

virtually in the same neighborhood. Terrorists could smuggle themselves, traditional weapons, chemical or biological weapons, or even nuclear weapons. We know about the availability of smaller, more compact, more deadly weapons that are being developed.

We have seen what happened in the past. In April 2005, security guards at the Port of Los Angeles found 28 human beings, Chinese nationals, who were smuggled into the country in two cargo containers. In October 2002, Italian authorities found a suspected Egyptian terrorist living in a shipping container en route to Canada. According to a news report at the time, he had a laptop computer, two cell phones, a Canadian passport, security passes for airports in three countries, a certificate identifying him as an airline mechanic, and airport maps. We can't let that happen.

We have screened all airline passengers for weapons, and we do it because Congress passed a strong law with clear deadlines. Of course, that forced the Bush administration to act. We need to screen all cargo containers for weapons. That is why we have to pass a strong law now.

Some in the industry and the administration say 100 percent screening cannot be done without crippling our economy. Let me tell my colleagues what would cripple commerce—that would be another terrorist attack. We lost 700 New Jerseyans and a total of over 3,000 people on 9/11. I don't want my State or anybody in our country to lose any more. This amendment will give us the tools and incentives we need to help prevent an attack on our ports, and it will help protect our economy and American lives.

I am proud to cosponsor the amendment and urge my colleagues to support it.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I ask unanimous consent to speak for up to 6 minutes prior to the recess.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. BINGAMAN pertaining to the introduction of S. 739 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

AMENDMENT NO. 281 WITHDRAWN

Mr. BINGAMAN. Mr. President, prior to yielding the floor, I ask unanimous consent to withdraw my amendment, No. 281, to the pending bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is withdrawn.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 4 p.m.

Thereupon, the Senate, at 3:01 p.m., recessed until 4 p.m. and reassembled when called to order by the Presiding Officer (Ms. KLOBUCHAR).

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Madam President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. I would ask to be notified in 8 minutes.

The PRESIDING OFFICER. The Senator will be notified.

(The remarks of Mr. SESSIONS are printed in today's RECORD under "Morning Business.")

IMPROVING AMERICA'S SECURITY ACT OF 2007—Continued

AMENDMENT NO. 298

Mr. LIEBERMAN. Madam President, at 4:45, there will be a vote on or in relation to the amendment offered by Senator SCHUMER and Senator MENENDEZ. I wish to explain very briefly—and Senator COLLINS will speak later—on why we did not include this provision in the committee bill.

This provision which Senators SCHUMER and MENENDEZ have offered mirrors the section of the House-passed 9/11 bill. It was not actually called for by the 9/11 Commission, specifically, but it obviously relates to security and our concern about nuclear weapons or dirty bombs coming in through the thousands of containers that enter our ports every day.

The reasons our committee in its deliberation in bringing this bill to the floor did not include language similar to the House bill is, first, the 9/11 Commission didn't ask for it, and most of what we have done, though not all, was included in that report; but, secondly, we acted last year in adopting the SAFE Port Act, enacted into law on October 13, 2006.

It does provide for a pilot program at three foreign ports to provide for the scanning of cargo containers by radiation detection monitors and x-ray devices required under this proposal. There will be a report coming 6 months after the end of that one year pilot program. Among other responsibilities dictated by the law, the Secretary of Homeland Security will be required to report not only on how the pilot program went, but when we will achieve the goal of which—reading from the law, section 232—"all containers entering the United States, before such containers arrive in the United States, shall as soon as possible be scanned using nonintrusive imaging equipment and radiation detection equipment."

In other words, existing law requires that we move—and I quote again—"as soon as possible to 100 percent scanning of all of the containers coming into the country." It requires the Secretary to report on how we are moving toward that goal, and when he thinks we can achieve it, every 6 months.

In my opinion, existing law has a 100-percent goal right now, with reporting every 6 months to the relevant committees. Senators SCHUMER and MENEN-

DEZ have asked that it occur within 5 years and actually give a 1-year waiver opportunity to the Secretary.

At this point, I say respectfully that this requirement is premature. I hope that under current law, "as soon as possible" will occur before 5 years time. To my friends who offer the amendment, if after the first 6-month report, due next April, or the second 6-month report, it looks like, based on what the Secretary reports, 100 percent scanning of containers coming into the country is to be much more delayed than I had hoped it would be, then I will join them in offering an amendment that will have a definite date by which 100 percent scanning should occur. It is for that reason that our committee did not include this section. We talked about it and decided not to include it—as it was in the House bill, because we think existing law does at least as good, and perhaps a better job. I will respectfully oppose the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. SCHUMER. Madam President, I know the time is divided equally. How much time does each side have?

The PRESIDING OFFICER. The Senator from New York has 16 minutes. The Senator from Connecticut has 7 minutes 21 seconds.

Mr. SCHUMER. Madam President, I have a great deal of respect for my colleague, and I know he cares a great deal about protecting our country. But with all due respect, I cannot stand here and say that the SAFE Port Act does enough. The SAFE Port Act says that 100 percent scanning must be imposed "as soon as possible." It might as well say whenever DHS feels like it.

For somebody like myself and my colleague from New Jersey and my colleague from New York, we have been waiting for DHS to do this "as soon as possible" for 4 years. We have been alerting DHS to this terrible potential tragedy we face—a nuclear weapon being smuggled into our harbors, a nuclear weapon exploding on a ship right off our harbors—for years. DHS just slow-walks it. Why?

Part of the reason is that they are never adequately funded, which is no fault of my colleague from Connecticut. But the administration does not like to spend money on anything domestic. They never put the adequate money into it. It is amazing to me that they will spend everything it takes to fight a war on terror overseas. Some of that is well spent and some, I argue, is not. Nonetheless, they spend it. They won't spend hardly a nickel, figuratively speaking, to protect us on defense at home. So the progress has been slow.

This is not the first time I have offered amendments to prod DHS to do more on nuclear detection devices, on port security. I don't know why anyone in this Chamber, faced with the potential tragedy that we have, would decide

to leave it up to DHS. But that is just what this base bill does. I don't know what people are afraid of. Yes, we have people with shipping interests who say don't do this, it will cost a little bit more. Terrorism costs all of us more. To allow a narrow band of shippers to prevail on an issue that affects our security is beyond me.

Is the technology available? I will be honest with you that there is a dispute. Either way, the amendment the Senator from New Jersey and I have introduced makes sense. If it is available, they will implement it. If it is not available, they will perfect it and get it working because they have a deadline. Nothing will concentrate the mind of DHS like a deadline. But vague, amorphous language that says "as soon as possible"—their view of "as soon as possible" is not enough to safeguard America.

Very few things that we do in the Senate frustrate me more than this. Why don't we force DHS and force the administration to make us safe against arguably the greatest disaster that could befall us—one that we know al-Qaida and other terrorists would like to pursue? Why do we allow laxity, just obliviousness, and a narrow special interest to prevail over what seems to be so much of the common good?

I am aghast. This amendment should not even be debated by now. Maybe in 2003, maybe in 2004. But it is now 2007, and we are still not doing close to what we should be doing. Just last night, I spoke to an expert who said the technology is there. If there is a will, there is a way. Again, I say if you believe the technology isn't there, the answer isn't to let DHS proceed at the same lackadaisical pace, when one of the greatest dangers that could befall us could happen.

My colleagues, nobody wants to wake up in a "what if" scenario. After 9/11 occurred, we were all "what-ifing"—what if we had done this or what if we had done that. It was hard before that because nobody envisioned that somebody would fly a whole bunch of airplanes into our buildings. We know the terrorists want to explode a nuclear device in America or off our shores. That is not a secret. I argue that that is as great a danger to us as is what is happening in Iraq. Will my colleagues say we should not spend all the money when it comes to fighting a war on terror overseas? Of course not.

The other side of the aisle says spend every nickel we need. Here, when it comes to homeland security, they are either defending an administration that has botched this issue like they botched so many others or because maybe some shipping interests complain or because they truly believe the technology is not available, and we continue to slow-walk this issue.

I will have more to say in a few minutes. I will yield the floor so my colleague from Maine and my colleague from New Jersey can have a chance to speak.

I ask unanimous consent that the remainder of my time be reserved.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Connecticut is recognized.

Mr. LIEBERMAN. Very briefly, the Senator from New York has spoken passionately. I agree with everything he said about the urgency of the threat and the need to protect our people from weapons of mass destruction, which may arrive in containers. But I want to come back to what I said for a few moments. There is existing law that sets up a process that compels the Secretary of Homeland Security to achieve 100 percent cargo scanning as soon as possible, based on the outcome of the three port pilot projects that are occurring this year.

My friend from New York has said that "as soon as possible" could be whenever the Department of Homeland Security wants, that they have been doing nothing for the 5½ years since 9/11. However, this law, the SAFE Ports Act, just became law last October 13, 2006. So the pilot programs at the three ports have just started in the last 5 months.

At the end of the year, the Secretary will make a report to Congress about how those pilots are going. Again, he is required by the law to state to the appropriate Congressional committees in April of next year, and every 6 months thereafter, the status of full-scale deployment under subsection (b), which is basically saying how soon can we get to exactly what Senators SCHUMER, MENENDEZ, COLLINS, and I and I presume everybody—wants, which is 100 percent cargo container scanning.

So, again, we think we have a mechanism. We share the same goal. If for some reason after the first 6 month report, or the second one, we are dissatisfied with the pace of implementation by the Secretary, I am sure we will all join to set a deadline. For now, the committee has decided that it is not necessary.

Mr. SCHUMER. Will my colleague yield for a question on my time?

Mr. LIEBERMAN. Certainly.

Mr. SCHUMER. Again, I have great respect for my colleague and all he has done in homeland security. But I don't get the argument. My colleague just said they will report to us, and if we are not satisfied we can later impose a deadline. Given the urgency, why not do it the other way? Put in a deadline, and if 2 years from now they say they cannot do it, they will come back to us and we can remove the deadline. It seems to me that would get them to act more quickly than the approach my colleague has suggested.

