

was the ranking member. We never changed what we stood for or what we saw as significant in the second most important bill we deal with every year.

I am anticipating we are going to be able to have this 6-year authorization bill on the floor next week. We are going to be dealing with it, and we are going to be passing it. We already know the number of people who have voted for it in the past, so we know where we are. On the other hand, I think this is going to have a privileged motion and go straight in for a conference. I look forward to that, and that makes it all possible.

You have to keep in mind the Senate isn't doing this. The House is going on a Veterans Day recess, so we have to work on getting their job done before the recess so we can do ours while they are on recess, and then we will have a happy ending.

While I do regret there are some disappointments, I have to say this. When we are talking about a bill like this, it means that the left and the right have to get together, and we did. I want to applaud my ranking member, Senator BOXER, for helping us in some of the areas where we are able to shortcut some of the NEPA requirements and expedite some things that couldn't be done otherwise.

Let's keep in mind that if we went ahead and did what we have been doing since 2009, we wouldn't be doing this. We wouldn't be doing any major bills—no bridges, no major bills. This is a great day to see the assurance that this is going to take place, and I applaud Senator BOXER in the joint effort we had on the left and the right in this body. We don't see that very often.

Mrs. BOXER. No, we don't.

Mr. President, I just want to thank my friend. It is such a privilege to work with him on these infrastructure issues. I often say we don't work too well together on environmental issues—maybe in another life we might—but right now, in this life, we work really well on infrastructure. So does our staff. I am proud of them.

I came down here to try and change a part of this extension—and I will explain it later—that had to do with delaying a safety requirement on the railroad. I feel strongly in my heart about it. By the same token, I agree with my friend that we have to get this bill done.

This will be a 6-year authorization, as my friend knows. He insisted on it. We have 3 years of pay-for. We never give up. Maybe somehow a miracle will happen and we will find more. But right now, Senator MCCONNELL protected our pay-fors.

For me, it is a strange day. I am very disappointed in this. I call it a rider that was put on this bill. But I am very pleased that the House is moving forward. My friend cited things that he likes—certainly, expediting some of the rules so we don't get these projects dragged out. My sense of it was that I like the fact that we kept the equitable

share. We didn't change the share between transit and roads. We certainly added, with my friend's help, a freight title. So there are many good things. It is a mixed bag for me today. I agree with my friend that we need to move fast on the underlying bill, and I look forward to going to conference.

Mr. INHOFE. Will the Senator yield for one observation?

Mrs. BOXER. Of course.

Mr. INHOFE. The Senator mentioned the fact that we have a 6-year bill and 3 years to pay for it. That doesn't really concern me for a couple of reasons.

One is that once we start projects, I can assure you that there will be a reshuffling of priorities in this Chamber here, where people will realize the one thing we don't want to do is to start construction on something and then stop. This, I have no question in my mind, is going to take place.

Secondly, we have the same provision in the House as we do in this body, and that is that if for some reason money is not available, nothing else can be done after that 3-year period. We are not going to let that happen. So I think we are going to be in good shape. Job well done.

Mrs. BOXER. I thank the Senator.

How much time remains of my 15 minutes?

The PRESIDING OFFICER. Ten minutes.

Mrs. BOXER. Since I did yield about 5 minutes to my friend, I ask unanimous consent for another 5 minutes.

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

Mrs. BOXER. Then, of course, Senator THUNE will have all the time that he wants to disagree with most of what I am going to say about positive train control. That is part of the debate that goes on here.

#### POSITIVE TRAIN CONTROL

Mrs. BOXER. Mr. President, I do want to thank Senator THUNE, Senator NELSON, Senator INHOFE, and others who did something good today, which is to allow us to vote to make sure that we have the head of the Federal Railroad Administration. Finally, after 8 months, Sarah Feinberg got a vote. It is very important. I am glad all this wrangling that we had back and forth led to that happy situation because we need her in place. Frankly, we need her in place to oversee this positive train control.

