil Liberties Oversight Board by establishing it as an independent agency within the executive branch, ensuring partisan balance among members, requiring improved public disclosure, allowing the board to request that the Attorney General issue subpoenas to private parties and increasing its budget over the next 4 years by up to \$10 million in 2011.

It also requires that agencies with intelligence and security roles designate their own internal privacy and civil liberties officers, and expands the authority of the DHS privacy officer.

Also, since 85 percent of our Nation's critical infrastructure is under the control of the private sector, this legislation establishes a voluntary certification program so that those private sector entities that want to can receive certification that they have met consensus preparedness standards. This provision responds to another concern of the 9/11 Commission—which was also

reinforced during Katrina—that those companies that take preparedness seriously—that have plans and exercise them that provide life saving protection for their employees—will recover more quickly from a catastrophe and help get their local economy moving again.

This legislation responds directly to another 9/11 Commission recommendation—to improve Congress's ability to oversee the intelligence community—by requiring disclosure of the total amount spent by the intelligence community.

After the first 2 fiscal years the President may waive this requirement, but only after explaining to Congress why the disclosure would harm national security.

Like the 9/11 Commission, this bill also recognizes that we must do more to promote democracy abroad by requiring the Secretary of State expand strategies for democracy promotion in nondemocratic and democratic countries.

One of the great threats of our time is that nuclear material may be smuggled out of former Soviet states and fall into the hands of terrorists. This bill clears legislative obstacles that had constrained the cooperative threat reduction, CTR, program by repealing or modifying various conditions on CTR actions in former Soviet states and repealing a legislative prohibition on Department of Energy nonproliferation program assistance outside the former Soviet Union.

I want to thank my colleagues from both parties, from both houses, and their staffs who worked so hard and so late into so many nights to bring this to the floor. There is a lot in this legislation to make our country safer, and this result was only possible because of this hard work and dedication.

Mr. President, we began as a nation born in conflict as we fought for our freedom. Now we are a nation borne with confidence as we fight for our ideals against an adversary who promotes hate over hope and fear over a future that recognizes our shared humanity.

I urge my colleagues to adopt this conference report and the President to act swiftly to sign it to show the world that the spirit of this nation founded in freedom heeds the words of Abraham Lincoln that this “government of the people, by the people, for the people, shall not perish from the Earth.”

Lincoln was right. Let us protect our Nation. Let us thwart our enemies.

Mr. President, again, I thank my colleagues for the very strong vote in favor of accepting the conference report. It means a lot to those of us who worked on it. I obviously also think it was the right thing to do. This is comprehensive, bipartisan legislation that will make America stronger, our cities and towns more secure, and our families safer.

I want to take a moment to thank some of the people without whom this

successful result could not have occurred. I want to begin by thanking the 9/11 families—the families of those who were lost on 9/11, the victims of this brutal Islamist terrorist attack. They took their loss and grief and came to Congress to do everything it could to make sure that our Government acted in a way so as to protect every other American family from having to suffer the loss they suffered. They lobbied for the 9/11 Commission. It was created. When the commission reported out and the legislation it recommended was brought before the Congress in 2004, the 9/11 families hung in there. Without their support, it would not have been adopted and then signed by the President.

Now we return for the second phase of the 9/11 Commission report to adopt, as we just have, those previously unimplemented sections, inadequately implemented sections or, frankly, our own ideas about how to better protect the American people from the ongoing threat from al-Qaida and other Islamist extremist organizations and, at the same time, from natural disasters, some catastrophic like Hurricane Katrina. The 9/11 families deserve our gratitude.

I also thank Senator REID because he made this legislation a priority item for this session of Congress. I thank Senator COLLINS, my ranking member who, as always, was thoughtful, constructive, wonderful to work with, and set a tone where all the members of our committee worked very closely together to produce this legislation.

On the House side, in conference, we met with the chairman of the Homeland Security Committee, Congressman BENNIE THOMPSON of Mississippi, and his ranking member Congressman PETER KING of New York—good public servants. We had some differences, but we reasoned together and resolved a lot of them.

I would like to pay tribute to my staff, who have worked long nights and many weekends to produce excellent legislation.

I particularly want to thank my Homeland Security Committee Staff Director, Mike Alexander, for his superb leadership. I also want to thank the committee's Chief Counsel, Kevin Landy, for helping to shepherd the legislation through the process. Thanks also to Eric Anderson, Christian Beckner, Caroline Bolton, Janet Burrell, Scott Campbell, Troy Cribb, Aaron Firoved, Elyse Greenwald, Beth Grossman, Seamus Hughes, Holly Idelson, Kristine Lam, Jim McGee, Sheila Menz, Larry Novey, Deborah Parkinson, Leslie Phillips, Alistair Reader, Patricia Rojas, Mary Beth Schultz, Adam Sedgewick, Todd Stein, Jason Yanussi, and Wes Young—all on my committee staff. And thanks to Purva Rawal and Vance Serchuk on my personal office staff.

I must also thank Senator COLLINS' staff director, Brandon Milhorn, as well as Andy Weis, Rob Strayer, and the

Senator's entire staff for working with us to move this very important legislation.

And of course, thank you to our colleagues and thanks to the 9/11 Commission.

There were an enormous number of committees involved in this legislation, in some ways even more than in the first 9/11 legislation. So it took a lot of cooperation, which is the essence of getting anything done and, obviously, bipartisan cooperation to bring us to this point.

Again, I thank Chairman COLLINS, Chairman THOMPSON, Congressman KING, and all our colleagues on the conference committee and their staff on both sides of the aisle from all the relevant committees in both the House and Senate for their willingness to work through some difficult, but critical, issues to make our country safe.

I have a particular debt of gratitude to my own Homeland Security staff: staff director Michael Alexander; chief counsel Kevin Landy; and Senator COLLINS' staff, beginning with staff director Brandon Milhorn.

The ACTING PRESIDENT pro tempore, The Senator from Maine.

Ms. COLLINS. Mr. President, after the terrible attacks of September 11, 2001, Congress moved to strengthen America. Congress created the Department of Homeland Security, and Senator LIEBERMAN and I led a bipartisan effort to implement the recommendations of the 9/11 Commission—reforming our intelligence community, creating a Director of National Intelligence, and establishing the National Counterterrorism Center. We have also passed legislation to strengthen security at America's seaports and chemical facilities and to reform FEMA.

These were great advances in protecting our country. But as the recently released National Intelligence Estimate noted, the United States faces a “persistent and evolving terrorist threat.” Foremost among those threats is al-Qaida, which continues to plot attacks against us. We also face a growing threat of homegrown terrorism—violent radicals inspired by al-Qaida's perversion of the Islamic faith, but with no operational connection to foreign terrorist networks.

These real and evolving threats mean that we cannot stop improving our existing security arrangements, or ignore needs and opportunities to adopt new measures. Congress has, in fact, already enacted most of the 9/11 Commission recommendations, but our security must continually improve to meet the advances of our enemies.

The conference report that we consider today builds on our prior work, offering important enhancements to our homeland security.

Notably, the conference report will protect concerned citizens from civil liability when they make good-faith reports of suspicious activity that could threaten our transportation system. This provision, based on legislation

that I coauthored with Senators LIEBERMAN and KYL, also wisely protects security officials who take reasonable steps to respond to reports of suspicious activity.

Vigilant citizens should not have to worry about being dragged into court, hiring defense attorneys, and incurring big legal bills, because they did their civic duty by reporting a possible threat. The bill's protective language reinforces the important message that New York transit passengers see every day: "If you see something, say something." And with TSA recently reporting possible "dry run" efforts to pass simulated bomb components through airport security, it is more urgent than ever that we remove any deterrents to citizens making their concerns known to authorities.

Another important aspect of the bill is its creation of a sensible formula for homeland security grant programs. We know two critical things about the prevention of, and response to, terrorist attacks: one, the attacks can be planned and executed anywhere and two, State and local agencies are likely to be the first and most urgently needed responders.

The compromise reached on minimum levels of grant funding will help ensure a strong baseline of capabilities across the Nation, helping to prevent the next terrorist attack before it occurs. Terror plots can emerge from any location. Planning, training, and logistics for these attacks often occur far from the location of the terrorists' final target and, in some cases, are preceded by other local criminal activities. And, as the most recent National Intelligence Estimate on this threat assessed:

The ability to detect broader and more diverse terrorist plotting in this environment will challenge current US defensive efforts and the tools we use to detect and disrupt plots. It will also require greater understanding of how suspect activities at the local level relate to strategic threat information and how best to identify indicators of terrorist activity in the midst of legitimate interactions.

Much of the work to prevent homegrown terror plots—like the thwarted attempt to attack Fort Dix, NJ will occur at the State and local level. This legislation ensures adequate funding for prevention efforts in all our States.

Effective response, of course, requires that emergency workers and officials be able to talk with one another. The Senate Homeland Security Committee's investigation into the Hurricane Katrina catastrophe revealed many instances of tragic failures to deliver timely assistance to victims simply because communications systems were damaged or not interoperable. State and local governments recognize the problem. That is why DHS receives more requests for funding to upgrade and purchase emergency communications equipment and systems under the State Homeland Security Grant Program and Urban Area Security Initiative than for any other purpose.