I yield for an answer.

Mr. LIEBERMAN. I thank my friend from New York. Of course, I send back the same respect to him, truly, coming from New York, particularly after 9/11, he has been an effective advocate for homeland security. My answer is this: Maybe history will show me to be an

unjustified optimist. I hope "as soon as possible," as stated in the law, means that we should have 100 percent scanning sooner than 5 years. I will not have a real sense of that until we get the first 6 month report, or maybe the second. So to me, again, it is the judgment of the committee to not include the House-passed provision, not recommended by the 9/11 Commission, and to give the system time to work.

Mr. SCHUMER. I yield 5 minutes of our remaining time to my colleague and fellow sponsor, Senator MENENDEZ.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. MENENDEZ. I appreciate the leadership and advocacy of my colleague from New York to work with us on this issue. Look, the question is, On what side do we err? It seems to me we should err on the side of having a deadline that moves the Department of Homeland Security and us as a nation toward having the greatest possibility of security in a post-September 11 world.

If this was pre-September 11 and we were arguing that a conventional means of transportation—in this case a cargo ship—could, in fact, be used as a weapon of mass destruction and we hadn't had that experience, I could see the skepticism. But the reality is we are in a post-September 11 world. Five years after we saw a traditional form of transportation be used as a weapon of mass destruction, as we saw a simple envelope be tainted ultimately and be used as a weapon against an individual, as we saw someone who boarded an aircraft and tried to ignite his shoes, the reality is it doesn't take a lot to be convinced you can take 95 percent of the cargo, which goes unscanned, comes into this country, and have a great shot of including something in there, particularly a nuclear device, that would cost us far more—far more—than what we are talking about proceeding on today. Three years for major ports, 5 years for other ports—that is too fast? Ten years after September 11, that is too fast? I can't comprehend it.

There are those who say we already have a risk-based approach, it is layered, it is whatnot. That is great if you trust algorithms to ultimately protect the Nation. I don't trust algorithms to ultimately protect the Nation. I want real scanning, and the technology is there. It seems to me if Hong Kong can do it and other places in the world can do it, we can expect it as well.

There is also the suggestion of cost. How much did we spend after September 11? How much will we spend in lives and national treasure if we make a mistake by not ensuring that the traffic that comes into the ports of this country is as secure as it can be? And who among us is willing to look at the sons and daughters of those who work on the docks or the communities that surround these ports—most were built in a way where communities surround them—and what will we do about the

national economy, because it won't be just a regional economy that will be affected but a ripple effect in the national economy? How much will we spend? Far more. The lives that will be lost are incalculable and priceless.

I argue that, in fact, what we saw in the SAFE Port Act got the Department to act because they, in essence, had a deadline. So when we have deadlines, we see the Department acting. In my mind, all the more reason to have what I think is a very reasonable deadline—3 years for major ports, 5 years on all other ports, and even with the ability to extend beyond that by virtue of the Secretary making a determination. That moves the Department to understanding where we want to be.

But ultimately, I don't believe the present risk-based approach that lets 95 percent of all the cargo coming into this country go unscanned, that we depend on algorithms, that we use the costs supposedly to achieve 100-percent scanning is something that is acceptable.

The question is: How much greater will the costs be? Look at the costs we are incurring in aviation. They are enormous.

Then we won't be able to get host nations to agree: The reality is those host nations want access to the greatest market in the world, the United States of America. I cannot fathom that they won't do something that is necessary to try to get access to the greatest market in the world, the most prosperous market in the world. I think they will.

As someone who represents a State that lost 700 residents on September 11, I am not ready—I certainly am not ready—to take the position that we will do less than what we can do to achieve the security of our people. That is what this amendment is all about. It is structured in a reasonable way.

We have seen deadlines generate the Department of Homeland Security activity we want to see. We give time frames that are reasonable, technology that is available. We have incentives for all the right reasons for the marketplace and, above all, we can look at our citizens and say, in fact, they are protected.

I yield any time remaining.

The PRESIDING OFFICER. Who yields time?

Mr. LIEBERMAN. Madam President, I yield such time to the Senator from Maine as she desires of the time I have remaining.

The PRESIDING OFFICER. The Senator has 8 minutes 5 seconds remaining.

The Senator from Maine is recognized.

Ms. COLLINS. Madam President, I thank the chairman of the committee for yielding time to me.

You can read the entire 567 pages of the "9/11 Commission Report" as I have and you will not find a recommendation to undertake 100-percent scanning

of cargo containers. This bill's purpose—the bill before us—is to finish the business of implementing the 9/11 Commission Report recommendations. Senator SCHUMER's and Senator MENENDEZ's amendment is not one of the recommendations of the 9/11 Commission.

Further, I want to address what has been said about our system for improving the security of our seaports by focusing on cargo container security.

The fact is a great deal has been done since the attacks on our country on September 11, 2001. We have a layered approach to cargo security. It balances security interests against the need for efficient movement of millions of containers through our seaports each year—11 million, in fact, last year alone.

One layer is the screening of all cargo manifests at least 24 hours before the cargo is loaded onto ships bound for our shores. That screening, along with work done by the Coast Guard, is used in DHS's automated targeting system which identifies high-risk containers.

As a result of the cargo security bill that we passed last fall, we have a requirement that 100 percent of all high-risk cargo be subjected to scanning and that is appropriate. We want to focus our resources on the cargo that is of highest risk. But that is only one layer in the process.

Another layer is the Container Security Initiative. This program stations Customs and Border Protection officers at foreign ports. CSI will be operational in 58 foreign ports by the end of this year, covering approximately 85 percent of all containerized cargo headed to the United States by sea. That is another layer of security.

There is yet another one. It is the Customs-Trade Partnership Against Terrorism Program, known as C-TPAT. This program is a cooperative effort between the Government and the private sector to secure the entire supply chain. It is a result of the legislation Senator MURRAY, Senator COLEMAN, Senator LIEBERMAN, and I authored last year.

Firms that participate in C-TPAT and secure their supply chain are given certain advantages when it comes to scanning cargo because DHS will have certified that they have met certain standards. That is an important layer of security.

There is another important safeguard that is a result of the SAFE Port Act, and that is the law requires by the end of this year that the 22 largest American ports must have radiation scanners which will ensure that 98 percent—98 percent—of inbound containers are scanned for radiation. That is because we do have the technology to do scanning for radiation. We have these radiation portal monitors that trucks can drive through with the containers loaded on them and be scanned for radiation. There is a problem with some false positives. I was describing earlier that for some reason, marble

and kitty litter tend to cause false positives. But at least we identify these containers that are giving off alarms, and then they are subject to further inspection and search, and that makes sense.

I should mention we are also installing these overseas as part of the Department of Energy's Megaports Initiative.

The idea that nothing has been done to secure our seaports since 9/11 is demonstrably false. We took a giant step forward last year with the passage of the SAFE Port Act.

There is more that is being done, however, and that is, as Senator LIEBERMAN and Senator COLEMAN have explained, the new law authorizes pilot programs to test 100-percent integrated scanning programs.

We keep hearing Hong Kong brought up, but the fact is, in Hong Kong, there is scanning being done on only 2 of 40 lines, and the images are not being read. What good is it to take the picture, the X-ray, essentially, but then not have anyone analyzing the images? How does that increase security?

We still will learn something from the Hong Kong project, but I think we are going to learn even more from the three projects the Department has started already as a result of the SAFE Port Act.

There have been allegations that somehow the Department is sitting on its hands. That is not true. In fact, three ports—one in the United Kingdom, one in Honduras, and one in Pakistan—have been selected already and the projects are going forward to test these pilot programs. I think that is important to know.

So we have made a great deal of progress. We are going to make more as a result of these pilot projects. But the whole point is until we have the technology in place to do this effectively and efficiently, it will cause a massive backup in our ports if we are trying to scan 11 million containers—low-risk containers, containers that pose absolutely no threat to the security of this country—and that approach does not make sense.

Finally, let me read something from the Chamber of Commerce which has sent around an alert on this issue because I think this summarizes the issue:

The Chamber points out that more than 11 million containers arrive at our Nation's seaports each year and 95 percent of our Nation's trade flows through our seaports.

The PRESIDING OFFICER. The time of the Senator has expired.

Ms. COLLINS. Madam President, I ask unanimous consent that I be given 45 additional seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. I continue quoting the Chamber of Commerce:

If adopted, the Schumer amendment would significantly disrupt the flow of trade and impose costly mandates on American businesses without providing additional security.

That is the bottom line. I urge the rejection of the Schumer amendment, and when the time has expired, I will move to table the amendment.

Mr. SCHUMER. Madam President, what is the status of the time?

The PRESIDING OFFICER. The Senator from New York is recognized. There is 3 minutes 1 second remaining.

Mr. SCHUMER. Madam President, first, I thank my colleague from Maine for helping make our case. She says the technology for detecting radiation is available. Who in God's name thinks if we didn't set a deadline or if the President didn't order DHS to make it the highest priority that we wouldn't find a way to scan all containers within 5 years? Of course we would. This is just defense of DHS. I say to my colleagues, DHS has a terrible track record in this area, like so many others. They have been asked to do this for years already, and they are nowhere.

Now, my good friend from Connecticut says: Well, on October 13, we passed legislation. Well, that is 3 years after 9/11. What is wrong, my colleagues? Why isn't everything right with a deadline that says you better move as quickly as you can? Yes, if they should need, if they come to us 3 years from now and we are convinced that they have done everything they can, that the money has been spent, that the experts have been contacted and used appropriately, then we can delay it. Instead, we have this approach which seems to me to be backward—let us delay another 2 or 3 years, and if they do not do a good job, we can then put in a deadline.

No one is arguing we shouldn't have deadlines. The argument boils down to, do you trust DHS to do the job or would you rather have an immutable deadline on something which is the most damaging thing? I can't think of anything worse or close to it than a nuclear weapon exploding in America or off our shores. The technology is there, my colleagues. Yes, DHS doesn't want to spend the money necessary. Yes, DHS has not had very good people in this Department.