I want to quote what she stated. She stated that worries of a train exploding in the middle of a city have caused her sleepless nights. This is an Administrator who cares deeply about her role in safety.

There was an article written by someone today that said I stood alone in my opposition to moving forward with a 3- to 5-year extension and taking that extension out of the underlying bill and tacking it on to a 3-week highway bill extension. I want to point out that I did not stand alone and I do

not stand alone. Senator BLUMENTHAL is hoping to come here later and make his remarks about the fact that he opposed this. I speak here for Senator FEINSTEIN, my great colleague—my senior colleague—who actually wrote the original legislation because these crashes were occurring. And I want to read a little bit from Senator GILLIBRAND, who is on a train headed to a funeral for a firefighter in New York. This is her statement:

After so many preventable railway tragedies that have led to loss of life, it is an insult to the families who have lost loved ones to let the rail lobby slip a multi-year Positive Train Control delay into a three-week extension. The rail industry has purposefully dragged its feet in meeting its safety requirements, and now Congress is quietly aiding them further. It is without debate that Positive Train Control saves lives. The railroads must work as quickly as possible to implement this life-saving technology, so that the millions of Americans who commute by rail every day can do so safely—and Congress needs to do its job and hold the rail industry accountable.

As I said when Senator MCCONNELL offered the unanimous consent request, I think it is a terrible precedent to place a major safety rollback—I would not call it a repeal; I would say rollback—on a 3-week extension of the highway trust fund. It just isn't right. I am very grateful to the Washington Post for writing a very strong statement—I would say article—about what happens when you don't have positive train control on a train. Positive train control is technology that allows the train to slowly come to a stop if there is a real problem, such as another train crossing or a car.

It was in 2008 when we really moved on positive train control. A horrific accident occurred in Chatsworth, CA, where a Metrolink passenger train and a Union Pacific freight train collided. It was due to a distracted engineer. This preventable accident resulted in the deaths of 25 people and injury to 135 others.

Friends, we are not talking about some scientific experiment here. We are talking about real life, where trains collide, where real people die and get hurt. I have met some of the families.

Afterwards, Senator FEINSTEIN and I got together. She was great, and it was great to work with her. We passed the Rail Safety Improvement Act of 2008, mandating the installation of positive train control on major passenger commuter and freight rail lines by the end of this year, 2015.

Again, I speak for her in my remarks. She is distressed that the 2015 deadline would be extended as much as it was without a chance to really look at the details in the conference, which we hope to have soon.

For more than 45 years—45 years—the National Transportation Safety Board, or NTSB, has advocated PTC technology. This isn't something new. But it wasn't until 2008 that Senator FEINSTEIN and I got the legislation done.

Let me say this. NTSB is amazing. They are the ones who show up after horrible crashes of rail, of plane, and they are the ones who make really important safety recommendations. Well, actually, they work with the FAA. So they are the ones who come forward after an accident. They do the investigation, and they make the recommendations.

Now, this is what they said: If we had put PTC in all those years ago, 146 accidents or derailments could have been avoided with implementation of the PTC, and at least 300 fatalities and 700 injuries could have been prevented. Since the California accident, 14 PTC-preventable accidents or derailments have occurred.

So let's be clear. People are dying and they are being injured because we don't have positive train control.

Now, the good news—the great news for my State—is that Metrolink and Caltrain already have put PTC on. Amtrak has put it on certain of their runs. So it is happening. But some of the railroads are dragging their feet. They have every excuse in the book. Some of the reasons, I think, do need our attention.

For example, there are problems with spectrum, and there are problems with rights-of-way. We can work on that. But as Senator BLUMENTHAL said, instead of giving these 3-year delays, there need to be what he calls metrics so we can ascertain, before they get all this time, what they are doing. Are we going to be faced here in this body in years to come with more requests for delay? Well, if we are not really looking over the shoulder of the railroads, the answer is, clearly, yes. They don't want to save the money. And, by the way, the cost-benefit ratio on this is overwhelming. It is overwhelming.