We should, therefore, take special notice of this bill's provision for a dedicated grant program at the Department of Homeland Security to enhance emergency communications interoperability. With an authorization of \$2 billion over 5 years, this critical program will fund development of a robust, national emergency communications network to assist emergency personnel whether they are responding to a terrorist attack, a tornado, a flood, an earthquake, or an ice storm.

The conference report also contains important provisions that will strengthen the intelligence functions at the Department of Homeland Security and will improve the sharing of information related to homeland security threats among Federal, State, local, and tribal officials.

Senator LIEBERMAN and I helped establish the Information Sharing Environment in the Intelligence Reform Act of 2004. This program is an essential element in promoting homeland security information sharing across the Federal Government and with our State and local partners. The conference report makes important improvements to the Information Sharing Environment—extending the tenure of the program manager, enhancing his authority to further develop and coordinate information-sharing efforts governmentwide, and providing additional guidance concerning the operation of the ISE.

The conference report will improve the operations of the intelligence components of the Department of Homeland Security. Through the creation of an Under Secretary for Intelligence and Analysis charged with strategic oversight of the intelligence components of the Department, the bill will improve the coordination of the Department's intelligence activities.

Whether homeland security information or national intelligence is collected by Customs and Border Protection, Immigration and Customs Enforcement, the Transportation Security Administration, or the Coast Guard, this information must be efficiently and effectively identified, processed, analyzed, and disseminated. The conference report charges the Under Secretary of Intelligence and Analysis with responsibilities for improving the sharing of information, training Department employees to recognize the intelligence value of the information they receive every day, and providing important budget guidance to the intelligence components of the Department.

The legislation will also improve the Department's ability to provide useful information to State and local officials and provide feedback on the value of the information they share with the Department.

It is important to recognize the tremendous effort and good work that has already gone into establishing fusion centers across the country. State governments, in particular, are devoting

considerable resources to establishing fusion centers. I believe this demonstrates the value government entities and the private sector place on establishing mechanisms to integrate information and intelligence to protect against all kinds of threats.

The legislation establishes a DHS State, Local, and Regional Fusion Center Initiative whereby DHS will make available federal intelligence officers and analysts to assist the work of fusion centers. It also directs the Secretary of DHS to establish guidelines for fusion centers that seek Federal funding.

These guidelines are not meant to step on State toes, but to ensure that a fusion center has a clear mission statement and goals, incorporates performance measures, adheres to a privacy and civil liberties policy, ensures that all personnel receive training on privacy and civil liberties, has in place appropriate security measures, and provides usable intelligence products to its stakeholders.

Most fusion centers are established and operated by States. However, if federal funding is going to support these centers, we should ensure that they are operated in a responsible manner and in a way that ensures efficient information exchange with the Federal Government and with other fusion centers.

The bill also encourages deeper cooperation with State and local officials, by authorizing exchange programs that will send Federal intelligence analysts to state and local fusion centers, and by bringing the expertise of state and local officials to DHS and the National Counterterrorism Center.

Transportation security is another area that will be strengthened under the terms of this bill. Last year's SAFE Port Act made significant improvements to maritime security. This conference report bolsters the security of other transportation modes, including aviation, railroads, and mass transit. For example, the bill requires electronic screening of information on 100 percent of air cargo loaded on passenger planes through a known-shipper program. It also authorizes more than \$1 billion annual funding for rail and mass transit grants.

The bill also enhances security in the Visa Waiver Program. It restricts expansion of the program until DHS can effectively track entries and exits from our country. And it encourages foreign governments' cooperation with U.S. counterterrorism efforts and information-sharing initiatives, including timely reporting of lost and stolen passports.

I finally note two other important sections of the conference report.

First, the legislation recognizes that security enhancements should not come at the expense of our rights to privacy or our civil liberties. The legislation enhances the authority of the Privacy and Civil Liberties Oversight

Board and mandates important privacy and civil liberties training for officials working at fusion centers.

Second, the conference report will establish an international science and technology R&D program with our allies in the global war on terror, providing money for joint homeland security ventures and facilitating technology transfers.

All of the provisions I have mentioned are worthy additions within the letter or spirit of the 9/11 Commission's recommendations. I continue, however, to have considerable concerns about other portions of the conference report.

Above all, I am disappointed that the House amendment mandating scanning of 100 percent of maritime containers was adopted by the conference committee, overturning the risk-based, layered security system enacted just last year as part of the SAFE Port Act. Based on current technology, this proposal is not practical because of the huge volume—11 million containers per year—coming into our seaports. It will divert resources from the focus on high-risk cargo and will likely cause considerable backlogs at our ports, disrupting trade and posing problems for businesses relying on just-in-time inventories.

My reservations on that point prevented me from signing the conference report.

While the proposed report makes important improvements to our national preparedness, I fear that its language on private-sector preparedness could short-circuit the progress that DHS and the private sector have already made in the recent release of all 17 sector-specific plans under the National Infrastructure Protection Program. I also believe that, at this time, Congress has insufficient data to warrant mandating a new private-sector preparedness certification program.

Now that the conference report has reached the floor of the Senate, however, I must weigh my concerns with this legislation against the benefits that it undoubtedly offers. Because I believe the net benefits to our homeland security are substantial, I intend to support final passage of the conference report.

I close by offering my congratulations and appreciation to Senator LIEBERMAN for his efforts to advance this legislation.

I also thank my staff who worked so hard on this legislation: Brandon Milhorn, Andy Weis, Rob Strayer, Amy Hall, Jane Alonso, Asha Mathew, Kate Alford, Melvin Albritton, John Grant, Amanda Wood, Mark LeDuc, Steve Midas, Leah Nash, Patrick Hughes, Jen Tarr, Clark Irwin, Emily Meeks, Douglas Campbell, and Neil Cutter.

Mr. President, I congratulate Senator LIEBERMAN on his outstanding leadership on this bill. This was truly a bipartisan effort in a Congress that has seen precious few bipartisan bills taken to completion. I join him in thanking our staffs on both sides of the aisle.

They worked extremely hard. This was a very difficult bill because it involved many different issues, complex issues, and also jurisdictions that overlapped various committees, and that always is difficult in the Senate to resolve.

I do want to touch again on three points. First, this bill builds upon legislation that Senator LIEBERMAN and I authored in 2004, the Intelligence Reform and Terrorist Prevention Act. This bill implemented the vast majority of the recommendations of the 9/11 Commission. It created, for example, the Director of National Intelligence. It established the National Counterterrorism Center. It set forth standards for information sharing. That legislation has made a real difference. In fact, last summer when the plot which was hatched in Great Britain against our airliners was thwarted, Secretary Chertoff told me he believed the reforms we put into place through the Intelligence Reform Act of 2004 helped connect the dots, and information was shared with our allies and helped lead to the detection and the thwarting of that plot. So that made a difference.

Nevertheless, there were some areas where we hadn't finished the job, and this bill will help take us further down the road.

I want to highlight a second point, and this is the provision that is in this bill that I think is absolutely critical and will help to increase the safety of our country.

A recently released National Intelligence Estimate noted that the United States continues to face a persistent and evolving terrorist threat, and foremost among these threats is, of course, al-Qaida which continues to plot attacks against us.

We also face a growing threat of homegrown terrorism, violent radicals inspired by al-Qaida but not necessarily linked directly to al-Qaida. These real and evolving threats mean we cannot stop improving our existing security arrangements or ignore needs and opportunities to adopt new measures.

Most notably, this conference report will protect concerned citizens from civil liability when they in good faith report suspicious activity to the authorities. This provision, which is based on legislation that I coauthored with Senators LIEBERMAN and KYL, also wisely protects security officials who take reasonable steps to respond to reports of suspicious activity.

Vigilant citizens should not have to worry that if in good faith they report suspicious activity that may indicate a terrorist threat, the result is going to be they are dragged into court, have to hire defense attorneys, incur big legal bills, just because they did what we would want them to do. The New York subway has signs saying: "See something, say something." And with TSA recently reporting possible dry run efforts to pass simulated bomb components through airport security, it is more urgent than ever that we remove

any deterrence to citizens making their concerns known to authorities. I think these are very important provisions in this bill.

Finally, let me comment on one provision in this bill that is of great disappointment to me. I am very disappointed that the final version of this bill mandates scanning of 100 percent of maritime containers. That overturns the risk-based, layered security system enacted just last year as part of the SAFE Port Act. Based on current technology, this proposal is simply not practical because of the huge volume, some 11 million containers per year, coming into our seaports. It will divert resources from the focus on high-risk cargo, and it will likely cause considerable backlogs at our ports, disrupting trade, and posing problems for businesses that rely on just-in-time inventories.

My reservations about these provisions prevented me from signing the conference report. But on balance, this is a very good bill. It contains a lot of provisions that I think will improve our homeland security and, in the end, I am pleased to vote for it, and I am delighted with the strong vote for its passage tonight.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. COBURN. Mr. President, first of all, I thank Senator LIEBERMAN and Senator COLLINS for their hard work on this bill. I think we shouldn't be so quick to pat ourselves on the back as far as the 9/11 Commission. The No. 1 thing the 9/11 Commission said is, the money that is spent on protecting this country ought to be based on risk. Fifty percent of the money in this bill is not based on risk. It is based on political calculations, on each one of us getting so much money for our State. That is absolutely wrong.