How are my colleagues going to go home and tell their constituents that when there was a chance to really move an agency and set a deadline, as the House did—this is not some crazy idea; the House voted by a significant majority for it—that they didn't do it, they didn't do it because they had faith in DHS? I don't know who does. How do my colleagues say they didn't do it because their port or a shipping company said they didn't want to do it or they didn't do it because they didn't think it was that big a problem? I don't think any of those reasons stand up. I don't think any of them stand up.

I have to say I have listened carefully to my colleagues, and I have great respect for them and the jobs they do, but their arguments just don't wash. Let's give them another chance. My colleagues, when it comes to this problem, we can't afford to give them another chance.

I urge a vote for the amendment.

Madam President, I ask unanimous consent that Senators KENNEDY, LAUTENBERG, and BIDEN be added as co-sponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

The time of the Senator from New York has expired. The Senator from Maine is recognized.

Ms. COLLINS. Madam President, has all time expired?

The PRESIDING OFFICER. The Senator has 15 seconds remaining.

Ms. COLLINS. Madam President, I yield back the remainder of my time.

Madam President, I move to table the Schumer amendment, and I request the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON) is necessarily absent.

Mr. LOTT. The following Senators were necessarily absent: the Senator from Idaho (Mr. CRAPO), the Senator from Arizona (Mr. MCCAIN), and the Senator from Louisiana (Mr. VITTER).

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

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

The result was announced—yeas 58, nays 38, as follows:

[Rollcall Vote No. 56 Leg.]

YEAS—58

Akaka	Cornyn	Lugar
Alexander	Craig	Martinez
Allard	DeMint	McConnell
Bennett	Dole	Murkowski
Bingaman	Domenici	Murray
Bond	Ensign	Nelson (NE)
Brown	Enzi	Roberts
Brownback	Graham	Sessions
Bunning	Grassley	Shelby
Burr	Gregg	Smith
Byrd	Hagel	Snowe
Cantwell	Hatch	Stevens
Carper	Hutchison	Sununu
Chambliss	Inhofe	Thomas
Coburn	Inouye	Thune
Cochran	Isakson	Voinovich
Coleman	Kyl	Warner
Collins	Landrieu	Wyden
Conrad	Lieberman	
Corker	Lott	

NAYS—38

Baucus	Kennedy	Pryor
Bayh	Kerry	Reed
Biden	Klobuchar	Reid
Boxer	Kohl	Rockefeller
Cardin	Lautenberg	Salazar
Casey	Leahy	Sanders
Clinton	Levin	Schumer
Dodd	Lincoln	Specter
Dorgan	McCaskill	Stabenow
Durbin	Menendez	Tester
Feingold	Mikulski	Webb
Feinstein	Nelson (FL)	Whitehouse
Harkin	Obama	

NOT VOTING—4

Crapo	McCain
Johnson	Vitter

The motion was agreed to.

Ms. COLLINS. Mr. President, I move to reconsider the vote.

Mr. LIEBERMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, more than 11 million cargo containers enter the United States each year. One hundred percent of the shipping manifests are screened to determine their risk. Approximately 17 to 19 percent of those containers determined to be high risk are examined by screening machines using x-ray or gamma ray technology, and only 5 percent of containers are physically opened and examined. This is not satisfactory. Clearly, much more needs to be done to increase the number of containers that are screened prior to entering this country. Only a more robust system will provide the deterrence necessary to make America safer.

I have been a leader in the effort to provide additional funding to purchase screening equipment and hire the personnel to perform these inspections. Nevertheless, I voted to table the amendment of the Senator from New York, Mr. SCHUMER. I believe we must set realistic goals. There is a process which has been set in place by the SAFE Port Act to get us to the ability to conduct 100 percent inspections. I will continue to do all in my power to provide the funds to ensure that we reach an achievable goal as rapidly as possible.

The PRESIDING OFFICER. The Senator from Texas.

(The remarks of Mrs. HUTCHISON are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER. The Senator from Pennsylvania.

(The remarks of Mr. SPECTER pertaining to the introduction of S. 734 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. SPECTER. I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LIEBERMAN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, I note the presence of a friend and colleague from Hawaii, a distinguished member of our Homeland Security Committee. I yield the floor to him.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. AKAKA. Mr. President, I ask unanimous consent to speak for 10 minutes as in morning business on the REAL ID Act, and I thank the chairman for his agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. AKAKA. Mr. President, today the Department of Homeland Security released its much anticipated proposed

regulations implementing the REAL ID Act of 2005. Although I am still reviewing the 162 pages of regulations, I note that the regulations address the problems with the statutory May 11, 2008, deadline for compliance. However, the regulations remain troublesome because they reflect the problems of the underlying statute.

I intend to ensure that these problems are resolved, which is why I reintroduced the Identity Security Enhancement Act, S. 717, to repeal REAL ID and replace it with the negotiated rulemaking process and the more reasonable guidelines established in the Intelligence Reform and Terrorism Prevention Act of 2004.

I am pleased to be joined “by Senators SUNUNU, LEAHY, and TESTER. I also thank Senator COLLINS for her work on this issue.

From its inception, REAL ID has been surrounded in controversy and subject to criticism from both ends of the political spectrum. The act places a significant unfunded mandate on States and is a serious threat to privacy and civil liberties.

I support the goal of making our identification cards and driver's licenses more secure, as recommended by the 9/11 Commission. However, the massive amounts of personal information that would be stored in interconnected databases, as well as on the card, could provide one-stop shopping for identity thieves. As a result, REAL ID could make us less secure by giving us a false sense of security.

Nearly half of our Nation's State legislatures—22—have acted to introduce or to pass legislation to condemn REAL ID since the beginning of the year. In some cases, States would be prohibited from spending money to implement the act. Two bills have been introduced in the Hawaii State legislature, one supporting the repeal of REAL ID and the other supporting passage of my legislation.

As I noted earlier, DHS has acknowledged the implementation problems and the need to help address the burdens on States. Secretary Chertoff announced today that States could easily apply for a waiver from the compliance deadline and could use up to 20 percent of the State's Homeland Security Grant Program, SHSGP, funds to pay for REAL ID implementation. But this is a hollow solution. The President's fiscal year 2008 budget proposes to cut SHSGP by \$835 million. I fail to see how States are able to implement an \$11 billion program with Federal homeland security grants that the Bush administration continues to cut.

Moreover, the regulations proposed today fail to address several of the most critical privacy and civil liberties issues raised by REAL ID, which essentially creates a national ID. No hearings were held on REAL ID when it was passed as part of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief Act in 2005. I think this

is part of the problem and is where I hope to bring forth a solution.

As chairman of the Subcommittee on Oversight of Government Management, I plan to hold hearings in the near future to review the proposed regulations and how DHS plans to implement this costly and controversial law. Unfunded mandates and the lack of privacy and security requirements are real problems that deserve real consideration and real solutions. Congress has a responsibility to ensure that driver's licenses and ID cards issued in the United States are affordable, practical, and secure—both from would-be terrorists and identity thieves.

I look forward to working with my colleagues—Senators SUNUNU, LEAHY, TESTER, COLLINS and others—to address the real problems with REAL ID. I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. I ask unanimous consent to talk as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. GRASSLEY are printed in today's RECORD under “Morning Business.”)

Mr. GRASSLEY. Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DEMINT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MENENDEZ). Without objection, it is so ordered.

Mr. DEMINT. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. The Salazar amendment is the pending amendment before the Senate.

AMENDMENT NO. 314 TO AMENDMENT NO. 275

Mr. DEMINT. Mr. President, I ask unanimous consent that the pending amendment be set aside and I be allowed to offer an amendment, which I am sending to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. DEMINT] proposes an amendment numbered 314 to amendment No. 275.

The amendment is as follows:

(Purpose: To strike the provision that revises the personnel management practices of the Transportation Security Administration)

On page 215, strike line 6 and all that follows through page 219, line 7.

AMENDMENT NO. 315 TO AMENDMENT NO. 275

Mr. LIEBERMAN. Mr. President, I have an amendment that I send to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. LIEBERMAN] proposes an amendment numbered 315 to Amendment No. 275.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide appeal rights and employee engagement mechanisms for passenger and property screeners)

In the language proposed to be stricken:

On page 215, strike line 22 and all that follows through page 219, line 7, and insert the following:

SEC. \_\_\_\_\_. APPEAL RIGHTS AND EMPLOYEE ENGAGEMENT MECHANISM FOR PASSENGER AND PROPERTY SCREENERS.

(a) APPEAL RIGHTS FOR SCREENERS.—

(1) IN GENERAL.—Section 111(d) of the Aviation and Transportation Security Act (49 U.S.C. 44935 note) is amended—

(A) by striking “Notwithstanding” and inserting the following:

“(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) notwithstanding”; and

(B) by adding at the end the following:

“(2) RIGHT TO APPEAL ADVERSE ACTION.—The provisions of chapters 75 and 77 of title 5, United States Code, shall apply to an individual employed or appointed to carry out the screening functions of the Administrator under section 44901 of title 49, United States Code.

“(3) EMPLOYEE ENGAGEMENT MECHANISM FOR ADDRESSING WORKPLACE ISSUES.—The Under Secretary of Transportation shall provide a collaborative, integrated, employee engagement mechanism, subject to chapter 71 of title 5, United States Code, at every airport to address workplace issues, except that collective bargaining over working conditions shall not extend to pay. Employees shall not have the right to engage in a strike and the Under Secretary may take whatever actions may be necessary to carry out the agency mission during emergencies, newly imminent threats, or intelligence indicating a newly imminent emergency risk. No properly classified information shall be divulged in any non-authorized forum.”