I said before, rhetorically, that it is very interesting that the only piece of freestanding legislation that was pulled out of the bill and placed on this 3-week extension was this delay in positive train control safety—nothing else, nothing else. This was cherry-picked—nothing else.

I have worked with several Senators because one of my constituents, Cally Houck, lost two daughters who rented a car to go on vacation. They were in their twenties. The car was under recall, but the agency rented it to them anyway. It exploded. They died. Mrs. Houck couldn't believe we didn't have a law that said you can't rent a car that is under recall. I bet, if I asked anybody—any stranger to me—if they think they are allowed to rent a car that is under recall, they would say: Of course not. Well, you can. I have fought for years, and I have gotten help from Senator SCHUMER, and Senator McCASKILL actually got the bill passed. I am very grateful to her. That is in the underlying bill. Why didn't we take that out and put it on immediately so this can go into effect immediately?

I think the Washington Post gave us what they think. They wrote a story—

a very important story—in the front page yesterday or the day before, Monday. I want to just say we all know that there are special interests here. By the way, I like to work with the railroads because they do a lot of good things. They are very powerful, they are very strong, and they have a very powerful lobby. It is not a Republican lobby or a Democratic lobby. It is a lobby that covers everybody.

Let me quote what the Washington Post article notes:

Rail safety has never been a more pressing issue than it is today. So far, the people who have died in U.S. accidents that PTC could have prevented have generally been crew members or passengers. That could change in dramatic, catastrophic fashion.

The number of rail tank cars carrying flammable material in the United States has grown from 9,500 seven years ago to 493,126 last year.

Let me say that again:

The number of rail tank cars carrying flammable material in the United States has grown from 9,500 seven years ago to 493,126 last year.

Now, just imagine what happens when this flammable material is involved in a collision. We know. We have seen the balls of toxic fire. Seven trains have derailed this year alone, and their contents exploded.

Now, I understand the pleas for delay. That is why I offered a 1-year delay to my friend, the chairman of the commerce committee. I offered him a 1-year delay. Nobody can tell me that a 1-year delay wouldn't work for now. We can look at it in the conference. If we need to extend it, that is fine. No, we weren't able to get it. To me, the only answer that keeps coming back is special interests earmark provision—special interests earmark provision—because it is the only provision that benefits one special interest that was put on this 3-week extension.

Some people say: Why do you care so much? The House voted by voice vote. Do you know what? They were wrong. They shouldn't have. They shouldn't have put it on this bill. This was put on by the House, and it was wrong, wrong, wrong.

Now, when I spoke with my chairman—my really good friend, Senator INHOFE—on the floor, I did say I am so pleased at the way we are moving in terms of the underlying bill. I believe we will have that bill, and I believe we will have that bill next week. Then why on earth did we have to take this out? If we are moving this bill forward, we didn't have to pluck out one of the provisions. I just don't understand it, other than what the Washington Post wrote in their story.

I have to say that there are 60,000-plus bridges that are deficient—structurally deficient. They are in the Presiding Officer's State, and they are in my State. Why didn't they pull out a couple of worst bridges and say "fix those bridges"? All they did was pull out a provision that the railroads wanted—not a provision that commuters want, not a safety provision

that will save lives. It is very discouraging.

We all know about the Amtrak crash. I am going to show you a picture of that. It was splayed all across the paper. This is a photo of a destroyed Amtrak train in Philadelphia. We all know the disaster that occurred there. This could have been prevented. As a matter of fact, if I remember right, they were about to put positive train control on this stretch. They were getting ready to do it. Look at this—the suffering and the deaths, needless. If there was positive train control and if another train was coming, simply slow down that train and automatically avoid such a disaster as this.

I am passionate about transportation. I am passionate about safety. I know my colleagues are, but we had a very different view about this. I can only say if anything good came out of this, it was the fact that we now have an Administrator of the Federal Railroad Administration. I think that was good because I feel better now knowing that someone who really cares about this now has officially been given the power to assert her authority.