There are a lot of good provisions in this bill, I don't disagree with that point. But when we take \$14 billion over the next 5 years for grants and say \$7 billion of it isn't going to go based on the highest risk in this country, it is going to solve the political problems that Members of both the House and Senate have in terms of bringing home the bacon rather than putting that money where it should be put. What if something happens between now and the next 4 years and we could have spent the money in the high-risk areas, but we chose not to because we ignored it and we spent the money elsewhere taking care of our own political needs rather than the needs of our country?

The second point that ought to be made, and Senator COLLINS made this point, is, it is absolutely impossible for us, over the next 3 years, to screen 100 percent of the cargo. Yet that is what we have mandated. In fact, we are going to take a very effective high-risk program right now, and we are going to stop it and we are going to go to 100 percent screening. In the meantime, we are going to screen 50 percent of it, and we are not going to look at the high-

risk cargo. What we are doing with this bill on cargo is making our country less safe. It doesn't fit with any common sense, but yet that is what we have done because a majority of us want to answer the emotional call for 100 percent screening when, in fact, the scientists and people trained to protect us tell us that is not the way to go. We reversed, and we walked away from what we were told by the experts to do.

What do we know about grants? What we know is that of the \$10 billion we have already given in grants, 30 percent of it was wasted, and we don't know about the other 70 percent because there are only eight people in the whole Department of Homeland Security who look at the \$10 billion we have spent. And we are going to spend \$14 billion.

We did get in some post-grant review, but there is no rigorous assessment and transparency of how the money is going to be spent. So it is going to go out there, and we are never going to know if it did the right thing.

On our track record for the \$10 billion we have already spent, 30 percent of it we know failed, and 30 percent we know didn't go for legitimate homeland security items. And we don't have and didn't put the resources in this bill, if we are going to spend \$14 billion over the next 5 years on grants, to make sure that money goes to do what it is supposed to do. So we are creating problems and taking money and not spending it in the way that is most appropriate, and that is what the Homeland Security said.

The other point the 9/11 Commission said is we ought to reorganize how we oversight intelligence. We didn't do any of that recommendation. We didn't do any of it. They also commented that we have to have the oversight and priorities, that you don't fight turf battles but what you do is fight the terrorists. This bill is loaded with turf battles where money is spent, ordered, and managed by one department, but the checks are cut somewhere else; not because that is the way to do it, but because we are protecting some politicians' turf in terms of controlling the money. I think that does not reflect well.

There is another interesting item we have created. We created a weapons of mass destruction czar and commission in this bill. That may be a good idea. I am not sure I disagree with that. But we also said to that czar—this is going to be a White House position—anything you tell the President, you cannot tell him in confidence. We gutted executive privilege to have an adviser to the President on weapons of mass destruction to have the confidence that what he says to the President in private, in confidence for the best part of this country, will become available to all of us.

First of all, no President is ever going to fill this position because they are not about to have an adviser behind them advising them who cannot give a

clear, concrete recommendation without it being second-guessed by somebody on the outside knowing what they are saying. It goes against all common sense.

Finally, what we have done is we have taken our black box intelligence numbers, and we are going to tell the world what they are, which is crazy. We are going to tell the world how much money we spend on covert activities, and we are going to share that with them. We shouldn't be sharing that information. That information should not be out there, and yet we have decided to do it to our own disadvantage.

I know there has been great work put in on this bill both by Chairman LIEBERMAN and Ranking Member COLLINS, and I appreciate it.

One final point that I will mention. We had in our bill some oversight in the BBG, the Broadcasting Board of Governors. Here is what we know about Farsi Voice of America TV and Arabic TV. What we know is most of the time they are not presenting America's viewpoint. They are presenting our enemy's viewpoint, and we know this because my office has been translating and having translated their broadcasts. We put into the bill to have those translations become public as a part of BBG, and that got rejected.

So we are going to continue to have a foreign policy where we are paying money to have radio programs go into Iran that are counter to what our own policies are, and yet we are not going to have accountability in this bill, to hold BBG accountable. It is not there. It has been taken away.

Transparency is a great thing for this country, and when we spend money to create an American position in a foreign land, to not have transcripts and for them to not want us to have transcripts of what is going on, the first thing one has to ask is, Why not? Why shouldn't American taxpayers know where they are spending their money and know what the message is that they are sending? Unless the message is something different than what it should be. And that is the case with Radio Farsi and Radio Farda.

There are several other things I will not spend any more time on but that I think the American people ought to ask themselves. Last year, \$434 billion on credit cards was charged to our grandkids. We have \$14 billion worth of grants in this bill over the next 5 years; \$7 billion that we don't know if it is going to be spent well. We certainly don't know if it is truly going to be spent on homeland security and at a priority of what is best and what is based on the highest risk.

So I am disappointed that we didn't get a lot of things in the bill that we should, and I know this is an effort at compromise, but it seems to me that certain things that are common sense, such as spending money to make sure our message is right, and knowing that it is right; making sure we are spend-

ing the money where the highest risk is, rather than where the greatest political need is, ought to have been principles that should have gotten into this bill.

I voted against this bill not because I don't think we should be protecting the homeland, not because I don't think we should be following these recommendations but because we have ignored the No. 1 recommendation of the 9/11 Commission, which is the money ought to go where the risk is. We ignored it. We ignored it. We played the political game that makes us all happy, but we didn't fix the problem. If we have another event where we should have put the money, then how will we answer that? How will we answer that?

They didn't say some of the money should go to the highest risk. They said all the money should go to the highest risk. What we have are three grant programs, one of which is very good at risk and two of which are not. So we ought to ask ourselves: Have we done the best we could have done?

The effort by Senator LIEBERMAN and Senator COLLINS was extraordinary. We had great debate in our committee on a lot of these issues. By the way, they supported me in these things. We didn't get them out of conference. The question we are going to be judged on is how effective we did this. My hope was and my feeling is we could have done better.

Mr. LIEBERMAN. Mr. President, I thank my friend from Oklahoma. The truth is the Senate is a better place because he is here, he is persistent, he is demanding, he spends a lot of time actually reading bills, and he brings his opinions to the table and to the floor. Although we may be in disagreement on some of the particulars, he cares enough about all this to not only work through the details but to stay here after midnight, after a busy week, to make these points. So I thank him for all that.

I thank him for the contributions he made along the way to the bill as a member of our committee. I am going to put some statements in the record to respond to some of the points in more detail that Senator COBURN made, but I do wish to say that Senator COLLINS and I worked very hard, both in the committee and then particularly in the conference committee, to take the State homeland security grants and make sure that they were allocated, a much greater percentage of them was allocated based on risk.

We heard the concerns. So the conference report allocates the overwhelming share of State funding based on the risk the State faces from terrorism. All States initially will be guaranteed a minimum of 0.375 percent. The number was up to .75 percent earlier on. This will be reduced to .35 percent over the course of the 5 years.

The reason for having any minimum is twofold: One is that, unfortunately, the enemy we face—Islamist extremist terrorism—has a higher probability of

attacking, at least by our experience in this country, very visible targets, such as the World Trade Center and the Pentagon. But the truth is the whole country is, unfortunately, vulnerable to their attacks. As we have seen in other countries, they attack trains, they are prepared to blow up themselves with bombs in the middle of shopping areas, in crowds, et cetera. So there is some reason to have a minimum amount for every State in the country.

Secondly, homeland security generally—and we particularly get into this in one of the other grant programs that I will talk about in a minute—deals not only with protecting the States from terrorism but from all hazards, including natural disasters. The Department of Homeland Security is an all-hazard agency now, including within it, most particularly, FEMA, the Coast Guard, and other agencies that are involved when you think more in terms of protection from natural disasters. So I think we have made some progress there, and that is the reason why we have done what we have done.

There is a separate program, which perhaps is the one Senator COBURN was referring to, the urban area security initiative. That is allocated entirely based on risk. We also create, for the first time, two programs that are intended to be all-hazard programs and to support law enforcement and emergency response around the country. The first is an Emergency Management Grant Program and the second, which we talked about earlier, is the interoperability of communications.

So I think, on balance, when it comes to terrorism, we have allocated much more now than before based on risk. Yet we also, I think quite appropriately, provide something for areas all around the country to deal with all the other hazards, natural disasters, that can and have struck every section of the country.

There is also a substantial increase in funding that is authorized by this bill. Of course, ultimately, it has to be appropriated, but this is a new challenge, this terrible challenge of terrorism, against an unconventional brutal enemy, which, as someone other than myself has said, hates us more than they love their own lives. They hate us more than they love their own lives, so that they are prepared to kill themselves to express their hatred of us. Of course, these are not conventional armies fighting our conventional Army on a field of battle or at sea or in the air.

These are enemies who strike from the shadows and intend to strike at unprotected civilians—at innocents. So this requires a substantial commitment by our country to raise our defenses. I think it is part of the reason, along with the reform of our intelligence apparatus, that we have not, thank God, suffered another terrorist attack since 9/11. Part of it, of course, is good fortune, or, if you are so in-

clined, by the grace of God. But I do believe what we have invested is an important part of it.