(2) CONFORMING AMENDMENTS.—Section 111(d)(1) of the Aviation and Transportation Security Act, as amended by paragraph (1)(A), is amended—

(A) by striking “Under Secretary of Transportation for Security” and inserting “Administrator of the Transportation Security Administration”; and

(B) by striking “Under Secretary” each place such appears and inserting “Administrator”.

(b) WHISTLEBLOWER PROTECTIONS.—Section 883 of the Homeland Security Act of 2002 (6 U.S.C. 463) is amended, in the matter preceding paragraph (1), by inserting “, or section 111(d) of the Aviation and Transportation Security Act,” after “this Act”.

(c) REPORT TO CONGRESS.—

(1) REPORT REQUIRED.—Not later than 6 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report on—

(A) the pay system that applies with respect to TSA employees as of the date of enactment of this Act; and

(B) any changes to such system which would be made under any regulations which have been prescribed under chapter 97 of title 5, United States Code.

(2) MATTERS FOR INCLUSION.—The report required under paragraph (1) shall include—

(A) a brief description of each pay system described in paragraphs (1)(A) and (1)(B), respectively;

(B) a comparison of the relative advantages and disadvantages of each of those pay systems; and

(C) such other matters as the Comptroller General determines appropriate.

AMENDMENT NO. 316 TO AMENDMENT NO. 315

Mrs. McCASKILL. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mrs. McCASKILL] proposes an amendment numbered 316 to amendment No. 315.

Mrs. McCASKILL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide appeal rights and employee engagement mechanisms for passenger and property screeners)

In the Amendment strike all after “SEC.” on page 1, line 3 and insert the following:

**APPEAL RIGHTS AND EMPLOYEE ENGAGEMENT MECHANISM FOR PASSENGER AND PROPERTY SCREENERS.**

(a) APPEAL RIGHTS FOR SCREENERS.—

(1) IN GENERAL.—Section 111(d) of the Aviation and Transportation Security Act (49 U.S.C. 44935 note) is amended—

(A) by striking “Notwithstanding” and inserting the following:

“(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) notwithstanding”; and

(B) by adding at the end the following:

“(2) RIGHT TO APPEAL ADVERSE ACTION.—The provisions of chapters 75 and 77 of title 5, United States Code, shall apply to an individual employed or appointed to carry out the screening functions of the Administrator under section 44901 of title 49, United States Code.

“(3) EMPLOYEE ENGAGEMENT MECHANISM FOR ADDRESSING WORKPLACE ISSUES.—The Under Secretary of Transportation shall provide a collaborative, integrated, employee engagement mechanism, subject to chapter 71 of title 5, United States Code, at every airport to address workplace issues, except that collective bargaining over working conditions shall not extend to pay. Employees shall not have the right to engage in a strike and the Under Secretary may take whatever actions may be necessary to carry out the agency mission during emergencies, newly imminent threats, or intelligence indicating a newly imminent emergency risk. No properly classified information shall be divulged in any non-authorized forum.”.

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(A) the pay system that applies with respect to TSA employees as of the date of enactment of this Act; and

(B) any changes to such system which would be made under any regulations which have been prescribed under chapter 97 of title 5, United States Code.

(2) MATTERS FOR INCLUSION.—The report required under paragraph (1) shall include—

(A) a brief description of each pay system described in paragraphs (1)(A) and (1)(B), respectively;

(B) a comparison of the relative advantages and disadvantages of each of those pay systems; and

(C) such other matters as the Comptroller General determines appropriate.

(d) This section shall take effect one day after date of enactment.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

AMENDMENT NO. 314

Mr. DEMINT. Mr. President, I thank the managers for their hard work. They sincerely want to strengthen homeland security and want to keep this bill focused on that goal and not allow it to be tangled up in partisan issues. That is my goal, too. That is why I am offering this amendment today.

The provision in this bill, found on page 215, that reverses a critical homeland security policy and introduces collective bargaining for airport screeners who work at the Transportation Security Administration, or what we call the TSA, has nothing to do with improving our homeland security. It was certainly not recommended by the 9/11 Commission. My amendment would strike this provision so TSA can continue to protect us from another terrorist attack.

It may be helpful to review the history of this debate so my colleagues understand how we got here. Just 5 years ago, Congress voted in favor of a flexible personnel management system at TSA in recognition that special flexibility is necessary to protect American passengers from terrorists. This system allows security screeners to join a union, but it doesn't tie the hands of TSA when it comes to managing its workforce and protecting the American people.

Collective bargaining, however, would allow labor unions to stand between TSA and its employees in ways that would make the agency less flexible and less nimble and create an operational and security disaster. Mr. President, collective bargaining has been a topic of discussion since TSA's inception. It is important that my colleagues know that it has been evaluated and rejected in every instance as something that would be harmful to our safety.

First, in 2001, collective bargaining was not included in the Aviation and Transportation Security Act when TSA was first created.

Second, in 2003, collective bargaining was rejected by the TSA Administrator for security reasons.

Third, in 2004, collective bargaining was not recommended by the 9/11 Commission.

I need to repeat that because it is important. This whole bill is designed to fulfill the recommendations of the 9/11 Commission, and they did not mention anything about collective bargaining.

Finally, the decision against collective bargaining at TSA has been upheld by multiple Federal and labor relations courts between 2002 and 2006.

Now I will outline six of the negative security consequences of this dramatic change in policy. First, TSA currently uses a security strategy as recommended by the 9/11 Commission that is based on flexible, random, and unpredictable methods. This approach keeps would-be attackers off guard.

Under collective bargaining, TSA will have to negotiate a predetermined framework within which the agency will be required to operate. This policy was not recommended in the 9/11 Commission Report, and it goes directly against the Commission's recommendations. This will weaken our security.

Second, TSA currently establishes security protocols on a national and international basis without having to bargain in advance over the impact of these protocols.

Under collective bargaining, TSA will be required to negotiate on every security protocol with multiple unions on an airport-by-airport basis. At its worst, this could stop many critical new security protocols, but even at its best it will slow them down. This will weaken our security.

Third, TSA currently shifts resources in real time without having to inform any entity. Under collective bargaining, redeployment decisions will be subject to binding arbitration review by a third party who has no Government or security experience but has authority to reverse TSA security decisions.

As my colleagues know, arbitration can take months or even years to resolve. This will weaken our security.

Fourth, TSA currently moves, upgrades, replaces, and repositions equipment to stay in tune with operational requirements. Under collective bargaining, equipment deployment will be subject to a 60- to 180-day negotiation process. All information, including standard operating procedures and tactics, will also be subject to union negotiation. This will weaken our security.

Fifth, TSA currently protects sensitive security information, such as the security resources at a particular site, and releases this information only to those who need to know.

Under collective bargaining, TSA will be required to disclose security information to third party negotiators and arbitrators, increasing the risk of unauthorized information release. This will weaken our security.

Sixth, and finally, TSA currently deploys many innovative security programs within weeks. Under collective bargaining, new positions and promotions will all be subject to months, or years, of impact in implementation.

TSA provided just-in-time explosive training to more than 38,000 security screeners in less than 3 weeks in November of 2005. Under collective bargaining, training is subject to negotiation on the need, design, order of training delivered, and method of delivery. This process could add 60 to 180 days to security training programs and weaken our security.

I know my colleagues understand the need for TSA to be able to move quickly, so I want to make sure everyone knows how slow and how cumbersome collective bargaining will be. Let's please keep in mind as we look at this situation the whole purpose of TSA is to protect our country. That is their first priority. We cannot allow the unionization and union requirements to preempt this first priority of TSA.

Today, TSA—and I know this is very difficult to read—can implement its changes in 1 day or less, and we will talk about some of those examples. But under collective bargaining, it can take up to 568 days to work out the negotiations and possible litigation that could occur when they are trying to establish new protocols. This is not acceptable when it comes to protecting our country.

If we introduce collective bargaining at TSA as proposed in this bill, changes could take, as I said, up to 568 days. My colleagues can see a collective bargaining process starts with up to 14 days of advance notice, up to 14 days for the union to decide how they are going to negotiate, plus up to 180 days to negotiate, and followed by 7 days to implement.

This whole process does not fit with national security interests. I hope my colleagues agree that this is too long and too cumbersome to subject our Nation's security to.

I wish to share with my colleagues several real-world examples of how TSA has been able to rapidly respond to security threats. I will point the attention of my colleagues to the United Kingdom bomb plot, of which we are all aware, last August in 2006. On August 10 of last year, information about one of the most spectacular terrorist plots since 9/11 was shared with TSA. TSA worked very quickly to develop a plan that would, over the course of 12 hours, ban all liquids beyond the security checkpoint and enact the quickest changes to the prohibited items list in history. It was simply the most drastic change airport security had ever undergone, and it happened in less than 6 hours from the time the arrest of the alleged terrorists was revealed.

I understand one of my colleagues has offered an amendment that would undercut the whole idea of this bill and force TSA to prove it is an emergency or an imminent threat in order to take

the action we did when this plot was revealed.

What will TSA have to go through to prove there is an emergency? What kind of court case, what kind of litigation, what kind of hearings in Congress will they have to go through to prove it is an emergency? This attempt to gut this bill makes it worse than the underlying bill because it subjects our security to constant litigation and second-guessing.

The success of this operation—this United Kingdom bomb plot—was based on a number of factors, including a nimble and professional workforce who is highly trained and rewarded for their performance: an ability to change procedures within hours, expertise in dealing with the public to educate, inform, and help them handle the changes, and a commitment to security in the face of emerging threats. This is a clear example of why we should not tie TSA's hands and prevent it from accomplishing its security mission.

Another example of how TSA has been able to react quickly happened last July, when Lebanon erupted into violence and fighting broke out, leaving thousands of Americans trapped in between the warring factions. The Government of the United States safely evacuated these Americans and thousands of other refugees.

From July 22 to July 31, TSA officers helped to secure 58 chartered flights from Cypress to the United States and screened over 11,000 passengers. The overseas and domestic deployment was the first of its kind, and it demonstrated TSA's ability to use its flexible structure to appropriately respond to both domestic and overseas needs.