I look forward to working with Senator THUNE as we move the underlying bill through. He knows how I feel. I want to thank him because he waited around until we had reached an agreement. I appreciate that because otherwise we could have had a complete shutdown of the entire highway program. We averted that because, with respect for our differences, we worked together all day and have the Administrator in place.

I thank Senator NELSON and his staff as well as Senator THUNE's staff. For me, having that done is something that means a lot and means a lot for safety across the board. I hope we will not be doing this in the future. I hope regular order will prevail. I hope we will not be pulling out important pieces of other bills and passing them as stand-alone bills when we are up against a deadline. I don't think it is the right way to govern. I don't think it is good governance. I think a lot of my colleagues feel the same way.

This is behind us. Now we are going to work together. We are never going to take our eyes off this positive train control. We are going to make sure the railroads are stepping up, doing the right thing—and, by the way, some of them have. I told you two of my railroads have been fantastic. They put it all in place. They met the deadline. There are many others that are close to meeting the deadline, but there are too many that are hiding behind excuses and some that have real reasons why they haven't moved forward. I hope they are watching this today because I am not going away. None of us are going away. We are going to be watching this carefully and making sure this deadline is really a deadline, not some kind of political cover so the railroads can get out of doing what they have to do to save lives. When we

take these jobs, that is our overwhelming responsibility—to protect and defend our people, whether it is abroad or at home.

I again thank my staff, Senator THUNE's staff, Senator NELSON's staff, Senator BLUMENTHAL's staff, Senator FEINSTEIN's staff—I hope I am not leaving anybody out—Senator GILLIBRAND's staff, and Senator MURPHY's staff for getting us to a place where we are accepting this with a heavy heart. We are moving on. We are thankful we now do have in place an Administrator—a wonderful, wonderful Administrator of the Federal Railroad Administration.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. CASSIDY). The Senator from South Dakota.

Mr. THUNE. Mr. President, the one thing the Senator from California and I share is a commitment, a longstanding commitment to getting a multiyear highway bill through here. I hope that is going to happen in the next few weeks.

We did need to move on a positive train control extension, and I am going to get into the reasons for that in just a minute. I think probably the most important fact is, as we look at this particular issue, that nearly every railroad in the country—including every major freight railroad—will not meet what is an unrealistic December 31, 2015, deadline for positive train control.

Positive train control—or PTC—when working as intended, is a critical safety technology that will prevent certain types of rail accidents and save lives. We have the ability to make rail transportation even safer by ensuring full implementation of positive train control.

As the chairman of the Commerce, Science, and Transportation Committee, I can assure my colleagues that these disruptions would have caused cascading and devastating effects for nearly every sector of the economy and every region of the country. Railroads have already started notifying customers that they will stop accepting certain chemical shipments in late November and early December to ensure that such cargoes are off their system when the existing deadline hits at the end of the year.

As rail-dependent businesses and their customers prepare for the shutdown, they have already started to feel the negative supply chain effects on logistics and inventory management. The House-passed short-term highway extension provided an option to avert this completely avoidable and unnecessary harm.

This is not just about the railroads—contrary to what has been said on the floor that somehow this is a special benefit that only helps railroads. It is about the farmers—many of whom I represent in South Dakota—who depend upon the railroad for fertilizer. It is about the manufacturers and other businesses that depend upon rail for critical inputs, and it is about water

treatment facilities that depend on rail for chemicals to purify drinking water. It is about all the workers and the households that benefit from this safe mode of transportation.

Rail-dependent commuters and customers cannot afford a congressionally caused railroad shutdown. That is exactly what would happen if we failed to act. Each day well over 1 million riders in the United States board commuter railroads to get to and from their places of work. Over 2 million people work in industries that use hazardous chemicals hauled by rail, and the gross economic output of these industries alone is over \$2 trillion. In fact, the effects of a looming railroad shutdown would have occurred well in advance of the year-end deadline, which is where we are today. Over 130 farmers, manufacturers, and retailers wrote to Congress last week, stating that “rail customers are already starting to feel the impact . . . [w]ith a shutdown just around the corner rail customers must start putting contingency plans into motion, including adjusting production schedules and workforce loads.”