I myself have said more than once that I thought after 9/11, entering this new era of both homeland security needs and the need to involve our military in seeking out for the purpose of capturing or killing these terrorists, then being engaged in wars in Afghanistan and Iraq, that we would have done better if we had considered a special tax and one in which we asked everybody to pay to meet the additional expenses brought on by this war that Islamist terrorists started against us, so we would not be facing the increasing long-term debt that Senator COBURN is quite right that our children are going to have to pay.

What I am saying is the money we have authorized to be spent here is important. We have the best defense—the best military in the world. Part of the reason we do is because we are spending money on it, an enormous amount of money. We will continue to have the best homeland security and homeland defense if we do the same.

One of the great contributions Senator COBURN makes is to be very persistent at making sure we don't waste taxpayer money, and he has made a contribution to this bill. There are many provisions in the bill that improve the oversight of the spending of homeland security funds, and in my statement I make clear our gratitude to Senator COBURN and his staff for all that they did to strengthen the auditing provisions of this bill.

I will say, finally, on the question of congressional oversight of intelligence and the declassification of the top line of the national intelligence budget, this is a direct recommendation of the 9/11 Commission. It doesn't make it sacrosanct, but it does give it some force. They argued that the specifics of the intelligence appropriations should remain classified, as they do in this proposal, but that the top line ought to be publicized to combat the secrecy and complexity the Commission had commented on earlier. That is what we intend to do.

But we are mindful of the concerns that Senator COBURN and others have had. We have spent some time discussing this with members of the administration, and this is compromise language. The bill contains this provision, which is that the President would be required to disclose the total appropriated amount for the national intelligence budget for this year and the coming year, after which the President may waive this requirement by sending to Congress a notification explaining the reasons for this waiver.

Listen, I think most people, including most people in the media, know what the top line budget for intelligence is. But we are now bringing it out and giving the President the opportunity to stop the disclosure if he determines it is in the national security interest in future years, for various reasons, to do that.

The conference report addresses the oftentimes contentious issue of homeland security grants. It may not make everyone happy, but it represents a good and fair compromise and will do much to improve the process by which these grants are distributed and used.

The conference report allocates a greater share—indeed the overwhelming share—of state funding based on the risk a state faces from terrorism, yet still ensures that each state will get money to meet its basic needs in preparing for acts of terrorism. All States will initially be guaranteed a minimum of 0.375 percent of funds; this will be reduced to 0.35 percent over the course of 5 years.

Urban Area Security Initiative, UASI, grants will be allocated entirely based on risk of terrorism. There will be a two-step process for selecting UASI cities. In the first stage, DHS will do a risk assessment of the 100 largest metropolitan areas in the country, and each of these areas will be permitted to submit information to the Department concerning the risks faced by that area—thus opening up a dialogue with cities and bringing light to a process that has largely taken place behind the scenes. After doing this initial assessment, the FEMA Administrator will then have the discretion—as he does now—to select those high-risk urban areas eligible to apply for UASI grants.

The conference report also reverses the recent disturbing downward trend in funding for these essential grant programs. It would authorize \$1.8 billion for the State Homeland Security Grant Program, SHSGP, and UASI program in fiscal year 2008—our principal antiterrorism grants to first responders—and increase this over the next 5 years to \$2.25 billion. Also, as a complement to this, the conference report would ensure that states have increased funds available for key all-hazards grant programs, including the emergency management performance grants and dedicated grants for communications interoperability. These programs help ensure that all States have basic preparedness capabilities for all disasters, whether natural or man-made.

The conference report would also for the first time specifically authorize State and urban area grants, and provide legislative guidelines for the programs, including permissible uses.

Finally, the conference report would provide a whole series of oversight measures to ensure that funds were being spent effectively and appropriately to achieve preparedness, and not wasted.

The 9/11 Commission report said:

To combat the secrecy and complexity we have described, the overall amounts of money being appropriated for national intelligence and to its component agencies should no longer be kept secret. Congress should pass a separate appropriations act for intelligence, defending the broad allocation of how these tens of billions of dollars have been assigned among the varieties of intelligence work.

The Commission went on to say that:

The specifics of the intelligence appropriation would remain classified, as they are today. Opponents of declassification argue that America's enemies could learn about intelligence capabilities by tracking the top-line appropriations figure. Yet the top-line figure by itself provides little insight into U.S. intelligence sources and methods.

A provision was passed to declassify the top-line of the National Intelligence Budget was passed by the Senate as part of the Intelligence Reform Act in 2004 but removed in conference.

In December 2005, the 9/11 Public Discourse Project, an independent organization led by the 9/11 Commission members, issued a grade of "F" on the implementation of this recommendation, writing that "Congress cannot do robust intelligence oversight when funding for intelligence programs is buried within the defense budget. De-classifying the overall intelligence budget would allow for a separate annual intelligence appropriations bill, so that the Congress can judge better how intelligence funds are being spent."

The final bill contains a compromise that we have worked closely with the White House to craft, one which finally addresses this important 9/11 Commission recommendation to disclose the top line of the National Intelligence Budget.

The compromise agreement will require the President to disclose the total appropriated for the National Intelligence Budget for 2 years—2007 and 2008—after which the President may waive this requirement by sending to Congress a notification explaining the reasons for this waiver.

The inclusion of this provision means that this important recommendation of the 9/11 Commission will now finally be implemented.

In this bill, we authorize significant additional funds for homeland security grants for State and local governments: for State Homeland Security Grants, for Urban Area Security Initiative, UASI, grants, for Emergency Management Performance Grants, EMPG, for interoperable emergency communications, for rail and transit security, in order to ensure that our first responders across the Nation are prepared for disasters, natural and man-made.

In authorizing these additional funds, we are cognizant that we need to spend these funds wisely, in a way that will make our first responders most prepared and our nation most secure. For this reason, the conference report includes extensive oversight and accountability provisions designed to ensure that all grant funds are used as effectively as possible and for their intended purposes.

At least every 2 years, DHS is required to conduct a programmatic and financial review of each State and urban area receiving grants administered by the Department to examine whether grant funds are being used properly.

The DHS inspector general is tasked with following up these agency reviews by conducting full, in-depth audits of a sample of States and urban areas each year, and then report to Congress on his findings, and to post the results of the audits on the Internet.

For the Public Safety Interoperable Communications grants that go through the Commerce Department and are administered jointly by the Commerce Department and DHS, there are separate provisions requiring that the Commerce Department inspector general conduct audits of those grants.

The conference report also builds on provisions in the Post-Katrina Emergency Management Reform Act that we passed last fall by requiring that DHS develop and use performance metrics to assess the progress of States and urban areas in becoming prepared, and that States and urban areas test their performance against these metrics through exercises.

All states are required to report quarterly on their expenditures and annually on their level of preparedness.

Finally, The FEMA Administrator is also required to provide to Congress annually an evaluation of the efficacy of the Department's homeland security grants have contributed to State and local governments in meeting their target levels of preparedness and have led to the overall reduction of risk.

From the beginning, we have been aware of Senator COBURN's strongly held view that there be adequate oversight and auditing of homeland security grants, and his support for the provisions to this effect in the Senate bill—provisions that were not part of the House bill. Senator COLLINS' and I, and our staffs, have fought for the Senate auditing provisions in conference, in the face of a number of objections and concerns raised by House staff from various committees. And we have been successful in retaining in the conference report what we believe are very strong provisions to ensure accountability for homeland security grant funds.

Working with Senator COBURN, we were able to retain what I believe are very significant provisions to ensure the appropriate and effective use of homeland security dollars.

Mr. LEVIN. Mr. President, I am pleased that the Senate today will finally pass the Improving America's Security Act of 2007. Over 3 years ago, the 9/11 Commission gave us its recommendations, and we are finally taking a big step toward implementing them. Let me mention a few highlights.

This comprehensive legislation goes a long way toward helping our first responders. First, it establishes a \$400 million annual grant program dedicated to funding interoperable communications equipment. We know that lives were lost on September 11, 2001, because first responders could not communicate. The same situation continues to play out across our country

every day. For years, I have been urging the Department of Homeland Security to establish a dedicated funding source for interoperable communications equipment. I am pleased that this legislation creates a grant program dedicated to improving operability and interoperability at local, regional, State, and Federal levels. Second, to improve collaboration and help identify solutions to communications problems on our international borders, the legislation also includes language that I authored that establishes International Border Community Interoperable Communications Demonstration Projects on the northern and southern borders. These demonstration projects will address the interoperable communications needs of police officers, firefighters, emergency medical technicians, National Guard, and other emergency response providers at our borders and will improve the ability of U.S. personnel to work well, for example, with their Canadian counterparts.

Another key accomplishment is that the legislation provides a more equitable distribution of homeland security grant funding. For the past 5 years, the largest homeland security grant programs distributed funds using a formula that arbitrarily set aside a large portion of the funds to be divided equally among the States, regardless of size, need, or risk. This legislation allocates more of the funding based on risk. Specifically, the legislation would reduce the funds guaranteed to each State from 0.75 percent to 0.375 percent of grant funds in fiscal year 2008; the minimum would then decline over a period of 5 years to 0.35 percent in fiscal year 2012 and thereafter. All other funds would be distributed to States based on the risk of acts of terrorism and the anticipated effectiveness of the proposed use of the grants.