TSA delivered on its security mission and ensured the security of arriving airplanes and passengers. The mission was designed, executed, and people were being screened overseas within 96 hours, which is remarkable for a Government agency that had never deployed overseas and had not envisioned a need to do so.

It is important for us to remember at this point the amendment that has been offered to change my amendment would likely have resulted by now with TSA being in court, being challenged as to whether the situation in Lebanon was an imminent threat to our country, which is the language of the amendment that has been offered to change this bill.

We cannot water down our Nation's security by allowing TSA to have to follow collective bargaining rules or, which has been proposed, prove it is an emergency or an imminent threat. This would create a heyday for lawyers.

If these operations had been subject to arbitration and review required by collective bargaining, changes in deployments of personnel would have required notification on TSA's management to the collective bargaining unit, followed by a response accepting the changes in employment conditions or proposing modifications. This process

would have created time-consuming rounds of negotiation, even using an expedited process.

TSA's response to the United Kingdom terrorist plot was developed in 12 hours, and the screeners were deployed to Lebanon and Cypress within 96 hours, response times that would have been significantly delayed by days and weeks, if not made impossible, had the notification and negotiation requirements in this bill been in effect. We cannot allow that to happen to our Nation's security.

I would now like to outline three ways collective bargaining will negatively affect workforce performance.

First, TSA currently uses a paid-for performance system that is based on technical competence, readiness for duty, and operational performance. Top security screeners receive a 5-percent base pay increase on top of a 2.1-percent cost-of-living adjustment and a \$3,000 bonus.

Under collective bargaining, this paid-for performance system will be replaced with a pass-fail system based heavily on seniority that will not adequately assess technical skills. The collective bargaining system will not reward screening performance or good customer service, and it will reduce standards. This will weaken workforce performance.

Second, TSA can also currently remove ineffective security screeners within 72 hours. Imagine that: The frontline security of our country can identify someone who is not doing their job and remove them so our country and the airline passengers can be safe.

Under collective bargaining, however, arbitration proceedings will retain substandard employees for months, preventing the hiring of replacement officers. This process could take 90 to 240 days and will reduce overall workforce performance. This will weaken workforce performance.

Third, TSA currently uses multiple screening disciplines, adding interlocking layers of security. Under collective bargaining, employees will be able to refuse multidisciplinary jobs resulting in fewer resources to serve passenger checkpoints. This will weaken workforce performance.

My colleagues should know exactly how this weakened workforce performance affects air travelers in our country, and we can have a good look at how that is going to affect us by looking at Canada. A recent incident in Canada provides a great example.

Canada's air security system does not have the flexibility that TSA enjoys. Last Thanksgiving, as part of a labor dispute, passenger luggage was not properly screened and sometimes not screened at all as airport screeners engaged in a work-to-rule campaign, as they called it, creating long lines at the Toronto airport.

A government report found that to clear the lines, about 250,000 passengers were rushed through with minimal or

no screening whatsoever. One Canadian security expert was quoted as saying that if terrorists had known that in those 3 days their baggage wasn't going to be searched, that would have been bad. That is an understatement of the year. We cannot afford to have this kind of union-sponsored disruption at our airports. The Canadian union's airport security was not allowed to strike either, but we can see what they did in order to disrupt the proper screening of baggage there. This would happen in our country as well.

I think it is also important that people know how collective bargaining will impact passenger service. I know that for most Americans, security is the No. 1 goal when it comes to air travel, but they also want security operations to be efficient and not needlessly disrupt their schedules.

I know my colleagues would be pleased to know that TSA has managed the growth of passenger travel and kept average peak wait times to less than 12 minutes. Under collective bargaining, TSA will have to pull at least 3,500 screeners, or 8 percent of the total workforce, off a line to fulfill the needs of the new labor-management infrastructure. This would close at least 250 screening lanes, causing longer lines at checkpoints.

Under these circumstances, average wait times would increase from 12 minutes at peak to more than 30 minutes. This is something that will be very unpopular, especially given the fact that these longer wait lines come with less security.

TSA is also currently capable of relocating security screeners to enable on-time aircraft departures. Under collective bargaining, negotiating job stations and functions will result in poor staffing, leading to longer lines, late flight departures, and other adverse industry impacts. Americans want to make their flights, and they will not support needless delays that come at the expense of their security.

I think it is also important that my colleagues understand what I am talking about and how it could play out in real terms.

During Hurricane Katrina, TSA deployed security officers from around the country to New Orleans to screen evacuees during the aftermath of the storm. This response allowed them to evacuate 22,000 men, women, and children through the airport safely and securely. Several weeks later, TSA responded the same in response to Hurricane Rita in Houston. Security screeners left their home airports with little notice to fly to Houston to help those in need.

Another example of how TSA has been able to react quickly to weather-related events occurred this past December when a big snowstorm hit Denver. Because local TSA employees were unable to get to the airport, TSA responded quickly by deploying 55 officers from Las Vegas, Salt Lake City, and Colorado Springs to Denver. The

deployment allowed TSA to open every security lane around the clock at the airport until they were back to normal operations.

Should we force TSA to prove this was an imminent danger or an emergency before they respond to the needs of the American people? That is what the second-degree amendment is intended to do. We cannot allow that. That will weaken our security.

These operations have been subject to arbitration review required by collective bargaining. Changes in deployment of personnel would have required notification by TSA management to the collective bargaining unit, followed by a response accepting the changes in employment conditions or proposing modifications. This process would have created time-consuming rounds of negotiations, even using an expedited process. Americans do not want needless bureaucracy in our airports, especially when it comes at the expense of our safety.

I also want my colleagues to understand the amount of money collective bargaining is going to cost and how it will impact TSA's operation in air travel security.

The first year startup costs of creating a collective bargaining infrastructure is conservatively estimated at \$160 million, forcing TSA to relocate thousands of screeners currently working on aviation security. Since there is no money allocated for this change, this mandate would force TSA to pull 3,500 transportation security officers, or 8 percent of the total workforce, off the checkpoints.

These officers equate to 250 of the 2,054 active screening lanes across the Nation at any given time, closing 250 lanes. This impact is equivalent to closing all the checkpoint screening lanes in Chicago, Los Angeles, Boston, and New York. This impact is the equivalent of closing all screening operations across the system 1 day every week. This impact would result in failing to screen 300,000 passengers every day.

Some may say we should increase spending for TSA by \$160 million. But if we have this money, why use it to pay for redtape? Let's use it for security.

I also want to address some of the objections to TSA's flexible management. First, those who want collective bargaining at TSA say they want screeners to be treated as every other Federal employee. That would be fine, except for the fact they are not like every other Federal employee. They have a mission to protect the American people, and collective bargaining will prevent them from accomplishing this mission.

Second, those who want collective bargaining at TSA say it will lead to lower attrition and, therefore, more safety. Collective bargaining may lead to lower rates of attrition, but it will not lead to more security.

I am sure there are security screeners who would like to be guaranteed

lifetime employment, but that would prohibit TSA from keeping America safe. TSA currently has the ability to reward screeners based on their performance and to remove those screeners who are not performing. That is what ensures safety, not a workforce that is rewarded for seniority and is not accountable.

We have also heard the supporters of collective bargaining at TSA say it is working at Customs and border control. First, I take issue with the claim it is working with Customs or working at our borders. Our Customs agency has experienced numerous delays and complications in securing our borders that have been caused by collective bargaining. I think our Customs agency and border security should have the same flexibility TSA enjoys, and it is a debate we should have as we look at ways to better secure our borders.

Let's make sure we understand what we are saying. Advocates of collective bargaining for airport security are saying our border security has worked well. It is hard to look at 10 to 12 million illegal aliens in our country and say our border security is working well. It is not working well.

We are also hearing increasingly from all over the world that our customs process is among the worst in the world. Our tourism is down and our business visits are down because we are making it harder and harder for people from around the world to get into our country. Our customs system doesn't work and neither does our border security.

The supporters of collective bargaining at TSA also believe our screeners are lacking important protections to address their grievances. I hope my colleagues know TSA has given screeners the ability to have their whistleblower complaints reviewed by the Office of the Independent Counsel, even though it is not required in law. Critics also claim screeners do not have the ability to appeal adverse actions against them, such as suspensions and terminations, through the Merit System Protection Board. This is true, but TSA has created its own disciplinary review board that provides workers with relief faster than the Merit System Protection Board.

I want my colleagues to understand what all of this means for unions, because I am afraid that is what this policy is all about. Unionizing the 48,000 workers at TSA will give labor unions a \$17 million annual windfall in dues from these new union workers. Let me share a quote. For my colleagues who doubt this policy is being driven by unions, I want them to hear what was said earlier this week by two leaders of the American Federation of Government Employees, which is affiliated with the AFL-CIO. They said:

We must gain 40,000 new members a year to break even today. But because of the age of our members and pending retirements, that number will grow to 50,000 in 2 years and probably 60,000 a few years after that.

An additional comment:

This campaign is the perfect opportunity to convince TSA employees to join our union and become activist volunteers in our one great union.

The purpose of TSA is not to create activist volunteers for unions. It is to protect our country. Again, I need to remind my colleagues the top priority of Homeland Security and TSA is to protect Americans.

I conclude by saying this is a very serious issue, and I encourage all my colleagues to think about it carefully. We all want workers to have better benefits, but that is not what this debate is about. TSA offers great benefits and important protections to its workforce. This debate is about how to keep our country safe, and we cannot tie TSA up in knots of redtape.

I understand the unions want this new policy because it will add thousands of new dues-paying members to their rolls, but they are going to have to live without it in order to keep our country safe. This bill is about doing things that will prevent another 9/11 attack. Adding an earmark for labor unions that prevents TSA from doing its job is the last thing we should do.