This isn't just an economic issue. It has major implications for public health and safety. I mentioned earlier water treatment facilities across this country have urged a deadline extension and wrote a joint letter to me reiterating that point. I will quote from the letter, which is what they said: “Even a temporary interruption of water disinfection chemical deliveries could risk a public health disaster for communities across this country.”

The U.S. Conference of Mayors also urged a deadline extension and wrote that switching from rail to other modes of transportation would lead to additional accidents in our Nation's communities and greater exposure to the risks of hazardous materials.

The Federal Railroad Administration's Acting Administrator, whom we just made permanent Railroad Administration Administrator, has the responsibility for conducting oversight of our Nation's rail network, and she expressed concern at a September commerce committee hearing. She said a rail shutdown would “lead to significant congestion and it does lead to safety impacts.”

Keep in mind, total train accidents per year have decreased by nearly 50 percent since 2005. Rail is often the safest available way to haul many types of products, especially hazardous chemicals. It would take more than 600,000 trucks on our Nation's roads to replace freight rail, let alone the additional cars and buses needed to replace commuter rail.

When Congress passed legislation in 2008 mandating the implementation of positive train control, it never intended to punish rail customers or to harm the economy, but this law failed to properly consider the complexity and time involved in developing, mass producing, installing, and testing a new technology involving a complex

network of new computers and communications equipment deployed on more than 20,000 locomotives and 60,000 miles of railroad track.

There is plenty of finger-pointing to go around as to why it didn't get done. The bottom line is this: After 7 years of work, over \$6 billion of mostly private funds spent, and with about 2 months to go before the legal deadline, not one single railroad in this country—commuter or freight—has fully implemented positive train control.

For years, study after study, including those from the nonpartisan Government Accountability Office, found that the 2015 deadline for full implementation of PTC was unrealistic. The independent experts at the GAO concluded that the vast majority of railroads, including all freight railroads, would not meet the deadline by the end of the year.

I am pleased the Senate came together and acted on a solution. The bipartisan, bicameral proposal I helped craft does not just extend the deadline for implementing positive train control, it significantly increases accountability and transparency. Our proposal gives the Secretary of Transportation the authority to fine railroads if they fall behind metrics and milestones on their way to completing installation and full implementation. It requires detailed and publicly available reporting to ensure progress each step of the way.

Under our bipartisan proposal, railroads must implement positive train control by December 31, 2018. To ensure that PTC works as intended, the Secretary has very limited case-by-case discretion to allow railroads additional time for testing and certification but only if railroads complete all installation, spectrum acquisition, and employee training. To qualify for this additional time, freight railroads must have started using PTC on the majority of their territories or track. These accountability-focused changes, with objective criteria and rigorous oversight, are designed to ensure that we never need another extension.

I wish to extend my thanks to our colleagues on the House side—Representatives SCHUSTER, DEFAZIO, DENHAM, and CAPUANO—for their strong bipartisan leadership and collaboration to address this major transportation issue. This issue has been extensively debated in the Senate. This proposal incorporates principles and text that have twice been reported out of the commerce committee and have passed the full Senate in July by a vote of 65 to 34. Let me repeat that. Everything we are talking about today—and it was modified a little bit when we negotiated this with the House—but the basic text, basic framework, basic outline of what we just passed had already passed the Senate as part of the Transportation bill with 65 votes earlier this year. The idea that this is somehow something that is being sprung on Members in the Senate is not consistent with the facts.

I am grateful to Senator BLUNT and Senator MCCASKILL for their partnership and leadership to bring Congress together to ensure that PTC is made safely available as soon as possible. Some have suggested different ways to approaching this issue. At a time when we are making progress to finally end the kick-the-can mentality through the enactment of a multiyear transportation reauthorization bill, this proposal will ensure that we are not injecting that same type of uncertainty into another transportation mode, which is our Nation's rail system.