Also included in the bill is language I authored that will require the Department of Homeland Security, before publishing the final rule, to conduct a cost-benefit analysis of the Western Hemisphere Travel Initiative, WHTI, including the cost to the State Department and resources required to meet the increased volume of passports requests. The WHTI seeks to require individuals from the United States, Canada, and Mexico to present a passport or other document proving citizenship before entering the United States. While we need to make our borders as secure as they can be, we also need to make sure that we are achieving that goal in a way that will not cause economic harm to our States. A cost-benefit analysis will help ensure we identify and weigh the expenses and benefits of the WHTI.

The legislation also takes important steps to shore up rail, transit, bus, air and cargo security in the United States. It establishes a grant program for freight and passenger rail security upgrades and requires railroads shipping high-hazard materials to create threat mitigation plans. It establishes

a grant fund for system-wide Amtrak security improvements and much needed infrastructure upgrades. It authorizes studies to find ways to improve passenger and baggage security screening on passenger rail service between the U.S. and Canada which should identify what is needed to prescreen rail passengers on the northern border. I hope these studies will also advance a long standing effort I have undertaken to implement a preclearance system at other land crossings so that, for example, we can inspect vehicles for hazardous materials before they cross bridges and tunnels between U.S. and Canada.

In addition to improving rail security, the bill establishes grant programs for improving intercity bus and bus terminal security and public transportation system security. It takes steps to improve the safety of transporting radioactive and hazardous materials on our railroads and highways. I am also pleased that this legislation requires the screening of all cargo carried on passenger airplanes within 3 years. It also requires all containers to be scanned for radiation at foreign ports before entering U.S. ports. The legislation also establishes an appeal process at the Department of Homeland Security for passengers that believe they have been wrongly included in "no-fly" or "selectee" watch lists.

While the conference report takes important steps toward implementing many 9/11 Commission recommendations, I am disappointed that it fails to address one critical recommendation and excludes several provisions that were in the Senate-passed bill.

The 9/11 Commission report stated: "Of all our recommendations, strengthening congressional oversight may be among the most difficult and important." I am troubled that the conference report does not contain critical provisions—included in the Senate-passed bill—that were intended to strengthen congressional oversight and promote independent and objective intelligence analysis.

There is a long, painful history of congressional efforts to obtain information from the intelligence community that have been slow-walked or simply not answered. The bill that passed the Senate required the intelligence community to provide Congress timely access to existing intelligence information unless the President asserted a constitutional privilege. Unfortunately, the conference report excludes that provision.

The Senate-passed bill also provided that no executive branch official could require the intelligence community to get permission to testify or to submit testimony, legislative recommendations, or comments to the Congress. That provision was also stripped from the conference report. We should insist that the intelligence community be able to provide Congress its assessment of intelligence matters uninfluenced by the policy goals of whatever administration is in power.

It is important for whistleblowers to know that they can come directly to Congress if they have evidence that someone has made a false statement to Congress. And Congress has a right to that information—even if it is classified. The Senate-passed bill made it clear that intelligence community employees and contractors can report classified information directly to appropriate Members of Congress and cleared staff if the employee reasonably believed that the information provides direct and specific evidence of a false or inaccurate statement to Congress. That provision was also removed in conference.

While I am disappointed that the conference report does not contain these provisions, on balance it is a good bill and I am pleased that we are passing it today—both for the families and friends of those we lost on September 11, 2001, and for the security of our Nation.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

• Mr. DODD. Mr. President, I rise in support of the legislation reported by the conference, the Implementing Recommendations of the 9/11 Commission Act of 2007. I was proud to serve on this very important conference, and while I may not agree with every part of the act, I believe that on balance it is a very important piece of legislation that will serve to make our Nation more secure and help protect Americans of all walks of life. Over 5 years after the tragic events of 9/11 and almost 2 years since Hurricanes Katrina and Rita, we continue to hear from Governors, county executives, mayors, first responders, health professionals, and emergency preparedness officials that our country as a whole remains unprepared for another manmade or natural disaster. We have heard the argument, which I support, that Congress needs to do more to support regional and local efforts to protect Americans. Overall, I believe this conference report takes a critical step forward in making America more secure.

I am going to focus on the titles of this legislation dealing with transportation security, with which I was deeply involved throughout this process as chairman of the Banking, Housing and Urban Affairs Committee, which has jurisdiction over public transportation.

Title XIV of this bill creates a new grant program to improve the security of public transportation and its 14 million daily passengers. Safe and secure transit systems are essential to the well-being of our citizens and the health of our economy. The Banking Committee examined the state of transit security in our very first hearing of the 110th Congress, which was my first hearing as chairman. At that hearing, the committee heard from some very compelling witnesses, including the directors of the London and Madrid transit systems. It is not all that common that we invite witnesses who are not

U.S. citizens to come and participate in congressional hearings. But given the tragedies in Madrid and London, we thought it would be worthwhile to have those who manage the transit operations in those two cities come and share with us information about their experiences. I think their testimony was very helpful in demonstrating the importance of this issue and galvanizing the attention of the Congress to address this issue in the legislation before us.

We learned in those hearings that transit attacks have unfortunately been a major component of terrorist activities over the last several decades. It is no secret that worldwide, terrorists have favored public transit as a target. In the decade leading up to 2000, 42 percent of terrorist attacks worldwide targeted rail systems or buses, according to a study done by the Brookings Institution. In 2005 they attacked, as I mentioned, London's rail and bus system, killing 52 riders and injuring almost 700 more in what has been called London's bloodiest peacetime attack. In 2004, they attacked Madrid's metro system, killing 192 people and leaving 1,500 people injured.

Transit is frequently targeted because it is tremendously important to any nation's economy. Securing our transit systems and our transportation networks generally is a difficult challenge under any circumstances. We must do all that we can to meet that challenge. Beyond the obvious implications of physically protecting our citizens, safe transit systems can help to maintain public confidence, encouraging transit use, reducing pollution, and preventing our cities from being mired in gridlock.

The first piece of legislation that the Banking Committee marked up after I became chairman addressed with transit security. That legislation, reported out of the committee as S. 763, was included in the Senate version of the 9/11 bill. I am extremely pleased that it is included in the conference report which the Senate is considering. Similar to the bill that was reported by the Banking Committee, the conference report provides \$3.5 billion in grants directly to transit agencies for security equipment, evacuation drills, and worker training—on which several witnesses, particularly from Madrid and London, testified would be the most important investment we could make. Indeed, the conference report requires worker training for all transit systems that receive security grants. The importance of worker training can scarcely be overstated. Transit workers are the first line of defense against an attack and the first to respond in the event of an attack. Mr. O'Toole, the director of London's transit system, said it well: "You have to invest in your staff and rely on them. You have to invest in technology, but don't rely on it."

The conference report also authorizes funds for the research and development of security technologies and authorizes

funding for the Information Sharing Analysis Center, ISAC, a valuable tool that provides transit agencies timely information on active threats against their systems. At the Banking Committee hearing we heard testimony from the American Public Transportation Association in strong support of the ISAC, and I am very pleased that the conference report authorizes this important center.

The conference report follows the Banking Committee's bill in allocating grants directly to transit systems on the basis of risk. The legislation makes clear that the Department of Homeland Security is responsible for making these critical decisions and allocating the grants among the Nation's 6,000 public transit agencies. The report does leave open the important decision of which agency, the Department of Homeland Security or the Department of Transportation, should actually distribute these grants and audit recipients' compliance with important provisions of transit law, including labor protections. The legislation requires the Secretaries of these 2 Departments to make this decision on the basis of which Department can distribute grants in the most effective and efficient manner. It is my opinion that at this moment, and at least for the next few years, the Department of Transportation is the agency that can best meet these criteria. DOT already has an efficient and effective grant distribution system in place that directly reaches our Nation's transit systems. The Federal Transit Administration is well aware of the various provisions of transit law that the recipients of security grants will be required to comply with and will therefore be able to monitor for compliance effectively. These transit security grants must go out to agencies quickly, as we face an urgent threat. It is my hope that the Secretaries will make a decision based on sound policy to best protect the American public and not with an eye toward jurisdiction or turf.

Over the years we have invested heavily in aviation security. In fact, we have invested about \$7.50 per aviation passenger per trip. About 1.8 million people travel using the aviation system daily in this country. Fourteen million people use mass transit systems every workday. We have invested about \$380 million in the security of mass transit systems. That is about one penny per passenger per trip.

I am not suggesting, nor do we require, that there be an equilibrium between the security investment in aviation and mass transit systems. I am simply suggesting that the Federal government can and should do more to secure our transit systems. To that end, the conference report provides an authorization of \$3.5 billion for transit security. We believe with this additional authorization, and we hope an appropriate appropriation from the responsible committees, that we will be able to provide some additional secu-

rity for this critically important component of our economy.

Again, I am grateful to the members of the conference committee for their support of this effort. I also want to thank my colleague and ranking member on the Banking Committee, Senator SHELBY, who has been a true champion for transit security for many years. This National Transit Systems Security Act of 2007 would never have reached this stage without Senator SHELBY's work. This was truly a bipartisan product, and I want to thank Senator SHELBY and our colleagues on the Banking Committee, including the former chairmen of the Housing and Transportation Subcommittee, Senators REED and ALLARD, who have also made very valuable contributions to this bill over the many years that we have been working to improve transit security.