I realize the Senator from Connecticut feels strongly about this issue, and I know I probably haven't changed his mind. Unionizing the Federal workforce is something that is very important to him, and it is something he has worked on for many years, most notably when Congress created the new Department of Homeland Security in 2002. I also realize the majority leader has impressed upon the Senators on the other side of the aisle to stick together in supporting this destructive policy. This is very disappointing, because it shows the majority may be more interested in having a political showdown than they are in strengthening our security.

The President has issued a veto threat on this bill if it creates collective bargaining at TSA, and there are enough Senators to sustain it. That leaves us with two options: We can remove this misguided position and preserve the bill or we can let the bill die. I simply ask my colleagues: Is this union earmark worth killing this bill for? I don't think so.

I think it is important to also note the second-degree amendment that is being offered to change my amendment is not supported by Homeland Security. In fact, they believe it will make this bill worse than it is right now.

My colleagues, I ask everyone to set aside the partisan politics, set aside special interests, and let us continue to improve TSA, our Transportation Security Agency. They have demonstrated that while there have been a lot of problems with starting up a new agency, each year they have gotten better. Each year their workforce has gotten better trained. Each year we are moving passengers through with less and less inconvenience and better and better security. This is not the time to

turn back. This is not the time to play politics and payback with our security.

I encourage everyone to take a careful look at this amendment and I ask my colleagues to support it.

With that, Mr. President, I yield back.

The PRESIDING OFFICER. The Senator from Missouri.

Mrs. McCASKILL. Mr. President, I have listened to the arguments of my colleague on the other side of the aisle, and I believe the amendment I have offered answers many of his concerns but also provides basic rights for our 40,000-some TSA officers across this country.

Let us first talk about what this amendment does that I have offered. It does three things, three simple things. First, it gives them whistleblower protection.

As somebody who has spent 8 years as an auditor, as someone who has spent a great deal of time figuring out where Government is doing its job well and not so well, I understand the importance of whistleblower protection. The best information you get as an auditor comes from the employees of the Government, and they all must be reassured, especially those working on the front line of security, that they will be protected if they tell things they see that need to be fixed. That is important.

Secondly, this bill gives them the right to appeal suspensions of 14 days or more to an independent board, as other Federal workers.

It also gives them the right to collectively bargain, like the Border Patrol, like the Capitol Police, like FEMA employees, and like Immigration and Customs Enforcement.

What does this amendment not do? It is important to understand the limitations in this amendment. First, it makes sure they do not have the right to strike.

Secondly, it prohibits them from bargaining for higher pay. They cannot bargain for higher pay. This is important, because my colleagues spent a great deal of time talking about safety. It explicitly states that no classified or sensitive intelligence can be divulged or released during any grievance process.

It goes further than the original legislation and the original amendment by saying the TSA Administrator or the Secretary of Homeland Security can take whatever actions necessary to carry out an agency mission during emergencies and whenever needed to address newly imminent threats. No questions asked. These employees have to follow orders. In any emergency, the director has the complete and immediate control over these workers. Let me emphasize that again. In any emergency the director, the administrator have complete control over anything these workers should do.

By the way, as an aside, having talked with and been around these screening officers many times as I move through the airports, I think it is

a little insulting to them to act as if they would not respond when directed to an emergency. Americans across the board want to do what is right in times of crisis for our country. To indicate these Americans would not do what was asked of them in time of an emergency, and that they would try to rely on some kind of right under the law to not do what is necessary in an emergency, frankly, I think, is unfair to them.

What does collective bargaining get these workers? It provides a structure for quick and fair resolution of grievances and workplace disputes. It provides a forum to discuss health and safety issues, which will reduce the number of on-the-job injuries suffered by TSOs. It reduces the high TSO turnover rate.

Let's talk about that turnover rate. Talk about saving money. Think of the money we are investing in these officers that is wasted right now. We have a 23-percent annual turnover among these screening officers. Among the part-time officers, it is 50 percent. As somebody who has worried about the bottom line in a private business, that kind of turnover is completely unacceptable in terms of the costs.

Let's look at the safety issue. The experience we are losing by that kind of turnover—and I am not talking about people being dismissed for bad conduct or getting rid of bad screeners; I am talking about people who are leaving. That turnover rate, if you don't consider anything else, should tell my colleagues something is wrong. I believe what is wrong is they do not have the basic rights and protections other Federal workers have.

It increases public safety by allowing the TSOs to go through their union to expose threats to aviation security without fear of retaliation. It addresses procedures for emergency and security situations so workers are fully aware of their duties in the event of an emergency.

This is a good amendment for everyone. It puts these workers on equal footing with other Federal workers. It does not give them the right to strike. It does not give them the right to refuse to be deployed in case of an emergency. It does not allow them to negotiate for higher pay.

I was not a Senator at the time, but I understand that the Department of Homeland Security needed the flexibility to get up and running when the agency was first created years ago—5 years ago; more than 5 years ago.

But they are no longer processing 5,000 more screener applications per month in order to transition from a private force to a Federal force. We are no longer scrambling to create a Department of Homeland Security. We are now in a position to professionalize. We are now in a position to professionalize airport officers and give them basic worker protections and, as a result, we will have a seasoned staff and much better security.

My colleague mentioned the threatened veto. That is kind of hard to figure out. It is hard to imagine that the President would use a veto to veto legislation that is all about making our country safer, all of the provisions that this bill will contain, that will go directly to the heart of the matter of the safety of our Nation, that will do what the 9/11 Commission wanted. It is hard to imagine, because the President does not like unions, that he would threaten to veto this bill just because we want to give the same basic worker protections to the screeners at airports that the Border Patrol, the Capitol Police, and immigration officials currently have.

I cannot imagine that the President would veto under those circumstances. I can't imagine that the American public would think that is a good use of a veto pen. I can't imagine that some of our colleagues who think that unions are the enemy would use the collective bargaining rights—that are so limited in scope in this amendment—as an excuse to stop this concerted effort that we are all making to do what we must do to improve homeland security.

If we continue to treat our TSA officers different from their colleagues in the Border Patrol and their colleagues in homeland security, we will never have the seasoned and professional and experienced staff in place as part of our important effort to protect the Nation's transportation system and the people who live and work and care about the United States of America.

Mr. DEMINT. Will the Senator yield for a question?

Mrs. McCASKILL. Sure.

Mr. DEMINT. I want to make sure I understand the provisions in the Senator's amendment. I know one of them is TSA, in order to act quickly and make changes rapidly, would need to establish that there is an emergency.

My question is, Would the ongoing global war on terror be considered an emergency?

Mrs. McCASKILL. I do not believe declaring that we have a problem with terrorism worldwide, that is a status quo day in and day out, would be considered a day-to-day emergency. The examples you used, however, of Hurricane Katrina or the necessity to respond in Lebanon—I think those issues certainly would be issues that the professionals at TSA, the officers, would want to respond to quickly.

Mr. DEMINT. I know another criterion is that if they could establish that we have a newly imminent threat they could act quickly to respond and not go through the collective bargaining process. Would al-Qaida be considered a newly imminent threat?

Mrs. McCASKILL. I understand the point my colleague is trying to make. I would say there are a whole lot of things that some are trying to put under the rubric of a continuing threat against America. There have been proposals to take away some basic constitutional rights. There have been pro-

posals to change the way we view some of the rights and privileges that Americans have.

I think to say that these workers don't get the same benefits as the Border Patrol or Customs agents just because they are screening in airports, under this rubric that we have to be concerned about worldwide terror, is specious reasoning.

Mr. DEMINT. If I could make one last appeal? This document is the collective bargaining procedures the border agents have for just one unit. This bill opens the possibility of literally hundreds of unions in every airport. I appeal to my colleagues. If every airport has to deal with separate collective bargaining arrangements and has to establish an emergency or imminent threat on every occasion, and we can second-guess them in Congress—and lawyers will—I think we need to work together to make sure we come to the best conclusion. I know the amendment of the Senator is well intended. Hopefully we can discuss it more on the floor tomorrow or next week.

Mrs. McCASKILL. I thank the Senator.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Mr. President, I rise today to speak against the amendment offered by my colleague, Senator DEMINT, and in support of employee protections for Transportation Security Officers TSOs at the Transportation Security Administration.

It is only fair to give TSOs the same rights and protections as other employees at the Department of Homeland Security.

The provision in S. 4 would allow the President to put TSOs in the same personnel system that President Bush argued was needed for homeland security employees in 2002 in order to put the right people in the right jobs at the right pay—to hold employees accountable—and to reorganize and quickly shift resources to meet new terrorist threats.

Although DHS was authorized to waive certain provisions of title 5 related to pay, labor relations, and employee appeals in order to protect the U.S. from terrorists attacks, other employee rights and protections remained—veterans preference, collective bargaining, and full whistleblower rights with appeal to the Merit Systems Protection Board, MSPB.

It is wrong to deny these basic rights and protections to TSOs—who work for DHS.

Because TSOs lack employee protections, they have one of the largest attrition rates, one of the highest workers compensation claims, and one of the lowest levels of morale among Federal employees.

I recognize the efforts by TSA to address these issues, but I firmly believe that the gains made by those efforts are only temporary if employees continually feel threatened by retaliatory action or that they cannot bring their concerns to management.

National security is jeopardized if agencies charged with protecting our Nation continually lose trained and talented employees due to workplace injuries and a lack of employee protections—including protection against retaliation for blowing the whistle on security breaches.

Moreover, the whole point of creating DHS was to consolidate 22 agencies into one entity in order to prevent and respond to terrorist attacks. By denying TSOs the same rights provided to other DHS employees, we are reinforcing the very stovepipes we sought to tear down with the Homeland Security Act.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, this is a very difficult issue that is now before the Senate. The Aviation Transportation Security Act provided TSA with flexibility with respect to the critical national security mission of TSA security officers. These management authorities allow TSA to shift resources and implement new procedures daily, in some cases hourly, to respond to critical intelligence and to meet an ever-changing airline schedule. This was made very clear to us in a classified briefing that I attended yesterday. Sometimes these situations can be classified as emergencies. Other times the day-to-day situations, such as a flight gets canceled, still require extensive modifications that may not constitute emergencies.