Attaching the bipartisan agreement on extending the PTC deadline as part of the short-term highway extension solves this problem while keeping pressure on the House of Representatives to pass a multiyear transportation bill that we can then reconcile with the Senate-passed DRIVE Act, the multiyear transportation bill that passed in this Chamber earlier this year.

I wish to applaud Leader MCCONNELL, Chairman INHOFE, Ranking Member BOXER, and Ranking Member NELSON for their continued efforts to push for the completion of a multiyear transportation reauthorization bill. Due to constant pressure from the Senate, as was noticed with last week's markup by the House Transportation and Infrastructure Committee, we can actually see the path to getting a bill done with our House colleagues.

The fact that the short-term extension before the Senate sets a November 20 deadline, along with the House planning to take up a multiyear transportation bill next week, indicates that it is, in fact, possible to soon get a multiyear transportation bill across the finish line.

Nobody should misinterpret my work and my efforts with my colleagues here in the Senate in addressing the harms associated with failing to fix the looming positive train control deadline. As a major part of the overall DRIVE Act, the transportation bill that passed Senate, the legislative text originated from the Senate commerce committee, and I will not be backing down in my efforts to see a host of transportation, safety freight, and rail provisions signed into law in the coming weeks.

Together we have averted the potential harm that would come with a congressionally caused rail shutdown. We have set a realistic positive train control deadline. We have held the railroads accountable and ensured the job is done swiftly and safely. It was important that be done in a swift and safe way.

Earlier my colleague from California quoted a story from the Washington Post that ran earlier this week. The Washington Post editorial board, the very same paper that my colleague from California cited, opined: "Congress should revise the 2008 legislation to give railroads more time to come into compliance, with consequences for those who fail to produce concrete

plans for immediate improvement and meet milestones along the way."

But the very newspaper that the Senator from California was quoting actually editorialized on their editorial page that Congress needed to fix and to put in place an extension that would allow the railroads to come into compliance. That was echoed by a lot of the large newspapers across the country.

The Chicago Tribune's editorial board wrote:

PTC is coming. It's just not coming fast enough to meet what was always an unrealistic deadline. So if your commute is a mess come January, don't blame Metra. Blame Congress.

The Chicago Sun-Times editorial board opined: "Congress should extend the deadline to give Metra and railroads a chance to get the job done."

The Los Angeles Times editorial board wrote: "Rather than risk a shutdown of crucial transportation services, Congress ought to fast-track a solution."

The problem we had here is that we didn't have the luxury of time, and so the vehicle that came over from the House of Representatives, which is a short-term extension of the highway bill, presented a chance for us to address this issue knowing full well that it had to be addressed and that it had to be addressed in a timely way. We have railroads and shippers in this country, that, as I mentioned earlier, have already indicated they are modifying and adjusting their operations and plans right now and notifying customers of the impacts and effects of Congress failing to act in a timely way.

The reason that this needed to be fixed now is that if we hadn't fixed it, we would have started to see the disruptions in our economy that would have come with a shutdown because, as I said, no railroad, to date, has been able to meet the positive train control deadline. We approached this in a way that we felt was reasonable, rational, logical, and kept the pressure on the railroads and required the accountability that is necessary to see this done in a realistic way. I think the end result that just passed the Senate is a good outcome and a good solution, not just for the railroads in this country but for the shippers, farmers, and States such as South Dakota that depend upon those railroads, for the commuters around this country who rely on that form of transportation every day to get to work, and for the thousands and thousands and thousands of people who work in those railroad-related industries across this country. This is one example where Congress demonstrated that it actually could, in a timely way, act responsibly to bring about a solution that will avoid what surely would have been not only an economic disaster but a public safety disaster as well.

I am pleased that our colleagues here in the Senate found a way to approve this today, and I hope, as I said before,

that we will continue to keep the heat on to get a multiyear transportation bill through the House and the Senate with this short-term extension through November 20. It gives us a few weeks to complete action on that piece of legislation. But we didn't have the luxury of time nor could we afford to wait to act and to make sure that this positive train control extension was put in place in a timely way.