I also want to make a few comments about other items that are included in this conference report. First, as chairman of the Banking Committee, I recognize the preparedness requirements that the Federal financial regulators have imposed on institutions under their jurisdiction and which those institutions have observed. I am pleased to have worked with my colleagues Senators LIEBERMAN and COLLINS on title IX to clarify that the private sector preparedness certification is voluntary and should not be construed as a requirement to replace any preparedness, emergency response, or business continuity standards, requirements, or best practices established under any other provision of Federal law, or by any sector-specific agency.

The Committee on Banking, Housing and Urban Affairs also exercises jurisdiction over the preparedness of American industry to supply our Government in times of defense and homeland security emergencies. Key to this effort is ensuring that our Nation's critical infrastructure operates uninterrupted and unhindered by natural or manmade disasters. Title X of this bill will enable the Department of Homeland Security to assess our vulnerabilities and hopefully work with other agencies to build up defenses for our critical infrastructure. In one specific provision, we built off of the Banking Committee's work 4 years ago when we reauthorized the Defense Production Act, DPA. In 2003, we emphasized the importance of the DPA's authorities in protecting our critical infrastructure. Today, under the conference agreement, we will require the Homeland Security Department, in coordination with the Departments of Commerce, Transportation, Defense, and Energy, to explain how it is implementing these 2003 DPA requirements. With the DPA's authorities expiring in September 2008, this report may prove helpful for our Committee's eventual markup of the reauthorization and modernization of the DPA.

Finally, I want to express my disappointment that the conference re-

port includes an immunity provision that was added to the report despite not being contained in either the Senate bill or the House bill that was sent to conference. I note that this provision was not supported by the chairman of the Senate Judiciary Committee, which has jurisdiction over this matter, and I believe it should have been dealt with in a very different manner. While I share the belief that our citizens are the first line of defense against terrorism and that they need to be encouraged to report legitimate suspicious behavior, we need to be very careful whenever we grant blanket immunity and even more careful when we pass legislation granting this immunity retroactively.

To conclude, Mr. President, I am pleased to recommend this conference report to my colleagues, as I believe that it will serve us well in our efforts to make Americans more secure.●

Mr. CARDIN. Mr. President, I am very happy to rise today in support of a conference report that implements the remaining 9/11 Commission recommendations.

Finally, three years after the Commission released its bi-partisan report, we are sending President Bush legislation that implements the last of those recommendations—recommendations that will improve Maryland's as well as our nation's security. This bill increases citizens' safety when they travel by air, road, or rail; improves first responders' communications capabilities; facilitates intelligence sharing at all levels of law enforcement; and protects citizens' privacy and liberty.

This conference report is the first legislation to formally authorize the State Homeland Security Grant Program and Urban Area Security Initiative, UASI, which provide funds to states and high-risk urban areas—like the D.C. Metropolitan area—to prevent, prepare for, respond to and recover from acts of terrorism. This legislation authorizes more money than previous years, but most importantly—and I want to stress this most importantly, this legislation ensures the vast majority of that funding is distributed based on risk.

In the past, too great a percentage of our first responder grants were distributed without regard to risk and vulnerability. As the 9-11 Commission final report stated:

[f]ederal homeland security assistance should not remain a program for general revenue sharing.

By increasing the percentage of grant money distributed based on risk, this legislation moves us toward the full implementation of the Commission's prescription.

This legislation also requires the Department of Homeland Security, DHS, to consider certain factors when allocating funds based on risk including history of threats, risk associated with critical infrastructure, coastline, and the need to respond to neighboring areas; considerations critical to adequate risk assessment for many of

Maryland's communities. All of us were both outraged and deeply concerned when DHS ranked the Washington D.C. and New York City metropolitan areas in a low-risk category for terrorist attack or catastrophe, a decision that would have cost those regions millions in anti-terror funds and had devastating impacts on their ability to respond to attack had the rankings been allowed to stand. By setting criteria for risk assessment, this bill guards against future gross miscalculations.

The legislation includes several important provisions improving transportation security, but I am particularly glad to see the bill requires DHS to develop its capacity to screen all—100 percent—of maritime cargo in foreign ports before it is loaded on ships bound for the United States within 5 years. Further, the conference substitute requires that DHS be able to screen all cargo carried on passenger airplanes within the next three years. And, the legislation authorizes substantial funds—more than \$4 billion over four years—for rail, transit, and bus security grants.

Not only does the legislation provide funding for improving communications systems, it also provides guidance. Maryland's first responders and administrators have explained to me that a truly interoperable communications system and a functioning incident command system require more than equipment. Practically, cooperation between and among local, state, national, and even international governments requires governance structures, protocols, agreements, and training. By providing money for staff, exercises, simulations, training, and any other activities necessary to achieve, maintain, or enhance emergency communications, this legislation addresses critical governance concerns.

But to keep us safe, different government agencies need more than the ability to communicate. They need to actually *be* communicating critical information and intelligence to the officials and officers who need it. The conference substitute encourages the free transfer of intelligence across agencies by authorizing government-wide standards for information sharing, and creating standards for state, local, and regional intelligence fusion centers and ensures they receive federal support and personnel.

The 9-11 attacks and Hurricanes Katrina and Rita demonstrated how inadequate information sharing and inadequate communications systems can compound disasters. Let us hope that with these changes we will never again have to witness firefighters rushing into buildings when they should have been running out or distraught citizens trapped by flood waters while national officials remain unaware of the disaster.

But this legislation does more than protect our physical safety; it contains provisions to safeguard our most cher-

ished liberties. Recent revelations regarding FBI abuse of its PATRIOT Act authority to gather phone, bank, and credit information on thousands of citizens underscore the importance of this legislation's enhanced privacy and civil liberties protections. The bill strengthens the Privacy and Civil Liberties Oversight Board independence and expands its oversight authority. The bill requires agencies with access to citizens' private information to designate at least one senior official to serve as a source of advice and oversight on privacy and civil liberties matters. Finally, under this legislation, federal agencies must report annually on their development and use of data mining technologies so this body can ensure proper usage of any technologies that raise privacy or civil liberties concerns.

This Conference Substitute also encourages this country to look beyond its own borders to promote others' safety and liberty through diplomacy. The legislation requires the Secretary of State expand strategies for democracy promotion in non-democratic and democratic transition countries, and to expand the effectiveness of the State Department's annual human rights reports. It further supports democracy promotion through international institutions, such as the UN Democracy Fund, the Community of Democracies, and the International Center for Democratic Transition, specifically through encouraging the establishment of an office of multilateral democracy promotion. To allow "maximum effort" on non-proliferation by the U.S. Government, as the 9-11 Commission called for, the bill establishes a Presidential Coordinator for the Prevention of WMD Proliferation and Terrorism.

We know now how closely our own safety is linked to other nations' internal security. These efforts are critical to creating a more stable Middle East and a safer world.

The 9-11 families, several of whom are my constituents, asked us to pass this legislation, and I am proud that we have fulfilled this obligation to them and to the country.

Mr. President, I yield the floor.

Mr. INOUE. Mr. President, I am pleased we are considering the conference report to H.R. 1, the Improving America's Security Act of 2007. This legislation is particularly timely given the daily reports that the terrorist threat against our Nation is increasing. We must be proactive in defending the homeland and take particular care to protect the transportation systems which have so often been targeted.

The conference report we are voting on today contains significant provisions to strengthen the security of the Nation's transportation system, including our surface, aviation and maritime networks. We also take action to improve the interoperability of public safety communications.

For surface transportation security, we have worked with the relevant

House conferees to reach consensus on provisions that would authorize new security assessments, grant programs, and security measures for the nation's major surface modes, including passenger and freight railroads, trucks, intercity buses, and pipelines. This bill will finally authorize adequate funding and a much needed statutory framework for the Transportation Security Administration's, TSA, surface transportation and rail security efforts.

The conference report also takes critical steps to address the remaining recommendations of the 9/11 Commission on aviation security. The commission's report expressed continuing concern over the state of air cargo security, the screening of passengers and baggage, access controls at airports, and the security of general aviation.

Under this bill, all cargo going on passenger aircraft must be screened within 3 years. Requirements will be put in place to plan and fund improvements for the detection of explosives in checked baggage and at passenger screening checkpoints. The TSA will also be required to ensure a system is in place to coordinate passenger redress matters and develop a strategic plan to test and implement an advanced passenger prescreening system.

With respect to giving our Nation's first responders the necessary resources to communicate effectively during times of crisis, the bill will further bolster our previous efforts to improve interoperable, public safety communications by eliminating statutory ambiguities for eligibility and by directing specific funds in support of State Strategic Technology Reserves that can be tapped in times of crisis by State and local personnel, as proposed in S. 4.

This conference report is an important step toward securing our Nation. The Commerce Committee worked for years to craft many of these provisions, and they reflect the expertise and dedication of our members. I urge my colleagues to support this legislation.

Mr. AKAKA. Mr. President, we have completed action on the conference report on H.R. 1, the Implementing Recommendations of the 9/11 Commission Act of 2007, and I wish to commend Senators JOSEPH LIEBERMAN and SUSAN COLLINS for leading this effort in the Senate. I appreciate their hard work and dedication in forging a compromise on this important piece of legislation. As a conferee I was pleased to take part in reconciling the differences between the Senate and House versions of this bill. The work that has gone into this legislation has been matched by the tremendous commitment of all of those involved to ensure that our country remains secure in the face of natural and man-made threats. Now that the Senate votes on passage of the conference report, I would like to take this opportunity to highlight a few issues that are particularly important to me.