I think, however, that there is a middle ground in this debate. I think we can find a solution, and I am working with Senators on both sides of the aisle to try to see if there is a middle ground. It seems to me that TSA does need some flexibility to allow it to adjust the workforce in order to provide additional security. That happened in response to the United Kingdom air bombing plot last summer. In that case, TSA changed the nature of employees' work and even the location of their work to respond to that emergency.

But I see no reason TSA employees cannot have the protections of the Whistleblower Protection Act, for example. There is no reason they should not have the same protections as other Federal employees and be brought under that law.

Similarly, I think there should be some way for TSA employees to have the right to appeal adverse actions, such as a removal, a suspension action, a reduction in grade level or pay that has been taken away from them. I am still exploring this issue, but it seems to me that they should have the right to appeal adverse employment actions to the Merit System Protection Board.

I know there is another one of my colleagues waiting to speak, so I am not going to go into great detail tonight. But let me say that I do not think this is an all-or-nothing situation as, unfortunately, much of the debate suggested tonight. I do not think

that we have to deny TSA employees whistleblower protections and the right to appeal adverse employment actions in the name of security. I think we can still achieve our vital security goals while affording TSA employees employment rights when an adverse action is taken, appellate rights. I also believe there is absolutely no reason they can't be brought under the Whistleblower Protection Act.

I ask my colleagues to take a close look at this issue. I think it is unfortunate that the debate has been so polarized on this issue and that it is being portrayed as whether you appreciate the work done by the TSO's or whether you don't appreciate it or whether you are pro-union or anti-union. That does not do justice to the debate before us. I believe we can come up with a middle ground that gives TSA the flexibility it truly needs to be able to change working conditions, working hours, unexpectedly to respond to critical intelligence and new threats, or canceled flights for that matter, without depriving TSA employees of other rights that Federal employees enjoy and that they should enjoy, too.

Part of the problem is—and then I am going to yield to my colleague who I see is waiting—we have not had the kind of thorough review of this issue that is needed. I hope Senator AKAKA and Senator VOINOVICH, who are the leaders on civil service issues on the Homeland Security and Governmental Affairs Committee, might hold hearings to take a close look at this and to bring in the experts and hear from the employees, hear from the employees' representatives, the unions, TSA; to have the kind of information that Kip Holly, the head of TSA, has provided us in the past few days.

I think that while it is premature to do what the committee did on the spur of the moment, I also am not enamored of the idea of just striking all of that.

I think there is a middle ground and with goodwill and a sincere effort we can find it. I hope we would avoid what I saw tonight—where the tree was filled up instantly to block alternatives, to block an attempt, a good-faith attempt to find that middle ground.

I am going to keep working on that along with interested colleagues, and I hope that, in fact, maybe we can find a compromise that achieves our goals.

I yield the floor.

The PRESIDING OFFICER (Mr. SANDERS). The Senator from North Dakota.

AMENDMENT NO. 313 TO AMENDMENT NO. 275

Mr. DORGAN. Mr. President, I thank my colleague from Maine.

I have an amendment at the desk on behalf of myself and Senator CONRAD. I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. I call up my amendment and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself and Mr. CONRAD, proposes an amendment numbered 313 to amendment No. 275.

Mr. DORGAN. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require a report to Congress on the hunt for Osama Bin Laden, Ayman al-Zawahiri, and the leadership of al Qaeda)

At the appropriate place, insert the following:

SEC. \_\_\_\_\_. REPORT ON THE HUNT FOR OSAMA BIN LADEN, AYMAN AL-ZAWAHIRI, AND THE LEADERSHIP OF AL QAEDA.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, and every 180 days thereafter, the Director of National Intelligence and the Secretary of Defense jointly shall submit to Congress a report describing the status of their efforts to capture Osama Bin Laden, Ayman al-Zawahiri, and the leadership of al Qaeda.

(b) CONTENTS.—Each report required by subsection (a) shall include the following:

(1) A statement whether or not the January 11, 2007, assessment provided by Director of National Intelligence John Negroponte to the Select Committee on Intelligence of the Senate that the top leadership of al Qaeda has a “secure hideout in Pakistan” was applicable during the reporting period and, if not, a description of the current whereabouts of that leadership.

(2) A statement identifying each country where Osama bin Laden, Ayman al-Zawahiri, and the leadership of al Qaeda are or may be hiding, including an assessment whether or not the government of each country so identified has fully cooperated in the efforts to capture them, and, if not, a description of the actions, if any, being taken or to be taken to obtain the full cooperation of each country so identified in the efforts to capture them.

(3) A description of the additional resources required to promptly capture Osama bin Laden, Ayman al-Zawahiri, and the leadership of al Qaeda.

Mr. DORGAN. Mr. President, this is an amendment which is similar to one Senator CONRAD and I have offered previously. It deals with the issue of al-Qaeda and its leadership. It has been now 5½ years since that fateful morning with the bright sunshine and the blue sky here in Washington, DC, when I was looking out the window of the leadership meeting which I was attending that Tuesday. We could see the smoke rising from the Pentagon because of the attacks. We watched on television the collapse of the World Trade towers, attacked by commercial airplanes being used as guided missiles full of fuel. None of us will ever forget that morning. More than 3,000 innocent Americans were murdered. Shortly after that period, we heard people boast about orchestrating the murder of those innocent Americans. Osama bin Laden, Mr. al-Zawahiri, his chief lieutenant, and al-Qaeda have boasted about orchestrating the attacks against our country that murdered innocent Americans.

The legislation before the Senate deals with the 9/11 Commission Report.

That Commission did an extraordinary job. I appreciate Senator REID bringing this to the floor and the work that has been done by the committees. These are recommendations which are long overdue. They should have been dealt with previously by the Congress, but they have not been.

Now we have legislation on the Senate floor, recommendations on how to provide for this country's protection, how to provide security, how to prevent another attack by al-Qaeda or other terrorist organizations. It is very important legislation. We do need to protect our country from attacks. But there is something else that is long overdue; that is, we have taken our eye off the greatest threat. That is not me saying so. Let me tell my colleagues what the greatest threat to our country is. This is testimony on January 11, a month and a half or so ago, before the Senate Select Committee on Intelligence by Mr. Negroponte, who was a top intelligence chief.

Here is what he said:

Al Qaeda continues to plot attacks against our homeland and other targets with the objective of inflicting mass casualties. And they continue to maintain active connections and relationships that radiate outward from their leaders' secure hideout in Pakistan to affiliates throughout the Middle East, northern Africa and Europe.

Mr. Negroponte continued by saying:

Al Qaeda is the terrorist organizations that poses the greatest threat to US interests, including to the Homeland.

That is from the top intelligence expert in our Government. He says the terrorist organization that poses the greatest threat to U.S. interests is al-Qaeda; the greatest threat to our homeland is from al-Qaeda. He says they are in a secure hideout in Pakistan.

Tuesday of this week, the new Director of Intelligence, Mike McConnell, said almost exactly the same thing.

We also read in the New York Times a week or so ago the following:

Senior leaders of Al Qaeda operating from Pakistan over the past year have set up a band of training camps in the tribal regions near the Afghan border, according to American intelligence and counterterrorism officials.

American officials said there was mounting evidence that Osama bin Laden and his deputy, Ayman al-Zawahri, have been steadily building an operations hub in the mountainous Pakistani tribal area of North Waziristan.

Now, let me go back to 4 days after 9/11. President Bush said the following in an address to a joint session of Congress. I was sitting near the front row. The President said:

We will not only deal with those who dare attack America. We will deal with those who harbor them and feed them and house them.

In his State of the Union Address several months later, he said:

As part of our offensive against terror, we are also confronting the regimes that harbor and support terrorists.

So the head of our intelligence services, the Directors of Intelligence, know that the leadership of al-Qaeda,

including Osama bin Laden—or “Osama bin Forgotten,” as some have suggested in recent years—are in a secure hideaway in Pakistan. At the same time, we have 21,000 troops sent on a surge elsewhere. And so I ask: Why are we not making a greater effort to capture the leadership of the biggest terrorist threat to this country, as described by the Directors of Intelligence, past and current? Are they being harbored?

We read that there has been an agreement of sorts between the Government of Pakistan and al-Qaeda and those who harbor al-Qaeda in Pakistan. We know there are training organizations now. We see the examples of them in the film and video on our television sets, more sophisticated attacks, additional techniques about terrorist attacks.

So we offer an amendment that is very simple. It is an amendment that says: We want every 6 months from this administration a classified report to the Congress that tells us several things: First, where is the al-Qaeda leadership? If they know they are in Pakistan, reaffirm that. If they are not in Pakistan, tell us where they are, each country, and whether those countries are harboring these terrorists.

Second, we deserve to know whether these countries in which these terrorists reside are helping us. Are they helping us bring to justice and capture the leadership of the greatest terrorist threat to our country? We deserve to know that.

And third, if Osama bin Laden and the other top leaders are still at large, we need a report describing what resources are needed to hunt them down and finally capture them.

I don't understand at all why year after year passes and those who directed the attacks against this country that killed thousands of innocent Americans are not brought to justice.

It is perfectly appropriate—in fact, it is essential—that we bring to the floor of the Senate a 9/11 Commission bill that helps protect this country. I commend the managers of the bill for it. I want to be out here helping pass this legislation. But that is one part of providing security.

Another part of providing security is to apprehend those who perpetrated the most aggressive attacks ever launched against this country. Apparently, based on the testimony of the heads of intelligence on two occasions in the last month, we know where they are. Yet they remain at large.

I asked a question the other day of the Secretary of Defense, the Secretary of State, and the Chairman of the Joint Chiefs of Staff when they testified. I asked the question: If we know where the leadership of al-Qaeda is and if this is the greatest threat to our country's security and our homeland, then why on Earth, if we have soldiers to surge, are we not trying to apprehend and bring to justice the leadership of al-Qaeda to destroy the leadership? I was

told: Well, we can't just invade some other country to go find them.