I thank the Presiding Officer, and I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

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

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

Mr. BLUMENTHAL. Mr. President, by voice vote, this body has extended the highway funding program, which is a good thing. It has also included in that extension a delay in the deadline for positive train control, which was inevitable. None of us opposed a delay in positive train control; what we opposed was an extension of that delay with inadequate accountability and excessive time.

Let's be absolutely clear. This delay in positive train control is really a delay until 2020, not 2018, because when railroads hit 2018, they can apply for 2 more years, and that second extension is dependent only on having completed work on half the system. Much of that determination is within the control of the railroad itself. That will be the 50 anniversary of the NTSB calling for positive train control.

We are not talking about a novel, untested technology. In fact, five railroads will meet the deadline to implement this technology at the end of this year. Clearly, all could have at least sought plausibly to meet that deadline. If they had a reason for failing to do so, they should be required to present it case by case, year by year, with a firm deadline of 2018. That is the system I proposed in the legislation I offered 6 months ago—well before this deadline became an imminent necessity.

Forty-six years ago, two passenger trains collided in Darien, CT, killing four people. There have been similar crashes and catastrophes since that time, resulting in nearly 300 deaths, 6,700 injuries, and incalculable economic loss. The worst of those cases was a crash in Southern California in 2008, killing 25 people. Another took place in the Bronx in 2013. Many of us visited the site in the Bronx and observed the remnants of this derailment and so are closely familiar with it. My colleagues in California and in New York have been ardent advocates of positive train control, and I thank them for their support.

These are examples of only a few of the many instances of death and destruction over decades that could have

been prevented by positive train control. Positive train control could have prevented Spuyten Duyvil. It could have prevented other repeated instances of death and destruction that resulted from trains speeding excessively and thereby derailing. It could have prevented trains from colliding. It could have prevented drivers from ignoring signals. It could have prevented death and injury around the country with economic losses far exceeding the cost of installing positive train control.

Joe Boardman, head of Amtrak and former FRA Administrator, said: "PTC is the most important rail safety advancement of our time."

Today, the Senate delayed it by 5 years. There are reasons and there is blame enough to go around. The Federal Government—in all frankness, the Federal Communications Commission—perhaps bears part of that blame in the failure to allocate sufficient spending. But let's be honest today in saying that 5 years of delay was unnecessary. The railroads sought it, and they won it with a threat to shut down railroad service everywhere in the country—an unacceptable outcome. The question is, Can we change this deadline in a smart, responsible way?

Unfortunately, the action today rewards the dilatory with unnecessary delay. Congress has sent a message that these deadlines can be avoided without repercussions and responsibility. That is bad policy. It is a bad process. I regret it. There was a better way to act that would have ensured continued funding for our highways and continued accountability for positive train control, which is indeed the most important rail safety advancement of our time. This is not some abstract, novel system. It has been around. It has been used. It has been tested. I regret that today it has been delayed unnecessarily.

Finally, I wish to congratulate and thank Sarah Feinberg, and the good news today is that her nomination has been approved. I look forward to working with her, and I welcome her as a new source of leadership, which she has already demonstrated. I hope she will act aggressively and responsibly to ensure that positive train control and other safety measures become the law and that the law is enforced as effectively and promptly as possible.

Thank you, Mr. President.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

#### REGULATING TOBACCO

Mr. MERKLEY. Mr. President, I rise today to speak about an issue that affects the health of our children in every single State.

I ask unanimous consent that after I have completed my remarks, Senator BLUMENTHAL, Senator MARKEY, Senator BOXER, and Senator WARREN be afforded the opportunity to continue to address the same topic.

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

Mr. MERKLEY. I also invite my colleagues to jump in at any point to exchange views as well.