The provision to create a Chief Management Officer, CMO, is a necessary

step in addressing the serious management and integration challenges at the Department of Homeland Security. I am disappointed that the conference report language does not encompass the entire provision passed by the Senate designating the CMO as the principal advisor to the Secretary on management issues. The CMO must have the authority of a Deputy Secretary to address department-wide management functions. My good friend Senator VOINOVICH, with whom I have worked closely on the Oversight of Government Management Subcommittee, as well as Comptroller General Walker, and I have long advocated for a CMO at the Deputy Secretary level.

I am pleased to see that strong privacy provisions included in the House and Senate bills were retained in this report. The Privacy Officer With Enhanced Rights Act, or the POWER Act, a provision championed by Congressman BENNIE THOMPSON and I, will strengthen the investigative authority of the chief privacy officer at the Department of Homeland Security. I am also pleased that the report increases the independence of the Privacy and Civil Liberties Oversight Board, so that there will be no undue influence exerted on them. Both of these provisions go a long way in ensuring that increased security efforts will not be at the cost of Americans' right to privacy.

The conference report also includes an important provision to increase reporting requirements for agencies using data mining. I was pleased to work with my good friends Senators RUSSELL FEINGOLD and JOHN SUNUNU, on this language. Federal agencies use data mining technology to review and analyze millions of public and private records for many reasons, including the detection of criminal and terrorist activities. This raises privacy concerns since an agency may analyze various databases containing personal information without any specific suspicion of wrongdoing.

In 2003, I asked the Government Accountability Office, GAO, to look into this issue, and in 2004, GAO reported that 122 Government data mining activities involved the use of personal information, 46 of which involved sharing personal information between agencies. GAO also found 36 data mining programs which used personal information from the private sector. However, these numbers did not include programs that are used for intelligence purposes. In 2005, GAO issued a follow-up report which found that agencies are not following all privacy and security policies. Given the increasing use of data mining and the threats such activities pose to Americans' privacy rights, I believe Congress must have a full accounting of agencies' data mining programs. That is why I am pleased the conference report retains the Senate language.

Finally, I want to express my disappointment that we were not able to address protections for airline screen-

ers in this legislation. It is essential that transportation security officers are given adequate employee protections, especially the right to collectively bargain like their colleagues at the Department of Homeland Security. I hope we will be able to address this issue in the future.

While more still needs to be done, the conference report before us now provides much needed reform.

Mr. REED. Mr. President, I believe that securing our Nation's public transportation systems is one of the most pressing homeland security issues facing our Nation. Over 180 public transportation systems throughout the world have been primary targets of terrorist attacks. In 2001, as chairman of the Senate Banking, Housing, and Urban Development Subcommittee on Housing, Transportation, and Community Development, I held the first hearing on transit security in the wake of September 11. The hearing took place early in the 107th Congress so I am saddened that it has taken us this long to enact legislation to protect our transit systems. I am pleased, however, that tonight we are prepared to pass the conference report to implement the 9/11 Commission recommendations, including the transit security measures that I authored.

While our Nation acted quickly after 9/11 to secure airports and airplanes against terrorists, major vulnerabilities remain in surface transportation. Transit agencies around the country have identified in excess of \$6 billion in transit security needs.

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 33 million times each week day compared to 2 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 \$7 per passenger is invested in aviation security, but less than 1 cent is invested in the security of each transit passenger, the need for an authorized transit security program is clear. We need to be more vigilant to protect public transit from terrorists.

As a member of the Senate Committee on Banking, Housing, and Urban Affairs, I was proud to author with Senators DODD and SHELBY comprehensive legislation to protect our public transportation systems and the Americans that they serve. Title XIV of The Improving America's Security Act of 2007 authorizes \$3.5 billion in grants to transit agencies for capital and operational costs. It also establishes an essential security training program for public transportation employees who are at the front lines of preventing terrorist acts. The act allows the Secretaries of Transportation and Homeland Security to determine which federal Department will distribute the grant funding. I urge the

Secretaries and the administration to place responsibility for the grant program with the Department of Transportation and make this decision promptly. It is my opinion that this will result in the effective and efficient administration of the program for local transit agencies.

Taking action to protect our public transportation systems is long overdue. I am pleased to support the Improving America's Security Act.

Mr. STEVENS. Mr. President, I thank the Chairman and ranking member of the 9/11 bill conference committee for their efforts to bring the conference report before the Senate. This was no small task and they, along with other conferees and staff, are to be commended.

Despite these efforts, however, the final conference report includes objectionable maritime cargo scanning language that could be devastating to both the international and domestic flow of commerce.

The decision to mandate scanning for 100 percent of cargo containers is a risky proposition because it does not follow a risk-based approach:

The title of the final conference report clearly states that its purpose is to implement the recommendations of the 9/11 Commission. But the commission did not advocate for the scanning—or even screening—of 100 percent of the containers arriving at our shores.

The 9/11 Commission recommended instead that we mitigate our vulnerabilities to terrorism in a logical manner by applying our resources based on risk, and specifically cautioned us not to employ a blanket approach.

Our Nation's ports, including the Port of Anchorage, are vital to our economies—both regional and national. Ensuring their security must be a top priority. But a mandate to scan every cargo container entering the U.S. could shut down many of these ports, and the resulting delays for both imports and exports would be excessive and costly for consumers.

Moreover, it is likely that foreign nations will disregard any caveats we may provide, and according to a European union diplomat,

The E.U. would consider imposing reciprocal requirements and filing a complaint against the United States in the World Trade Organization.

This fact renders the approach taken by this bill with respect to scanning cargo unworkable internationally.

Here at home, these cargo scanning provisions may be equally, if not more, devastating to rural economies. Communities in the lower 48 are served by multiple transportation modes distributing basic supplies like food and other consumer goods. In Alaska, however, over 90 percent of our supplies flow through the Port of Anchorage. Any disruption at this port would be a disaster for Alaskans, not to mention to the Port of Tacoma, which serves as a

conduit for cargo transiting to and from Alaska.

Some contend that we are not doing enough for port security. I disagree. Not even one year ago, we passed the Safe Port Act. While many of us made these same arguments concerning 100 percent scanning during the debate of that bill, we ultimately settled on directing DHS to conduct a pilot program to determine whether 100 percent scanning of cargo containers is even feasible. The pilot began earlier this year and we are only now beginning to get a clearer picture of the complexities that scanning entails.

Mandating 100 percent scanning of cargo containers without the benefit of the results of the pilot tests is premature and counterproductive.

Homeland security should not be used as a rhetorical tool. Let us first learn from the lessons promised by the Safe Port Act's pilot tests before committing ourselves to an irrational, costly, and potentially ineffective approach to securing our Nation.

I thank the following staff of the Senate Commerce Committee for their hard work on this bill:

Pamela Friedman, Mark Delich, Jarrod Thompson, Chris Bertram, Mike Blank, Kim Nahigian, Paul Nagle, Christine Kurth, Dan Neumann, Betsy McDonnell, and David Wonnemberg.

Mr. President, I yield the floor.

Mr. DURBIN. Mr. President, I commend Senators LIEBERMAN and COLLINS for their leadership and the members of the Conference Committee for their work on this important legislation.

More than five years after 9/11—despite tens of billions of dollars spent—America's ports, rails, airports, borders, nuclear powerplants and chemical plants are still not as safe as they could be.

It has been almost 3 years since the 9/11 Commission issued its final recommendations.

This legislation is a major step toward fully implementing the recommendations of the bipartisan 9/11 Commission. It changes course after years of inadequate action on critical homeland security needs.

The bill will make America more secure because it: provides funding for first responders; makes it harder for potential terrorists to enter the United States; helps secure our rail, air, and mass transit systems; and improves intelligence and information sharing at all levels of law enforcement.

I am especially proud to highlight a few provisions in the bill that I have championed for some time.

The legislation specifies that States can use Federal grants to design, conduct, and evaluate mass evacuation plans and exercises.

MASS EVACUATION

As we learned from Hurricanes Katrina and Rita, there is no substitute for being prepared.

Last fall, Rockford, IL, was flooded after heavy storms. Public safety workers were able to vacate an entire

neighborhood quickly and safely because they were prepared.

They had an evacuation plan. They knew where they would take people. They had a mobile command center set up there within hours.

Most cities and States have evacuation plans. But you need to have training drills and exercises to identify where the plan breaks down. Evacuation exercises allow you to work out solutions before lives are at risk in a real emergency. We may only have one chance to get it right.

CIVIL LIBERTIES

The 9/11 Commission recognized that one of the biggest challenges we face in fighting the war on terrorism is protecting civil liberties. The Commission said:

While protecting our homeland, Americans should be mindful of threats to vital personal and civil liberties. This balancing is no easy task, but we must constantly strive to keep it right.

To help keep this balance right, the Commission wisely recommended the creation of a board to ensure that the Government does not violate privacy or civil liberties. Three years ago, when Congress passed the first 9/11 bill, it included a provision I worked on to create a Privacy and Civil Liberties Oversight Board. The bill that the Senate passed would have created a strong and independent board with subpoena power, a full-time Chairman, and a broad statutory mandate, among other things.