I thought we were getting cooperation from this other country. If they are in Pakistan, are the Pakistanis cooperating with us? If not, are they harboring al-Qaeda? If they are not harboring them, then how about allowing us to work with them to bring to justice the leadership of the organization that poses the most significant terrorist threat to this country? When will that happen?

There are some who have said Osama bin Laden and the leadership of al-Qaeda do not matter. They are dead wrong. I think the intelligence community knows that. The question is, When will this country, with its capability, decide to eliminate the greatest terrorist threat to America?

Let me again quote what Mr. Negroponte said on January 11 of this year:

Al Qaeda is the terrorist organization that poses the greatest threat to U.S. interests, including to the Homeland.

How long will it be before this Congress can expect the same aggressive activity against the leadership of al-Qaeda as President Bush decided to take against Saddam Hussein? Saddam Hussein has been executed. He is gone. We understand this was a brutal dictator. We have unearthed mass graves with apparently somewhere near 400,000 skeletons of human beings murdered by that dictator. But he is executed; he is gone. Iraq has its own Constitution. They have their own Government. The question is, Do they have the will to provide for their security? That is another issue, and an important one.

We have American soldiers in harm's way in the middle of sectarian violence, in the middle of what clearly is now a civil war in Iraq. But when we talk about committing America's soldiers for this country's security, when will this President and this Congress decide to confront the greatest terrorist threat to our country and to our homeland—the leadership of al-Qaeda in a secure hideaway in Pakistan? Four days after 9/11, our President said that those who harbor terrorists are just like the terrorists. So let's decide to ask those in whose countries terrorists now reside to work with us to bring them to justice, to capture them, and to eliminate the leadership of the greatest terrorist threat to this country.

My colleague, Senator CONRAD, and I have offered an amendment. We will hope it will be given a vote next week. It ought not be a controversial amendment for anybody in this Chamber. It is a deep reservoir of common sense, for a change, for us to do what we ought to do, and protect this country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I strongly support the Improving America's Security Act.

The 9/11 Commission released its report in July 2004. But more than 2

years have now passed, and many of its recommendations still haven't been implemented. The Nation remains seriously unprepared for another terrorist strike.

I commend Senator REID for making these recommendations a top priority. Democrats are committed to implementing the Commission's recommendations and we intend to honor that commitment.

The Commission urged Congress to prevent further attacks by stopping terrorists before they reach our shores. This bill includes practical steps using technology and diplomacy to keep terrorists out of the country. It provides greater security for the visa waiver program, by authorizing the Department of Homeland Security to establish a simplified online electronic visa application to visitors before they enter the United States. It also improves the reporting of lost and stolen passports and the exchange of information about prospective visitors who may be a security threat. The visa waiver program is worthwhile, but we need to make it as secure as possible.

I commend the committee for including in the bill an amendment granting collective bargaining and appeal rights to Transportation Security Administration officers. These men and women are on the frontlines of our effort to keep America safe. But for years, they have been treated as second-class citizens, lacking basic workplace rights. The agency has higher injury and attrition rates than any other Federal agency. It is vital to our national security to minimize turnover in this important profession and give these workers a voice on the job to speak out on safety issues without fear of reprisal or retaliation. Granting them these fundamental rights will stabilize this essential workforce, increase its morale, and improve our national security.

In addition, the bill establishes a dedicated funding stream to promote communications interoperability. This was one of the hard lessons we learned on 9/11 and also during Katrina. The lack of funding for interoperable communications is one of the highest concerns I hear from first responders in Massachusetts. They shouldn't have to rely on uncertain funding from the overburdened and underfunded FIRE grants program to achieve such communications. The committee correctly recognized that this is a national goal and it has proposed a \$3.3 billion grant program over 5 years to achieve it.

This bill makes real progress in another key area that the Commission identified for improvement: intelligence sharing at all levels of Government, in order to disrupt terrorist networks before their plan is carried out. Information sharing is vital so that analysts have all available information to “connect the dots” before an attack is launched. The bill orders a homeland security advisory system to alert State and local governments about threats, and authorizes a training program for State and local law enforcement in

handling intelligence. It also establishes homeland security fusion centers to bring Federal, State and local anti-terrorism efforts under the same roof and promote further information sharing.

The bill makes progress in other areas identified by the 9/11 Commission as needing improvement. It provides support to State and local governments to establish incident command stations to coordinate response efforts during a terrorist attack or other disasters. It calls for a national strategy for transportation security to provide transit system operators with guidance to protect passengers and infrastructure. It calls on the Department of Homeland Security to make annual risk assessments of critical infrastructure, and to make recommendations for hardening those targets and putting other countermeasures in place.

The bill also strengthens the Privacy and Civil Liberties Board in significant ways. It requires Senate confirmation of all of its members and ensures that no more than three members will be of the same party. Importantly, it requires that the Board expand its public activities, which will allow for greater accountability. It also gives the Board authority to request that the Attorney General issue a subpoena and requires that the Attorney General notify Congress if he does not do so. Finally, it includes a \$30 million authorization over the next 4 years to ensure that it has the resources to carry out its important responsibilities.

In some areas, the bill could be improved. The 9/11 Commission recommended that homeland security funds be allocated strictly on the basis of risk. While all States may bear some degree of risk, our experience on 9/11 suggests that terrorists are most likely to target areas that will produce the greatest loss of life or property or national symbols. The bill improves on current law in allocating resources under the largest of the homeland security grant programs—the State homeland security grants. Currently, each State is guaranteed at least three-quarters of 1 percent of the total appropriated for the program. That may seem like a relatively modest amount, but when you multiply it 50 times, it represents nearly 40 percent of the total appropriation. The bill lowers the minimum guarantee to 0.45 percent, allowing more of the overall sum to be allocated based purely on actual risk. The House bill lowers that amount even further to one-quarter of 1 percent. The issue is how best to allocate these limited resources, and I believe the House funding formula more faithfully reflects the 9/11 Commission's recommendation and is the wisest use of limited resources.

On the bill's proposal for a National Bioterrorism Integration Center, I agree that the Nation must be able to rapidly identify and localize biological threats, but I am concerned that this new system will duplicate existing dis-

ease monitoring systems. I appreciate the chairman's willingness to work out ways to minimize duplication and allow a flow of information between the new system proposed in the bill and existing disease monitoring systems.

One issue not addressed in this legislation is the health needs of first responders, volunteers, and residents of New York City harmed by the 9/11 terrorist attacks. On that day, valiant police officers, firefighters and health care workers rushed to the site, and many lost their lives. Many others today are sick, and growing sicker, because of their heroism. Tens of thousands of others who worked to clean up and rebuild downtown Manhattan were also exposed to a toxic mix of dust and chemicals whose effects are just beginning to be understood. This is an issue we will be taking up in the coming weeks in the HELP Committee, with the leadership of Senator CLINTON, and I hope we can work together to enact legislation to help these brave men and women and their families as soon as possible.

Again, I commend the committee for proposing this needed bipartisan bill.

We also owe an immense debt to the members of the 9/11 Commission, especially Chairman Tom Kean and Vice Chairman Lee Hamilton, for never relenting in their mission to see that their recommendations are implemented to protect the Nation from future terrorist attacks. I have no doubt that their persistence is in no small part the reason this bill is being acted on today.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ORDER OF BUSINESS

Ms. COLLINS. Mr. President, for the information of our colleagues, I know the distinguished assistant leader is going to be making comments shortly about the schedule tomorrow, but it appears there may be two rollcall votes. It is still being negotiated as to exactly what they are going to be on. It looks as if they may be on amendments offered by Senators SALAZAR and SUNUNU.

I want, for the record, to state those amendments are acceptable on this side of the aisle. I was prepared to accept them without the need for a rollcall vote, but at this point it is my understanding that rollcalls are likely for tomorrow. I am sure we will hear shortly from the leaders on that.

Mr. President, I thank my colleague for allowing me to precede him.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I will speak to the schedule and adjournment

in just a moment, but before that I ask unanimous consent to be recognized to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### DARFUR

Mr. DURBIN. Mr. President, I come again to the floor this evening to speak about Darfur in Sudan. Most Americans are now familiar with what is going on in this remote part of our world.

Hundreds of thousands of people have died. Two million have been forced to flee their homes and still cannot return. Humanitarian workers have been raped, beaten, arrested, and killed.

This is genocide. That is a word we should use with the utmost caution. If we misuse the term, we diminish it; we dilute its power. But if we fail to use the word or if we use it and fail to act, then that is even worse.

The entire world has allowed Darfur to happen. Now it is up to every one of us to stop it. Those of us who have the privilege of being elected to office have a higher responsibility than most. We sought out these positions, and we must assume the duties that come with them.

There are few duties more fundamental than the obligation to save innocent men, women, and children from slaughter.

This week, Luis Moren-Ocampo, the International Criminal Court's prosecutor, presented evidence on the mass murder in Darfur to the judges of the International Criminal Court. This evidence focuses on two individuals as helping to lead and coordinate this campaign of violence.

The first individual named by Mr. Ocampo is Ahmad Muhammad Harun, former state minister of the interior, and now a state minister for humanitarian affairs for the Government of Sudan. State minister for humanitarian affairs—it is hard to even speak those words.

From 2003 to 2005, Harun was responsible for the "Darfur security desk" in the Sudanese Government. His most important task was the recruitment of janjaweed militias. He recruited them, as Prosecutor Ocampo points out, with the full knowledge that the janjaweed militia members he was recruiting "would commit crimes against humanity and war crimes against the civilian population of Darfur."

That was, in fact, the point of his recruitment effort.

The second individual named in the prosecutor's presentation of evidence to the court is Ali Abd-al-Rahman, also known as Ali Kushayb.

Ali Kushayb is a janjaweed commander who personally led attacks on villagers, just as the Sudanese Government intended.

This was part of a coordinated strategy of the Sudanese Government to achieve victory over rebels not by confronting the rebels but by attacking