This issue is one that we have known about for a very long period of time, which is that tobacco addiction destroys lives. I grew up in a family where my mother didn't smoke and my father didn't smoke, but they both came from large families—many brothers and sisters—and it seemed as though every single year when I was young, one of my aunts or one of my uncles died from smoking. They died from cancer. They died from heart disease. They died from emphysema. This carnage was all too apparent.

Anyone who has taken the slightest look at this issue knows that the statistics are just unbelievable, the number of deaths and illnesses caused, the number of years lost, the degradation of the quality of life of individuals. For this reason, it had long been a topic here in the Senate that nicotine—the primary acting element in tobacco—should be considered a drug. It is a drug. It has all of these impacts. We have a Food and Drug Administration, and the Food and Drug Administration should be able to regulate it for the health and welfare of our Nation.

Back in 2009, we debated just such a law here on the floor of the Senate and across the way in the House, and that law was adopted. So we anticipated that in short order regulations would be issued and they would help address particularly the effort of tobacco companies to produce new products designed to essentially produce nicotine tobacco addicts among our children, to entice our children into smoking or chewing and this whole new variety, this continuum of products.

Here we are years later. It is no longer 2009; it is 2015—6 years later and we have no regulation. During that time, a great deal has happened. Many new products have been introduced in the never-ending quest of the tobacco companies to find what they call replacement smokers; that is, young folks who will continue to buy their products as their current customers die because they use their products.

So 6 years have passed and no action out of the administration. Year after year, we have pushed, we have called as Senators, we have talked about it on the floor, we have held meetings with the key officials, and it has always been: We are almost there. We are working on it. We know how important it is.

But while this process has gone along so slowly, millions more of our children have become addicted to tobacco.

One of the main instruments the tobacco industry is using are flavors designed to target children. We can see here on the chart particularly flavors in the e-cigarette category. We have a whole variety. We have coffee. We have cherry. We have apple. We have cherry bomb flavoring. I was told today on the

phone that there is a Captain Kangaroo flavor and there is a Scooby Doo flavor. There is a gummy bear flavor. These flavors are not designed to entice adults into becoming smokers because the industry knows that very rarely does an individual start to use tobacco products after the age of 21. It is the youth who experiment, and then the nicotine, as an addictive drug, does its work and turns them into lifetime users. That is where, of course, the money is.

I was asked in an interview today how it is that the tobacco companies say these products are not targeted to children. I responded very simply. It is the big lie. No one, no individual can look at the flavors of these products and not know they are targeting our children.

So what has happened in the last few years is the e-cigarette industry is the most successful of the products that tobacco companies have tested. In fact, in just the last year alone, use by our high school students has tripled. That means we now have 2 million high school—the survey was the previous 30 days, and in the previous 30 days, 2 million of our high school students had utilized e-cigarettes. So the tobacco campaign is working, which means they are hard at work compromising the health and welfare of our children and leading them down a path to suffering and death. That is unacceptable.

So we are here today—a number of us—to simply say to our own administration, our executive branch: Get the regulations done. They have now been forwarded from the Food and Drug Administration, from the FDA, to the Office of Management and Budget, which does the final review of those regulations. Get the regulations done, and make sure they are strong regulations. Do not put in a clause that grandfather all the products and exempts them from regulations that have been produced up until now. Such a grandfather clause would tear the heart out, tear the guts out of the entire effort to regulate these killer products. And certainly regulate the flavors. That is the key, core strategy of addicting our children. Do not ignore that key, core strategy.

This is something very real that this body debated and decided to do and turn it over to the executive branch. It is way past time for the executive branch to act. So we are asking for quick and powerful, forceful action to stop the carnage that is ensuing from the failure of these regulations.

Several colleagues are coming to the floor to join this conversation. The Senator from Connecticut, Mr. BLUMENTHAL, is planning to jump in next, followed by Senator MARKEY and then Senator WARREN.

Mr. BLUMENTHAL. Mr. President, I am going to yield to Senator MARKEY, if I may, and then follow him in light of the scheduling needs that he may have, and then I will yield to Senator WARREN. Thank you.