Unfortunately, House Republicans were able to water down the bill to reduce the independence and authority of the Privacy and Civil Liberties Board. As a result, the board has not been an effective check on this administration, which has shown reckless disregard for the constitutional rights of innocent Americans.

The conference report we consider tonight will fix those deficiencies.

Throughout American history, in times of war, we have sacrificed liberty in the name of security. As the 9/11 Commission said, "The choice between security and liberty is a false choice." We can be both safe and free. I hope the new and improved Privacy and Civil Liberties Oversight Board will help make that a reality.

RISK-BASED

Two years ago Congress earned an F from the 9/11 Commission for creating a Homeland Security Grant Program that is not sufficiently focused on risk.

This bill puts more emphasis on risk as a factor in distributing homeland security grants. Right now, homeland security grants are based on a variety of factors—but risk is one of many.

INFORMATION SHARING

The 9/11 Commission strongly recommended that we change the culture in Government, so that agencies talk to each other and share information so everyone can do their jobs.

In 2001, the FBI had information about the hijackers that was never shared with local officials.

The conference report responds to that challenge. This bill: makes the Office of Information Sharing permanent, establishes an interagency coordination group on threat assessment, and makes it easier to share information between State and local government and across Federal agencies.

I am pleased that conferees made the program manager for the Information Sharing Environment (ISE) permanent and authorizes funds and staff to carry out the ISE mission.

The bill also calls for progress reports to Congress on the Information Sharing Environment.

"JOHN DOE" PROVISION

I will support the conference report, but I want to make clear that it contains one provision that has not been properly written or carefully considered. The so-called John Doe provision would give blanket immunity to citizens and Government officials who engage in racial profiling, as long as a court finds they were acting in good faith.

The proponents of this legislation claim that it is necessary because citizens will not report suspicious behavior if they are afraid they will be sued for racial profiling.

With all due respect, this is a solution in search of a problem. There is no evidence that people are reluctant to file complaints about suspicious behavior and there is no epidemic of nuisance lawsuits against people who do so.

In fact, all the evidence points in the opposite direction—vigilant Americans are playing a crucial role in homeland security.

The reality is that this provision is targeted at one pending lawsuit. There is no indication that the courts are incapable of handling this or any other racial profiling lawsuit. There are immunity rules that the courts have developed over many years and there is no evidence that those rules are not working to protect innocent people from nuisance lawsuits.

I cannot judge the merits of this particular lawsuit, but I do know this: Congress should not be in the business of passing legislation to affect the outcome of individual cases that are pending in court. We should not substitute our judgment for that of a jury of American citizens, doing their civic duty, who will hear and weigh all of the relevant evidence.

Remember the last time Congress did this? It was the Terri Schiavo case. That should be a warning to Congress not to go down this road again.

Its proponents claim that the John Doe provision is necessary so that people would not be deterred from reporting suspicious behavior. But this legislation will have another chilling effect: It will deter victims of racial profiling from seeking justice in the courts.

This legislation would require a plaintiff to pay attorneys fees to a defendant if the defendant who allegedly engaged in racial profiling acted in

good faith. Let's be clear: even if a defendant acted in bad faith, many victims of racial profiling will not file a lawsuit because they cannot take the risk that they will be forced to pay attorney's fees if they lose.

Despite what its proponents claim, the John Doe provision applies to more than just terrorism cases. In fact, it applies to any activity related to a threat to a passenger vehicle or its passengers. As a result, this provision will probably be invoked by every defendant in every future racial profiling case.

I am especially disappointed that this legislation was inserted into the 9/11 conference report without any consideration of the concerns I have outlined. This provision was not in the 9/11 bill that the Senate passed. In the Senate, it has received no hearings, no debate, and no votes.

The John Doe bill falls under the jurisdiction of the Judiciary Committee, of which I am a member. Senator LEAHY, the chairman of the Judiciary Committee, asked that it not be included in the 9/11 conference report so that we could hold hearings on it, but unfortunately his request was not granted.

This reminds me of another controversial bill that was inserted into a conference report without any debate in the Senate. It's called the REAL ID Act, and it is now opposed by States across our country.

I will be tracking closely how this legislation is implemented. I suspect that, as with REAL ID, the John Doe law will be met with rising opposition across this country as more and more Americans learn about it.

CLOSE

The 9/11 Commission gave Congress a critically important job.

The Commission charged Congress with making structural changes to close the gaps in America's homeland security defenses. This legislation responds to that challenge, and I support final passage of the conference report.

Mr. LIEBERMAN. Mr. President, I am prepared to yield back all remaining time, and Senator COBURN, in the spirit of not only the good spirit I identify with him but in the spirit of the hour, I gather, is prepared to yield back his remaining time as well.

Ms. COLLINS. Mr. President, I yield back the time on this side as well.

Mr. LIEBERMAN. Mr. President, again, I thank Senator COLLINS and Senator COBURN. It is a measure of their devotion that they are both still here at this hour.

MORNING BUSINESS

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that there now be a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TRIBUTE TO LIEUTENANT COLONEL JEAN MCGINNIS

Mr. REID. Mr. President, I rise today to congratulate LTC Jean McGinnis upon retiring from military service. For more than 25 years, our Nation has been fortunate to have such an intelligent, accomplished and decorated American in our armed services.

Lieutenant McGinnis exemplifies selfless devotion to one's country. Born in Deadwood, SD, Lieutenant McGinnis began her service early. The New Mexico Military Institute commissioned her as a 2nd lieutenant before she even completed her bachelor's degree at Texas A&M. She joined the Army Reserve as an active Guard Reserve Officer, and continued her education at Fort Eustis, VA, where she successfully passed the aviation maintenance officer course to become an Army test pilot in the UH-1 Huey helicopter.

In 1991, Captain McGinnis was stationed in Pennsylvania at the Willow Grove Naval Air Station as the aviation operations officer for the 2/288th Aviation Regiment. Five years later, she was assigned to the Office of the Chief, Army Reserve, Program Analysis and Evaluation Division and then as a budget analyst for the Army. In 1999, Major McGinnis moved to Arlington, VA, in order to serve as a congressional liaison after training at the Command and General Staff College.

Throughout her service, Lieutenant McGinnis has gained wide recognition from her commanding officers. She has earned the Meritorious Service Medal, the Army Commendation Medal, the Army Achievement Medal, the National Defense Service Medal, the Senior Army Aviator Badge, and the Air Assault Badge and the Army Staff Badge. These accomplishments speak volumes for her dedicated service to the country.

It is with great pride that I commend Lieutenant Jean McGinnis on this wonderful accomplishment. You have served our Nation with distinction, and I wish you the best on your well-deserved retirement.

LIEUTENANT COLONEL JEAN M. MCGINNIS

Mr. INOUE. Mr. President, today I honor, and pay tribute to LTC Jean M. McGinnis, who will retire from the U.S. Army on August 31, 2007, after 25 years of distinguished service. Lieutenant Colonel McGinnis is an outstanding American soldier who served in a succession of command and staff positions worldwide of increasing responsibility.

In her last assignment in the U.S. Army as the Deputy Chief of the Army, Senate Liaison Division, Lieutenant

Colonel McGinnis demonstrated the managerial and leadership skills that have characterized her career. She demonstrated Army values daily, supported her subordinates and chief tirelessly, and traveled extensively escorting Senators, their staffs, and Senate committee professional staff members on inspections and factfinding trips in the United States and overseas.

Lieutenant Colonel McGinnis previously served as a Congressional Budget Liaison Officer in the Office of the Chief of Army Reserve and as an Operations Research Analyst in Programs, Analysis, and Evaluation in the Pentagon. From 1982 to 1994, she served as an Aviation Officer, in the positions of Platoon Leader, Detachment Commander, Company and Battalion Flight Operations Officer.

During her aviation career Lieutenant Colonel McGinnis had many assignments ranging from humanitarian assistance missions in Guatemala and Honduras to piloting the Chairman of the Joint Chiefs of Staff and the Chief of Staff of the U.S. Army in Egypt as part of Operation Bright Star.

In 1997, Lieutenant Colonel McGinnis was assigned to the Office of the Chief of Army Reserve in Washington, DC, as an Operations Research Systems Analyst. During this assignment she reconciled Army Reserve resource requirements with Army program needs. She later served as a Budget Analyst in the Office of the Deputy Chief of Staff for Personnel, Resource Division. While in this challenging assignment, she served again as an Operations Research Budget Analyst of Reserve personnel and was directly involved with complex Army training and Reserve personnel policy issues.

She was then selected to represent the Army on Capitol Hill and served 4 years working for the Army Senate Liaison Division and the Office of the Chief of Army Reserve. Lieutenant Colonel McGinnis' expertise and knowledge of the Active Army and Reserve policies and procedures has been of great value to Senators and their staffs. Lieutenant Colonel McGinnis' leadership, resourcefulness, and professionalism made lasting contributions to Army readiness and mission accomplishments. Her service to our Nation has been exceptional, and Lieutenant Colonel McGinnis is more than deserving of this recognition.

DIGNIFIED TREATMENT OF WOUNDED WARRIORS ACT

Mr. CRAIG. Mr. President, I wish to take a moment to comment on the passage of the Dignified Treatment of Wounded Warriors Act. The President's blue ribbon Wounded Warrior Commission met with the President to provide